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Amendment of various provisions of the Parliamentary Assembly's Rules of Procedure

Report
Committee on Rules of Procedure, Immunities and Institutional Affairs
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Summary

The Parliamentary Assembly's Rules of Procedure need to be clarified where application or interpretation raise difficulties. The Assembly should in particular consider the provisions of its Rules of Procedure related to the procedure for challenging or reconsidering the credentials of parliamentary delegations.

This report therefore contains proposals regarding in particular:

– the strengthening of the conditions governing the procedure for challenging or reconsidering the credentials of parliamentary delegations on substantive grounds;

– the inclusion in the Rules of Procedure of a provision stating that no signature may be withdrawn from, or added to, a tabled motion and that a motion cannot be withdrawn once tabled;

– clarifying the procedure for examination of amendments in plenary;

– including in the complementary texts a new rule to limit the number of parliamentarians of the same delegation who register on the list of speakers for a given debate.

Moreover, other provisions need to be reviewed in order to take into account changes in parliamentary practice. Provisions related to the new partner for democracy status shall also be added to the Rules of Procedure.

The changes to the Rules of Procedure should enter into force on 25 January 2010.

A. Draft resolution

1. The Parliamentary Assembly has always considered that the procedures governing its activities and decisions must be based on clear, consistent, up-to-date and effective parliamentary rules, and that it is necessary to modify its Rules of Procedure on a regular basis to take account of changes in parliamentary practice, to review provisions that no longer correspond to such practice and to clarify those rules where interpretation or application raises difficulties or specific problems arise. Since its new Rules of Procedure came into force in January 2000, the Assembly has made a number of amendments to them in various resolutions, the most recent being Resolution 1584 (2007).

2. In addition, the Assembly has received three requests in less than a year for the reconsideration of the credentials of a parliamentary delegation in accordance with Rule 9 of the Rules of Procedure, whereas that procedure had remained unused since its introduction in 1996. The Assembly recalls that the Rule 9 procedure was introduced to accompany the reinforcement of the monitoring of member states' commitments and obligations, in response to its wish to be able to challenge ratified credentials when urgent action is considered necessary. It considers that Rule 9 establishes a procedure of major political importance, which in view of its potential consequences needs to be applied very carefully, and that it must not be used inappropriately as simply a means of applying pressure.

3. In the light of the foregoing, certain rules or procedures require clarification or updating. The Assembly therefore intends to make further changes to its Rules of Procedure to improve its internal functioning and working methods. Consequently, it has decided to amend its Rules of Procedure as follows:

3.1. with regard to the procedure for reconsideration of the credentials of a national delegation on substantive grounds, the first sentence in Rule 9.2 is replaced by the following sentences:

"A motion for a resolution to annul ratification shall be tabled by at least thirty members, belonging to at least two political groups and five national delegations, and be distributed at least two weeks before the opening of a part-session or a meeting of the Standing Committee. The motion for a resolution shall state the reasons for it. Once tabled, a motion cannot be withdrawn by its authors and no signature may be withdrawn or added to it.";

3.2. with regard to the interpretation of the final vote on a draft resolution to challenge or reconsider credentials, the following sentence should be added at the end of Rules 7.3, 8.5 and 9.4:

"If the Assembly rejects the proposal in the operative part of the report, the contrary decision shall be deemed adopted.";

3.3. with regard to the conditions governing the initiation and tabling of motions for recommendations and resolutions, in particular the fact that it is not possible to add or withdraw signatures or to withdraw such motions in their entirety, the first sentence of Rule 24.2 is replaced by the following sentences:

"A motion for a recommendation or resolution not exceeding 300 words shall be signed by at least twenty Representatives or Substitutes belonging to at least five national delegations. Once tabled, a motion cannot be withdrawn by its authors and no signature may be withdrawn or added to it.".

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

4.1. with regard to the credentials of a national delegation, Rule 6.4 is replaced by the following sentences:

"Credentials presented at a later date shall be transmitted to the President of the Assembly, if possible, not less than one week before the first sitting of a part-session or a meeting of the Standing Committee, for ratification.";

4.2. with regard to the official documents of the Parliamentary Assembly, paragraphs b, d and g of Rule 23.2 are deleted;

4.3. with regard to the minutes of proceedings of the Assembly sittings, which are suppressed:

4.3.1. Rule 30 is deleted;

4.3.2. Rules 21.2, 21.6, 23.2.a, 35.8 and 41.1 are modified consequently;

4.3.3. in the last sentence of Rules 39.4 and 39.8, the words *"minutes of proceedings of the sitting"* are replaced by "*reports of debates of the sitting*";

4.4. with regard to the procedure for the examination and automatic adoption of amendments that have been unanimously approved by a committee, Rule 34.10 is amended by the addition at the end of the following provision:

"This paragraph shall also apply to discussion of a report presented by a committee to the Standing Committee.";

4.5. with regard to the nomination of members to certain committees:

4.5.1. add the following sentence after the second sentence of Rule 43.3:

"Not more than two members of a national delegation from a state under monitoring procedure or involved in a post-monitoring dialogue may sit on the Monitoring Committee.";

4.5.2. in Rule 43.3, the sentence *"These nominations shall be submitted to the Assembly for ratification"* is replaced by *"These nominations shall be submitted to the Assembly or the Standing Committee for ratification."*;

4.6. with regard to exceptions concerning the number of sub-committees, the last sentence of Rule 48.3 is deleted;

4.7. with regard to the term of office of sub-committees' bureaux under Rule 48.7:

4.7.1. the following sentences are added after the second sentence:

"Candidates for the office of chairperson or vice-chairperson of a sub-committee must be full members of the committee concerned and of the sub-committee and have been a full member or alternate of the committee concerned and of the sub-committee for at least one year. A single candidate put forward for any office shall be declared elected without a vote.";

4.7.2. the final sentence is replaced by the following:

"The chairperson and the vice-chairperson of a sub-committee may be re-elected for one further term, whether or not consecutive. A chairperson or vice-chairperson elected in the course of a session for an incomplete term to replace the chairperson or the vice-chairperson previously elected during the session may be re-elected for two further terms.";

4.8. with regard to the urgent procedure in Rule 50.4, the words *"refer the item to a committee of the Assembly for report and, if appropriate, to a committee for opinion"* are replaced by *"refer the item to a committee of the Assembly for report and, if appropriate, to one or several committees for opinion"*;

4.9. with regard to current affairs debates, the first sentence of Rule 52.2 is replaced by:

"A request for a current affairs debate shall be addressed to the President of the Assembly by at least twenty Representatives or Substitutes, by one political group, by one national delegation or by one committee.";

4.10. with regard to written declarations, Rules 53.3 and 53.4 are replaced by the following single paragraph:

"Any Representative or Substitute may add his or her signature to a written declaration up to the close of the next part-session, after which no further signatures may be added. The declaration shall be issued again with the names of all members who have signed it.";

4.11. with regard to the status of partner for democracy:

4.11.1. the following new rule is inserted after Rule 60:

"61.1. The Assembly may grant partner for democracy status to national parliaments of non-member states of the Council of Europe in neighbouring regions, which meet the conditions set out in Rule 61.2 and any specific conditions which the Assembly may lay down.

61.2. Any formal request for partner for democracy status shall be addressed to the President of the Parliamentary Assembly by the president or speaker of the parliament concerned. This request shall contain the following elements:

– an explicit reference to the aspiration of the said parliament to embrace the values of the Council of Europe, which are pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms;

– a commitment to act to abolish the death penalty and to encourage the competent authorities to introduce a moratorium on executions;

– a statement on the intention of the parliament to make use of the Assembly's experience, as well as of the expertise of the European Commission for Democracy through Law (Venice Commission), in its institutional and legislative work;

– a commitment to organise free and fair elections in compliance with relevant international standards;

– a commitment to encourage balanced participation of women and men in public and political life;

– a commitment to encourage the competent authorities to become party to the relevant Council of Europe conventions and partial agreements which are open for signature and ratification by non-member states, in particular those dealing with human rights, rule of law and democracy issues;

– an obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles.

61.3. The Assembly shall specify the number of members of a Partner for democracy delegation.

61.4. A parliament with Partner for democracy status shall transmit to the President of the Parliamentary Assembly not less than one week before the opening of the session the list of the delegation members appointed for the whole duration of the session. Insofar as the number of its members allows, the delegation shall be composed to ensure a fair representation of the political parties or groups in that parliament and to include at least the same percentage of the under-represented sex as is present in the parliament and in any case one representative of each sex.

61.5. Members of delegations with Partner for democracy status may sit in the Assembly but without the right to vote. They shall have the right to speak with the authorisation of the President of the Assembly.

61.6. Members of delegations with Partner for democracy status may attend committee meetings as provided in Rule 47.5. They may sign motions for resolutions and recommendations (except those under Rules 9.2 and 66) and written declarations. However, they shall not be taken into account for the number of signatures required. Members of such delegations may participate in the work of political groups according to the conditions established by the groups.

61.7. Decisions on granting, suspending or withdrawing Partner for democracy status shall be taken by a resolution of the Assembly following a report by the Political Affairs Committee with an opinion by any other relevant Assembly committee, if necessary";

4.11.2. In Rules 47.5 and 47.6, the words *"members of observer and special guest delegations"* are replaced by *"members of special guest, observer and partner for democracy delegations"*.

5. With regard to the complementary texts to the rules, the Assembly decides to modify the additional provisions relating to Assembly debates as follows:

5.1. with regard to the list of speakers, the following sentence is added at the end of paragraph 2:

"Names may not be entered on the list of speakers for a debate under urgent procedure or a current affairs debate until a specific request is placed on the draft agenda drawn up by the Bureau.";

5.2. with regard to the order of speakers:

5.2.1. the following words are added at the end of paragraph 6: *"unless they have been unable to speak in the debate";*

5.2.2. In paragraph 11 the words *"members of observer and special guest delegations"* are replaced by *"members of special guest, observer and partner for democracy delegations"*;

5.2.3. the following words are added at the end of paragraph 13:

"The final list of speakers may not include more members of a delegation than the number of seats held by that delegation in the Assembly.";

5.3. with regard to speaking time, paragraph 3 is replaced with the following paragraph:

"Rapporteurs for opinion and rapporteurs of the Bureau ad hoc committees shall have the same speaking time to present their opinions as the speakers registered for the debate concerned".

6. The Assembly decides to modify the terms of reference of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) by amending Resolution 1115 (1997) modified, as follows:

6.1. in paragraph 8, add the following sentence after the second sentence:

"not more than two members of a national delegation from a state under monitoring procedure or involved in a post-monitoring dialogue may sit on the Monitoring Committee";

6.2. at the end of paragraph 13, add the following words: *"and at least once every four years on each country being involved in a post-monitoring dialogue"*.

7. Lastly, the Assembly invites the Bureau to amend the "guidelines for the observation of elections by the Parliamentary Assembly", in order to insert a rule providing formally for any incompatibility between the functions of chairperson of an ad hoc election observation committee and those of rapporteur of an Assembly committee on a subject dealing directly with the country where the elections are observed.

8. The Assembly decides that the amendments to the Rules of Procedure in this resolution shall enter into effect at the opening of the January 2010 part-session (25 January 2010).

B. Explanatory memorandum by Mr Holovaty, rapporteur

1. Introduction

1. On 3 October 2008 the Bureau of the Parliamentary Assembly asked the Committee on Rules of Procedure, Immunities and Institutional Affairs, in accordance with Rule 66.2 of the Rules of Procedure, to "prepare a report proposing modifications to the Rules of Procedure as a result of questions which had arisen relating to the interpretation of the Rules of Procedure during the part-session". Further to this decision, the Secretary General of the Assembly wrote to the chairperson of the committee on 10 October 2008 in order to clarify the committee's mandate, which thus covers the following questions:

– the differences between the procedure in Rule 8 for challenging still unratified credentials on substantive grounds and the procedure in Rule 9 for reconsidering previously ratified credentials on substantive grounds;

– the withdrawal of a motion for a resolution which has been formally tabled and published in accordance with Rule 9.1.a;

– generally, the withdrawal of any document which has been formally tabled;

– the possibility of withdrawing a signature from – or adding a new signature to – a motion for a resolution tabled in accordance with Rule 9.1.a, a motion for a resolution or recommendation tabled under Rule 24, or a written declaration;

– the procedure provided for in Rule 34.10 and examination by the Assembly in plenary of amendments approved unanimously by the committee to which the matter was referred for a report;

– the criteria for drawing up the list of speakers when nearly all the members of the same national delegation have put their names down for a given debate.

2. Moreover, on 26 January 2009, the Committee was presented with a motion for a resolution by Mr Chope and others (Doc. 11744 rev) on clarification on the rules of motions, concerning the addition or withdrawal of signatures to motions already tabled and published as Assembly documents, to be taken into account in the preparation of this report on modifications to the Rules of Procedure.

3. Lastly, on 29 June 2009, the Bureau asked the Committee on Rules of Procedure, Immunities and Institutional Affairs to submit proposals concerning amendments to the Rules with regard to the implementation of Resolution 1680 (2009) on the "Establishment of a "Partner for democracy" status with the Parliamentary Assembly".

4. In addition to the matters mentioned above, referred to it by the Bureau, the Committee might consider it desirable to look into other provisions of the Rules of Procedure whose application raises problems or which need to be updated.

5. The Committee held an initial discussion on the subject at its meeting of 8 December 2008, on the basis of a memorandum prepared by its chairperson, and appointed Mr Holovaty as rapporteur. On 29 April 2009, it considered a preliminary draft report.

2. Points for discussion

6. This request made to the committee by the Bureau "as a result of questions which had arisen relating to the interpretation of the Rules of Procedure during the part-session" is set in a very specific context, directly related to the proceedings at the sittings of the Assembly's September-October 2008 part-session devoted to the reports on the consequences of the war between Georgia and Russia and reconsideration of the previously ratified credentials of the Russian delegation on substantive grounds.[1] The Assembly has since dealt with two other requests for reconsideration of credentials.[2]

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1. See Resolution 1631 (2008) on reconsideration, on substantial grounds, of previously ratified credentials of the Russian delegation, report of the Committee on the honouring of commitments and obligations by member states of the Council of Europe (Monitoring Committee) (Doc. 11726), and opinion of the Committee on Rules of Procedure, Immunities and Institutional Affairs (Doc. 11728).

2. See Resolution 1643 (2009) on the implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008), report of the Committee on the honouring of commitments and obligations by member states of the Council of Europe (Monitoring Committee) (Doc. 11786), and opinion of the Committee on Rules of Procedure, Immunities and

2.1. The procedure for challenging still unratified credentials (Rule 8) and the procedure for reconsidering previously ratified credentials (Rule 9)

7. It will be recalled that, during the September-October 2008 part-session, for the first time in the history of the Assembly, a motion for reconsideration of a national delegation's previously ratified credentials was tabled under Rule 9 of the Rules of Procedure. It was on this occasion that differences emerged between the two procedures provided for in the Rules of Procedure for challenging a delegation's credentials on substantive grounds, depending on whether the challenge is made before (Rule 8) or after (Rule 9) their ratification. These differences mainly concern the way in which a motion to challenge or reconsider credentials is brought and the formal requirements for it to be in order.

8. The initiative for challenging a national delegation's still unratified credentials (Rule 8.1) may be taken by "*at least ten members of the Assembly present in the Chamber, belonging to at least five national delegations*", or by a report of the Monitoring Committee. It is therefore a direct and "spontaneous" oral procedure which is not dependent on the President of the Assembly or the members receiving any prior notice.

9. Where reconsideration of previously ratified credentials is concerned, the initiative lies either with the members or with the Monitoring Committee. It is a written procedure: "*a motion for a resolution to annul ratification shall be tabled by at least twenty members, belonging to at least two political groups and five national delegations (…).*" (Rule 9.2). Rule 9.2 also provides for a period of notice: "*A motion for a resolution (…) shall be (…) distributed at least two weeks before the opening of a part-session (…)*".

10. The Assembly's intention in laying down different conditions for the two procedures was to make the procedure for reconsidering previously ratified credentials (Rule 9) more difficult – or, at any rate, more formal – given that it is a serious political act with major consequences. However, the procedure for challenging still unratified credentials (Rule 8), despite being less formal,[3] has the same basis – the substantive grounds detailed in Rule 8.2 – and the same political consequences (Rules 8.5 and 9.4 are the same). Yet the first procedure has been used several times (most recently in the cases of Azerbaijan in 2006, Serbia and Montenegro in 2004 and the Russian Federation in 2001 and 2000), while the second has been used only twice, in 2008 and 2009, at the initiative of members of the Assembly.

11. It will be noted, however, that during the January 2009 part-session, the Assembly discussed a report presented by the Monitoring Committee on implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008), in which it took the unprecedented step of proposing that action be taken against the Armenian delegation under Rules 9.3 and 9.4.*c* of the Rules of Procedure. In the context of these rules, the specific nature of the monitoring procedure does raise certain questions (see in particular paragraphs 44 et seq.).

12. The committee might therefore wonder whether it is useful to retain different conditions for initiating procedures which pursue the same aim, namely a finding by the Assembly of a serious violation by a member state of the basic principles of the Council of Europe mentioned in Article 3 of the Statute and in the Preamble, or persistent failure to honour obligations and commitments and lack of co-operation in the Assembly's monitoring procedure (Rule 8.2).

13. In so doing, the committee must bear in mind that Rule 8 falls within the statutory competence of the Assembly and is part of the traditional examination of credentials performed by all parliamentary institutions (using methods that have changed considerably since 1949, with the current procedure having been introduced in 1986). For its part, the Rule 9 procedure was established much later, in 1996, concurrently with the consolidation of the procedure for monitoring member states' obligations and commitments, in keeping with the Assembly's wish to be able to "challenge ratified credentials when urgent action is deemed necessary"[4], but it is not derived from a competence conferred on it by the Statute.

Conclusion

Institutional Affairs (Doc. 11799); Resolution 1674 (2009) on reconsideration on substantive grounds of previously ratified credentials of the Ukrainian delegation, report of the Committee on Legal Affairs and Human Rights (Doc. 11963) and opinion of the Committee on the Rules of Procedure, Immunities and Institutional Affairs (Doc. 11965).

3. For example, in April 2000, the President of the Assembly deemed the requirements as to the number of members needed to challenge credentials to be satisfied when the challenge was raised during a sitting by the chair of a political group. In the most recent case, in January 2006, the challenge was raised by one member and the President called on the members supporting the challenge to stand up.

14. At its meeting of 8 December 2008, the Committee discussed the matter and it seems that the consensus was that Rules 8 and 9 should not be amended and that different conditions for initiating procedures and different admissibility conditions should be retained.

15. However, the committee thought it appropriate to amend the articles concerned, and considered the need to strengthen the requirement relating to the giving of reasons for the challenge, whether formulated as in Rule 8 or as in Rule 9. In its opinion on the report on reconsideration of the previously ratified credentials of the Russian delegation on substantive grounds (Doc. 11728), the Committee on Rules of Procedure stated that "*the version of Rule 9 in force before January 2000 (Rule 6.9) stipulated that the motion for a resolution tabled "must state the reasons and shall be based on a serious violation of the basic principles of the Council of Europe (…)". The current wording of Rules 8 and 9 is somewhat different. The Rules Committee therefore recommends that when a motion is tabled according to Rule 9.1, the authors should cite evidence for the serious violation mentioned in Rule 8.2. Any motion to challenge a delegation's credentials on the basis of Rule 9 must be properly substantiated.*"

16. In the two opinions of the Committee on the reconsideration of the credentials of the Armenian and Ukrainian delegations, approved in 2009, the committee also recommended that a full explanation should accompany all requests for delegations' credentials to be challenged under Rule 9, and that the authors should present evidence of the serious violation referred to in Rule 8.2. Rule 9 of the Rules of Procedure could therefore be amended to include a requirement for reasons to be given for requests.

17. The Assembly might also consider strengthening the conditions governing the tabling of motions for resolutions to annul a delegation's credentials, to avoid inappropriate and repeated uses of the Rule 9 procedure. It should be noted that the conditions specified in Rule 9, introduced in April 1996, have already been strengthened once, in November 1999.

18. The first sentence of Rule 9.2 might therefore be replaced by the following;

> *"A motion for a resolution to annul ratification shall be tabled by at least thirty members, belonging to at least two political groups and five national delegations and be distributed at least two weeks before the opening of a part-session or a meeting of the Standing Committee. It shall state the reasons for it".*

2.2. The possibility of withdrawing a signature from, or adding a signature to, a motion, or of withdrawing a motion or any other document in its entirety

Assembly rules and practice

19. The Rules of Procedure make no provision for signatories of a motion for a resolution or recommendation to withdraw their signature, nor for the possibility of adding a signature once a motion has been tabled. The Rules of Procedure do not allow signatures to be added to, or withdrawn from, other types of official document (such as amendments), with one exception: under Rule 53, it is possible for Assembly members to add their signature to previously tabled written declarations within a certain time-limit (up to two weeks after the end of the part-session). The declaration is then published and distributed again. However, the Rules of Procedure make no mention of the possibility of withdrawing signatures from a written declaration.

20. Neither do the Rules of Procedure make any provision for the authors of a motion to withdraw the whole text. In general, the Rules of Procedure do not allow any document already tabled and published to be withdrawn. This applies to motions for a resolution or a recommendation (Rules 9 and 24), written declarations (Rule 53), written questions (Rule 58), and even committee reports.[5] The only exception to this rule concerns amendments (Rule 34.8), which may be withdrawn by their signatories, but which may then be moved during the sitting by any other Assembly member.

21. On 29 September 2008 the chairperson of the Committee on Rules of Procedure was asked for an opinion on this matter by the Bureau of the Assembly and, after consulting the committee members, immediately sent the following reply to the President of the Assembly:

– motions tabled under Rule 9 are a specific category of motions for a recommendation or resolution tabled under Rule 24;

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4. See report on "Challenge of credentials of national delegations in the course of an ordinary session", Doc. 7481 and Resolution 1081 (1996).

5. An instance of this occurred in 1991 when a committee asked to withdraw not the whole of the report as tabled, but the draft resolution (see report of the Assembly sitting of 19 September 1991, AS (43) CR 11, paragraph 4).

– the relevant rules – 9 and 24 – do not mention the possibility of withdrawing or adding a signature;

– the Assembly itself has constantly rejected this possibility, arguing that once a tabled motion has been declared in order by the President of the Assembly and published as an Assembly document, it is no longer the property of its signatories, but of the Assembly and, for that reason, cannot be amended in any way or purely and simply withdrawn. A member who signs a motion is assumed to be in favour of that motion;

– the Assembly must keep to the practice which it has always followed and refuse to allow members to withdraw their signature from a motion.

22. At the opening of the 2008 fourth part-session, the President of the Assembly, in the light of the opinion given by the Chairperson of the Committee on Rules of Procedure, decided to follow the Assembly's established practice.[6]

23. In its opinion on the report on reconsideration of the previously ratified credentials of the Russian delegation on substantive grounds (Doc. 11728), the Committee on Rules of Procedure expressed the following view: "*As the procedure in question is of major political importance and needs to be conducted with rigour because of its implications, it cannot be used as a mere means of exerting pressure for purely tactical reasons. It would therefore be worth amending the Assembly's Rules of Procedure to specify that it is impossible to withdraw a signature from a motion that has already been tabled, or indeed to withdraw the motion itself.*"

24. As mentioned above (paragraph 19), the Rules of Procedure do not allow signatures to be withdrawn from or added to a motion once it has been tabled. In the Assembly's practice for at least the last twenty years, there has been no precedent for withdrawing signatures from a motion. In 1991-92, however, the then President of the Assembly was faced in a similar way with the question of the possibility of withdrawing signatures from a written declaration (Rule 49 at the time, now Rule 53) in connection with a written declaration on protection by law of the right to life in Council of Europe member countries(Written Declaration No. 212 – Doc. 6481, published on 3 September 1991). The President authorised the withdrawal of all the signatures on 21 February 1992 (the text itself was not withdrawn and remains published, although the names of those who proposed it do not appear). The question of the possible withdrawal of signatures from a motion and of the motion as a whole was discussed on that occasion, but deliberately left open and undecided.

25. This example can on no account be considered a precedent in view of the very nature of written declarations, which do not give rise to any follow-up on the part of the Assembly, unlike motions for a resolution or a recommendation, which are the essential preliminary stage in the referral of questions to committees and the drawing up of Assembly reports. It is therefore acceptable that the tabling and publication of written declarations should be governed by more flexible rules (possibility of adding signatures after the declaration has been published, text distributed again) than those applying to motions for a resolution or a recommendation, which may therefore explain the decision taken in 1992.

26. Neither is there any precedent for the withdrawal of a motion for a resolution or motion for a recommendation – or a written declaration – in its entirety. In the case of written questions to the Committee of Ministers, however, there have been very isolated instances of a member requesting and obtaining the withdrawal of a question which has been tabled but not published, usually in order to turn it into an oral question to the Chair of the Committee of Ministers, into a motion for a recommendation, or into a written declaration. Clearly, this would also be a legitimate step when the author of a question obtains the requested information in the meantime from another source, or where his or her question is no longer topical.

Rules and practice in other parliamentary institutions

27. For the purposes of this report, it is useful to consider the practice followed in other national or international parliamentary institutions.

28. Regarding the procedure in national parliaments,[7] in all the parliaments consulted it is possible to withdraw signatures from a motion – except in the French National Assembly, where this is not allowed. In some parliaments (notably the German Bundestag), when a tabled motion no longer has the requisite number

6. See CR (2008) 28, page 4.

7. This memorandum is based on a survey by the committee secretariat of a number of national parliaments: Chamber of Representatives (Belgium), National Assembly (France), Bundestag (Germany), Chamber of Deputies (Italy), Riksdag (Sweden), National Council (Switzerland) and House of Commons (United Kingdom).

of signatures following the withdrawal of some of them, the motion continues to exist as an official document, but without giving rise to any follow-up. The addition of signatures to a motion is possible in the Italian Chamber of Deputies and in the Swedish Riksdag, but strictly prohibited in the French National Assembly.

29. Regarding the possibility of withdrawing a motion in its entirety, the rules and practice in the national parliaments consulted are fairly liberal as, in all of them, members are allowed to formally withdraw tabled motions in their entirety, although the time-limits for doing this vary. Some parliaments authorise withdrawal at any time before the final vote, while others set strict time-limits. In the United Kingdom House of Commons, for example, motions can be withdrawn up to the end of the sitting preceding that at which the question is to be debated.

30. Regarding the procedure in international parliamentary institutions, the rules of procedure of numerous international parliamentary institutions contain no stipulation as to the possibility of withdrawing a motion. This applies, for example, to the WEU Parliamentary Assembly, the OSCE Parliamentary Assembly, the NATO Parliamentary Assembly, the Euro-Mediterranean Parliamentary Assembly and the ACP-EU Joint Parliamentary Assembly.

31. In the European Parliament, however, a motion for a resolution may be withdrawn by its author, authors or first signatory before the committee responsible has decided to draw up a report on it (Rule 113.7). Motions falling into other categories (Rules 103.2, 108.5, 115.2) may also be withdrawn before the final vote (Rule 113.6). In the Nordic Council, withdrawal of a document by its author is possible by decision of the Council or its Presidium.

Conclusion

32. To be in order, a motion must satisfy specific requirements laid down in the Rules of Procedure, particularly as regards the number of signatories (at least ten for motions under Rule 24, at least twenty for motions under Rule 9). If it were possible to withdraw signatures from a text already tabled and this meant falling below the required number of signatures, the motion might no longer be valid.[8] It is a question of "legal certainty" and it is essential that the Rules of Procedure set limits on parliamentary initiative, especially where it can have major political consequences or lead to serious controversy. It should be remembered that, in contrast to national parliaments, whose activity is regulated and fuelled mainly by government bills, the activity of the Parliamentary Assembly and its committees is based on initiatives by its members.[9] What the practice of national parliaments permits cannot be transposed to the Parliamentary Assembly because of its different mode of operation (in particular because the Assembly does not sit on a permanent basis and its session is limited to four weeks a year).

33. It is important to stress that, in the specific case of motions for a resolution under Rule 9, which have to be distributed two weeks before the opening of a part-session or a meeting of the Standing Committee, authorising their withdrawal would have an undesirable effect: the procedure could be used as a means of exerting political pressure for tactical purposes without any intention of carrying it through to completion and, if such a motion were actually withdrawn after the time-limit laid down in the Rules of Procedure, other Assembly members would be unable to table similar motions with the aim of stimulating debate in the Assembly on the issue concerned.

34. Lastly, it should also be borne in mind that the Rules of Procedure contain sufficient provisions to allow a tabled motion to be blocked (Rule 24) at various stages of the procedure: decision by the Bureau whether or not to refer a motion (Rule 25.1); ratification of that decision by the Assembly or the Standing Committee (Rule 25.2), given that any member, including one of the signatories, is entitled to challenge a reference; request by a committee for a reference to lapse by decision of the Assembly (Rule 25.3).

35. In the light of the foregoing, the committee maintains the position which it expressed at the October 2008 part-session and proposes amending Rules 9 and 24 so that they state explicitly that no signature may be withdrawn from a motion for a resolution (or motion for a recommendation), that no signatures may be added to it, and that a motion for a resolution (or motion for a recommendation) cannot be withdrawn once tabled.

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8. This is not the case in the national parliaments questioned because a motion is valid if supported by at least one member (except in the Italian Chamber of Deputies, where a motion must be signed by the chair of a political group, or, failing that, ten members). The withdrawal of signatures accordingly has no effect on the validity of a motion provided there is at least one signature.

9. In the past it was possible to submit motions for resolutions or recommendations directly to a vote of the Assembly without first referring them to a committee for a report. This was the case with motions for orders until January 2000.

2.3. Procedure for examination of amendments by the Assembly in plenary

36. Resolution 1584 (2007) on the application and amendment of various provisions of the Assembly's Rules of Procedure modified Rule 34 on amendments and sub-amendments. The aim, in keeping with the wishes of the Committee on Rules of Procedure from which this resolution originated, was to streamline the procedure for examining amendments in committee and in plenary, in order, in particular, not to lose the benefit of the committee's previous work in taking position on amendments tabled to one of its draft texts and spare the Assembly the time-consuming business of examining amendments on which there is a consensus.

37. The following new provision (Rule 34.10) accordingly came into force on 21 January 2008: "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."

38. There is no doubt that this provision has made it possible to reduce the time spent examining amendments, thus giving more speakers the opportunity to take the floor before the end of the debate. Since it came into force, however, this provision has occasionally caused problems, and specifically in the following two cases:

– where the committee unanimously approves an amendment and a separately tabled sub-amendment relating to it: the Table Office's position in such cases has always been to put the amendment to the vote in the Assembly and not to apply Rule 34.10 (which mentions the unanimous approval of amendments, but not of sub-amendments); the same applies when the committee has unanimously approved an amendment and an oral sub-amendment is proposed at the sitting.

– where an amendment unanimously approved in committee has implications for other amendments which are mutually exclusive. The adoption of an amendment by the Assembly has the consequence that the other amendments which are no longer applicable fall (Rule 34.11). The implication of Rule 34.10 is that a unanimously approved amendment is deemed automatically adopted (without a vote). In such cases, this automatic adoption entails the withdrawal of the other amendments, which are therefore no longer subject to a vote by the Assembly; the President announces this in the Chamber.

39. However, when the amendments to the draft resolution on the consequences of the war between Georgia and Russia were being examined, a procedural incident occurred which led to confusion regarding the application of Rule 34.10 and its practical implications. In accordance with the established procedure and practice, the President announced the amendments declared adopted without a vote and the amendments which thereby fell; in accordance with the Rules of Procedure he asked if there were any objections and noted that there were none. Later in the debate, however, several members expressed their dissatisfaction and asked the President to reconsider his decision and put to the vote an amendment which had fallen[10].

40. The procedure in Rule 34.10 is intended to be implemented when there is a consensus on one point. It might be considered that the tabling of several contradictory amendments, of written sub-amendments or of oral amendments or sub-amendments removes that consensus. The procedure followed at Assembly sittings, which gives the initiative for using Rule 34.10 to the chairperson of the committee seized for report, and allows any member to object to this, therefore offers sufficient guarantees in the discussion to members wishing to express an opinion differing from the unanimous position adopted by a committee.

Conclusion

41. Given that Rule 34.10 makes clear provision for any member to object to the automatic adoption of one or more amendments, the Committee on Rules of Procedure takes the view that the existing provision is sufficient and that there is no need to amend the Rules of Procedure in this regard. It should be borne in mind in this connection that the purpose of this procedure is to enhance the committees' arbitrating role, particularly in the search for a compromise between the rapporteur(s) and the members or the national delegations concerned. Calling these compromises into question too easily would result in a weakening of the committees' decisions.

10. See verbatim report of the 35th sitting, AS (2008) CR 35, pages 17 et seq.

42. However, in order to allow the President a degree of flexibility in assessing the debate, in view of its possible complexity, changes in practice might be envisaged:

– where there are oral amendments or sub-amendments which have not been considered by the committee seized for report, the President could decide to open the amendments concerned to discussion, subject to the prior agreement of the chairperson of the committee seized for report;

– where contradictory and mutually exclusive amendments have been proposed and failure to discuss those amendments might affect the smooth conduct of the proceedings, despite the fact that Rule 34.10 applies, the President could also propose opening the amendments concerned to discussion, subject to the prior agreement of the chairperson of the committee seized for report.

43. The Assembly might also decide to extend the procedure in Rule 34.10 to amendments discussed in the Standing Committee, thus ensuring that those which have been unanimously approved by the committees concerned are no longer subject to debate at its meetings.

2.4. Application of Rule 34 on amendments, and amendments that are out of order

44. In the event that a delegation's credentials are challenged, the interpretation of Rule 34.3 may be problematic ("An amendment which would tend to delete, replace or render inoperative the whole of a draft text is not in order").[11]

Limitation of the right to move an amendment on the grounds that it is out of order

45. Accordingly, on 6 April 2000, during a debate on the challenging of the Russian delegation's credentials on substantive grounds (Rule 8), the President of the Assembly ruled that amendments aiming at a result which could be achieved by voting against the draft text were out of order.[12] This precedent does not cover every possible scenario, however. An amendment proposing not to ratify credentials or to annul them would be out of order if the draft resolution proposed to ratify or confirm them; conversely, an amendment proposing to ratify or confirm credentials would be out of order if the draft resolution proposed not to ratify them, to annul them, or to suspend the exercise of certain rights.[13]

46. To what extent would an amendment concerning the proposed penalty included in a draft resolution tabled in connection with Rule 8 or 9 tend to render the whole of the draft text inoperative? Which amendments would be deemed in or out of order? Clarification is required regarding the application of the Rules of Procedure, particularly on the following points:

– the possibility of moving an amendment to replace the proposal in the draft resolution with one of the other two proposals listed under Rule 8.5 or Rule 9.4;

– the possibility of moving an amendment to remove the penalty proposed in the draft resolution without replacing it with one of the two others measures contained in Rule 9.4;[14]

– the possibility of moving an amendment to a draft resolution tabled by the Monitoring Committee under the procedure described in Resolution 1115 (1997) to add a penalty to it which it does not contain.

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11. When this provision was introduced in the Rules of Procedure, the current procedure for challenging credentials did not exist. At the time, the procedure did not involve the adoption of a resolution after the debate, but "conclusions".

12. See verbatim report of the sitting, AS (2000) CR 15. The draft resolution invited the Assembly to ratify the new Russian delegation's credentials; the amendment at issue proposed not to ratify them.

13. An amendment that supplements rather than modifies the proposed option (ratification/non-ratification) is therefore in order. For reference purposes, see the aforementioned debate on the challenging of the still unratified credentials of the Russian Federation's parliamentary delegation (Doc. 8698 and verbatim report of the sitting, AS (2000) CR 15, 6 April 2000) and the debate on the challenging of the still unratified credentials of the Azerbaijan parliamentary delegation on substantive grounds (Doc. 10807 and verbatim report of the sitting, AS (2006) CR 05, 25 January 2006).

14. See AS (2009) CR 03. The draft resolution presented by the Monitoring Committee at the January 2009 part-session on implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008) proposed penalising the Armenian delegation by suspending its voting rights; an amendment tabled on the committee's behalf, to the effect that "*the Assembly decides, at this stage, not to suspend the voting rights of the members of the Armenian parliamentary delegation to the Assembly, under Rule 9, paragraphs 3 and 4.c, of the Rules of Procedure*", was adopted.

47. What latitude do Assembly members (or the relevant committee) have with regard to amendments? Assembly members should be fully informed as to when they may or may not table amendments and the grounds on which amendments may be ruled out of order.

Amendment and interpretation of the final vote

48. During the debate at the October 2008 part-session on the draft resolution on the Russian delegation's credentials, which proposed ratifying them, the President of the Assembly sought to clarify the meaning of the vote, stating that *"voting in favour means confirming the ratification of the credentials of the Russian delegation; voting against means rejecting the confirmation of ratification, which is tantamount to annulment of credentials"* (see verbatim report of the sitting, AS (2008) CR 33, page 32). The same interpretation had prevailed during the aforementioned debate at the April 2000 part-session on the challenging of the Russian delegation's credentials (the amended draft resolution proposed to ratify the Russian members' credentials but suspend their voting rights), with the President stating that *"to vote "Yes" means to vote again in favour of Amendment No. 1, which says: "The Assembly decides to ratify the credentials of the delegation of the Russian Federation, but to deprive the members of the delegation of their voting rights in the Assembly (…). If you vote "No", you are voting against that. Voting "No" in effect is non-ratification*" (see AS (2000) CR 15, page 44).[15]

49. The aforementioned two precedents, concerning the right of amendment and the interpretation of the final vote, can only function in combination. The Rules of Procedure themselves, however, say nothing about these issues, which are crucial given the implications of the procedure under discussion. Since the Rules of Procedure do not contain an express provision stating that any rejection of the committee's conclusions by the Assembly should be regarded as adoption of the contrary decision, it cannot be assumed that, if the proposal in the draft resolution were rejected, the contrary decision would be deemed to have been adopted.[16]

Conclusion

50. The committee could examine more closely the precedents described above:

– regarding the admissibility of amendments to a draft resolution to challenge or reconsider credentials, it might consider:
  - either that the provisions of Rule 34.3 do not apply to draft resolutions to challenge or reconsider credentials, which consist of only one point (that might also apply to a request to lift parliamentary immunity);
  - or, on the contrary, that on issues of major political significance such as the challenging or reconsideration of credentials, the Assembly should examine all the amendments tabled with a view to changing the initial penalty proposed (or the decision not to impose a penalty) and take a fully informed decision;
  - that Rules 7.3 and 8.5 should be amended to allow the possibility of proposing another alternative.[17]
– regarding the interpretation of the final vote on a draft resolution to challenge or reconsider credentials, the committee might consider:
  - either that the Rules of Procedure should be brought into line with the practice followed, and that Rules 8 and 9 should be amended accordingly, mentioning that if the Assembly rejects the committee's conclusion, the contrary decision shall be deemed adopted;

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15. This also applies to the consideration of proposals to waive an Assembly member's parliamentary immunity. See Rule 65.3, and the report on immunities of members of the Parliamentary Assembly (Doc. 9718 rev): *"Given that the draft resolution forming part of the committee's report will conclude with retaining or waiving the immunity, no amendment should be permitted to that conclusion. Accordingly, where the Assembly rejects the committee's proposal, the contrary decision should be deemed to have been adopted. Any amendments to the other paragraphs of the draft resolution should, of course, be admissible."* (para. 77).

16. For example, Rule 7 of the Rules of Procedure of the European Parliament concerning procedures on immunity stipulates expressly that an individual vote is held on each of the proposals contained in the report and that "*if any of the proposals are rejected, the contrary decision shall be deemed adopted*".

17. See footnote on page 11. See also the report on the credentials of the United Kingdom delegation (1992), Doc 6610, in which the Committee on Rules of Procedure proposed that the Assembly approve the credentials of the delegation until the opening of the next part-session and that the United Kingdom authorities take a number of specific measures with a view to ratification of the credentials at the next part-session.

- or, on the contrary, that this practice should be called into question, and it should be considered that the Assembly should take a direct stance in the final vote on the resolution without the President having to interpret the rejection of a resolution as meaning that a delegation no longer has the right to sit in the Assembly.

2.5. Criteria for drawing up lists of speakers

51. Rule 35.2 states that "(…) members wishing to speak in a debate shall enter their names in the speaker's register. The speakers' list is the responsibility of the President". More detailed rules relating to the list of speakers and the order of speakers are contained in the "Additional provisions relating to Assembly debates" appended to the Rules of Procedure as a complementary text (pages 105 -109).

52. At the September-October 2008 part-session, the first 24 on the (provisional) list of speakers in the debate on the consequences of the war between Georgia and Russia were all members of the Russian delegation; another 10 added their names a week later, making a total of 34 Russian parliamentarians who had put their names down to speak in this debate before the start of the part-session. A total of 94 speakers took the floor in this debate over three sittings, including the 9 members of the ad hoc committee; 17 Russian parliamentarians were able to take the floor, as were 5 Georgian parliamentarians.

53. Whatever the circumstances, a delegation cannot have more representatives at a plenary sitting than the number of members of which it is composed. Only representatives or, in their absence, their duly designated substitutes can take the floor. In the specific case of the Georgia-Russia debate, this rule limited the number to 18 Russians and 5 Georgians. It is therefore consistent with the spirit and logic of the Rules of Procedure that the number of speakers belonging to the same delegation who actually take the floor in a debate should necessarily be limited to the number of seats held by that delegation. The fact that the debate took place, exceptionally, over three sittings would not have made it possible, through the designation of substitutes, for more members of the two delegations to actually take the floor.

54. Lastly, it should be recalled that there are provisions concerning both the organisation of debates (alternation of political groups, no more than two members of the same delegation may follow one another on the list, even if they belong to different political groups, etc.) and the right to speak, in order to ensure that the members of one delegation do not monopolise the debate or, conversely, that a delegation concerned is not totally excluded from it ("*In the case of a debate particularly relevant to a member country (…) the list shall be drawn up in such a way as to allow for politically balanced contributions from the countries concerned*").

Conclusion

55. Consequently, the Committee takes the view that the rules that exist to guarantee equality of arms and balance in the representation of the different opinions that might be put forward – the President of the Assembly being ultimately responsible for drawing up the list of speakers and, as such, free to take, if necessary, any decision likely to strengthen that guarantee – would need to be supplemented in the additional provisions concerning the order of speakers (pages 106-108) by mentioning in paragraph 13 that "*the final list of speakers may not include more members of a delegation than the number of seats held by that delegation in the Assembly*".

2.6. Partner for democracy status

56. On 26 June 2009, the Assembly established a partner for democracy status with the Parliamentary Assembly in Resolution 1680.[18] It instructed the competent committee to prepare the necessary amendments to the Rules of Procedure for its implementation.

57. It is therefore necessary to incorporate into Part XIV of the Rules a specific rule setting down the conditions and criteria for granting this new status, which supplements those of special guest status (Rule 59) – for parliaments of European non-member states – and observer status (Rule 60) – for the parliaments of non-member (and in practice non-European) states.

58. This most recent resolution forms part of a major debate in the Assembly on the development of its external relations and co-operation with neighbouring regions of Europe, which has led in particular to the adoption of resolutions 1506 (2006) on external relations of the Council of Europe, 1598 (2008) on strengthening co-operation with the Maghreb countries, 1599 (2008) on the situation in the republics of central

18. See also the report presented by the Political Affairs Committee, Doc. 11913.

Asia and 1600 (2008) on the Council of Europe and its observer states. At the request of the Bureau, the Committee on the Rules of Procedure has considered these specific issues and will present other proposed amendments, in parallel with this report, in a separate report on the procedural implications of Assembly Resolution 1600 (2008) on the Council of Europe and its observer states: the current situation and a way forward and related Assembly texts (see Doc. 12072, rapporteur Mr Cebeci).

59. With regard to the partner for democracy status, the committee proposes the incorporation of a new rule to follow Rule 60:

"61.1. The Assembly may grant partner for democracy status to national parliaments of non-member states of the Council of Europe in neighbouring regions, which meet the conditions set out in Rule 61.2 and any specific conditions which the Assembly may lay down.

61.2. Any formal request for partner for democracy status shall be addressed to the President of the Parliamentary Assembly by the president or the speaker of the parliament concerned. This request shall contain the following elements:

– an explicit reference to the aspiration of the said parliament to embrace the values of the Council of Europe, which are pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms;

– a commitment to act to abolish the death penalty and to encourage the competent authorities to introduce a moratorium on executions;

– a statement on the intention of the parliament to make use of the Assembly's experience, as well as of the expertise of the European Commission for Democracy through Law (Venice Commission), in its institutional and legislative work;

– a commitment to organise free and fair elections in compliance with relevant international standards;

– a commitment to encourage balanced participation of women and men in public and political life;

– a commitment to encourage the competent authorities to become party to the relevant Council of Europe conventions and partial agreements which are open for signature and ratification by non-member states, in particular those dealing with human rights, rule of law and democracy issues;

– an obligation to inform the Assembly regularly on the state of progress in implementing Council of Europe principles.

61.3. The Assembly shall specify the number of members of a Partner for democracy delegation.

61.4. A parliament with Partner for democracy status shall transmit to the President of the Parliamentary Assembly not less than one week before the opening of the session the list of the delegation members appointed for the whole duration of the session. Insofar as the number of its members allows, the delegation shall be composed to ensure a fair representation of the political parties or groups in that parliament and to include at least the same percentage of the under-represented sex as is present in the parliament and in any case one representative of each sex.

61.5. Members of delegations with Partner for democracy status may sit in the Assembly but without the right to vote. They shall have the right to speak with the authorisation of the President of the Assembly.

61.6. Members of delegations with Partner for democracy status may attend committee meetings as provided in Rule 47.5. They may sign motions for resolutions and recommendations (except those under Rules 9.2 and 66) and written declarations. However they shall not be taken into account for the number of signatures required. Members of such delegations may participate in the work of political groups according to the conditions established by the groups.

61.7. Decisions on granting, suspending or withdrawing Partner for democracy status shall be taken by a resolution of the Assembly following a report by the Political Affairs Committee with an opinion by any other relevant Assembly committee, if necessary."

60. Rules 47.5 and 47.6 of the Rules of Procedure on meetings of committees and the provisions governing Assembly debates ("order of speakers") will have to be amended to take account of the new status.

2.7. Other amendments to be made to the Rules of Procedure

61. The Assembly made amendments to its Rules of Procedure in November 2007 by adopting, at the committee's initiative, Resolution 1584 (2007). Since then, some rules or procedures, other than those mentioned above, may require clarification or updating. The committee therefore wished to take advantage of the opinion requested from it to consider whether other provisions of the Rules of Procedure might warrant amendment. These might include the following:

- Setting a mandatory time-limit for transmitting national delegations' credentials to the President of the Assembly (Rule 6)

62. At present, Rule 6 states that the credentials of representatives and substitutes shall be submitted "*if possible not less than one week before the opening of the session*". However, the Rules do not stipulate any deadline regarding the transmission of credentials at a later date in the course of the year. In order to allow sufficient time to verify the credentials transmitted and take all the necessary technical and logistical measures, it is proposed that Rule 6.4 be amended by setting a deadline of not less than one week before the opening of a part-session or a meeting of the Standing Committee.

- Revision of the list of official documents of the Assembly (Rule 23.2)

63. The documents which must be published as official documents of the Assembly are listed in Rule 23.2. This list has not been changed for over a decade and is no longer in line with the practice followed, as regards in particular the publication of documents originating from other Council of Europe institutions (Committee of Ministers, Secretary General of the Council of Europe, Commissioner for Human Rights, etc.) or international organisations. At all events, the President of the Assembly will continue to decide whether documents should be published in the official documents of the Assembly series (Rule 23.2.k).

- Tabling of motions for recommendations and resolutions (Rule 24)

64. Motions for recommendations or resolutions are currently admissible if they include at least ten signatures belonging to at least five delegations. The requirement for ten signatures dates back to 1949, when the Assembly had much fewer than 636 members. The Assembly could therefore consider increasing the minimum number of signatures to take account of the current number of Assembly members by raising this minimum number to twenty members from at least five national delegations.

65. By analogy with Rule 53 on written declarations, which may not exceed 200 words, it would be appropriate to establish a similar condition for motions for recommendations and resolutions.

- Discontinuation of the minutes of proceedings of sittings of the Assembly (Rule 30)

66. In connection with the Bureau's discussions on the consequences of budgetary restrictions imposed on the Assembly, it is planned to cease producing minutes of Assembly proceedings. Consequently, Rule 30 would therefore have to be deleted, and other Rules amended.

- The possibility for the Standing Committee to ratify the appointment of members of the Monitoring Committee and the Committee on Rules of Procedure (Rule 43.3)

67. At present, only the Assembly is competent, under Rule 43.3, to ratify the appointment of members of the Monitoring Committee and the Committee on Rules of Procedure. For obvious practical reasons, it would be desirable for the Standing Committee also to be able to ratify such appointments in the interval between part-sessions.

- Clarification of the rule on exceptions to the number of sub-committees (Rule 48.3)

68. The current wording of Rule 48.3 is obsolete as regards exceptions granted by the Bureau to the number of sub-committees (maximum of three) which a committee may appoint. These exceptions are decided by a two-thirds majority, except in the case of two committees where, for historical reasons which no longer apply today, a simple majority suffices. It is proposed to harmonise this provision and to adopt the two-thirds majority rule for all committees. The last sentence of Rule 48.3 therefore needs to be deleted.

- Making the term of office of the bureaux of sub-committees equal to that of the bureaux of committees (Rule 48.7)

69. The election of the bureaux of sub-committees at the January 2009 part-session gave rise to a certain amount of confusion regarding the application to sub-committees of the rules on the election of the bureaux of committees. When the Assembly modified the procedure for electing the bureaux of committees in November 2007 (Rule 45.3 and Rule 45.7, which, inter alia, made the term of office two years), the question of adapting the rules relating to sub-committees accordingly was not discussed.[19] The Assembly must therefore decide to what extent the provisions of Rule 48.7 relating to sub-committees should reflect expressly in their wording the provisions of Rule 45 on committees. This mainly concerns the term of office of the bureaux of sub-committees (which should be formally aligned with the two-year term of office specified for committees in Rule 45.7).

- A ban on combining the functions of Assembly rapporteur and chairperson of an election observation mission (Rule 49.1)

70. There is no rule at present which provides formally for any incompatibility between the functions of chairperson of an ad hoc election observation committee and those of rapporteur. The question was raised by certain Assembly members with regard to the co-rapporteurs of the Monitoring Committee. They considered that allowing them to hold a chairmanship was inconsistent with the requirement of independence and impartiality which should govern the position of chairperson. The Assembly should therefore consider the introduction of a restriction to Rule 49.1 on this aspect and invite the Bureau to amend the guidelines on the observation of elections by the Parliamentary Assembly accordingly.

- The possibility for an item to be referred to several committees in an urgent procedure (Rule 50.4)

71. Rule 50.4 provides that if urgent procedure is ordered by the Assembly, the Assembly shall refer the item "*to a general committee […] for report and, if appropriate, to a committee for opinion*". This provision should be amended to bring it into line with recent practice (debate under urgent procedure on the consequences of the war between Georgia and Russia, on 2 October 2008, where opinions were requested from three committees).

- The possibility for a committee to request a current affairs debate (Rule 52)

72. Under Rule 52.2, a request for a current affairs debate may be submitted by at least twenty representatives or substitutes, or by one political group or one national delegation. This provision could be amended so that Assembly committees – which can already submit a request for urgent procedure – also have the opportunity to request a current affairs debate.[20]

- Clarification of the wording of Rule 53 (paragraphs 3 and 4) on written declarations

73. Rules 53.3 and 53.4 on the addition of signatures to a written declaration and the arrangements for distribution of the declaration lead to confusion. It would be desirable to simplify these clauses and to replace the two paragraphs with the following provision: "*Any Representative or Substitute may add his or her signature to a written declaration up to the close of the next part-session, after which no further signatures may be added. The declaration shall be issued again with the names of all members who have signed it*".[21]

- Formal opening of the list of speakers for a debate under urgent procedure or a current affairs debate as from the adoption by the Assembly of the agenda of the part-session (Additional provisions relating to Assembly debates – ii. List of speakers)

74. The additional provisions relating to Assembly debates provide that names may be entered on the list of speakers as soon as the draft agenda has been published, after approval by the Bureau, a few weeks before the part-session. Where debates under urgent procedure and current affairs debates are concerned, there is

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19. Rule 48.1 provides that "*except otherwise provided in this Rule, procedure in sub-committee shall follow that in committee*".

20. When the current affairs debate procedure was introduced in the 1980s, the Committee on Rules of Procedure thought it important to ensure that the number of requests was limited and to "*ensure that a subject chosen for a current affairs debate would be of interest to all, and not just a few, members of the Assembly*", which justified the exclusion of committees (see report on the introduction of Assembly debates on current affairs (1985), Doc. 5412, and report on Assembly debates on current affairs (1987), Doc. 5746).

21. When written declarations were introduced in 1970 (Resolution 439), members had one year in which to add their signatures. In 1985 that period was reduced to six months (Resolution 852). Since 1999 members have been able to add their signatures to a declaration up to the opening of the next part-session.

often confusion surrounding the placing of parliamentarians' names on the list of speakers,[22] making it impossible for the Table Office to manage this list properly. It should therefore be specified that names may not be entered on the list of speakers for a debate under urgent procedure or a current affairs debate until a specific request is placed on the draft agenda of the part-session drawn up by the Bureau.

- Increase in the speaking time granted to rapporteurs for opinion (Additional provisions relating to Assembly debates - iv. Speaking time)

75. Since the last revision of the Rules of Procedure in November 2007, a rapporteur has been allowed a total of thirteen minutes to introduce his or her report and reply to comments (instead of eight minutes for the introduction and four minutes for the reply previously). A rapporteur for opinion has three minutes in which to present the committee's opinion or reply to the debate. A speaker in the debate has five minutes' speaking time – reduced sometimes to four or, more rarely, three minutes for some debates. It might therefore seem unfair to grant such a short speaking time to committees to which a matter has been referred for opinion. The Assembly might accordingly consider increasing the speaking time of rapporteurs for opinion in order to align it with the "common" speaking time for speakers during the debate in question (five minutes as a rule, or four or three minutes if the Assembly so decides).

- Changes regarding the Monitoring Committee and the monitoring and post-monitoring procedures

76. Resolution 1115 (1997) on the Committee on the honouring of commitments and obligations by member states of the Council of Europe should be clarified on some provisions, regarding for example the representation on the Monitoring Committee of national delegations whose states are the subject of a monitoring procedure or are involved in a post-monitoring dialogue, the right to vote of *ex officio* members, or the post-monitoring procedure. In this respect, it could be envisaged that the Monitoring Committee would submit to the Assembly periodic reports on states subjected to a post-monitoring dialogue. Rule 43.3 of the Rules of Procedure could also be amended with regard to the number of members of the committee belonging to the same national delegation.

3. Proposals

77. The Assembly might adopt the following approach:

– there is no need to amend Rules 8 and 9, relating respectively to the challenging of still unratified credentials and the reconsideration of previously ratified credentials on substantive grounds, as regards the procedure for submitting requests to the Assembly and the conditions governing their admissibility;

– Rule 9 on the reconsideration of previously ratified credentials on substantive grounds could be amended to include a requirement to give reasons for the request;

– Rules 9 and 24 could be amended to include a clear mention of the fact that it is impossible to withdraw a signature from a motion already tabled or to withdraw the motion itself;

– Rules 9 and 24 of the Rules of Procedure could also be amended to strengthen the conditions governing the tabling of motions;

– there is no need to amend Rule 34 on amendments; it is sufficient to explain how it should be interpreted;

– there is no need to amend Rule 35 on the right to speak; the complementary provisions relating to the order of speakers should limit the number of members of a national delegation on the final list of speakers to the number of seats held;

– the complementary rules on the order of speakers might be amended to mention in paragraph 13 that "the final list of speakers may not include more full members of delegations or substitutes than the number of seats held by that delegation in the Assembly".

78. Lastly, the Assembly might decide to amend other rules requiring clarification, such as those mentioned in paragraphs 62 to 76.

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22. Names have sometimes been put down "provisionally" even though no formal request has been made for a debate under urgent procedure or a current affairs debate. Conversely, where several requests have been made, names have been entered on the list without the representative specifying the debate in which he or she wishes to participate.

4. Conclusion

79. This report and the proposals contained therein – in particular those mentioned above in paragraphs 15, 17 and 18, 35, 42 and 43, 50, 55, 59, and in paragraphs 62 to 77 – are the results of a thorough and careful consideration by the Committee on Rules of Procedure, Immunities and Institutional Affairs which devoted several meetings to their discussion. The Committee has unanimously adopted the draft resolution included in this report and agreed to present it to the Standing Committee in Bern (20 November 2010).

80. Any Rule changes should enter into force on the first day of the January 2010 part-session (25 January 2010).

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Reporting committee: Committee on Rules of Procedure, Immunities and Institutional Affairs

Reference to committee: Bureau decisions of 3 October 2008 and 26 June 2009, and Doc. 11744 rev.

Draft resolution unanimously adopted by the committee on 7 September 2009

Members of the committee: Mr John **Greenway** (Chairperson), Mr Rudi **Vis** (1st Vice-chairperson), Mrs Maria Postoico (2nd Vice-chairperson), Mr Lintner (3rd Vice-chairperson), Mr Agius, Mrs **Bemelmans-Videc**, Mrs Benaki, Mr Cebeci, Mr Chope, Mrs Err, Mr **Gross**, Mr Haibach, Mr Höfer, Mr **Holovaty**, Mr Huseynov, Mr Islami, Mr Kumcuoğlu**,** Mrs **Lilliehöök**, Mrs **Mendonça**, Mrs Ojuland, Mrs Pernaska, Mr Rowen, Mr **Rustamyan**, Mr Saar, Mr Van Overmeire, Mr **Vareikis**

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mr Heinrich, Mrs Clamer