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Rules and procedures for the future elections of the Secretary General of the Council of Europe - Draft joint (Committee of Ministers / Parliamentary Assembly) interpretative statement

Report
Committee on Rules of Procedure, Immunities and Institutional Affairs
Rapporteur: Mr John GREENWAY, United Kingdom

Summary

The Committee on Rules of Procedure, Immunities and Institutional Affairs has been instructed to prepare proposals for changes to the 1956 Regulations on the election of the Secretary General and the Deputy Secretary General of the Council of Europe and the Secretary General of the Assembly, following the adoption of Assembly Resolution 1665 (2009). Work conducted in parallel by the Committee of Ministers resulted in the drafting of a draft joint (Committee of Ministers/Parliamentary Assembly) interpretative statement on rules and procedures for the future elections of the Secretary General of the Council of Europe. The draft was approved by the Committee of Ministers on 13 January 2010 and transmitted to the Assembly.

The Committee on Rules of Procedure, Immunities and Institutional Affairs therefore changed its approach and prepared comments on the draft statement. The committee recommends that the Assembly adopt the draft statement. It considers it important to clarify the process of consultation of the Assembly by the Committee of Ministers in the election process and to reinforce gender equality aspects. The committee also believes that more time must be foreseen for the whole election process and that there must be continuous consultations between the President of the Assembly and the Chair of the Committee of Ministers. Lastly, the committee considers that governments should present candidates for the post of Secretary General from a wide political background.

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A. Draft resolution

1. The Parliamentary Assembly refers to the Regulations of 1956, as amended in 1962, relating to the appointment of the Secretary General, Deputy Secretary General and Secretary General of the Assembly.

2. It also refers to paragraph 9 of Assembly Resolution 1665 (2009) on the election process for the Secretary General of the Council of Europe, which invites the Bureau of the Assembly to instruct the relevant committee to submit to the Bureau any possible changes to these regulations, and to the Bureau's decision of 11 May 2009 entrusting the Committee on Rules of Procedure, Immunities and Institutional Affairs to prepare proposals to this effect.

3. The Assembly refers to the proposals for enhanced dialogue and co-operation (Doc. 12028 part II) where the Assembly and the Committee of Ministers agreed, *inter alia*, that the rules for future elections of the Secretary General of the Council of Europe need to be clarified in respect of the consultation process between the Assembly and the Committee of Ministers and that the gender aspects need to be strengthened.

4. It has examined the appended draft joint interpretative statement on rules and procedures for the future elections of the Secretary General of the Council of Europe prepared by a Ministers' Deputies ad hoc working party (GT-SG) and approved by the Ministers' Deputies on 13 January 2010 (document CM(2009)195 revised, appended).

5. The Assembly:

5.1. welcomes the numerous possibilities offered for contact and dialogue, both in late 2009 and early 2010, with representatives of the Ministers' Deputies on all relevant questions relating to the election of the Secretary General;

5.2. appreciates the clear wish of the Ministers' Deputies to find a common understanding with the Assembly on the rules for the future elections of the Secretary General;

5.3. acknowledges the efforts of the Ministers' Deputies, reflected in the draft joint interpretative statement, to make the consultation of the Assembly during future elections more meaningful and to give it more substance, as well as to strive to make gender equality a reality during future elections;

5.4. notes favourably that the draft joint interpretative statement also includes other – although not all – matters concerning the election which are of interest for the Assembly such as the extended time frame for future elections;

5.5. consequently, adopts the draft joint interpretative statement.

6. Furthermore, the Assembly considers that when calling for candidatures, the Committee of Ministers should draw the attention of governments to the desirability underlined by the Assembly that governments take into account the European political background when presenting candidates for the post of Secretary General.

7. The Assembly invites:

7.1. its political groups and individual members to urge the governments to present candidatures from a broad political background;

7.2. its President to raise this issue during his discussion with the Chairperson of the Ministers' Deputies at the very beginning of the election process; the dialogue between the President of the Assembly and the Chairperson of the Committee of Ministers may of course continue throughout the election process.

8. The Assembly confirms its practice of dealing with the election of the Secretary General procedurally in the same way as all other items on its agenda.

Appendix

CM(2009)195 revised 14 January 2010

Rules and procedures for the future elections of the Secretary General – Draft joint interpretative statement

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Having regard to the Statute of the Council of Europe, in particular Article 36.b;

Having regard to the Regulations relating to the appointment of the Secretary General, Deputy Secretary General and Secretary General of the Assembly having the rank of Deputy Secretary General which were adopted by the Committee of Ministers in 1956 with the agreement of the Assembly;

Having regard to the proposals for enhanced dialogue and co-operation between the Parliamentary Assembly and the Committee of Ministers, as they appear in document CM(2009)142 and Appendix to Parliamentary Assembly Doc. 12028 Part II;

1. The Committee of Ministers and the Assembly agreed that the rules for future elections of the Secretary General need to be clarified in respect of the consultation process between the Assembly and the Committee of Ministers and that the gender aspects need to be strengthened.

2. In accordance with Article 36.b of the Statute of the Council of Europe, the election of the Secretary General is a shared responsibility. It is the responsibility of the Committee of Ministers to draw up a list of candidates to be transmitted to the Assembly. It is the responsibility of the Assembly to elect the Secretary General from the candidates included in that list.

3. The criteria for determining the choice of candidates is set out in Article 2 of the Regulations relating to the appointment of the Secretary General. These are:

> *"a. The recruitment of persons of the highest ability and integrity and suitability for the post to be filled.*
>
> *b. The qualifications and experience of persons already employed by the Council of Europe shall be taken into consideration, so that members of the Secretariat may have reasonable prospects of promotion.*
>
> *c. The desirability of ensuring an equitable geographical allocation of appointments among nationals of the Member States subject to the overriding interests of efficiency. No office in the Secretariat shall be considered to be the prerogative of any particular Member State."*

In this connection, the Committee of Ministers will interpret the criteria of "highest ability and suitability" in particular by reference to the decision taken at the 117th Ministerial Session (Strasbourg, 10-11 May 2007) whereby the Committee of Ministers agreed to present to the Parliamentary Assembly "candidates who enjoy a high level of recognition, are well-known among their peers and the people of Europe, and have previously served as Heads of State or Government, or held senior ministerial office or similar status relevant to the post". When assessing candidates against these criteria, the Committee of Ministers will have a merit based approach and use the appended competence framework it has prepared to that effect (cf. Appendix 2).

4. With a view to strengthening gender aspects, both organs will, taking into account their different responsibilities in the election process, strive to make gender equality a reality, in line with the declaration adopted by the Committee of Ministers at its 119th session in Madrid in May 2009. The Chair of the Committee of Ministers, when calling for candidatures, will strongly encourage member states to put forward candidatures of both sexes. Furthermore, and bearing in mind paragraph 3 above, when the Committee of Ministers draws up its recommendation to be transmitted to the Parliamentary Assembly, it will pay due regard to the desirability of ensuring an equitable gender balance of appointments.

5. In accordance with Article 4 of the Regulations relating to the appointment of the Secretary General, the Committee of Ministers shall consult the Assembly through the medium of the Joint Committee before transmitting the recommendation to the Assembly.

6. The Committee of Ministers shall seek the Assembly's views before the Committee of Ministers draws up its recommendation. Therefore, consultation of the Assembly by the Committee of Ministers will take place at an early stage of the election procedure through the Joint Committee. It shall include a discussion on all the candidatures proposed by governments. The revised time frame, which is part of this statement, to accommodate this early consultation, is set out in Appendix 1.

7. After the consultation of the Assembly within the Joint Committee, the Committee of Ministers will decide on the list of candidates to be included in the recommendation to the Assembly, in accordance with its own procedures. This may include voting when drawing up the list of candidates. In this context, it is recalled that Article 20.d of the Statute of the Council of Europe applies to the adoption of the recommendation of the Committee of Ministers to the Assembly in the absence of a consensus.

Appendix 1: calendar for the election of the Secretary General

For a mandate beginning on 1 October of year n:

– January n–1: after informal discussions between the President of PACE and the Chair of the CM, PACE confirms the date (June of year n) of the election in the Joint Committee;

– February n–1: the CM fixes the timetable and calls for candidatures to be received before 15 December n–1. The Chair of the CM writes to his colleagues asking for suitable candidates and drawing attention to the "Juncker criteria" and to the gender aspects;

– 15 December n–1: deadline for member states to propose candidates;

– January n: consultation with PACE through the Joint Committee on all proposed candidates;

– February n: interviews of candidates by CM, drawing up of the recommendation and subsequent transmission to PACE;

– Before June n: interviews by the Assembly of the candidates included in the recommendation;

– June n: election by PACE;

– 1 October n: start of the mandate of the new Secretary General.

If only one candidate appears in the Recommendation:

– A discussion in the April n PACE part-session or during the March n Standing Committee to seek agreement in the Joint Committee on the submission of only one candidate in the CM recommendation;

– If agreement is reached in the Joint Committee, subsequent transmission of recommendation;

– June n: election by PACE;

– 1 October n: start of the mandate of the new Secretary General.

If the CM considers that no candidates are suitable to appear in the recommendation or if no agreement is reached in the Joint Committee on the submission of only one candidature in the recommendation:

– February/March n: prolongation of deadline for submission of candidates by 2 months;

– May/June n: new consultation in Joint Committee on candidatures proposed by member states, either at the May n Standing Committee or the June n part-session;

– June/July n: interview of candidatures by CM, drawing up of the recommendation and subsequent submission to PACE;

– September n: election by PACE;

– 1 October n: start of the mandate of the new Secretary General.

Appendix 2: Competence framework

The Secretary General is responsible to the Committee of Ministers for the work of the Secretariat and provides secretariat and other assistance to the Parliamentary Assembly. She/he represents the values of the Council of Europe to the outside at the highest levels and provides leadership to a culturally diverse Secretariat. The budgets of the Council of Europe amount to approximately €300 million in 2010.

a) To assess the "*suitability* for the post" (*Regulations*):

– "high level of *recognition*", "well-known among their *peers*", "has *previously served* as Heads of State or government, or held senior ministerial office or similar status relevant to the post" (*117th Session's decisions*):

– strong and effective relations with governments of member states; ability to work with the Committee of Ministers at all levels;

– demonstrated commitment to human rights, democracy, rule of law;

– very good knowledge of at least one of the official languages of the Council of Europe;

– at least a passive knowledge of the second official language, or a declared readiness to follow appropriate training during the first six months of the mandate.

b) To assess "*highest ability*" (*Regulations*):

– political vision and insight on international affairs; including the role of the Council of Europe; strategic thinking;

– leadership skills; trust-building; inspires and motivates a culturally diverse staff of 2,000 from 47 countries;

– skills to manage a large Organisation; delegates authority and empowers staff while remaining accountable; innovative thinking; promotes and accompanies change;

– pro-active planning ability and priority setting, both in his/her responsibility and in making proposals to the Committee of Ministers;

– delivers results, with efficiency and transparency;

– communication skills, both oral and written;

– negotiating skills; ability to tackle sensitive issues while promoting Council of Europe values;

– advocacy skills; proven ability to establish, maintain and use strong and effective networks; capacity to interact effectively with diverse interlocutors (political and cultural figures, officials, NGOs, media, etc.); highly developed ability to explain and to persuade.

c) To assess "*highest integrity*" (*Regulations*)

– proven personal commitment to the ethical values of the Council of Europe;

– respect for diversity;

– openness to scrutiny.

B. Explanatory memorandum by Mr Greenway, rapporteur

1. Introductory remarks

1. In paragraph 9 of Resolution 1665 (2009) on the election process for the Secretary General of the Council of Europe, the Parliamentary Assembly considered that the regulations governing the election of the three senior officials of the Council of Europe, which have existed largely without amendment for over half a century, are no longer fully satisfactory. It therefore called on the Bureau of the Assembly to instruct the relevant committee to submit to the Bureau any possible changes to these regulations.

2. On 11 May 2009, the Bureau entrusted the Committee on Rules of Procedure, Immunities and Institutional Affairs to submit proposals to the Bureau concerning changes that could be made to the regulations. Accordingly, the committee chairperson prepared such draft proposals, which were discussed at several committee meetings.

3. In parallel to the action of the Committee on Rules of Procedure, Immunities and Institutional Affairs, an ad hoc working party of the Committee of Ministers was created to re-examine the rules and procedures for future elections of the Secretary General of the Council of Europe, following the adoption in October 2009 by the Committee of Ministers and the Parliamentary Assembly of joint proposals for their enhanced dialogue and co-operation.[1] The general feeling in the working party was that the problem which arose during the last election procedure was largely due to a lack of dialogue rather than a shortcoming in the rules. Therefore, the working party concentrated its efforts on the preparation of a joint interpretative statement which was adopted by the Ministers' Deputies on 13 January 2010 and forwarded to the President of the Assembly.

4. With a view to this development, the Committee on Rules of Procedure, Immunities and Institutional Affairs agreed to change its approach and to prepare comments with respect to the draft statement under preparation by the Ministers' Deputies. On 11 January 2010, the committee adopted its opinion to the Bureau of the Assembly, which on 25 January 2010 referred the matter to the committee for report. This draft report will briefly recall co-operation with the Ministers' Deputies on this subject and submit proposals concerning the Assembly's position on the draft interpretative statement, as well as on some additional matters.

2. Co-operation with the subsidiary bodies of the Committee of Ministers

5. The Chairperson of the Committee on Rules of Procedure, Immunities and Institutional Affairs had an exchange of views with the Ministers' Deputies ad hoc working party for the re-examination of the rules and procedures for future elections of the Secretary General of the Council of Europe (GT-SG) at its first meeting on 10 November 2009. On that occasion he presented the issues which mattered most for the Assembly, notably the need for genuine consultation on the candidates in the Joint Committee. On 7 December 2009, the Committee on Rules of Procedure held an exchange of views with the Chair of the ad hoc working party (Ambassador Bole) and the Chair of the Ministers' Deputies (Ambassador Widmer). On 11 January 2010, the Committee on Rules of Procedure held a further exchange of views with the Chair of the Ministers' Deputies.

3. Examination of the draft joint interpretative statement

6. It should be noted that the scope of the draft statement is limited to the sole election procedure of the Secretary General of the Council of Europe.

3.1. Objectives of the draft statement (see document CM(2009)195 revised)

7. The aims of the draft statement are to:

– clarify the consultation process between the Assembly and the Committee of Ministers;

– strengthen the gender aspects;

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1. On the specific question of the election procedure of the Secretary General both statutory organs agreed that:

(1). The rules and procedures for future elections of the Secretary General will be re-examined in order to clarify the consultation processes between the Assembly and the Committee of Ministers and to strengthen the gender aspects.

(2). The Ministers' Deputies will complete the preparation of a first draft paper not later than June 2010 on their approach to future elections of the Secretary General. On the Assembly side the Committee on Rules of Procedure, Immunities and Institutional Affairs has already been tasked by the Assembly to start its reflections on the matter.

– underline the shared responsibility of the Assembly and the Committee of Ministers for the election of the Secretary General of the Council of Europe;

– recall all the criteria for determining the choice of candidates;

– recall the provisions for the establishment by the Committee of Ministers of the list of candidates.

8. In addition, the draft statement includes two appendices, one on the time frame for the election of the Secretary General and the other on a competence framework for the post of Secretary General. When assessing candidates against the criteria fixed in the draft statement, the Committee of Ministers will have a merit-based approach and use this competence framework.

3.2. Need for a spirit of compromise in analysing the draft statement

9. The Committee on Rules of Procedure, Immunities and Institutional Affairs considered that it would be appropriate to examine the draft in a spirit of compromise, as there can only be a joint interpretative statement if both sides, the Committee of Ministers and the Assembly, reach an agreement on a draft text.

3.3. Interpretative statement and criteria for candidates for the post of Secretary General, including political affiliation and gender aspects

10. The Committee on Rules of Procedure, Immunities and Institutional Affairs supported the proposal that the so-called “Juncker criteria” and the competence framework for the post of Secretary General prepared by the Committee of Ministers be included in the draft joint interpretative statement.

11. One area of disagreement between the Committee of Ministers and the Assembly is whether “broad political choice” among candidates in relation to the request to governments to nominate suitable candidates (paragraph 3 of the draft statement) should be taken into consideration. The Committee of Ministers is of the opinion that the overriding criteria should be those of “highest ability and integrity and suitability for the post to be filled” which are already included in the regulations of 1956. It has rejected political affiliation as a factor of choice when making its assessment under these criteria. Members of the Committee on Rules of Procedure have, at the last meetings, regularly insisted on the importance of this criterion. For the Assembly as a political organ of the Council of Europe, with an efficient system of political groups, there could be a problem if after two Secretaries General of the same political affiliation there were again only candidates of the same political affiliation for the successor.

12. Because of the particular relevance of this issue for the Assembly, it considers that when calling for candidatures, the Committee of Ministers should draw the attention of governments to the desirability underlined by the Assembly that they take into account the European political background when presenting candidatures. Furthermore, the Assembly should:

– invite Assembly political groups and individual members to urge the governments to present candidatures from a broad political background, and

– invite the President of the Assembly to raise this issue during his discussion with the Chair of the Ministers’ Deputies at the very beginning of the election process.

13. Members of the Committee on Rules of Procedure, Immunities and Institutional Affairs also underlined that parliamentary experience or work in the Council of Europe’s organs should be a consideration in assessing the qualifications of candidates. The Committee of Ministers is not in favour of a specific reference to this aspect in the competence framework. However, nothing prevents taking into account experience acquired and any executive posts held in parliament and, possibly, in the Parliamentary Assembly by candidates for the post of Secretary General.

14. Concerning gender aspects, the Assembly should support the provisions in the draft joint interpretative statement which deal with this issue.

15. Paragraph 4 of the draft joint statement (first version) stipulates that “both organs will strive to make gender equality a reality, in line with the declaration adopted by the Committee of Ministers at its 119th Session in Madrid in May 2009”. However, the Assembly may only have a decisive influence with regard to

gender aspects if the list of candidates transmitted to it includes candidates of both sexes. The Committee on Rules of Procedure, Immunities and Institutional Affairs has therefore proposed on 11 January 2010 that this sentence should be completed as follows:

> *"… both organs will, taking into account their different responsibilities in the election process, strive to make gender equality a reality, in line with the declaration adopted by the Committee of Ministers at its 119th Session in Madrid in May 2009."*

On 13 January 2010, the Ministers' Deputies approved this proposal and integrated the relevant text into the draft joint interpretative statement. Therefore, this matter does not need to be pursued.

3.4. Interpretative statement and consultation processes of the Assembly

16. The Committee on Rules of Procedure, Immunities and Institutional Affairs has given particular attention to the consultation processes of the Assembly. Ideally, the election process should start with a discussion between the President of the Assembly and the Chair of the Committee of Ministers on all important issues for the election. Such a meeting is already provided for in the calendar for the election of the Secretary General.

17. Paragraph 4 of the draft joint interpretative statement is so worded that it meets the concerns of the Assembly. It makes it clear that no decision concerning candidates will be taken by the Committee of Ministers before the Joint Committee has met. The text proposed by the Ministers' Deputies would allow members to ask in the Joint Committee for the reasons of the presentation of specific candidatures, and to raise any relevant aspect of the election procedure.

18. It has been suggested in the Committee on Rules of Procedure, Immunities and Institutional Affairs that after the Joint Committee the President of the Assembly should have the possibility, if necessary, of holding an exchange of views with the Chair of the Committee of Ministers at ministerial level before the election process continues. The Committee of Ministers is not ready to mention this in the draft joint interpretative statement. Initially, the Committee on Rules of Procedure proposed to add in Appendix 1 to the draft statement (calendar for the election of the Secretary General) under line "January *n*" (consultation with the Assembly through the Joint Committee) that, if necessary, a meeting may be held between the President of the Assembly and the Chair of the Committee of Ministers at ministerial level. However, at its meeting on 11 January 2010, the Committee on Rules of Procedure agreed that it was not appropriate to pursue this matter any further. Depending of the outcome of the Joint Committee, the President of the Assembly may always ask for a meeting with the Chairperson of the Committee of Ministers at ministerial level. Furthermore, the committee decided to include in the draft resolution contained in this report the following sentence (paragraph 6 iii.): "the dialogue between the President of the Assembly and the Chairperson of the Committee of Ministers may of course continue throughout the election process".

3.5. Election process of the Secretary General and presentation by the Committee of Ministers to the Assembly of a single candidature, withdrawal of candidates after the transmission of the list of candidates to the Assembly

19. These subjects are not referred to in the body of the draft joint interpretative statement. However, they are provided for in the revised calendar proposed for the election of the Secretary General which is a part of the draft joint statement (Appendix 1).

20. In case of a single candidature, clause 5.a of the Regulations of 1956 shall apply, according to which "Unless it has been otherwise agreed after discussion in the Joint Committee the Committee of Ministers shall draw up a list containing at least two names which shall be submitted to the Assembly". As long as there is no agreement of the Assembly, at least two candidatures have to be submitted. This could therefore entail reopening the call for candidates. This eventuality is built into the revised calendar.

21. If a candidate withdraws once the list has been submitted to the Assembly, it may ask the Committee of Ministers to complete the list of candidates.

3.6. Rules of Procedure of the Assembly for the election of the Secretary General

22. According to an understanding between the Committee of Ministers and the Assembly in 1956, the latter may discuss the qualifications of the candidates in a restricted session. Furthermore, it is the Assembly's practice to deal with the election of the Secretary General of the Council of Europe procedurally in the same way as all other items on the Assembly's agenda. This is mentioned in the opinion of the Committee on Rules of Procedure, Immunities and Institutional Affairs on the draft joint interpretative statement.

23. In the past, interviews of candidates for the post of Secretary General have mainly taken place in the Bureau of the Assembly, rarely in the Standing Committee. Unlike the Committee of Ministers, the Bureau of the Assembly has not yet adopted any guidelines on the modalities for such interviews (e.g. distribution of written questions before interviews).

4. Proposals

24. The Assembly should welcome the numerous possibilities for contact and dialogue offered both in late 2009 and early 2010, with representatives of the Ministers' Deputies on all relevant questions relating to the election of the Secretary General.

25. With respect to the draft joint interpretative statement the above analysis has shown:

– the efforts of the Ministers' Deputies to make the consultation of the Assembly during future elections of the Secretary General more meaningful and to give it more substance, as well as to strive to make gender equality a reality during future elections.

– the willingness of the Deputies to deal in a constructive way with other – although not all – matters concerning the election which are of interest for the Assembly such as the extended time frame for future elections.

Furthermore, the Ministers' Deputies had a clear wish to find a common understanding with the Assembly on the rules for future elections of the Secretary General.

26. Consequently, the Committee on Rules of Procedure, Immunities and Institutional Affairs proposes that the Assembly or the Standing Committee, acting on its behalf, should approve – in the draft resolution contained in this report – the draft joint interpretative statement.

27. However, the above analysis has also shown that despite goodwill from both sides, it has not been possible to agree on the inclusion in the draft statement of the need to provide for candidates from a broad political background. As this is an essential element for the Assembly, it should be taken up in a specific section of the draft resolution and precise proposals should be made to this end (see above, paragraph 12).

28. The adoption of the draft resolution also provides an opportunity to confirm the Assembly's practice to deal with the election of the Secretary General procedurally in the same way as all other items on the agenda of the Assembly.

29. The Committee of Ministers has already been informed on 13 January 2010 that the Assembly would make the above comments which would not call for changes to the draft text.

5. Final remarks

30. At its meeting on 26 January 2010, the Committee on Rules of Procedure, Immunities and Institutional Affairs unanimously adopted the draft resolution and agreed to submit the report to the Standing Committee in March 2010.

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

Reference to committee: Bureau decision, Reference 3644 of 29 January 2010

Draft resolution unanimously adopted by the committee on 26 January 2010

Members of the committee: Mr **Haibach** (Chair), Mr Rowen (1st Vice-Chair), Mr **Vareikis** (2nd Vice-Chair), Mr **Saar** (3rd Vice-Chair), Mr Agius, Mrs **Bemelmans-Videc**, Mrs **Brasseur**, Mr **Cebeci**, Mr Chope, Mr **Díaz Tejera**, Mrs Err, Mr **Greenway,** Mr **Gross**, Mr **Holovaty**, Mr Huseynov, Mr Islami, Mr **Kox**, Mr **Kumcuoğlu,** Mrs **Lilliehöök,** Mrs Mendonça, Mrs **Pernaska**, Mr **Rustamyan**, Mr **Van Overmeire**, Mr Vis

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

Secretariat of the committee: Mr Heinrich, Mrs Clamer