



Doc. 12167

10 February 2010

The term of office of co-rapporteurs of the Monitoring Committee

Committee Opinion¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

Rapporteur: Mr Ertuğrul KUMCUOĞLU, Turkey, European Democrat Group

A. Conclusions of the committee

The Committee on Rules of Procedure, Immunities and Institutional Affairs fully supports the initiative taken by the Monitoring Committee to improve its procedures and operating methods. It concurs with the proposed amendments to [Resolution 1115 \(1997\)](#) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee) and the appendix thereto, as set out in the Monitoring Committee's report. It nonetheless wishes to submit some amendments to the draft resolution, aimed at clarifying the formulation of the proposed changes.

B. Explanatory memorandum by Mr Kumcuoğlu, rapporteur for opinion

1. Introduction

1. The Parliamentary Assembly's procedure for monitoring obligations and commitments, established in 1994-95, was reinforced thirteen years ago with the setting up of the Monitoring Committee under [Resolution 1115 \(1997\)](#). In the meantime the Assembly has sought to improve and strengthen this procedure by adopting a number of successive amendments to [Resolution 1115](#) and the appendix thereto, most recently through the adoption of [Resolution 1698 \(2009\)](#) on the amendment of various provisions of the Parliamentary Assembly's Rules of Procedure.

2. The Monitoring Committee has approved a report on the term of office of its co-rapporteurs and adopted a draft resolution containing a number of proposed amendments to [Resolution 1115 \(1997\)](#) on:

- the limitation of the term of office of the committee's rapporteurs;
- the appointment of rapporteurs to deal with the post-monitoring dialogue;
- the codification of the criteria for appointing the committee's rapporteurs.

2. Comments

3. It falls to the Committee on Rules of Procedure, Immunities and Institutional Affairs to examine, in the present opinion, the proposals set out in the Monitoring Committee's draft resolution, in particular from the standpoint of their consistency with the Rules of Procedure.

1. See [Doc. 12143](#), report tabled by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).



2.1. The term of office of the Monitoring Committee's co-rapporteurs

4. Concerning the term of office of the Monitoring Committee's co-rapporteurs, which the latter committee wishes to limit to five years, the Committee on Rules of Procedure, Immunities and Institutional Affairs considers that this is a step in the right direction, allowing regular renewal of the rapporteurs. Since the Rules of Procedure limit the duration of committees' terms of reference for given reports to two years (Rule 25.3), the possibility for a monitoring rapporteur to remain in office for an unlimited duration was becoming hard to reconcile with the rule of principle applied to the other nine committees. As the Monitoring Committee points out, the proposed duration – five years – allows the rapporteur the time to become acquainted with the file and the possibility of having a significant influence on the conduct of the monitoring procedure.

5. However, the Committee on Rules of Procedure, Immunities and Institutional Affairs proposes to clarify the wording of paragraph 5.1 of the draft resolution (referring to paragraph 11.2 of [Resolution 1115](#)) which may appear as too restrictive and might be interpreted as giving an unconditional five-year mandate to the rapporteurs, with no possibility to replace them in the meantime (see Amendment B, as well as Amendment C as regards the rapporteurs for post-monitoring dialogue).

2.2. Appointment of rapporteurs for the post-monitoring dialogue

6. The committee also concurs with the Monitoring Committee's proposal to appoint rapporteurs for the post-monitoring dialogue. Up to now, the Monitoring Committee's chairperson has been responsible for this dialogue with member states for which the monitoring procedure has been terminated.

7. Nonetheless, as to whether a rapporteur who has dealt with the monitoring procedure for a given state could be appointed as its post-monitoring rapporteur, the Monitoring Committee responds in the negative (see paragraph 5.2 of the draft resolution, referring to paragraph 12.2 of [Resolution 1115](#)). This approach is perhaps rather drastic. It cannot be ruled out that, in certain cases to be left to the committee's own discretion, the monitoring procedure rapporteurs could be considered best suited to monitor the further progress of the country concerned in the context of the post-monitoring dialogue (see Amendment D).

2.3. Criteria for appointing the committee's rapporteurs

8. The Monitoring Committee wished to incorporate into [Resolution 1115 \(1997\)](#), which has para-regulatory force, some of the criteria laid down in the Code of Conduct for co-rapporteurs on the honouring of obligations and commitments by member states of the Council of Europe, which is a document for that committee's own internal use. The Committee on Rules of Procedure, Immunities and Institutional Affairs fully shares the Monitoring Committee's concern that its decisions be governed by respect for criteria. It nonetheless considers that Rule 48.1 of the Rules of Procedure stipulates general criteria for appointing rapporteurs that must be taken into account (see Amendment A).

9. Since the Bureau of the Assembly has instructed the Committee on Rules of Procedure, Immunities and Institutional Affairs, to examine the possibility of including elements of the code of conduct for the Monitoring Committee's co-rapporteurs in the Assembly's Rules of Procedure, the committee will have occasion to pursue its consideration of this question.

2.4. Follow-up action to be taken following the resolution's adoption

10. The Monitoring Committee wished, in the context of its report, to consider the consequences of the changes introduced by [Resolution 1698 \(2009\)](#) in the post-monitoring dialogue procedure. In this connection, the Committee on Rules of Procedure, Immunities and Institutional Affairs notes that the Monitoring Committee could not, in the limited context of a report confined to the term of office of co-rapporteurs, go more deeply into the implications of these changes. The committee considers it necessary to harmonise [Resolution 1115](#) and its appendix in the light of the changes proposed in the draft resolution submitted by the Monitoring Committee and the amendments already made to [Resolution 1115](#) with the adoption of [Resolution 1698 \(2009\)](#) on the amendment of various provisions of the Parliamentary Assembly's Rules of Procedure.

11. The Committee on Rules of Procedure, Immunities and Institutional Affairs would therefore like the Bureau of the Assembly, in the context of the follow-up action given to texts adopted by the Assembly, to instruct it to pursue its reflections and consider whether other amendments must be made to the Assembly's Rules of Procedure to harmonise the provisions governing the monitoring and post-monitoring procedures (see Amendment E).

C. Proposed amendments

In the light of the above comments, the committee proposes the following amendments to the draft resolution submitted by the Monitoring Committee:

Amendment A (to the draft resolution)

In paragraph 5.1 of the draft resolution, add the following at the beginning of the second sentence under 11.1: "Without prejudice to Rule 48.1 of the Rules of Procedure,".

Amendment B (to the draft resolution)

In paragraph 5.1 of the draft resolution under 11.2, replace the words "for a five-year term" with "no longer than five years."

Amendment C (to the draft resolution)

In paragraph 5.2 of the draft resolution under 12.2, replace the words "shall be five years" with "shall be no longer than five years."

Amendment D (to the draft resolution)

In paragraph 5.2 of the draft resolution, add the following at the end of 12.2 "unless the Monitoring Committee decides otherwise."

Amendment E (to the draft resolution)

In the draft resolution, after paragraph 6, add a paragraph as follows:

"In the light of the changes which this resolution and [Resolution 1698 \(2009\)](#) have made to the monitoring and post-monitoring dialogue procedures and the Monitoring Committee's terms of reference, the Assembly considers it necessary to pursue the consideration being given to the harmonisation of all the relevant regulatory and para-regulatory provisions and asks its competent committee to submit any proposals in this respect."

Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe

Committee seized for opinion: Committee on Rules of Procedure, Immunities and Institutional Affairs

Reference to committee: Reference 3510 of 26 January 2009

Draft opinion unanimously approved on 28 January 2010

Secretariat to the committee: Mr Heinrich, Mrs Clamer