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The amendment of various provisions of the Rules of Procedure of the Parliamentary Assembly – implementation of Resolution 1822 (2011) on the reform of the Parliamentary Assembly

Report¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

Rapporteur: Mr Andreas GROSS, Switzerland, Socialist Group

Summary

The Assembly is invited to amend several provisions of its Rules of Procedure in order to implement the decisions taken in June 2011 in [Resolution 1822 \(2011\)](#) on the reform of the Parliamentary Assembly.

This report therefore contains proposals regarding in particular:

- motions for recommendations and resolutions, and references to committees;
- the organisation of plenary debates;
- the structure and functioning of committees, appointment of committees and the bureaux of committees and sub-committees;
- reports by committees, including their follow-up.

Moreover, other provisions which no longer correspond to parliamentary practice or whose application raises difficulties also need to be reviewed.

1. Reference to committee: Bureau decision, Reference 3791 of 24 June 2011.



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A. Draft resolution²

1. In adopting [Resolution 1822 \(2011\)](#) on the reform of the Parliamentary Assembly, the Parliamentary Assembly approved various measures to strengthen and improve the effectiveness of its functioning, the coherence of its structures, and the credibility and visibility of its actions. The Assembly instructed the Committee on Rules of Procedure, Immunities and Institutional Affairs to carry out the necessary adaptations of its Rules of Procedure, in order to give substance to the measures adopted.
2. Furthermore, considering that the procedures governing its activities and decisions should be founded on clear, coherent, updated and effective parliamentary rules, the Assembly has regularly amended its Rules of Procedure in order to accommodate the evolution of parliamentary practice or to clarify the rules or procedures where their application or interpretation raised difficulties or where specific problems arose.
3. In the light of the foregoing considerations, and in pursuance of [Resolution 1822 \(2011\)](#), the Assembly decides to amend its Rules of Procedure as follows:
 - 3.1. concerning *motions for recommendation and resolutions*, in Rule 24.2 add the following words at the end of the first sentence:
“or be adopted with the requisite quorum by a committee, as defined in Rule 45.3, provided that the motion comes within the committee’s specific terms of reference”;
 - 3.2. concerning reference to committee:
 - 3.2.1. at the end of Rule 25.1, add the following sentence:
“A document forwarded for information may not give rise to a committee report to the Assembly”;
 - 3.2.2. after Rule 25.1, add the following new paragraph:
“The Bureau may refer a specific matter to a committee for a report to the Assembly, particularly as part of the action to be taken on an adopted text, provided that the matter has not already been referred to it.”;
 - 3.3. with regard to *amendments*, after Rule 33.2 add the following new paragraph:
“Except where an amendment is self-explanatory, it may be accompanied by an explanatory note of no more than 50 words to facilitate better understanding or clarify the scope of the amendment.”;
 - 3.4. regarding *plenarysession debates* of the Assembly:
 - 3.4.1. after Rule 37 (“Organisation of debates”), add the following new rule:
“Free debate
The Assembly may hold a free debate lasting for not more than one hour. The President shall call the members of the Assembly or the members of delegations of special guests, observers or partners for democracy wishing to speak on any subject of their choice not appearing on the agenda of the part-session. The Assembly may hold only one such debate during a part-session. Speakers must have their names entered in the speakers’ register. Their statements must comply with the principles set out in Rule 21.6 on acceptable words. This debate shall not give rise to a vote.”;
 - 3.4.2. consequently, delete Rule 34.6;
 - 3.5. concerning *Assembly committees*:
 - 3.5.1. as regards the *appointment of committees*:
 - 3.5.1.1. replace Rule 42.1 with the following new paragraph:
“At the beginning of each ordinary session, the Assembly shall set up the following general committees:
 1. *Committee on Political Affairs and Democracy (84 seats),*
 2. *Committee on Legal Affairs and Human Rights (84 seats),*
 3. *Committee on Social Affairs, Health and Sustainable Development (84 seats),*

2. Draft resolution adopted unanimously by the committee on 5 September 2011.

4. *Committee on Migration, Refugees and Displaced Persons (84 seats),*
5. *Committee on Culture, Science, Education and Media (84 seats),*
6. *Committee on Equality and Non-Discrimination (84 seats),*
7. *Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) (84 seats),*
8. *Committee on Rules of Procedure, Immunities and Institutional Affairs (37 seats).”;*

3.5.1.2. in Rule 42.2, replace the words “in each of the first eight committees” with the words “in each of the first six committees”;

3.5.1.3. concerning the composition of the Committee on Rules of Procedure, Immunities and Institutional Affairs, amend Rule 42.3 by replacing the words “25 of the 27 members” with “30 of the 37 members” and by adding after the second sentence the following sentence “Chairpersons of political groups shall be *ex officio* members of the committee. The political groups shall nominate the members with a view to ensuring a fair representation of national delegations”;

3.5.1.4. after Rule 42.5, add the following new paragraph: “No member of the Assembly can be a full member of more than two committees, with the exception of committees whose members are nominated by the political groups”;

3.5.1.5. in Rules 18.5, 19.3, 58 and 59, amend the title of the Political Affairs Committee to “the Committee on Political Affairs and Democracy”;

3.5.1.6. in Rule 46.6, delete the second sentence;

3.5.2. regarding the *competence of committees*:

3.5.2.1. in Rule 43.1, after the first sentence, add the following: “They may draw up a report, or an information report, for presentation to the Assembly or to the Standing Committee in accordance with Rule 48, merge references, or take no action on a reference. In the last two cases, they shall inform the Bureau accordingly”;

3.5.2.2. delete paragraph 43.5;

3.5.3. regarding *committee reports* and action on adopted texts:

3.5.3.1. at the end of Rule 48.1, add the following sentence:

“A rapporteur shall remain in charge of the follow-up to his or her report for a term of one year after the adoption of the text by the Assembly.”;

3.5.3.2. after Rule 48.6, add the following new paragraph:

“Committees may appoint one or more general rapporteurs whose terms of reference and term of office they shall determine beforehand. The terms of reference shall be submitted to the Bureau for approval and its decision shall be subject to ratification by the Assembly.”;

3.5.4. regarding *the bureaux of committees*, in the first sentence of Rule 44.3, replace the words “Candidates for the office of chairperson or vice-chairperson must be full members of the committee and have been full member or alternate of the committee concerned for at least one year” by the following words:

“Committee members who have been members for at least one year may be candidates for the office of chairperson or vice-chairperson³”.

3.5.5. regarding *the bureaux of sub-committees*, replace the third sentence of Rule 47.7 as follows:

“Sub-committee full members who have been members of the sub-committee for at least one year may be candidates for the office of chairperson or vice-chairperson of the sub-committee⁴.”;

3.6. Concerning the *status of partner for democracy*, replace Rule 60.7 with the following new rule:

“The decision to grant, suspend or withdraw partner for democracy status shall be taken by a resolution of the Assembly following a report by the Committee on Political Affairs and Democracy, with an opinion by the Committee on Legal Affairs and Human Rights and an opinion by the Committee on Equality and Non-Discrimination and, where appropriate, an opinion by any other relevant Assembly committee. These committees, in the fields within their specific terms of reference, review the progress achieved in fulfilling the undertakings made by the parliaments concerned when they requested this status.”.

4. In addition, the Assembly decides to introduce into its Rules of Procedure the following changes intended to improve its own functioning and working methods:

4.1. with regard to the opening of the ordinary session, Rule 5 is amended as follows:

“Rule 5 – Provisional President

5.1. The longest-serving member of the Assembly, that is the member who has held office in the Assembly for the longest, shall open the ordinary session and shall preside until the election of the President of the Assembly has been announced.

5.2. While the Provisional President is in the Chair, no debate may take place unless concerned with the examination of credentials or the election of the President of the Assembly, and no speeches may be delivered. The Provisional President may address the Assembly for not more than five minutes.”;

4.2. with regard to *written declarations*, Rule 52.3 is amended by adding the following sentence at the end:

“No signature may be withdrawn.”.

5. With regard to complementary texts, the Assembly decides to amend the additional provisions relating to Assembly debates:concerning the organisation of debates, paragraph 5 is amended as follows:

5.1. concerning *the organisation of debates*, paragraph 5 is amended as follows:

“To ensure that the speaking time is respected, the time available is displayed and a bell rings when the time ends”;

5.2. concerning *speaking time*, paragraph 1 is amended as follows:

“Speakers registered for a debate shall have four minutes’ speaking time”.

6. It also decides to amend the additional provisions on *candidates for the European Court of Human Rights*by amending [Resolution 1366 \(2004\)](#), as modified by [Resolution 1426 \(2005\)](#) and [Resolution 1627 \(2008\)](#), as follows:

6.1. replace paragraph 3.ii by “the list does not include at least one candidate of each sex, except in the cases prescribed by paragraph 4.”;

6.2. replace paragraph 4 by the following sub-paragraphs:

“The Assembly decides to consider single-sex lists of candidates when:

3. This provision does not apply to new committees.

4. This provision does not apply to new sub-committees.

- i. the candidates belong to the sex which is under-represented in the Court (i.e. the sex to which less than 40% of the total number of judges belong) at the time of the Assembly's call for candidatures;*
- ii. there is no under-represented sex in the Court or the candidates belong to the sex which is over-represented in the Court (i.e. the sex to which over 60% of the total number of judges belong) at the time of the Assembly's call for candidatures, in exceptional circumstances where a Contracting Party has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes meeting the requirements of paragraph 1 of Article 21 of the European Convention on Human Rights.*

Such exceptional circumstances must be duly so considered by a two-thirds majority of the votes cast and a majority of the members entitled to vote of both the Sub-Committee and the Committee on Legal Affairs and Human Rights. This position shall be endorsed by the Assembly in the framework of the progress report of the Bureau of the Assembly.”;

6.3. at the end of paragraph 5.viii, add the following words: “and in particular to give positive reasons for its recommendation in favour of a particular candidate”.

7. Lastly, the Assembly decides to amend 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 \(1997\)](#) as follows:

7.1. in paragraph 2.iii, replace the words "not less than ten members of the Assembly representing at least five national delegations and two political groups" with the words "not less than twenty members of the Assembly representing at least six national delegations and two political groups".

8. The Assembly decides that the amendments to the Rules of Procedure contained in this resolution will come into force at the opening of the 2012 ordinary session (on 23 January 2012). The amendments to the additional provisions on candidates to the European Court of Human Rights will come into force upon their adoption and will be applicable to the pending procedures.

B. Explanatory memorandum by Mr Gross, rapporteur

1. Introduction

1. On 22 June 2011, the Parliamentary Assembly adopted [Resolution 1822 \(2011\)](#) on the reform of the Parliamentary Assembly. On 24 June, at the Bureau's proposal, it instructed the Committee on Rules of Procedure, Immunities and Institutional Affairs to draw up a report on the implementation of that resolution and "the necessary modifications of the Rules of Procedure, which shall include revised terms of reference of committees, including the implementation of the proposal that the Assembly should be able to consider 'deep security' issues, transitional arrangements and recent issues relating to the interpretation of the Rules such as committees' standing mandates and deadlines for the preparation of reports".
2. At its meeting on 23 June 2011, anticipating the Assembly's decisions, the Committee on Rules of Procedure appointed two rapporteurs, one of whom – Mr Andreas Gross – was assigned a report on the amendment of various provisions of the Rules of Procedure of the Assembly, and the other – Mr Egidijus Vareikis – a report on the terms of reference of the Assembly committees.
3. The committee recalls in this matter that the Assembly, while reflecting on the reform, aimed to define objectives to develop the context within which it operates. Therefore, the revision of the Rules of Procedure is not an objective in itself. The ambition of the Assembly's reform, which is rather "to strengthen its political relevance and effectiveness, to make it more visible and to improve its members' involvement", plainly presupposes more of "a change of practice" than a change in the rules. In this context, the credibility of the Assembly is a crucial issue: strengthening the Assembly in its functioning and means of action shall be consistent with the aim of strengthening its credibility.
4. Thus, certain decisions taken by the Assembly in [Resolution 1822 \(2011\)](#) need not be expressed in amendments to rules. On the other hand, for the sake of practicality and clarity of the implications of the reform, the amendments to rules required by the restructuring of the committees are also set out in this report.
5. Apart from the questions expressly mentioned in [Resolution 1822 \(2011\)](#) (see chapter 2), the committee might deem it expedient to examine other provisions of the Rules of Procedure whose application is problematic or which call for clarification (see chapter 3).

2. Implementation of the provisions of [Resolution 1822 \(2011\)](#) requiring amendment of the Rules of Procedure or of the complementary texts

2.1. Motions for recommendations and resolutions (Rule 24)

6. Under the terms of the current Rules of Procedure, committees are competent to draw up a report when properly mandated by a decision to refer a motion for a recommendation or resolution (or any other document regarded as an official document by the President of the Assembly). At present the motions are put forward by the members of the Assembly and, to be tabled, need to receive the signatures of 20 parliamentarians belonging to five national delegations.
7. Paragraph 5.1.2 of [Resolution 1822 \(2011\)](#) acknowledges that committees can also table motions for recommendations and resolutions in order that these may perform a more active role in determining their work programmes.
8. It is therefore expedient to clarify the arrangements under which committees may put forward motions. In that respect, it is important to bear in mind that in recent years it has been the Assembly's intention to tighten the conditions governing the tabling of motions for recommendations and resolutions, particularly by raising the number of signatories from ten to twenty (see [Resolution 1698 \(2009\)](#), paragraph 3.5). Consequently, the conditions laid down for committees need to be approximated to those stipulated for members' motions. Rule 45.3 sets the quorum in committee at one-third of its members (i.e. a quorum of 28 for an 84-member committee). It is therefore legitimate to subject the tabling of motions by committees to the stipulation in the Rules of Procedure that their adoption requires a quorum of members.
9. Finally, it is self-evident that committees should table motions only on themes or subjects strictly relating to their fields of competence as established in their specific terms of reference.

– Proposal

10. Concerning motions for recommendations and resolutions, it is proposed to amend Rule 24.2 of the Rules of Procedure by adding at the end of the first sentence the following words: “or be adopted with the requisite quorum by a committee, as defined in Rule 45.3, provided that the motion comes within the committee’s specific terms of reference.”

2.2. Reference to committee (Rule 25)

2.2.1. Competence of the Bureau

11. Paragraph 5.1.2 of [Resolution 1822 \(2011\)](#) proposes to codify in the Rules of Procedure a practice which has been well established for some years by clearly acknowledging the possibility for the Bureau of the Assembly “to propose reports for debate in the Assembly”. In concrete terms, this essentially comprises the Bureau’s initiatives to refer certain questions to committees for report and debate in the Assembly – for example on the state of human rights or the state of democracy, on the religious dimension of intercultural dialogue, on living together in 21st-century Europe, or the effective implementation of the European Convention on Human Rights and the Interlaken Process – as well as the Bureau’s proposals concerning the requisite action on adopted texts. These decisions of the Bureau are naturally subject to the Assembly’s ratification, like motions for texts, so as to be duly referred to committees.

– Proposal

12. Regarding the Bureau’s competence for reference to committee, it is proposed to amend Rule 25 by adding after Rule 25.1 the following new paragraph: “The Bureau may refer a specific matter to a committee for a report to the Assembly, particularly as part of the action to be taken on an adopted text, provided that the matter has not already been referred to it.”.

2.2.2. Competence of committees – clarification of the notions of reference for report and of forwarding for information

13. Paragraph 5.1.4 of [Resolution 1822 \(2011\)](#) states that it would be useful “to make explicit in the Rules of Procedure the various options which committees have when a motion is referred to them for information”.

14. Rule 25.1 of the Rules of Procedure stipulates that a motion for a resolution or recommendation tabled by members of the Assembly (or another document where relevant) is the subject of a decision by the Bureau that it “shall be referred to one or more committees, forwarded to one or more committees for information, or that no further action be taken”.

15. Only formal reference to a committee by the Assembly enables it to draw up a report which it may submit to the Assembly. Conversely, the forwarding of a proposal for a text to a committee for information cannot give rise to the preparation of a committee report to be submitted for debate to the Assembly. Therefore a committee cannot appoint a rapporteur in this context.

16. Rule 48 of the Rules of Procedure, dealing with committee reports, specifies that the report of a committee “shall normally contain one or more draft texts” (48.2) but that “committees may table information reports, which shall not be subject to a vote in the Assembly” (48.6). Under the terms of Rule 23.2.d of the Rules of Procedure, only these committee reports have the status of official Assembly documents and are published as such.

17. However, a committee to which a reference has been made is under no obligation to prepare a report, and remains free to determine the action to be taken on the reference. It may accordingly decide:

- to present a report containing a draft text which will be submitted to the Assembly or to the Standing Committee for adoption;
- to present an information report which does not comprise a draft text but may nevertheless be debated in the Assembly or the Standing Committee;
- not to follow up the reference;
- to merge the new reference with one or more previous references for report.

18. A committee to which a motion for a recommendation or resolution has been forwarded for information cannot present a report for debate in the Assembly. In practice, committees simply take note of such motions. They may nevertheless discuss any paper or information note prepared by one of their members. Only

recently has a committee decided to look further into a particular question and to instruct one of its members to prepare an internal information report, which was merely circulated to its members as a committee document.

19. It should be recalled here that it behoves every committee to examine any subject for which it is competent within its terms of reference (Rule 43.1); in particular it may discuss any paper or information note from its members, although, once again, only a formal reference for report permits it to draw up a report for debate in the Assembly.

– *Proposal*

20. It is therefore proposed to clarify the Rules of Procedure:

- by adding to the end of Rule 25.1 that “a document forwarded for information may not give rise to a committee report to the Assembly”;
- by adding to Rule 43.1, after the first sentence, that committees “may draw up a report, or an information report, for presentation to the Assembly or to the Standing Committee in accordance with Rule 48, merge references, or take no action on a reference. In the last two cases, they shall inform the Bureau accordingly”.

2.3. Organisation of part-sessions and plenary debates

21. One of the major innovations of the reform concerns the organisation of the Assembly’s part-sessions which, as from the 2012 session, will undergo significant changes, particularly in the number, nature and length of plenary debates.

2.3.1. Introduction of a free debate

22. The Assembly decided in paragraph 5.3.1 of [Resolution 1822 \(2011\)](#) “to introduce one ‘free debate’ during each part-session”, in which members of the Assembly would be able to speak on a topic of their choice.

23. This measure, designed to make sessions more interesting and lively, harks back to the discussions in the Committee on Rules of Procedure in 2007 on the report on “Improving the participation of members in Parliamentary Assembly plenary sessions and committee meetings”.⁵ This report was behind an identical measure also intended to make the debates before the Assembly more lively and attractive: under the terms of Rule 34.6 of the Rules of Procedure, members may freely take the floor on a question of their choice for not more than fifteen minutes, on the first day of a part-session. But this provision, which came into force in January 2008, has not had the success expected and has never been used. It would therefore be expedient to delete this obsolete provision from the Rules of Procedure and replace it with the new procedure envisaged, that of free debates.

24. The conditions of this exercise should nevertheless be clearly determined, particularly by setting a maximum time – one hour⁶ – and circumscribing members’ freedom to speak with a reference to the existing provisions on respect for the dignity of persons – those of Rule 21 which the Committee on Rules of Procedure set out to strengthen in a recent report on “Ensuring protection against attacks on a person’s honour and reputation”.⁷ Indeed, as the committee emphasised in its written contribution to the report on the reform of the Assembly, it is to be feared that members may seize the opportunity of a free debate to raise subjects of little relevance to the general concerns of European citizens, or purely national issues pointing to internal political quarrels, or questions arousing national animosities liable to cause altercations between delegations.

– *Proposal*

25. Regarding Assembly *plenary debates*, it is therefore proposed to add after Rule 37 the following new rule:

5. [Resolution 1583 \(2007\)](#), [Doc. 11295](#), rapporteur: Mr Andreas Gross.

6. It may be noted by way of comparison that at each session the European Parliament holds a debate lasting not more than one hour “on cases of breaches of human rights, democracy and the rule of law” (Rule 122 of the Rules of Procedure). Motions for resolutions tabled on subjects for this debate are put to the vote at the end of the debate.

7. See [Doc. 12703](#), rapporteur: Ms Marie-Louise Bemelmans-Videc.

“Free debate

The Assembly may hold a free debate lasting for not more than one hour. The President shall call the members of the Assembly or the members of delegations of special guests, observers or partners for democracy wishing to speak on any subject of their choice not appearing on the agenda of the part-session. The Assembly may hold only one such debate during a part-session. Speakers must have their names entered in the speakers’ register. Their statements must comply with the principles set out in Rule 21.6 on acceptable words. This debate shall not give rise to a vote.”

and to delete Rule 34.6.

2.3.2. Explanatory notes to amendments

26. Paragraph 5.3.2 of [Resolution 1822 \(2011\)](#) allows amendments to be tabled together with explanatory notes.

27. It is interesting to note that the Committee on Rules of Procedure examined this measure in its 2007 report on “Application and amendment of various provisions of the Assembly’s Rules of Procedure” ([Doc. 11431](#)) and at the call of its rapporteur, Mr Erik Jurgens, but did not accept it, considering, in particular, the technical obstacles which its implementation would raise (additional time for translation, the need to adjust IT tools).

28. Here too, the Rules of Procedure need to prescribe the operating conditions of this possibility which members of the Assembly will have to add explanations to amendments tabled. In that respect, the Committee on Rules of Procedure proposes to take over some of the provisions in the rules of national parliaments, particularly as regards the length of the explanatory notes.

– Proposal

29. Regarding amendments, it is proposed to add after Rule 33.2 the following new paragraph: “Except where an amendment is self-explanatory, it may be accompanied by an explanatory note of no more than 50 words to aid understanding or clarify the scope of the amendment”.

2.3.3. Reduction of speaking time

30. The Assembly, in paragraph 6.1.1 of [Resolution 1822 \(2011\)](#), invited the Bureau “to reduce the maximum speaking time for members on the speakers’ lists to four minutes or, where necessary, to three minutes”.

31. It should be recalled that the “Additional provisions relating to Assembly debates”, regulating speaking time in particular, have been amended several times in the last few years (in 2007 and 2009), with speaking time being increased to 13 minutes for rapporteurs to present their reports and reply to statements, reduced for presenting amendments (to 30 seconds), and rapporteurs for opinion being allocated the same time as speakers in the debate.

32. The speaking time normally allowed under the provisions in force is five minutes. However, in recent years, when the list of speakers has been long and/or numerous amendments have been tabled, the time has been limited to four, even three, minutes. This provision shall be amended in order to carry the Assembly’s decision into the Rules of Procedure.

33. It should also be noted that the renovation of the Chamber and the installation of several wide screens now permits display of the speaking time remaining. The previous technical equipment has been deactivated, so the additional provisions need to be updated in this respect.

– Proposal

34. It is proposed to amend the additional provisions relating to Assembly debates:

34.1. concerning *speaking time*, by amending paragraph 1 as follows:

“Speakers registered for a debate shall have four minutes’ speaking time”.

34.2. concerning *the organisation of debates*, by amending paragraph 5 as follows:

“To ensure that the speaking time is respected, the time available is displayed and a bell rings when the time ends”.

2.4. Structure and functioning of committees

35. Another prominent measure of the Assembly reform concerns committees, their structure and their working methods.

36. As was said in the introduction, the Committee on Rules of Procedure has been instructed to draw up a report on the new terms of reference of the Assembly committees. But in order to preserve a certain unity in the overall application of the reform, the regulative aspects of the implications of [Resolution 1822 \(2011\)](#) for committees will be discussed in the framework of the present report.

2.4.1. Appointment of committees

37. The Assembly, in [Resolution 1822 \(2011\)](#) (paragraph 6.4), decided to reduce the number of its committees from ten to eight and to amend the terms of reference of most of them by transferring certain fields of competence. These decisions affect several provisions of the Rules of Procedure, principally Rule 42 on the appointment of committees, which need to be amended accordingly.

– Modification of the membership of the Committee on Rules of Procedure, Immunities and Institutional Affairs

38. Thus, to take account of the new financial and budgetary responsibilities assigned to the Committee on Rules of Procedure, [Resolution 1822 \(2011\)](#) decided that the number of its members should be increased “with a view to ensuring an equitable geographical representation of members”, it being understood that the chairs of the Assembly’s five political groups would be *ex officio* members and that no national delegation could have more than one member on the committee.

39. This provision, added by way of an amendment during the Assembly debate in order to enhance the guarantee of balanced representation of national delegations in the committee, could have unintended consequences in that it is liable to have the opposite result to the desired objective. Indeed, political groups appointing members to the committee may quite possibly find themselves unable, for want of volunteers, to appoint members of a delegation which is not already represented on it.

40. Let it also be recalled that the Committee on Rules of Procedure itself decided in 2007 to modify its own structure in order to resolve the recurrent problem, encountered for years, of its members’ participation.⁸ Its membership was reduced from 53 to 27, 25 of them appointed by the political groups and not by the national delegations. It would therefore be surprising if the Committee on Rules of Procedure, notwithstanding the widening of its remit, manages to ensure the participation of national delegations which, up to 2008, did not see fit to have their members sit on it. So it seems pointless to increase substantially the number of committee members, in the knowledge that certain national delegations will not be able to ensure effective participation of their members in the committee’s proceedings. A limited increase of membership is preferable.

41. It is therefore proposed to increase the number of members of the Committee on Rules of Procedure to 37, broken down as follows: 30 members chosen by the political groups according to the d’Hondt system, two non-registered members, and the chairs of the political groups as *ex officio* members.

– Limitation of committee membership for members

8. See [Doc. 11295](#), paragraph 89 (“Some delegations do not appoint members on it, others are never represented at its meetings.”).

42. In addition, [Resolution 1822 \(2011\)](#) decides “to limit each member of the Assembly to full membership of two committees, with the exception of the committees whose members are nominated by the political groups,” that is the Committee on Rules of Procedure and the Monitoring Committee. It is therefore appropriate to amend Rule 42.2.

– Changes in the content of the committees’ specific terms of reference

43. The revision of the terms of reference of the committees, as stated above, involved transferring areas of responsibility from one committee to another, as well as redefining their fields of action and changing the names of some of them.⁹ It is therefore necessary to adapt certain provisions of the Rules of Procedure, and in particular:

- to delete Rule 43.5 on the competence of committees to develop relations with non-governmental organisations, since the wording has been fully incorporated – and reinforced – in the general terms of reference of the committees;
- to delete the second sentence of Rule 46.6 – which disqualifies members of delegations of special guests, observers and partners for democracy from attending meetings of the Committee on Economic Affairs and Development when it discusses Council of Europe budgetary and administrative questions – which has become devoid of purpose;
- to amend Rule 60.7 on partner for democracy status in order to mention the Assembly committees competent to consider a request for the status and to monitor the progress achieved in honouring the undertakings made by the parliaments concerned;
- to amend Rules 18.5, 19.3, 58 and 59 with regard to the title of the Committee on Political Affairs and Democracy.

Proposals

44. It is proposed to replace Rule 42.1, setting out the list of the Assembly’s general committees and fixing the number of their members, with the following new paragraph:

“At the beginning of each ordinary session, the Assembly shall set up the following general committees:

- 1. Committee on Political Affairs and Democracy (84 seats),*
- 2. Committee on Legal Affairs and Human Rights (84 seats),*
- 3. Committee on Social Affairs, Health and Sustainable Development (84 seats),*
- 4. Committee on Migration, Refugees and Displaced Persons (84 seats),*
- 5. Committee on Culture, Science, Education and Media (84 seats),*
- 6. Committee on Equality and Non-Discrimination (84 seats),*
- 7. Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) (84 seats),*
- 8. Committee on Rules of Procedure, Immunities and Institutional Affairs (37 seats).”*

45. A textual amendment is also necessary in Rule 42.2 on the representation of national delegations on committees, in order to replace, whenever they appear, the words “in each of the first eight committees” with the words “in each of the first six committees”.

46. As to the composition of the Committee on Rules of Procedure, Immunities and Institutional Affairs, it is proposed to amend Rule 42.3 by replacing the words “25 of the 27 members” with the words “30 of the 37 members” and to add the following sentence after the second sentence: “Chairpersons of political groups shall be *ex officio* members of the committee. The political groups shall nominate the members with a view to ensuring a fair representation of national delegations”.

9. See the report on the terms of reference of Parliamentary Assembly committees – implementation of [Resolution 1822 \(2011\)](#) on the reform of the Parliamentary Assembly, [Doc. 12717](#), rapporteur: Mr Ejdičius Vareikis.

47. Since the number of committees on which a parliamentarian sits as a full member is to be limited, a new paragraph should be added after Rule 42.5: “No member of the Assembly can be a full member of more than two committees, with the exception of committees whose members are nominated by the political groups”.

48. Finally, subject to the decisions taken concerning committee terms of reference and names, it is proposed to amend the name of the Political Affairs Committee to the Committee on Political Affairs and Democracy in Rules 18.5, 19.3, 58 and 59, and to delete paragraph 43.5 and the second sentence of Rule 46.6.

49. Regarding *partner for democracy status*, Rule 60.7 should be replaced by the following new rule:

“The decision to grant, suspend or withdraw partner for democracy status shall be taken by a resolution of the Assembly following a report by the Committee on Political Affairs and Democracy with an opinion by the Committee on Legal Affairs and Human Rights and an opinion by the Committee on Equality and Non-Discrimination and, where appropriate, an opinion by any other relevant Assembly committee. These committees, in the fields within their specific terms of reference, review the progress achieved in fulfilling the undertakings made by the parliaments concerned when they requested this status”.

2.4.2. Reports of committees and follow-up to adopted texts

50. The report on the reform of the Assembly also fittingly makes a priority of the follow-up to the texts adopted by the Assembly. The implementation of the Assembly’s decisions is crucially important; it determines the visibility of the Assembly’s action and the effectiveness of its positions.

51. The report more specifically emphasises the committees’ role and proposes expressing in the Rules of Procedure the need for their rapporteurs to be assigned a more active and more official role in following up the Assembly’s decisions.

52. Accordingly, [Resolution 1822 \(2011\)](#) (paragraph 5.2.1) proposes allowing rapporteurs to retain their reference for a year after the adoption of the adopted text to ensure its follow-up, and to report back to the committee at the end of that time.

53. It should be recalled that the committees themselves are already responsible for examining the action taken on the texts adopted by the Assembly on the basis of their reports (Rule 43.2) and that under their revised general terms of reference they “ensure the appropriate follow-up to the resolutions and recommendations adopted by the Assembly in the fields covered by their specific terms of reference”.

54. Finally, [Resolution 1822 \(2011\)](#) asks that “standing mandates” be given “a firm legal basis in the Rules”. The question of general or standing terms of reference is discussed in the report on the committees’ terms of reference.¹⁰ Its conclusions are therefore to be expressed in regulative terms by this report.

– Proposals

55. It is proposed to add to the Rules of Procedure provisions on strengthening the role of rapporteurs:

55.1. by adding, at the end of Rule 48.1, the following sentence: “A rapporteur shall remain in charge of the follow-up to his or her report for a term of one year after the adoption of the text by the Assembly.”;

55.2. by adding, after Rule 48.6, a new paragraph on general rapporteurs:

“Committees may appoint one or more general rapporteurs whose terms of reference and term of office they shall determine beforehand. The terms of reference shall be submitted to the Bureau for approval and its decision shall be subject to ratification by the Assembly”.

10. See [Doc. 12717](#), chapter 4.3.

2.4.3. Bureaux of committees and sub-committees

56. Concerning the bureaux of committees, the Rules of Procedure in force provide that “Candidates for the office of chairperson or vice-chairperson must be full members of the committee and have been full member or alternate of the committee concerned for at least one year”. The Assembly agreed in paragraph 6.2 of [Resolution 1822 \(2011\)](#) “to eliminate the requirement that committee chairpersons or vice-chairpersons must be full members of the committee, not alternates”.

57. Having regard to the fact that parliamentarians cannot be full members of more than two committees (see paragraph 42 above), such an amendment to the Rules of Procedure is necessary to facilitate candidatures for the office of committee chair and vice-chair. In addition, the rules covering the election of the bureaux of sub-committees shall also be revised accordingly.

– Proposal

58. In Rule 44.3, the first sentence, the words “Candidates for the office of chairperson or vice-chairperson must be full members of the committee and have been full member or alternate of the committee concerned for at least one year” should be replaced by the following words: “Committee members who have been members for at least one year may be candidates for the office of chairperson or vice-chairperson.” It should be made clear that, logically, this provision does not apply to newly created committees.

59. Regarding the bureaux of sub-committees, in Rule 47.7 the third sentence should be replaced as follows: “Sub-committee full members who have been members of the sub-committee for at least one year may be candidates for the office of chairperson or vice-chairperson of the sub-committee.” This provision shall not apply to newly created sub-committees as well.

2.5. Request to open a monitoring procedure

60. At present, a request to open a monitoring procedure is admissible if made by a motion for a resolution or a recommendation signed by ten members belonging to at least five national delegations and two political groups.

61. Paragraph 5.1.3 of [Resolution 1822 \(2011\)](#) henceforth lays down a requirement of 20 signatories belonging to six national delegations and two political groups.

62. It will be observed, however, that the tabling of motions for recommendation and resolution also presupposes the gathering of 20 signatures, but from members belonging to five national delegations, and that a motion for a resolution to challenge credentials already ratified must be tabled by at least 50 members belonging to five national delegations and two political groups.

– Proposal

63. The terms of reference of the Committee for the Honouring of Obligations and Commitments of Council of Europe member states (Monitoring Committee) should therefore be modified by amending [Resolution 1115 \(1997\)](#) as follows: in paragraph 2.iii, replace the words “not less than ten members of the Assembly representing at least five national delegations and two political groups” with the words “not less than twenty members of the Assembly representing at least six national delegations and two political groups”.

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

64. According to its usual procedure, particularly on the occasion of the last two reports which it presented to the Assembly on the amendments to its Rules of Procedure in November 2007 and November 2009, and as [Resolution 1822 \(2011\)](#) invites it to do, the committee intends to examine those provisions of the Rules of Procedure, besides the ones directly referred to it, which are worth clarifying or updating, and to consider any proposal likely to improve the Assembly’s functioning and working methods.

3.1. Presidency of the Assembly at the opening of the ordinary session (Rule 5)

65. The ordinary session of the Assembly is opened in January by the oldest member present. This is an honorary function, as the oldest member is not permitted to deliver an address. The committee reflected on the advisability of enhancing this presidency. The European Parliament amended its rules of procedure in May 2009 regarding the chairmanship of the constituent sitting: this is no longer held by the oldest member

but by the outgoing President of the European Parliament or, failing that, an outgoing vice-president according to the order of precedence (if still members of the European Parliament), or, failing that, by its longest-serving member.

66. The Assembly could also change its practice, by appointing its longest-serving member to open the session, and give him or her the opportunity to speak briefly. This measure would constitute a token of gratitude towards parliamentarians who have dedicated themselves for years to the Assembly.

67. Accordingly, Rule 5 of the Rules of Procedure might be amended as follows:

“Rule 5 – Provisional President

5.1. The longest-serving member of the Assembly, that is the member who has held office in the Assembly for the longest, shall open the ordinary session and shall preside until the election of the President of the Assembly has been announced.

5.2. While the Provisional President is in the Chair, no debate may take place unless concerned with the examination of credentials or the election of the President of the Assembly, and no speeches may be delivered. The Provisional President may address the Assembly for not more than five minutes.”

3.2. Non-withdrawal of a signature from a written declaration (Rule 53)

68. In its last report on the amendment of various provisions of the Rules of Procedure of the Parliamentary Assembly (Doc. 12071 and addendum), the Committee on Rules of Procedure, at the Bureau's request, extensively debated the possibilities of withdrawing or adding a signature to a proposed text or any other document. At the time it clearly indicated that the Rules of Procedure did not permit the addition or withdrawal of signatures to a motion for a resolution or recommendation or any other official Assembly document (amendments especially), with the sole exception that members may add their signatures to written declarations already tabled.

69. However, several incidents occurred in 2010 and 2011 when members who had signed written declarations wished to withdraw their signatures, arguing that they had not fully realised the terms of the declaration. This was refused because the possibility of withdrawing signatures from a written declaration did not appear in the Rules of Procedure, as was recalled in 2009 by the Committee on Rules of Procedure in the above-mentioned report. However, to facilitate the information of members, the Rules of Procedure could be amended to mention explicitly that no signature may be withdrawn from a written declaration once it is lodged with the Table Office.

70. It is therefore proposed to amend Rule 52.3 by adding *in fine* that “No signature may be withdrawn”.

3.3. Clarification of certain additional provisions on candidates for the European Court of Human Rights

71. Among the criteria that Contracting Parties must meet when forwarding a list of candidates to the European Court of Human Rights, the Assembly has laid down the requirement that the list should comprise “at least one candidate of each sex”. However, the Assembly has subsequently defined two exceptions to this principle enabling it to consider lists of candidates of only one sex:

- where “all candidates belong to the sex which is under-represented in the Court”, namely less than 40% of the total number of judges;
- where all candidates “belong to the sex which is over-represented in the Court, in the exceptional cases where a Contracting Party has taken all necessary and adequate steps to guarantee the presence of the under-represented sex on the list, but has not been able to find a candidate of that sex”.

72. However, should there no longer be an under-represented sex in the Court – as is the case at present – the text becomes confused as to the obligations to be met by Contracting Parties regarding the condition of submitting lists comprising at least one candidate of either sex. A clarification is necessary.

73. It is proposed to amend the additional provisions on *candidates for the European Court of Human Rights*– by amending [Resolution 1366 \(2004\)](#), as modified by [Resolution 1426 \(2005\)](#) and [Resolution 1627 \(2008\)](#) – by replacing

73.1. paragraph 3.ii with:

“the list does not include at least one candidate of each sex, except in the cases prescribed by paragraph 4.”

73.2. and paragraph 4 with:

“The Assembly decides to consider single-sex lists of candidates when:

i. the candidates belong to the sex which is under-represented in the Court (i.e. the sex to which less than 40% of the total number of judges belong) at the time of the Assembly's call for candidatures;

ii. there is no under-represented sex in the Court or the candidates belong to the sex which is over-represented in the Court (i.e. the sex to which over 60% of the total number of judges belong) at the time of the Assembly's call for candidatures, in exceptional circumstances where a Contracting Party has taken all the necessary and appropriate steps to ensure that the list contains candidates of both sexes meeting the requirements of paragraph 1 of Article 21 of the European Convention on Human Rights.

Such exceptional circumstances must be duly so considered by a two-thirds majority of the votes cast and a majority of the members entitled to vote of both the Sub-Committee and the Committee on Legal Affairs and Human Rights. This position shall be endorsed by the Assembly in the framework of the progress report of the Bureau of the Assembly.”

74. Moreover, in order to implement paragraph 6.3 of [Resolution 1822 \(2011\)](#), it is proposed to add at the end of paragraph 5.viii of the additional provisions on candidates to the European Court of Human Rights the following words: “and in particular to give positive reasons for its recommendation in favour of a particular candidate”.

4. Conclusion

75. At its meeting on 5 September 2011, the Committee on Rules of Procedure considered the proposals set out in the explanatory memorandum and the preliminary draft resolution related to the following:

- motions for recommendation and resolution (paragraph 10)
- reference to committees (paragraphs 12 and 20)
- organisation of part-sessions and plenary debates, introduction of a free debate (paragraph 25), amendments (paragraph 29); speaking time (paragraph 34)
- structure and functioning of committees (paragraphs 44 to 49); membership of the Committee on Rules of Procedure (paragraphs 41 and 46); limitation of committee membership for members (paragraph 47), committees' specific terms of reference (paragraph 43)
- reports of committees, follow-up to adopted texts, general rapporteurs (paragraph 55)
- bureaux of committees and sub-committees (paragraphs 58 and 59)
- request to open a monitoring procedure (paragraph 63)
- presidency of the Assembly at the opening of the ordinary session (paragraph 67)
- non-withdrawal of a signature from a written declaration (paragraph 70)
- clarification of certain provisions on candidates to the European Court of Human Rights (paragraph 73).

76. It is proposed that the amendments to the Rules of Procedure contained in the draft resolution, once adopted, come into force at the opening of the 2012 ordinary session (on 23 January 2012). The amendments to the additional provisions on candidates for the European Court of Human Rights will come into force upon adoption and will be applicable to the procedures in hand.