



Resolution 2319 (2020)¹

Complementary joint procedure between the Committee of Ministers and the Parliamentary Assembly in response to a serious violation by a member State of its statutory obligations

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the intensification of dialogue and contacts with the Committee of Ministers with a view to setting up a complementary joint procedure between the two statutory organs of the Council of Europe in response to a serious violation by a member State of its statutory obligations. It reiterates that such a procedure, in which the two statutory organs and the Secretary General of the Council of Europe participate, will strengthen the Organisation's ability to react more effectively in situations where a member State violates its statutory obligations and will enhance the impact of any measures to be taken both regarding the member State concerned and the Organisation as a whole.

2. The Assembly refers in this respect to its initial proposal to set up a joint response procedure, in addition to existing procedures, included in [Resolution 2277 \(2019\)](#) and [Recommendation 2153 \(2019\)](#) "Role and mission of the Parliamentary Assembly: main challenges for the future", adopted in April 2019, and the positive follow-up given in the Decision "A shared responsibility for democratic security in Europe – Ensuring respect for rights and obligations, principles, standards and values", adopted by the Committee of Ministers at its 129th Session (CM/Del/Dec(2019)129/2, Helsinki, 17 May 2019). It further recalls its [Resolution 2287 \(2019\)](#) on strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting, adopted on 25 June 2019, in which it expressed its firm commitment to making this proposal operational as soon as possible.

3. The Assembly takes note that, on 25 November 2019, Ms Amélie de Montchalin, French Secretary of State for European Affairs, transmitted to Ms Liliane Maury Pasquier, President of the Assembly, a draft decision by the Ministers' Deputies for the application of Articles 3 and 8 of the Statute of the Council of Europe (ETS No. 1) "which enjoys a very broad support within the Committee of Ministers and could serve as a basis for an agreement with the Parliamentary Assembly". Referring to the Committee of Ministers' extensive work "to define the principles and practical arrangements for the complementary joint reaction procedure" and "the close dialogue with the Parliamentary Assembly", the French Secretary of State underlined that "the objective is for us, working together, to be stronger and more effective in ensuring that all member States fully honour their commitments and duties".

4. In light of the above-mentioned decisions by the Assembly and the Committee of Ministers, discussions in and between the two statutory organs, at various levels and in various forms, with the participation of the former and current Secretary General of the Organisation, the Assembly resolves that the complementary joint procedure should be credible, predictable, reactive and reversible and governed by the following basic principles:

4.1. the primary aim of the complementary joint procedure is to bring a member State, through constructive dialogue and co-operation, into compliance with the obligations and principles of the Organisation, and avoid imposing sanctions;

1. *Assembly debate* on 29 January 2020 (6th Sitting) (see [Doc. 15024](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Frank Schwabe). *Text adopted by the Assembly* on 29 January 2020 (6th Sitting).



- 4.2. this procedure, of an exceptional nature, is complementary to existing rules and regulations, building upon the 1994 Committee of Ministers Declaration on compliance with commitments accepted by member States of the Council of Europe, and its implementation will not require any changes to the Statute. It will not affect existing procedures arising from statutory or conventional control mechanisms, neither will it affect the Assembly's existing monitoring procedure;
 - 4.3. an underlying requirement is the conformity with existing roles and mandates of the two statutory organs, as well as of the Secretary General;
 - 4.4. the procedure will address only the most serious violations of fundamental principles and values enshrined in the Statute of the Council of Europe;
 - 4.5. the procedure can be initiated by the Committee of Ministers, the Parliamentary Assembly or the Secretary General, and all three parties will participate in it;
 - 4.6. the procedure will include a number of concrete and well-defined steps, each step having a strict time frame fixed by common agreement of the three parties;
 - 4.7. before taking any decision throughout the process, any of the three parties will consult the other two. The active involvement of the member State concerned in all stages of the process is necessary as the aim of the procedure is to return, through constructive dialogue and co-operation, to a situation in which the member State concerned respects the obligations and principles of the Organisation;
 - 4.8. it is a primary responsibility of any member State having violated the statutory obligations to take steps towards resolving the situation;
 - 4.9. the procedure may ultimately lead to a decision to act under Article 8 of the Statute, a decision all aspects of which lie with the Committee of Ministers, after consultation with the Parliamentary Assembly, in line with Statutory Resolution (51) 30. The procedure does not preclude the direct implementation by the Committee of Ministers of Article 8, as provided in the Statute; neither does it preclude the possibility for the Assembly to ask the Committee of Ministers, through a recommendation, to directly act under Article 8 of the Statute.
5. The Assembly reiterates that the complementary joint procedure can be initiated by the Committee of Ministers, the Parliamentary Assembly or the Secretary General. As regards initiation by the Assembly:
- 5.1. a motion for a recommendation to initiate the complementary joint procedure between the Committee of Ministers and the Parliamentary Assembly in response to a serious violation by a member State of its statutory obligations will be presented in both official languages and signed by at least one fifth of the component members (representatives and substitutes) of the Assembly, belonging to at least 3 political groups and 15 national delegations; this will be the only means through which the complementary joint procedure can be initiated by the Assembly;
 - 5.2. as soon as a motion to initiate the complementary joint procedure is tabled, the Committee on Political Affairs and Democracy will be automatically seized for report on this matter. The motion will be published as an official document within twenty-four working hours and immediately forwarded to the chairperson of the Committee on Political Affairs and Democracy, who will place the item on the agenda of the following meeting of the committee for the appointment of a rapporteur. The draft report, including a preliminary draft recommendation on whether or not to initiate the complementary joint procedure, will be considered for adoption at the following committee meeting;
 - 5.3. the report, including a draft recommendation, will be debated by the Assembly at the part-session which immediately follows its adoption by the committee. It will not be possible to propose a debate under urgent procedure for the initiation of the complementary joint procedure;
 - 5.4. with a view to strengthening its legitimacy, the decision by the Assembly to initiate the complementary joint procedure will require a double majority, namely the relevant recommendation will have to be adopted by a majority of two thirds of the votes cast and by a number of votes in favour equivalent to at least one third of the total number of members of the Assembly authorised to vote; if at least one of these two conditions is not met, the draft recommendation will be rejected;
 - 5.5. taking into account that such a procedure may ultimately lead to a decision to act under Article 8 of the Statute of the Council of Europe and, in line with the above-mentioned basic principles, only the most serious violations of fundamental principles and values enshrined in the Statute of the Council of Europe, namely Article 3 of, and the Preamble to, the Statute, can justify the decision of the Assembly to initiate the complementary joint procedure with respect to a member State.

6. Immediately after any of the parties has initiated the procedure, a meeting of the Chairperson of the Committee of Ministers, the President of the Parliamentary Assembly and the Secretary General will take place. This will be followed by a joint high-level mission to the member State in question, within four weeks of the decision by any of the three parties to initiate the procedure, in order to discuss the concerns that led to the initiation of the procedure and to seek clarification of the situation. They will thereafter report back to the two statutory organs on the outcome of the mission. As regards the follow-up:

6.1. the President of the Assembly will present to the Bureau of the Assembly the above-mentioned report on the outcome of the joint mission. This report, together with any proposals by the President of the Assembly for the road map to be subsequently prepared by the Secretary General of the Council of Europe, will be appended to the Bureau's progress report and debated by the Assembly in the context of the debate and vote on the Bureau's progress report;

6.2. on the basis of the outcome of the joint mission, if the situation has been remedied or significant positive progress made, the Committee of Ministers, having consulted the Assembly and the Secretary General, may decide to terminate the complementary joint procedure; in any event, the Committee of Ministers should decide on moving to the second step of the procedure no later than four weeks after having consulted the Assembly and the Secretary General.

7. Within the following eight weeks, upon proposals by the Committee of Ministers and the Parliamentary Assembly, and after consultations with the member State concerned, the Secretary General will prepare a road map, co-ordinating the various proposed measures and submit it to the two statutory organs. More specifically:

7.1. the road map will contain concrete actions, with strict time frames, to be taken by the member State concerned, and it will list initiatives and activities proposed and planned by the Committee of Ministers, the Parliamentary Assembly and the Secretary General, such as initiatives and activities proposed and planned by different Assembly committees, by monitoring or advisory bodies of the Organisation or by the Office of the Commissioner for Human Rights, which would help to bring the member State concerned into compliance with the obligations and principles of the Organisation;

7.2. the Committee on Political Affairs and Democracy, acting on behalf of the Assembly, will consider the road map for approval at the meeting which immediately follows the submission of the text by the Secretary General;

7.3. if approved by the Assembly, the road map will be examined and adopted by the Committee of Ministers; if rejected, there should be new consultations to revise it.

8. After the adoption of the road map, the procedure will continue with its implementation. The implementation of the road map will be conducted in close co-operation with the member State concerned and will be co-ordinated by the Secretary General. More specifically:

8.1. the aim will be to engage with the member State concerned in a constructive and co-operative dialogue to help remedy the situation;

8.2. in the course of the implementation of the road map, the three parties may agree to make joint public statements;

8.3. regular dialogue will take place with the member State concerned, as well as between the Committee of Ministers, the Parliamentary Assembly and the Secretary General in a format to be defined in the road map, including the Joint Committee;

8.4. the Assembly will regularly assess the implementation of the road map through the debate on its Bureau's progress report. The Bureau will prepare its assessment relying on, *inter alia*, the expertise of the relevant monitoring and advisory bodies of the Organisation and the Office of the Commissioner for Human Rights, as well as Assembly committees, as necessary;

8.5. if the situation has been remedied or significant positive progress made, the Committee of Ministers, having consulted the Parliamentary Assembly and the Secretary General, may decide to terminate the procedure without undue delay;

8.6. the implementation of the road map should be foreseen within a total of nine months of its adoption by the Committee of Ministers.

9. If the Committee of Ministers, after consultations with the Parliamentary Assembly and the Secretary General, concludes that there has been no improvement in the situation, and that a serious violation of Article 3 by the member State concerned continues to exist, it will move to the final stage of the procedure. More specifically:

9.1. a decision by the Committee of Ministers based on Article 8 of the Statute will follow;

9.2. the prior consultation of the Assembly, in line with Statutory Resolution (51) 30, will require the preparation of a report and an Assembly debate with a view to providing the Committee of Ministers with an opinion on the application of Article 8 of the Statute;

9.3. should the member State concerned eventually remedy the situation, bringing itself into compliance with the Statute, the Committee of Ministers may, after consultations with the Parliamentary Assembly and the Secretary General, revoke its decision under Article 8. In case of exclusion, the State concerned will have to reapply for membership.

10. Any changes required to implement the present Resolution will be introduced into the Assembly's Rules of Procedure through a subsequent resolution to be adopted on the basis of a report by the Committee on Rules of Procedure, Immunities and Institutional Affairs. The complementary joint procedure will enter into force upon adoption of the latter resolution and a decision by the Committees of Ministers along the same lines.