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Revision of the Code of Conduct for Members of the Parliamentary Assembly: introducing the explicit prohibition of sexism, sexual harassment and sexual violence and misconduct

Report¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

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Summary

This report makes concrete proposals to further introduce the explicit prohibition of any form of sexism, harassment and sexual violence and misconduct in the Assembly by amending its Rules of Procedure, as well as the obligation to take account the existing or future Council of Europe's anti-harassment procedure and to co-operate with the relevant mechanisms.

The report also calls on the parliaments of member and observer States, as well as partners for democracy, to draft or revise the codes of conduct for their members with a view to setting out the explicit prohibition of sexist speech, sexist acts and sexual harassment and introducing sanctions for breaches of this obligation, as well as to introduce complaint mechanisms to prevent and sanction any form of harassment, sexual violence and misconduct.

1. Reference to committee: [Doc.14810](#), Reference 4449 of 12 April 2019.



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A. Draft resolution²

1. The Parliamentary Assembly recalls its [Resolution 2274 \(2019\)](#) “Promoting parliaments free of sexism and sexual harassment” which states that gender-based violence affects women in all aspects of life, the world of politics being no exception. Furthermore, in its [Resolution 2394 \(2021\)](#) “Gender representation in the Parliamentary Assembly”, the Assembly underlines that progress towards gender equality in parliamentary structures will be hampered if due attention is not paid to the need to eliminate sexism and sexual harassment within these structures. The Assembly also recalls that the Council of Europe’s Gender Equality Strategy 2018-2023 sets out the priorities through six strategic objectives and states that the overall goal of the Organisation in this area is to achieve the effective realisation of gender equality.
2. The Assembly further underlines that in its [Resolution 2290 \(2019\)](#) “Towards an ambitious Council of Europe agenda for gender equality”, it called on the Council of Europe member and observer States to sign, ratify, and efficiently implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “Istanbul Convention”), to pay due attention to and implement recommendations put forward in evaluation reports concerning their countries and to ensure the involvement of their parliaments in this process.
3. Public awareness of sexism and violence against women in politics is crucial and the Assembly recalls that it launched its #NotInMyParliament initiative to counter sexism, harassment and violence against women in parliaments.
4. The Assembly further confirms its commitment to promoting anti-discrimination policy by establishing *sui generis* structures such as the Parliamentary Network Women Free from Violence which is committed to raising awareness on the issue of gender-based violence. The network was instrumental to the entry into force of the Istanbul Convention and played a major role in promoting its ratification by their respective national parliaments. The Assembly’s General Rapporteur on violence against women also contributes to raising awareness on the problem of violence against women, following relevant developments in Council of Europe member States and promoting the Istanbul Convention.
5. The Assembly welcomes the publication in 2019 by the Inter-Parliamentary Union (IPU), on the occasion of the International Day for the Elimination of Violence against Women, of a comprehensive set of guidelines to combat sexual harassment and violence against women in parliament. The Assembly further notes several essential principles proposed in the IPU guidelines on which any anti-harassment mechanism should be based: confidentiality; responsiveness to the complainants; fairness to all parties; thorough, impartial and comprehensive investigation; and timely adjudication. The Assembly mechanism and procedure should also be guided by these fundamental principles.
6. The Assembly recalls that sexism, harassment and violence in parliaments infringes the human dignity of women and constitutes an obstacle to women’s effective participation in political or public life. It stresses that political representation is one of the main priorities of the gender equality agenda. It further notes that any form of sexism, harassment and violence in parliament damages the reputation and image of parliamentarians and of parliaments as institutions. The Assembly recalls in this respect its [Resolution 2274 \(2019\)](#) and the call upon parliaments of member and observer States, as well as partners for democracy, to, in particular, draft or revise the codes of conduct for their members with a view to setting out the explicit prohibition of sexist speech, sexist acts and sexual harassment and introducing sanctions for breaches of this obligation, as well as to introduce complaint mechanisms to prevent and sanction sexual harassment, sexual violence and misconduct.
7. For its part, the Parliamentary Assembly notes that its current Code of Conduct for members, by virtue of its general principles protecting human dignity, covers inappropriate conduct, which today would be classified as sexism, harassment, sexual violence and misconduct. However, current realities require that these types of misconduct be addressed explicitly in codes of conduct and the Assembly should be at the forefront and serve as a model and as a reference for national parliaments.

2. Draft resolution adopted unanimously by the committee on 2 November 2021.

8. By adopting [Resolution 2274 \(2019\)](#), the Assembly demonstrated its clear intention to set standards to prevent and combat any form of sexism, harassment, sexual violence and misconduct not only for member States but also for its own work and functioning. Therefore, in line with this resolution, the Assembly decides to:

8.1. amend paragraph 5.1 of the Code of Conduct for members of the Assembly as follows:

“5. While performing their mandate as members of the Parliamentary Assembly, members shall:

*5.1. carry out their duties responsibly, with **due respect to human dignity and with integrity and honesty**”;*

8.2. add the following new paragraph after paragraph 7:

“Members shall refrain from any form of sexism, harassment and sexual violence and misconduct.”;

8.3. add the following new paragraph after paragraph 18:

“For all the cases concerning any form of sexism, harassment and sexual violence and misconduct that involve members of the Parliamentary Assembly, a recommendation or decision taken under the Council of Europe procedures in the framework of its anti-harassment policy shall be forwarded to the Committee on Rules of Procedure, Immunities and Institutional Affairs for final determination of the case.”

9. Furthermore, the Assembly notes that the vast majority of its members are unaware of the existing Council of Europe anti-harassment framework and mechanisms and considers it necessary to ensure that members are aware of these and abide by them.

10. Finally, the Assembly recalls the importance of ensuring effective implementation of the legal provisions in this area and stands ready to develop, if appropriate, further guidelines on its own anti-harassment procedure and mechanism.

B. Explanatory memorandum by Ms Thorhildur Sunna Ævarsdóttir, rapporteur

1. Introduction

1. In recent years, the Council of Europe has been a leader in the area of standard-setting to prevent and combat violence against women in all its forms and domains. In order to respond to the need for combating and preventing sexism, harassment, sexual violence and misconduct, numerous legal instruments have been adopted.³ In 2018, the Parliamentary Assembly launched the #NotInMyParliament initiative to raise awareness about the alarming level of sexist behaviour, harassment and gender-based violence found in national parliaments.⁴

2. Assembly [Resolution 2290 \(2019\)](#) "Towards an ambitious Council of Europe agenda for gender equality" noted that the Assembly has adopted a firm political stance against all forms of violence against women through its resolutions and recommendations calling for legally binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence, ultimately leading to the preparation of the ground-breaking Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention"). The Parliamentary Network Women Free from Violence has supported the implementation of the convention by raising the awareness of legislators, policy makers and the public of the scourge of gender-based violence and by providing practical solutions and guidance on how to address it.

3. Assembly [Resolution 2274 \(2019\)](#) "Promoting parliaments free of sexism and sexual harassment" called for the strengthening of policies, legislation and other measures aimed at putting an end to sexism, harassment, sexual violence and misconduct in all aspects of life, including in politics. It further stressed the need to step up data collection, monitoring and research in this area at both national and international levels.

4. By adopting [Resolution 2274 \(2019\)](#), the Assembly demonstrated its clear intention to set standards in order to prevent and combat any form of sexism, harassment, sexual violence and misconduct not only for member States but also for its own work and functioning. It therefore called on the Committee on Rules of Procedure, Immunities and Institutional Affairs:

"to modify the Code of Conduct for members of the Assembly with a view to:

13.2.1. introducing the explicit prohibition of sexism, sexual harassment and sexual violence and misconduct, as well as the obligation to take account of the Council of Europe rules on the protection of dignity and to co-operate with the relevant mechanisms and take account of the decisions that might be taken as a result of a harassment procedure;

13.2.2. ensuring that the recommendations of the Commission against Harassment and/or decisions of the Secretary General of the Council of Europe resulting from the application of Rule No. 1292 can be followed up by the Assembly in the context of its Code of conduct".

5. On 25 November 2019, on the occasion of the International Day for the Elimination of Violence against Women, the Inter-Parliamentary Union (IPU) published a comprehensive set of guidelines to combat sexual harassment and violence against women in parliament. These guidelines provide a comprehensive review of the issue, propose reliable solutions, and have been a valuable source for the preparation of this report.⁵

6. The Committee on Rules of Procedure, Immunities and Institutional Affairs was, therefore, invited to analyse the current trends concerning the mechanisms on preventing and combating sexism, harassment, sexual violence and misconduct and to assess the existing regulatory framework of the Assembly as well as what appropriate commitments, sanctions and remedial systems should be introduced.

3. So far, 35 Council of Europe member States have become Parties to the Istanbul Convention and the European Union has signed it; Recommendation CM/Rec (2019)1 of the Committee of Ministers to member States to prevent and combat sexism; the Council of Europe Gender Equality Strategy 2018-2023. See also Assembly [Resolution 1962 \(2013\)](#) "Stalking"; [Resolution 2027 \(2014\)](#) "Focusing on the perpetrators to prevent violence against women"; [Resolution 2084 \(2015\)](#) "Promoting best practices in tackling violence against women"; [Resolution 2101 \(2016\)](#) "Systematic collection of data on violence against women"; [Resolution 2177 \(2018\)](#) "Putting an end to sexual violence and harassment of women in public space"; [Resolution 2274 \(2019\)](#) and [Recommendation 2152 \(2019\)](#) "Promoting parliaments free of sexism and sexual harassment".

4. [#NotInMyParliament initiative](#).

5. [Guidelines for the elimination of sexism, harassment and violence against women in parliament](#).

2. Current regulatory framework on ethics

2.1. Mechanism under the Code of Conduct for members of the Parliamentary Assembly

7. In 2012, the Assembly adopted the Code of Conduct for members of the Parliamentary Assembly, which outlines general principles of behaviour as well as specific rules of conduct that the Assembly expects of its members. The current Code of Conduct does not explicitly prohibit sexism, sexual harassment, sexual violence and misconduct, but it sets a general obligation on the members to “respect the values of the Council of Europe and the general principles of behaviour of the Assembly and not take any action which would cause damage to the reputation and integrity of the Assembly or its members” (paragraph 7).

8. Paragraphs 18 to 27 of the Code of Conduct establish the Assembly oversight and sanction mechanism. The implementation of the Code of Conduct is the responsibility of the President of the Assembly and the Committee on Rules of Procedure, Immunities and Institutional Affairs. The President of the Assembly may rule on minor breaches if the matter is not already referred to the Committee on Rules of Procedure. The Committee on Rules of Procedure shall examine alleged breaches of the Code of Conduct brought to its attention by the President of the Assembly or by at least 20 members of the Assembly representing at least five national delegations. The committee may also start an investigation of its own motion. Consequently, the President of the Assembly and the Committee on Rules of Procedure have the competence to open an investigation following a complaint.

9. The Committee on Rules of Procedure has investigative powers when considering alleged violations of the Code of conduct. Any implicated Assembly member enjoys procedural safeguards. The committee meets in camera and shall act with due respect for confidentiality. It has decision-making power in determining the existence of a minor breach of the Code of Conduct or of serious or repeated breaches of the Code which would lead to the imposition of sanctions (paragraph 27).

10. Current procedure within the Assembly does not provide an appeal against decisions on breaches of the Code.

11. Other complementary texts are considered to be included in the overall Assembly Code of conduct: the Code of Conduct for rapporteurs of the Parliamentary Assembly; the related provisions contained in the Guidelines on the observation of elections by the Parliamentary Assembly; the provisions related to the Conduct of members during Assembly debates (Rule 22 of the Rules of Procedure), and the Special rules on the title and prerogatives of Honorary President of the Parliamentary Assembly and on honorary association with the Parliamentary Assembly. Paragraph 13.3 of [Resolution 2274 \(2019\)](#) also asks “the Bureau of the Assembly to ensure that, in the context of election observation by the Assembly, the issue of violence against women, and notably sexism and sexual harassment, is systematically taken into account and is included in future revisions of the Guidelines for the observation of elections by the Parliamentary Assembly”.

2.2. Council of Europe mechanism on preventing and combating sexism, harassment, sexual violence and misconduct within the Organisation

12. On several occasions, the Council of Europe has declared that gender equality is central to the protection of human rights, the functioning of democracy, and good governance. Any form of discrimination on the grounds of sex/gender constitutes a violation of human rights. The Council of Europe has consistently taken a robust and proactive stance on advancing mechanisms designed to prevent and combat harassment, sexism, sexual violence and misconduct.

13. In 2010, the Secretary General of the Council of Europe issued Rule No. 1292 on the protection of human dignity at the Council of Europe which established a special mechanism, the Commission against Harassment, to ensure the protection of human dignity within the Organisation.⁶ Rule No. 1292 introduces definitions of sexual and psychological harassment⁷ and sets up non-contentious and contentious procedures. The Commission against Harassment which regulates the contentious procedure renders its opinions in complete independence.⁸

6. [Rule No. 1292 of 3 September 2010 on the protection of human dignity at the Council of Europe.](#)

7. “Article 1 – Prohibited Conduct

1. Any form of sexual and psychological harassment in the workplace and/or in connection with work at the Council of Europe shall be prohibited as conduct infringing the dignity of men and women.

14. All parties involved in the non-contentious or contentious procedures are required to respect strict confidentiality. Individuals who consider themselves to be a victim of harassment may submit a written complaint to the Commission where efforts to find a solution under the non-contentious procedure have failed, or where he/she deems recourse to this procedure to be inappropriate in view of the seriousness of the facts or the stage which the harassment has reached. Individuals who consider themselves to be a victim of sexual or psychological harassment may seek the assistance and advice of a Confidential Counsellor.

15. The Commission against Harassment has investigative powers similar to those applicable to internal inquiries. Its work involves fact-finding and analysis: it studies the documents submitted by the parties and conducts hearings of the parties and witnesses; it may compare the information it receives from these different sources and asks the parties to submit their comments on it under the adversarial principle. At any stage of the proceedings, the Commission against Harassment can propose to the parties that they attempt to settle the matter by friendly settlement (Article 10, paragraph 6 of Rule No. 1292).

16. However, as noted in [Resolution 2274](#) (2019), the Assembly was informed about the planned revision of Rule No. 1292 on the protection of dignity at the Council of Europe with a view to enhancing its effectiveness. Paragraph 70 of the relevant report underlined that in the context of the ongoing revision of the Rule, consistency should be ensured with the Code of Conduct for members of the Assembly.

17. In 2021, the Committee of Ministers of the Council of Europe published Explanatory highlights on Implementation of the People Strategy Reform of the Staff Regulations with an overview of the main substantive changes covered by the reform.⁹

18. The current reform in the Council of Europe will cover among other issues the adoption of the new Code of Conduct, Policy on Dignity and Respect, Speak-Up Policy and Policy on Diversity. It is believed that the reform will include appropriate practices and safeguards in the area of fighting against all forms of harassment. The Assembly stands ready to assess the applicable procedures of the Council of Europe with a view to suggesting their improvement, if appropriate.

3. Completing the Assembly's ethics regulations and developing its complaint mechanism

3.1. General principles

19. [Assembly Resolution 2274](#) (2019) does not make a precise proposal on the mechanism which should be put in place for preventing and combating sexism, sexual harassment, sexual violence and misconduct. The IPU guidelines have shown that national parliaments or international institutions do not have a unique procedure for dealing with the above issues. National parliaments may have diverse authorities in this area; there may be several levels of jurisdiction as well as various scales of sanctions. Accordingly, the Assembly has a wide margin of discretion in choosing the model for protection against harassment and sexual misconduct.

20. The Assembly mechanism for dealing with sexism, harassment, sexual violence and misconduct should allow impartial examination of alleged breaches of ethical rules and principles and be compatible with the requirements of a fair trial. The IPU guidelines provide for several essential principles on which this mechanism should be based: (1) confidentiality; (2) responsiveness to the complainants; (3) fairness to all parties; (4) thorough, impartial and comprehensive investigation; and (5) timely adjudication.

21. It further emerges from the IPU's guidelines that the investigation of the above-mentioned issues cannot be entrusted to the people who are both judges and parties and that such an inquiry should be conducted by an external person or independent body qualified in the subject area. Independent and confidential procedures appear to be the most appropriate strategy.

2. For the purposes of this Rule, sexual harassment is any physical or verbal conduct of a sexual nature infringing the dignity of women and men at work which is unwanted by or offensive to the recipient(s) subjected to it and which creates a humiliating or intimidating working environment for that/these person(s). The essential characteristic of sexual harassment is that it is unwanted by the recipient(s). A single incident may constitute sexual harassment if it is sufficiently serious. [...]"

8. It comprises four persons and their substitutes – two members and their substitutes appointed by the Secretary General and two further members and their substitutes appointed by the Staff Committee. At least one of the persons appointed by the Secretary General, and his/her substitute, shall hold a University degree in law. The members of the Commission are appointed for a renewable term of two years.

9. Implementation of the People Strategy Reform of the Staff Regulations – Explanatory highlights, 2021.

22. When it reflected upon a revision of the Assembly Code of Conduct in 2017, the Committee on Rules of Procedure considered introducing an outside mechanism, underpinned by the expertise of an independent and impartial body. Although MPs “are familiar with the professional environment” and they are able to “appreciate the reasonable degree of diligence that can be expected of an MP in a given context”, there is a risk that MPs exercising power over their peers may be judges and parties on account of their political affiliations, so that such a parliamentary collegiate body cannot be considered independent and impartial.¹⁰

23. A motion for a resolution entitled “Respect for the rule of law and fight against corruption within the Council of Europe”¹¹ referred to the Committee on Rules of Procedure considers “the establishment within the Organisation of a special joint anti-corruption unit that would allow for timely and efficient investigations in cases of serious allegations of corruption in all parts of the Organisation in future”. The reflection conducted by the committee in 2017 could be taken into account when elaborating the report for which Mr Franck Schwabe (Germany, SOC) is the rapporteur. The envisaged special unit could have a comparable procedure, safeguards and mechanisms as described here. However, given the particularly sensitive nature of the offences addressed in this report, additional safeguards and specialised procedures would be required for a separate unit on combating sexual harassment, sexism and sexual violence and misconduct. Should such a unit be established it should provide support and protection for victims as well as counselling and reform for perpetrators.

24. The following criteria should be considered in assessing the procedures dealing with any form of harassment, sexism and sexual violence and misconduct: the applicable substantive and procedural provisions and the clarity thereof; the structure, composition, competence, and functioning of the bodies treating relevant cases; the nature of sanctions and remedies. The current Assembly Code of Conduct suggests an enforcement mechanism that is based on three components: prevention, investigation, imposing sanctions (and providing remedies). Accordingly, any modification proposed to the Code of Conduct should be assessed in light of these general criteria and components.

25. Special status and guarantees of the members of the Assembly, but also of the staff of the Organisation, should be taken into consideration when modifying the Code of conduct. As stated in the report by Mr Volker Ullrich (Germany, EPP/CD) on “Jurisdictional immunity of international organisations and rights of their staff”,¹² the Council of Europe enjoys jurisdictional immunity, which is a “functional” immunity and one which can be waived only in exceptional circumstances. In accordance with the established case law of the European Court of Human Rights in cases concerning employment disputes opposing staff to international organisations, waiving this immunity can be an option only if there are no other “reasonable alternative means” of protecting the rights of those concerned.

26. Parliamentary immunity and freedom of speech are issues that will inevitably arise in cases covered by this report. In this context the Court has stated that “tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. That being so, as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance, provided that any ‘formalities’, ‘conditions’, ‘restrictions’ or ‘penalties’ imposed are proportionate to the legitimate aim pursued.”¹³ Furthermore, the scope of parliamentary non-liability, with regard to the content of a statement, has been restricted so as not to cover hate speech and racist remarks, threats or incitement to violence or crime. Moreover, the Court has found that politicians should avoid making comments likely to foster intolerance or hate.¹⁴ In reflecting on a mechanism for dealing with sexism, harassment, sexual violence and misconduct, the Assembly would also be confronted with the need to strike the right balance between freedom of speech which – having particular regard to the fact that the Assembly is a place for robust debates – is essential for the members’ political activity, on the one hand, and the necessity to respect the Code of Conduct, on the other hand, including the protection of human dignity, which may be affected by members’ deeds and words. In this regard, the Assembly expects members to take action in their daily activities to strengthen their non-discriminatory language.

10. [Doc. 14407](#) “Follow-up to Resolution 1903 (2012): promoting and strengthening transparency, accountability and integrity of Parliamentary Assembly members”.

11. [Doc. 15195](#).

12. [Doc. 14443](#) “Jurisdictional immunity of international organisations and rights of their staff”.

13. [Erbakan v. Turkey judgment of 6 July 2006, para. 56](#).

14. In the [Erbakan v. Turkey judgment \(no 59405/00, 6 July 2006, para. 64\)](#) the Court stressed that the fight against all forms of intolerance was an integral part of human-rights protection and that it was crucially important that in their speeches politicians should avoid making comments likely to foster such intolerance.

27. For a number of reasons, guidance is a significant element of any code of conduct. Considering that the Assembly represents diverse countries, with divergent political cultures and different languages, members should have the opportunity to clarify issues to avoid illicit actions resulting from misinterpretation. Furthermore, no code can be truly exhaustive and, therefore, responsible individuals should be provided with guidance on matters not specifically or directly covered by the code.

3.2. Existing mechanisms in other international organisations and national parliaments¹⁵

European Parliament

28. In 2014, the European Parliament established an Advisory Committee dealing with harassment complaints between Accredited Parliamentary Assistants and Members of the European Parliament (MEP) and its prevention at the workplace.¹⁶

- Competence: The Advisory Committee has a purely advisory in-house role in preparing the decision of the President of the European Parliament as to whether harassment has occurred. The mechanism has been established for handling complaints of psychological and/or sexual harassment filed against a MEP by a member of staff, a parliamentary assistant or an intern.
- Composition: The Advisory Committee comprises five members nominated by the President. The chairperson of the committee and two other members shall be nominated among the Quaestors. At least one of the members shall have expertise in equal opportunities and both genders shall be represented in the committee. Two observers shall be appointed by the Medical Service and by the Legal Service, respectively.
- Procedure: The committee works with complete autonomy, independence, and confidentiality. Its deliberations are secret. If there is sufficient evidence, it conducts an investigation during which hearings are held with the complainant, witnesses and the accused. Once the procedure has been completed, the committee sends its reasoned opinion to the President of the European Parliament in a confidential report. In cases where the president has concluded that harassment has indeed been committed, the victim can obtain coverage from the parliament of their legal fees if they decide to initiate judicial proceedings against the MEP concerned. In addition, if an assistant can no longer work with their deputy because of harassment, their salary may be covered by the deputy's budget for parliamentary assistants. In cases where harassment by a member is proven, following an internal investigation and in the light of recommendations from the Advisory Committee, the president may impose a sanction on the perpetrator in accordance with Rules of Procedure of the European Parliament.

29. In 2019, the European Parliament adopted a resolution on gender mainstreaming in the European Parliament in which it emphasised that sexual harassment is a serious crime that goes under-reported in most cases, an extreme form of gender-based discrimination and one of the biggest obstacles to gender equality.¹⁷ The European Parliament adopted a resolution on 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) of the Treaty on the Functioning of the European Union (TFEU).¹⁸

Canada

30. The Canadian Parliament has made significant progress in the area of combating harassment on its premises and is one step ahead in this field. It has introduced detailed rules and procedures regarding harassment cases, including the description of the jurisdiction of the relevant authorities, strict time-limits for lodging harassment complaints and appeals, the duration of the proceedings, the appeal mechanism, the scale of sanctions and remedies. In 2021, the Senate adopted a new Senate harassment and violence

15. For a complete overview of the different mechanisms, see the IPU guidelines to combat sexual harassment and violence against women in parliament.

16. See Bureau decision on internal rules on harassment and its prevention at the workplace and on harassment complaints involving accredited parliamentary assistants and members of the European Parliament.

17. European Parliament resolution of 15 January 2019 on Gender mainstreaming in the European Parliament – (2018/2162(INI)).

18. European Parliament resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU (2021/2035(INL)).

prevention policy which describes the roles and responsibilities of every person in the Senate workplace to ensure a work environment free from harassment and violence. It provides processes to resolve occurrences of harassment and violence.¹⁹

31. The House of Commons has different policies for various personnel categories: the Code of Conduct for Members of the House of Commons: sexual harassment between members of parliament;²⁰ the Policy on preventing and addressing harassment (2014) which applies to all MPs (as employers), personnel employed by MPs, interns, and volunteers (paid or unpaid). Employees covered by a collective agreement and employees of the House of Commons Administration are not subject to the provisions of these policies; separate frameworks apply to those personnel categories.²¹

32. Sexual harassment may be reported by the complainant to their 'Whip' if the respondent is a member of the same group or to the Chief Human Resources Officer (CHRO) if the allegations involve an independent member or members from different groups. If the mediation was refused by the parties, or if the matter is not mediated to the complainant's satisfaction, the complainant may file a formal complaint in writing with the CHRO. An outside investigator chosen from a list of specialists is then called in to investigate the allegations of sexual harassment.

*Austria*²²

33. In March 2018, the Austrian Parliament established an independent body, the *Clearingstelle*. It consists of an expert appointed by the Speaker of Parliament whom members from both chambers, staff from political groups and parliamentary assistants can contact in the event of harassment. People have confidential access to various types of information and individualised counselling. It works primarily on prevention and awareness-raising initiatives and establishing a climate of respect within the institution. Two psychotherapists are available by phone and e-mail for information or making appointments and offer personal advice in external practice rooms. All discussions are treated confidentially; the therapists are also subject to the legal obligation to maintain confidentiality.²³

France

34. The Senate and the National Assembly have both set a unit to combat harassment. The system for preventing and combating all forms of harassment in the National Assembly has been implemented since 1 February 2020.²⁴ Accessible 24 hours a day and consisting of independent experts who guarantee the confidentiality of exchanges, the anti-harassment unit at the National Assembly is designed to respond to requests from all: victims or witnesses, civil servants, contract workers, employees or elected representatives. Everyone can obtain information, report harassment or seek support whenever necessary. The use of an external service provider makes it possible, on the one hand, to offer a service that can be accessed at any time and regardless of the geographical location of the persons concerned, and, on the other hand, to benefit from the expertise of professional contacts.

35. In 2021, for the first time, the Bureau of the Senate was called upon to give its ruling on an opinion of the Parliamentary Ethics Committee concerning a report of suspected harassment, issued in the framework of the procedure adopted by the Bureau on 4 November 2020, in line with the setting up in 2017 of a reception and listening unit for employees who consider themselves to be victims of harassment. The Senate Bureau followed the opinion of the Ethics Committee. It considered that if the facts did not constitute harassment in view of the elements gathered during the investigation, they revealed the need for the senator, in order to comply with the obligations as an employer, to commit to an individualised management support approach. If the senator failed to commit to this approach and to respect the terms of its implementation, the matter would be referred to the Senate Bureau.²⁵

19. Senate harassment and violence prevention policy, 2021.

20. The Code of Conduct for Members of the House of Commons: sexual harassment between members, Consolidated version as of 21 September 2021.

21. The information is based on the IPU guidelines to combat sexual harassment and violence against women in parliament.

22. Ibid.

23. Clearing house for women and men in parliament in the event of sexual harassment and abuse of power has been reassigned.

24. Création de la cellule de lutte contre le harcèlement, January 2020.

25. Bureau du Sénat du 25 mars 2021.

United Kingdom

36. The Independent Expert Panel was established by a resolution of the House of Commons on 23 June 2020. The panel hears appeals against decisions made by the Parliamentary Commissioner for Standards, considers referrals from the Commissioner and determines sanctions in cases involving an allegation against an MP of a breach of the parliament's sexual misconduct policy or the bullying and harassment policy, under the Independent Complaints and Grievance Scheme. The panel is entirely independent, with no MPs taking part in its decisions. It is guided by the principles of natural justice, fairness for all parties, transparency and proportionality. The sanctions determined by the Independent Expert Panel could include the suspension or expulsion of an MP, which would then require a vote in the House.²⁶

3.3. Revising the Assembly's Code of Conduct

37. Sexism, any form of harassment and violence in parliaments damage the reputation and image of parliamentarians and of parliaments as institutions. The current Code of Conduct for the members of the Parliamentary Assembly, by virtue of its general principles protecting human dignity, covers inappropriate conduct, which today would be classified as sexism, harassment, sexual violence and misconduct. However, the current trends require that these forms of misconduct be addressed explicitly in codes of conduct and the Assembly should not be a misfortunate exception to this modern trend.

– Proposals for amendments to the section “General principles of behaviour”

38. Considering that general principles are aspirational in nature and make it possible to avoid loopholes every time members face a new situation or are called to act in new circumstances, there should be an amendment that generally covers all forms of harassment and sexual misconduct and stigmatises such conduct as improper behaviour encroaching upon human dignity. It could therefore be advisable that paragraph 5.1 of the Code of Conduct be amended as follows:

“5. While performing their mandate as members of the Parliamentary Assembly, members shall:

*5.1. carry out their duties with **due respect to human dignity and with integrity and honesty**”.*

– Proposals for amendments to the section “Rules of conduct”

39. Assembly Resolution 2274 (2019) called for the introduction in the Code of Conduct of an explicit prohibition of (i) sexism, (ii) sexual harassment and (iii) sexual violence and (iv) [sexual] misconduct. The definitions of the above terms have not been elaborated by the Assembly. At the same time, existing Rule No. 1292 introduces the definitions of sexual harassment and psychological harassment without defining other terms mentioned in the resolution, notably sexism, sexual violence and misconduct.

40. The Code of Conduct has to be flexible enough to deal with new situations that may emerge and should give proper consideration to various cases which may require special interpretation in light of the specific circumstances. The appropriate proposal in such a situation would be to introduce these terms in the “rules of conduct” without providing the definitions of those terms, leaving their interpretation for further guidance and elaboration to those applying the Code of Conduct. It is therefore proposed that the following rule dealing with the prohibition of harassment and sexual misconduct be introduced after paragraph 7:

“Members shall refrain from any form of sexism, harassment and sexual violence and misconduct.”

– Proposals for amendments to section “Observance of the Code of Conduct”

41. Assembly Resolution 2274 (2019) called to:

- i. introduce the obligation to take account of the Council of Europe rules on the protection of dignity;
- ii. co-operate with the relevant mechanisms;
- iii. take account of the decisions that might be taken as a result of a harassment procedure;
- iv. ensure that the recommendations of the Commission against Harassment and/or the decisions of the Secretary General of the Council of Europe resulting from the application of Rule No. 1292 can be followed up by the Assembly in the context of its Code of Conduct.

26. [The Independent Expert Panel | Appeals, referrals and sanctions: guidance for the parties, 2021.](#)

42. The modification of the Code of Conduct should be proposed in a manner that integrates the existing Council of Europe procedures. For this purpose, it would be appropriate to recognise the investigating powers of the Commission against Harassment functioning in the Council of Europe according to Rule No. 1292 and its possible successor given that the relevant legal framework of the Council of Europe is being currently revised. It has to be kept in mind that the commission has jurisdiction to examine cases on harassment only. However, with the forthcoming revision of Rule No. 1292, it is expected that the competence of the Commission against Harassment or a successor body will be extended to include sexism, sexual violence and misconduct.

43. Bearing this in mind, it is proposed to insert the following paragraph after paragraph 18:

“For all the cases concerning any form of sexism, harassment and sexual violence and misconduct that involve members of the Parliamentary Assembly, a recommendation or decision taken under the Council of Europe procedures in the framework of its anti-harassment policy shall be forwarded to the Committee on Rules of Procedure, Immunities and Institutional Affairs for final determination of the case.”

– Proposals related to measures in the event of non-compliance with the anti-harassment rules

44. Often, codes of conduct do not introduce special sanctions in cases of non-compliance with the anti-harassment rules but refer to the existing sanctions in different regulatory frameworks which apply depending on the category of the perpetrator.²⁷ However, it should clearly set out the applicable sanctions according to the seriousness of proven behaviour since the certainty of punishment is as important as its severity. The Code of Conduct for members of the Parliamentary Assembly contains a set of possible measures (paragraph 27) that the Committee on Rules of Procedure actually applied in 2018 in the context of the allegations of corruption of Assembly members or former members. These sanctions establish a scale depending on the degree of seriousness and provide an adequate framework.

45. It is recalled that if the Committee on Rules of Procedure, Immunities and Institutional Affairs finds that there has been a serious breach of the Code of Conduct, it will prepare a report containing all the evidence gathered in the course of the investigation, the observations of the member concerned, and its conclusions. This report will be published on the Assembly's website. The national parliament of the member concerned could be invited to refer to this publication on its own website.

27. For instance, in the French Senate where harassment is proved, without prejudice to criminal sanctions, the perpetrators are subject to such disciplinary action as censure, with or without temporary exclusion, as provided for in Rules 94 and 95 of the Senate's Rules of Procedure. Such disciplinary action is issued by the Senate Bureau and results in a reduction in the offending senator's parliamentary allowance. A parliamentary official may be disciplined in proportion to the seriousness of the offences and may be automatically dismissed and removed from office, in accordance with Rule 145 of the Rules of Procedure.