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Modifications to the Assembly's Rules of Procedure

Report[1]
Committee on Rules of Procedure, Immunities and Institutional Affairs
Rapporteur: Mr Jordi XUCLÀ, Spain, Alliance of Liberals and Democrats for Europe

Summary

Some provisions of the Assembly's Rules of Procedure need to be clarified, supplemented or reviewed in order to better correspond to parliamentary practice. This report therefore contains proposals regarding in particular:

- the status of the chairpersons of political groups;

- the status of the immediate past President of the Assembly;

- the procedure for examining amendments in plenary sitting;

- the substitution of committee chairpersons who are *ex officio* members of certain committees;

- the bureaux of committees.

1. Reference to committee: Bureau decision, Reference 4064 of 3 October 2014.

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A. Draft resolution[2]

1. Considering that its actions and decisions shall be founded on clear, coherent and effective rules and procedures, the Parliamentary Assembly intends to ensure that its Rules of Procedure are updated continuously. It recalls that it has regularly amended its Rules in recent years, in order to accommodate the evolution of parliamentary practice, to clarify the rules and procedures where their application or interpretation raised difficulties, or to address specific problems. In this framework, it intends to take due account of proposals submitted by its members, national delegations, political groups and committees, and make the necessary adjustments in its Rules of Procedure.

2. Consequently, having regard to the above considerations, the Assembly decides to amend its Rules of Procedure as follows:

2.1. with regard to the status of the chairpersons of political groups:

2.1.1. replace Rule 19.5 by the following: “Chairpersons of political groups are *ex officio* members of the Committee on Political Affairs and Democracy, the Committee on Legal Affairs and Human Rights, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and the Committee on Rules of Procedure, Immunities and Institutional Affairs. Rule 44.6 shall not apply to them”;

2.1.2. amend accordingly Rule 44.1 with regard to the number of seats on the Committee on Legal Affairs and Human Rights, and the complementary texts covering committees' terms of reference;

2.2. with regard to the status of the immediate past President of the Assembly:

2.2.1. replace Rule 20.3 by the following: “The immediate past President, as long as he or she remains a representative or substitute in the Assembly without interruption, shall be an *ex officio* member of the Committee on Political Affairs and Democracy, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and the Committee on Rules of Procedure, Immunities and Institutional Affairs, but may not take part in votes. Rule 44.6 shall not apply to him or her”;

2.2.2. amend accordingly Rules 44.1, 44.3 and 49.3 with regard to the number of seats on the Monitoring Committee and the Committee on Rules of Procedure, and the complementary texts covering committees' terms of reference;

2.3. with regard to the procedure for examining amendments in plenary sitting:

2.3.1. replace Rule 34.9 by the following: “When an amendment or sub-amendment is called, only the following shall be heard: one of the signatories (or, if none of them do so, any other member of the Assembly) in order to move it, one member to speak against and the chairperson or rapporteur of the committee seized for report to express the committee’s opinion.[footnote] An amendment or sub-amendment which is not moved shall not be considered. An amendment or sub-amendment which has been withdrawn by its signatories may be moved by any other member of the Assembly. A rapporteur may not sign or move any amendment or sub-amendment to a draft text presented by the committee on whose behalf he or she is reporting except for amendments or sub-amendments tabled on behalf of that committee. [footnote: The committee's position shall only be given by “in favour” or “against”; where appropriate, the Assembly shall be informed when “the committee has not taken any position”]”;

2.3.2. in the complementary texts, Additional provisions relating to Assembly debates, delete paragraph 3 of “Organisation of debates”;

2.4. with regard to the substitution of committee chairpersons who are *ex officio* members of certain committees, in Rule 44.1:

2.4.1. amend the footnote under point 7 related to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), as follows “...; plus the chairpersons of the Committee on Political Affairs and Democracy and the Committee on Legal Affairs and Human Rights, as *ex officio* members, or, in their absence, a vice-chairperson. ...”;

2. Draft resolution unanimously adopted by the committee on 28 January 2016.

2.4.2. amend the footnote under point 9 related to the Committee on the Election of Judges to the European Court of Human Rights, as follows: “Plus the chairpersons of the Committee on Legal Affairs and Human Rights and the Committee on Equality and Non-Discrimination, as *ex officio* members, or, in their absence, a vice-chairperson”;

2.5. with regard to the bureaux of committees, replace Rule 46.7 by the following: “The chairperson and the vice-chairpersons of a committee shall remain in office until the opening of the next ordinary session of the Assembly. They may be re-elected for one further term, consecutive or not. A committee chairperson or vice-chairperson elected in the course of a session for an incomplete term may be re-elected for two further terms. A former chairperson of a committee may stand for the office of chairperson or vice-chairperson of the same committee on expiry of a period of four years, for two further terms, consecutive or not. The outgoing chairperson of a committee may stand for the office of chairperson or vice-chairperson of another committee on expiry of a period of two years”;

2.6. with regard to the participation of secretaries of political groups in committee meetings, amend Rule 48.8 of the Rules of Procedure as follows: “Secretaries of national delegations and secretaries of political groups may attend the meetings of committees of the Assembly, except for those of the Monitoring Committee and the Committee on the Election of Judges to the European Court of Human Rights”.

3. The Assembly decides that the amendments to the Rules of Procedure set out in this resolution shall enter into force upon their adoption.

B. Explanatory memorandum by Mr Xuclà, rapporteur

1. Introduction

1. The present report has its origins in the request made by the Bureau of the Assembly to the Committee on Rules of Procedure, Immunities and Institutional Affairs on 3 October 2014 to consider the follow-up to be given, in terms of the Rules of Procedure, to Resolution 2018 (2014) on the progress of the Assembly's monitoring procedure, through which the Assembly amended Resolution 1115 (1997) (modified) with regard to the functioning of the Monitoring Committee, its composition and the monitoring procedure. More specifically, the Committee on Rules of Procedure was asked to consider "modifying the Rules of Procedure in order to involve members not belonging to a political group and members of partner for democracy delegations in the work of the Monitoring Committee".

2. It is also true that, under well-established practice, the committee is available to examine proposals for amendment to the Rules of Procedure submitted to it, in connection with procedures needing to be changed or adapted to parliamentary practice or rules requiring clarification. The rapporteur nevertheless points out that the committee's last report resulting in amendments to the Assembly's Rules of Procedure was debated by the Assembly in June 2014[3] following a long process of consultation with members of the Assembly, national delegations, political groups and committees. Consequently, it did not appear necessary to repeat this exercise in connection with the present report, and consideration of possible amendments to the Rules of Procedure has instead been limited to the questions raised in meetings of the Bureau and the Presidential Committee and motions for resolutions referred to it.

2. Possible amendments to the Rules of Procedure regarding the composition and functioning of the Monitoring Committee, following the adoption of Resolution 2018 (2014)

2.1. Reminder of the changes made to the monitoring procedure in 2014

3. Within the framework of its annual progress report for 2014,[4] the Monitoring Committee carried out an in-depth analysis of the effectiveness of the monitoring procedure and the means of strengthening the impact of this procedure for all Council of Europe member States. Resolution 2018 (2014) incorporates the concrete recommendations made by the Monitoring Committee and its Ad hoc Sub-Committee on the functioning of the parliamentary monitoring procedure, namely:

– the establishment of a periodic review, on a country-by-country basis, of the honouring of the Council of Europe accession obligations for the 33 countries not subject to a monitoring procedure *sensu stricto* or engaged in a post-monitoring dialogue;

– the introduction of issue-based, cross-country monitoring in close co-operation with the Assembly committees;

– the appointment of two co-rapporteurs for each member State engaged in a post-monitoring dialogue, according to the same criteria as those established for the appointment of the co-rapporteurs responsible for the monitoring procedure *sensu stricto* of a member State;

– the improvement of members' geographical representation and a limit of four members from any one national delegation of a State not subject to a monitoring procedure or engaged in a post-monitoring dialogue;

– for post-monitoring dialogue, the preparation of a clearly defined timetable with exact deadlines for fulfilment of the remaining undertakings, governing closure of the post-monitoring dialogue or alternatively reverting to a complete monitoring procedure.

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3. See the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs on evaluation of the implementation of the reform of the Parliamentary Assembly, Doc. 13528 (rapporteur: Ms Liliana Palihovici, Republic of Moldova, EPP/CD), and Resolution 2002 (2014).

4. See the report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) on the progress of the Assembly's monitoring procedure (October 2013-September 2014), Doc. 13595 (rapporteur: Mr Stefan Schennach, Austria, SOC).

4. These recommendations were amplified in Resolution 2018 (2014) via modifications made to Resolution 1115 (1997) (modified), which defines the monitoring procedure, and to the Monitoring Committee's terms of reference. However, these are complementary texts, and the recommendations did not result in any amendment of the Rules of Procedure in the strict sense of the term.[5]

2.2. Examination of proposals to modify the composition of the Monitoring Committee

5. In Resolution 2018 (2014), the Assembly "invites the Bureau to consider the possibility of involving in the work of the Monitoring Committee members not belonging to a political group and countries engaged in the partnership for democracy". Consequently, the Bureau asked the Committee on Rules of Procedure "to consider modifying the Rules of Procedure in order to involve members not belonging to a political group and members of partner for democracy delegations in the work of the Monitoring Committee".

2.2.1. Participation of members not belonging to a political group

6. It should be recalled that the members of six of the nine Assembly committees are nominated by the national delegations, and the members of the Monitoring Committee, the Committee on Rules of Procedure and the Committee on the Election of Judges to the European Court of Human Rights are appointed by the Bureau of the Assembly on the basis of candidatures put forward by the political groups, using the d'Hondt method. At present, only the Committee on Rules of Procedure has two members not affiliated to a political group among its 37 members (Rule 44.3.*b* of the Rules of Procedure).

7. At the end of the fourth part-session of 2015, the Assembly had 52 members who did not belong to any of the five political groups.[6] It might seem fair therefore, at first view, to allow minimum representation of non-affiliated parliamentarians on the Monitoring Committee.

8. At its meetings on 26 March and 29 September 2015, the Committee on Rules of Procedure examined a proposal to enable the Bureau to appoint members not affiliated to any political group to the Monitoring Committee. The great majority of the committee's members were against doing so; a number of them arguing that non-affiliated members were not representative, had highly diverse political leanings, stood for opposing ideologies and did not share any common opinions or causes. If they were not affiliated to one of the five political groups, they represented only themselves and, at best, could support no more than a national position.

9. Moreover, were the Assembly to agree to minimum representation of non-affiliated parliamentarians on the Monitoring Committee, in addition to the Committee on Rules of Procedure, they might also lay claim to representation on the Committee on the Election of Judges to the European Court of Human Rights.

10. Finally, if the Rules of Procedure were to be modified in this connection, establishing the number of non-affiliated members who could be appointed to the Monitoring Committee would not be without its problems: while the notion of fairness does not need to prompt an all-out drive for strictly proportionate representation, if we bear in mind that the smallest group in the Assembly is represented by five members on the Monitoring Committee, appointing any fewer than four non-affiliated members would not really seem acceptable.

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5. Accordingly, Resolution 2018 (2014) invites the political groups "to ensure that no more than four members of the same national delegation of a country not under a monitoring procedure or involved in a post-monitoring dialogue sit on the Monitoring Committee" (paragraph 20.1 of Resolution 2018 (2014), incorporated in paragraph 8 of Resolution 1115 (1997) (modified)). The rapporteur wondered whether it was necessary to amplify this decision in the Rules of Procedure and supplement Rule 44.3.*c* of the Rules of Procedure, which, for the time being, simply states that "not more than two members of a national delegation from a State under monitoring procedure or involved in a post-monitoring dialogue may sit on the Monitoring Committee". The rapporteur considered that, since the text encourages a course of action by the political groups, there were no grounds at this stage to make it binding, and all the more so since the idea did not enjoy a consensus in either the Monitoring Committee or the Committee on Rules of Procedure. It will also be noted that only two delegations are concerned: over the past seven years, it has happened now and again that more than four members belonging to the British and German delegations held seats on the Monitoring Committee; on 1 December 2015, there were 5 German members and 6 British members; on 1 February 2015, only the British delegation had more than 4 members, in the instant case 8 members.

6. There were 65 of them on 30 January 2015. On 30 October 2015, the Group of the European People's Party had 202 members, the Socialist Group 197, the Alliance of Liberals and Democrats for Europe 73, the European Conservatives Group 68, and the Group of the Unified European Left 38. It should also be noted that although the current number of non-affiliated members is sizeable, prior to 2013 they rarely numbered more than 20 or so.

– Proposal

11. In view of the serious reservations expressed by the majority of the committee's members, the rapporteur considers that there are no grounds for formulating a proposal to amend the Rules of Procedure to allow representation of non-affiliated members on the Monitoring Committee.

2.2.2. Participation of the members of partner for democracy delegations

12. The question of whether and in which way the countries engaged in the partnership for democracy could be associated with the work of the Monitoring Committee was discussed in the Ad hoc Sub-Committee on the functioning of the parliamentary monitoring procedure (of the Monitoring Committee), without it coming to a final conclusion. It should also be noted that the idea considered by the sub-committee was to associate the countries engaged in the partnership for democracy so that they could be "also monitored in accordance with modalities to be established". The Monitoring Committee's rapporteur observes in the aforementioned report that "the modalities for such involvement are not clear and would need further reflection by the committee".

13. Under the Assembly's Rules of Procedure, the members of delegations of partners for democracy cannot participate in or even attend meetings of the Monitoring Committee:

> *Rule 48.6: "Meetings of the Joint Committee, the Monitoring Committee, the Committee on Rules of Procedure, Immunities and Institutional Affairs and the Committee on the Election of Judges to the European Court of Human Rights shall not be open to members of special guest, observer and partner for democracy delegations."*[7]

14. It may be recalled that the Committee on Rules of Procedure had the opportunity to comprehensively discuss partner for democracy status in 2009, when it was instructed to determine its configuration and define in particular the rights and obligations of the parliaments concerned (see *inter alia* Rules 62.5 and 62.6 of the Rules of Procedure). At that time, the Assembly clearly indicated that, while the contribution of non-member State delegations to the proceedings of the Assembly and its committees deserved to be optimised, it nevertheless considered that "in accordance with the principles of good governance, members of non-member States' delegations cannot enjoy rights identical to those of members of the Assembly in the full exercise of their parliamentary prerogatives and functions. This applies in particular to procedures linked to the obligations and responsibilities of members or of their national delegations".[8]

15. It should also be borne in mind that the implementation of the undertakings made by partners for democracy when requesting that status is assessed in the framework of periodical reports by the Committee on Political Affairs and Democracy (with opinions from the Committee on Legal Affairs and Human Rights and the Committee on Equality and Non-Discrimination, Rule 62.7 of the Rules of Procedure). That is why members of the partner for democracy delegations actively and regularly participate in meetings of those committees, which are mutually beneficial.

16. Finally, it is to be noted that the positions expressed by the committee members at the meetings held on 26 March and 29 September 2015 did not make it possible to reach consensus in favour of the proposal to allow participation of members of partner for democracy delegations in Monitoring Committee meetings.

– Proposal

17. In the absence of an unequivocally positive position on the question on the part of the Monitoring Committee itself (and of more advanced discussion on the setting up of a "monitoring procedure" in respect of their obligations and commitments other than the existing one) and given the lack of consensus on the issue within the Committee on Rules of Procedure, the rapporteur considers it premature to seek to amend the Rules of Procedure with a view to allowing participation of members of partner for democracy delegations in meetings of the Monitoring Committee.

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7. The participation of members of delegations of non-member States in the meetings of the other committees is governed by the conditions laid down in the Rules of Procedure (Rules 62.6 and 48.5): "Members of special guest, observer and partner for democracy delegations appointed to a committee may participate in its meetings and speak if called by the committee chairperson; they shall not have the right to vote. However, a committee may decide in advance that members of such delegations may not attend a meeting or part of a meeting."

8. See Resolution 1699 (2009) and the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs on "Procedural implications of Parliamentary Assembly Resolution 1600 (2008) on the Council of Europe and its observer states – the current situation and a way forward, and related Assembly texts", Doc. 12072 (rapporteur: Mr Erol Aslan Cebeci, Turkey, EPP/CD).

2.2.3. Confidentiality of proceedings of the Monitoring Committee

18. Finally, the report of the Ad hoc Sub-Committee on the functioning of the parliamentary monitoring procedure mentions another question, secondary but nonetheless worth clarifying in the Rules of Procedure. The sub-committee in fact considered it appropriate to introduce into the Rules of Procedure the possibility for the Monitoring Committee to lift the confidentiality clause for a specific event, such as a joint hearing with another committee.

19. Rule 48.3 states that "… The Monitoring Committee and the Committee on the Election of Judges to the European Court of Human Rights meet in camera". It could therefore be amended, so as to include a possibility of derogation from the rule.

– *Proposal*

20. In view of the widely differing positions expressed by a majority of committee members on this issue, and even hostile to any change to the rule, the rapporteur proposes that Rule 48.3 of the Rules of Procedure should not be amended.

3. Other proposals to amend the Rules of Procedure

21. Within the framework of the present report, the committee also has the task of examining any proposals for modification of the current regulatory provisions it receives, either from the Bureau of the Assembly or the Presidential Committee or from Assembly members in the form of motions for a resolution, particularly with regard to rules and procedures requiring clarification, changes or adaptation to parliamentary practice.

3.1. Upgrading of the status of the immediate past President of the Parliamentary Assembly

22. On 9 March 2015, the motion for a resolution tabled by Mr Pedro Agramunt and other Assembly members (Doc. 13686) on the status of former Presidents of the Parliamentary Assembly was referred to the Committee on Rules of Procedure so that it could be taken into account in the next report on amendments to the Rules of Procedure. The motion called for a change to Rule 20.3 of the Rules of Procedure, making the immediate past President of the Assembly an *ex officio* member not only of the Committee on Political Affairs and Democracy but also of the Monitoring Committee and the Committee on Rules of Procedure, Immunities and Institutional Affairs, for as long as he or she continues to be a member of the Assembly without interruption.

23. At present, the immediate past President of the Assembly is an *ex officio* member of only one Assembly committee: the Committee on Political Affairs and Democracy. This ad hoc status was introduced into the Rules of Procedure in 2002 by Resolution 1284 (2002).[9] In 2012, the Assembly granted the status of *ex officio* members of the Committee on Political Affairs and Democracy and the Monitoring Committee to the chairpersons of political groups, in addition to the Committee on Rules of Procedure.[10] In 2014, the status of the immediate past President of the Assembly was aligned with that of the chairpersons of the political groups with regard to rights within the Committee on Political Affairs and Democracy.[11]

24. Accordingly, the Committee on Rules of Procedure must therefore consider the expediency of upgrading the status of the immediate past President of the Assembly. The following factors should be taken into account in this respect:

– granting the status of *ex officio* member in a number of Assembly committees to the immediate past President of the Assembly hinges on the argument that the political experience of the immediate past President of the Assembly could be capitalised on through his or her participation in the proceedings of

9. It is worthwhile to recall that the Assembly's decision in 2002 had the character of an occasional measure for the benefit of the outgoing President of the time. Immediate past Presidents of the Assembly between 2004 and 2013 all sat on the Political Affairs Committee – while still members of the Assembly – as representatives of their national delegation.

10. See Resolution 1911 (2012) and the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs on the status of the chairpersons of political groups in committees, Doc. 13058 (rapporteur: Mr Arcadio Díaz Tejera, Spain, SOC).

11. See Resolution 2002 (2014) and the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs on the evaluation of the implementation of the reform of the Parliamentary Assembly, Doc. 13528, op. cit. Previously, in the Committee on Political Affairs, the immediate past President of the Assembly could neither take part in votes, nor be appointed rapporteur nor be elected to the Bureau of that committee and its sub-committees.

the committees concerned, where these relate to areas where a former president of the Assembly has had occasion to play a leading role and where his or her experience may prove useful (as the aforementioned motion for a resolution explains);[12]

– the reference to taking advantage of the experience gained by the president during his or her term of office could provide justification for his or her participation in any Assembly body on an ad hoc basis: ultimately, the Committee on Rules of Procedure might be required to examine proposals to grant the immediate past President a member's seat on the Presidential Committee, the Bureau of the Assembly and all the Assembly's committees. That is why the question must be comprehensively discussed and the immediate past President's scope for action carefully delineated;

– no member of the Assembly can be a full member of more than two committees (with the exception of the three committees whose members are nominated by the political groups) – Rule 44.6 of the Rules of Procedure;

– granting the immediate past President of the Assembly the status of *ex officio* member of several committees is tantamount to allocating an additional seat on those committees to his or her national delegation, resulting in an imbalance in the representation of delegations.

25. During the exchanges of views in committee, some members of the Committee on Rules of Procedure were openly hostile to the proposal. However, a majority of them appear to favour a possible compromise solution, recognising that it would be useful for the Committee on Political Affairs and Democracy and the Monitoring Committee to be able to benefit from the informed views of the immediate past President of the Assembly on questions of international politics or relating to the situation in member States.

– Proposal

26. If the Committee on Rules of Procedure votes in favour of a new upgrade of the immediate past President's status, it should firstly determine which committees he or she would sit on as an *ex officio* member. The rapporteur proposes to retain the Committee on Political Affairs and Democracy, the Monitoring Committee and the Committee on Rules of Procedure, as proposed in the motion for a resolution. The committee shall also decide whether Rule 44.6 of the Rules of Procedure, which stipulates that no member of the Assembly may be a full member of more than two committees (with the exception of the committees whose members are appointed by the political groups), should or should not apply, given that this provision is not applicable to the heads of the political groups, *ex officio* members of the Committee on Political Affairs and Democracy, the Monitoring Committee and the Committee on Rules of Procedure (Rule 19.5).

27. The committee might also consider whether the question of the immediate past President's rights within those committees should be revisited. At present, as an *ex officio* member of the Committee on Political Affairs and Democracy, the immediate past President enjoys the same rights as the other members, including the right to be chair or vice-chair of the committee or its sub-committees and to be appointed rapporteur.

28. The exact wording of the amendments to be made to the Rules of Procedure will therefore depend on the answers to these questions. Whatever the case, several provisions of the Assembly's Rules of Procedure would have to be modified. It is suggested that:

– Rule 20.3 of the Rules of Procedure be worded as follows: “The immediate past President, as long as he or she remains a representative or substitute in the Assembly without interruption, shall be an *ex officio* member of the Committee on Political Affairs and Democracy, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and the Committee on Rules of Procedure, Immunities and Institutional Affairs, but may not take part in votes. Rule 44.6 shall not apply to him or her[13]”;[14]

– if the outgoing president is an *ex officio* member of certain committees and has the same rights as the other members, Rules 44.1, 44.3 and 49.3 will have to be amended with regard to the number of seats on the Monitoring Committee and the Committee on Rules of Procedure, as well as the complementary texts covering committees' terms of reference.

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12. It shall be noted that there are no similar provisions in the other inter-parliamentary assemblies granting the immediate past President a special and exceptional status.

13. The immediate past President of the Assembly shall be able to decide to sit in committees in respect of his or her delegation, and/or as an *ex officio* member, in compliance with Rule 20.3.

14. Rule 44.6 of the Rules of Procedure stipulates that no member of the Assembly can be a full member of more than two committees, with the exception of the three committees whose members are nominated by the political groups.

3.2. Increase of the term of office of presidents to three years

29. Within the framework of the present report, the committee must also examine the motion for a resolution tabled by Mr Axel E. Fischer and other Assembly members on the duration of the term of office of the President of the Assembly (Doc. 13858), who propose that this be modified by reintroducing a three-year term of office, both for the President of the Assembly (Rule 15.5 of the Rules of Procedure) "in order to allow them to give full effect to their political duties outside of and towards the Secretariat of the Assembly", and for the chairpersons of the committees (Rule 46.7) and sub-committees (Rule 49.7).

30. The question has been debated at length several times in recent years, in 2007[15] and latterly in 2013.[16]

31. Whenever the Assembly has examined the question of the duration of the term of office of committee chairpersons, it has always sought to strike a balance between the advantages brought by stability in the exercise of presidential office and the need to renew office-holders. In its 2007 report on the application and amendment of various provisions of the Parliamentary Assembly's Rules of Procedure, the Committee on Rules of Procedure observed that "fixing the duration of committee chairmanships means regularly finding a compromise between two conflicting principles: the maintenance of some continuity in the action and work of committees and the need to achieve a rotation of chairmanships. … It is generally admitted that distributing functions in the Assembly such as chairmanships and rapporteurships to a larger number of members would be appropriate". In a previous report, in 1978, the Committee on Rules of Procedure had already pointed out that having more of its members, from more national delegations, entrusted with important responsibilities, gaining a deeper knowledge of the Organisation and ultimately taking a stronger interest in its activities could only be of benefit to the Assembly.

32. The current wording of Rule 15.5 (Election of the President) and Rule 46.7 (Bureaux of committees) – instituting a once-renewable consecutive or non-consecutive annual term – was established by Resolution 1584 (2007) on the basis of discussion in the Committee on Rules of Procedure. Limiting the terms of office of Assembly presidents and committee and sub-committee chairpersons to a maximum of two years was intended, through faster periodical renewal, to promote an increased and balanced rotation of presidencies and chairmanships between the political groups and between the national delegations and ensure a better gender balance. Indeed, since 2008, it is undeniable that the rotation of presidencies and chairmanships of the Assembly and the committees has strictly adhered to a two-year cycle and that the objectives of this reform have been achieved.

33. Moreover, the question is closely intertwined with the permanency, or if not the calling into question, of the political agreement that exists between the political groups in the Assembly where the rotation of presidencies is concerned.

34. It must be pointed out, however, that a change was made to the status of committee chairpersons and vice-chairpersons in 2014, with the result that, from now on, when their initial two-year term of office expires, and on expiry of a period of four years, they may again be elected to the bureau of the committee concerned for two new consecutive or non-consecutive (annual) terms.

– Proposal

35. The proposal to reintroduce a three-year term of office for the President of the Assembly and members of committee and sub-committee bureaux was examined by the Committee on Rules of Procedure at its meeting on 29 September 2015. As in the past, the committee came out unanimously against any change to the Rules of Procedure which would entail returning to the situation prior to 2008, because of Assembly members' positive assessment of two-year terms of office.

15. See Resolution 1584 (2007) "Application and amendment of various provisions of the Parliamentary Assembly's Rules of Procedure" and the report of the Committee on Rules of Procedure and Immunities, Doc. 11431 (rapporteur: Mr Erik Jurgens, Netherlands, SOC).
16. See Resolution 1937 (2013) on the length of term of office and re-eligibility of committee chairpersons and the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, Doc. 13219 (rapporteur: Mr Andreas Gross, Switzerland, SOC).

3.3. Replacement of committee chairpersons who are ex officio members of certain committees

36. Rule 44.1 on the appointment of committees stipulates that the chairpersons of the Committee on Political Affairs and Democracy and the Committee on Legal Affairs and Human Rights are *ex officio* members of the Monitoring Committee and that the chairpersons of the Committee on Legal Affairs and Human Rights and the Committee on Equality and Non-Discrimination are, for their part, *ex officio* members of the Committee on the Election of Judges to the European Court of Human Rights. However, recent practice has shown that these committees could be deprived of their chairperson and that the Rules of Procedure do not authorise them to appoint a vice-chairperson to take part in the meetings of the committees of which the chairperson is an *ex officio* member.

– *Proposal*

37. As this is an amendment of a technical nature, the rapporteur proposes that the footnotes concerning Rule 44.1 be changed to mention the possibility for a vice-chairperson of the committees concerned to replace the chairperson in his or her absence:

– footnote under point 7 related to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee): "...; plus the chairpersons of the Committee on Political Affairs and Democracy and the Committee on Legal Affairs and Human Rights, as *ex officio* members, or, in their absence, a vice-chairperson. …";

– footnote under point 9 related to the Committee on the Election of Judges to the European Court of Human Rights: "Plus the chairpersons of the Committee on Legal Affairs and Human Rights and the Committee on Equality and Non-Discrimination, as *ex officio* members or, in their absence, a vice-chairperson."

3.4. Bureaux of the committees

38. Rule 46.7 of the Rules of Procedure on bureaux of committees was substantially revised in 2013[17] and 2014.[18] However, whereas it is now permitted for former chairs or vice-chairs of committees or sub-committees to stand for election to the same position after a waiting period of four years, it is no longer permitted for the outgoing chair or vice-chair of a committee to stand for election to the same position in another committee before expiry of a two-year waiting period. From a practical viewpoint, this measure poses problems with regard to its implementation and requires clarification by the committee.

– *Proposal*

39. The Committee on Rules of Procedure could therefore consider amending Rule 46.7 to make the rules on bureau membership more flexible and to restrict the application of these waiting periods to the outgoing chairs of committees alone. The rapporteur proposes therefore that Rule 46.7 be reworded as follows:

> *"The chairperson and the vice-chairpersons of a committee shall remain in office until the opening of the next ordinary session of the Assembly. They may be re-elected for one further term, consecutive or not. A committee chairperson or vice-chairperson elected in the course of a session for an incomplete term may be re-elected for two further terms. A former chairperson of a committee may stand for the office of chairperson or vice-chairperson of the same committee on expiry of a period of four years for two further terms, consecutive or not. The outgoing chairperson of a committee may stand for the office of chairperson or vice-chairperson of another committee on expiry of a period of two years."*

3.5. Procedure for examining amendments in plenary sitting

40. Following the June 2015 part-session, the Bureau of the Assembly raised the issue of modifying the procedure for examining amendments in plenary sitting so that the rapporteur – and not only the chairperson of the committee responsible for the report being debated – can also state their own view on the amendments being discussed.

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17. See Resolution 1937 (2013) "Length of term of office and re-eligibility of committee chairpersons", and the report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, Doc. 13219.
18. See the above-mentioned report on evaluation of the implementation of the reform of the Parliamentary Assembly, Doc. 13528, and Resolution 2002 (2014), op. cit.

41. Under current practice in plenary sittings when the Assembly examines amendments tabled for a draft text, the person chairing the sitting systematically asks the chairperson of the reporting committee to state the committee's position on each amendment. Given that this concerns a report presented by a committee and a draft text adopted by it, it seems self-evident that it is precisely that committee's opinion on amendments potentially altering the text which the members present at the sitting should hear. Moreover, a draft text adopted by the committee might not reflect the rapporteur's views at all or might even contradict them, which has sometimes been the case where highly controversial or sensitive issues have been concerned.

42. The Rules of Procedure do offer a degree of flexibility, though, with regard to the procedure to be followed in a sitting where amendments are examined, as the floor may be given to either the chairperson of the committee or the rapporteur. The complementary provisions on Assembly debates (Organisation of debates) actually state that "[w]hen amendments are being considered, unless the Assembly decides otherwise, the only members who may speak shall be one of the authors of the amendment, or another member speaking in its favour, one member opposed to the amendment and the Rapporteur or the committee chairperson …".[19]

43. Even so, it is important to point out that since committees are supposed to adopt a stance on tabled amendments to their reports before these are discussed in the plenary Assembly, they also have the responsibility of appointing a spokesperson tasked with expressing that stance (chairperson or rapporteur). This decision must be indicated in the synopsis or minutes of the meeting, and the person chairing the sitting should be notified of it. In Assembly practice, it is assumed that this prerogative falls to the chairperson of the committee, who is a guarantor of a certain neutrality, although this does not prevent a rapporteur from fulfilling the task if duly authorised to do so by the committee.

44. In addition, it would be wrong to believe that rapporteurs are deprived of the right to speak when amendments are examined. On the contrary, in practice, they are often the first to be given the floor by the person chairing the sitting in order to speak against an amendment that has been tabled. Some Assembly members even feel, against the flow of comments made in the Bureau in June 2015, that there is too much emphasis on the rapporteur's role in debates on amendments, at the expense of other members who ask for the floor in vain.

45. On the other hand, the question has been raised several times in recent sessions regarding the interpretation of Rule 34.9, which stipulates that "[a] rapporteur may not move any amendment which has been rejected by the committee on whose behalf he or she is reporting", asking exactly what a rapporteur can or cannot do: is it simply that they cannot speak to such an amendment in the sitting or are they also forbidden to sign such an amendment? The old wording of the rule[20] was certainly clearer ("A Rapporteur may not, even in a personal capacity, be the co-author of an amendment previously rejected by the committee on whose behalf he is reporting"). Accordingly, the committee might decide to clarify Rule 34 on this point too.

– Proposal

46. The rapporteur proposes revising the wording of Rule 34.9 to include the necessary clarification regarding the respective prerogatives of the committee, in the prior examination of amendments, and the committee's chairperson and rapporteur, in presenting the committee's position during the sitting, and on the limits of rapporteurs' right of amendment. Rule 34.9 could therefore be reworded as follows:

> *"When an amendment or sub-amendment is called, only the following shall be heard: one of the signatories (or if none of them do so, any other member of the Assembly), in order to move it, one member to speak against and the chairperson or rapporteur of the committee seized for report to express the committee's opinion. An amendment or sub-amendment which is not moved shall not be considered. An amendment or sub-amendment which has been withdrawn by its signatories may be moved by any other member of the Assembly. A rapporteur may not sign or move any amendment or sub-amendment to a draft text presented by the committee on whose behalf he or she is reporting except for amendments or sub-amendments tabled on behalf of that committee."*

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19. Rule 34.10 of the Rules of Procedure also provides for an accelerated procedure for examining amendments which places the committee chair and the rapporteur on an equal footing ("Before the first amendment is called, the President or any member may move a motion that only the rapporteur or the committee chairperson should speak on amendments …").

20. In force between May 1992 and January 2000 (rule inserted in the Rules of Procedure by Resolution 975 (1991), and revised by Resolution 1202 (1999) "General revision of the Rules of Procedure of the Assembly").

A footnote would indicate how the committee's position shall be presented (namely by “in favour” or “against”), in order to prevent any misunderstanding in the plenary.

3.6. Participation of secretaries of political groups in committee meetings

47. One issue was raised recently regarding participation in committee meetings, pointing out that the Assembly's Rules of Procedure do not mention the possibility of secretaries of political groups attending them.

48. Consequently, Rule 48.8 of the Rules of Procedure could be supplemented as follows: “Secretaries of national delegations and secretaries of political groups may attend the meetings of committees of the Assembly, except for those of the Monitoring Committee and the Committee on the Election of Judges to the European Court of Human Rights.”

49. At a more general level, in view of the practice followed by the committees with regard to participation in their meetings, in particular during part-sessions, it may be useful to review and harmonise the existing complementary texts. The Bureau of the Assembly may therefore be instructed to prepare a memorandum to revise and consolidate the regulations on access to committee meetings, for further ratification by the Assembly.

4. Conclusion

50. Over the two years of preparation of its 2014 report on the evaluation of the implementation of the reform of the Parliamentary Assembly (Doc. 13528), the Committee on Rules of Procedure examined in detail and in depth a large number of proposals concerning improvement of its functioning, of its organisational structure and of its means of action, which came from members of the Assembly, the national delegations, the political groups and the committees. This is why the committee has not thought it desirable to restart a further general process of consultation less than a year after delivering its previous conclusions. Nonetheless, the rapporteur thought it useful to ask the chairs of political groups to submit any proposals to the Committee on Rules of Procedure. The committee members themselves were invited to fuel this discussion.

51. The Committee on Rules of Procedure examined the rapporteur’s proposals for amendments that might be made to the Rules of Procedure. It recommends:

– regarding possible amendments to the Rules of Procedure pursuant to Resolution 2018 (2014) in respect of the **composition of the Monitoring Committee**, not to follow up on the proposal to appoint members not belonging to a political group or the proposal to allow participation of representatives of delegations of non-member States;

– regarding the **confidentiality of the proceedings of the Monitoring Committee and the Committee on the Election of Judges to the European Court of Human Rights**, not to modify Rule 48.3 on the in camera status of the meetings;

– regarding the **upgrading of the status of immediate past Presidents of the Assembly**, that Rule 20.3 of the Rules of Procedure be amended, as well as Rules 44.1, 44.3 and 49.3 accordingly, so that the outgoing president of the Assembly will be an *ex officio* member of the Monitoring Committee and the Committee on Rules of Procedure in addition to the Committee on Political Affairs and Democracy;

– regarding the **status of chairpersons of political groups**, that Rule 19.5 of the Rules of Procedure be amended, and Rule 44.1 accordingly, so that the chairpersons of political groups will be *ex officio* members of the Committee on Legal Affairs and Human Rights, in addition to the Committee on Political Affairs and Democracy, the Monitoring Committee and the Committee on Rules of Procedure;

– regarding the **duration of the term of office of the President of the Assembly and members of committee and sub-committee bureaux**, not to follow up on the proposal to increase their term of office from two years to three years;

– regarding **replacement of committee chairs who are *ex officio* members of certain committees**, that Rule 44.1 be amended for clarification purposes;

– regarding **bureaux of committees**, that Rule 46.7 be amended for clarification purposes;

– regarding the **procedure for examining amendments in plenary sitting**, that Rule 34.9 be amended for clarification purposes.

52. In view of the practice followed by the committees with regard to participation in their meetings, the committee could inform the Bureau of the Assembly of the need to review and harmonise the existing complementary texts regarding the regulations on access to committee meetings and submit the proposed changes for subsequent ratification by the Assembly.

53. Finally, the committee decided to change the title of the report to “Amendments to the Assembly’s Rules of Procedure”, since there was no longer any need to refer to a follow-up to Resolution 2018 (2014) in the light of the proposals made in the report.