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Activities of the Assembly's Bureau and Standing Committee (24 April 2017)

Progress report

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1. Decisions of the Bureau of 24 April 2017 requiring ratification by the Assembly

1.1. Allegations of corruption in the Assembly

At its meeting on 27 January 2017, the Bureau of the Parliamentary Assembly decided to set up an independent external investigation body to look into the allegations of corruption within the Assembly.

At its meeting on 9 March, it decided to invite the leaders of the five political groups to prepare draft terms of reference for the independent external investigation body, for adoption at the next Bureau meeting.

At its meeting of 24 April, the Bureau adopted the terms of reference of the investigation body, as they appear in the Appendix.

Moreover, the Bureau instructed the Secretary General of the Parliamentary Assembly to:

- hold private talks with the relevant institutions/senior figures likely to accept the mission assigned to the investigation body and whose names have been proposed by the Bureau;
- come up with a proposal on the composition of the investigation body at the next meeting of the Bureau.

Finally, the Bureau instructed the Secretary General of the Parliamentary Assembly to guarantee the investigation body the resources required to ensure its proper functioning, in accordance with the stipulations contained in paragraphs 24-26 of the terms of reference and, to this end, make provision in the Assembly budget for the appropriations necessary for the functioning of the investigation body, and if need be, in accordance with Article 38.d. of the Statute of the Council of Europe, ask the Secretary General of the Council of Europe to allocate a specific budget for the investigation body.

The Assembly is invited to ratify the above decisions made by the Bureau concerning the terms of reference of the independent external investigation body.



Appendix – Terms of reference of the independent external investigation body

Title and length of the term of office

1. The Assembly decides to set up an independent external investigation body to look into allegations of corruption within the Assembly.
2. It shall begin its duties with effect from the appointment of its members and its duties shall terminate on the submission of its final report, or at the latest on 31 December 2017. The Bureau of the Assembly may extend the investigation body's terms of reference, if need be.

Purpose

3. The purpose of the investigation body is to carry out a detailed independent inquiry into the allegations of corruption and fostering of interests made against certain members or former members of the Assembly, to examine the practical functioning of the Assembly in its various activities (including but not restricted to part-sessions, committee and sub-committee meetings, rapporteur missions, election observation missions and participation in various events) and its decision-making mechanisms in order to:
 - verify whether there are any forms of individual conduct by members of the Assembly or former members of the Assembly which have not respected the provisions of the Code of Conduct for members of the Parliamentary Assembly and other relevant codes of conduct;
 - identify any practices contrary to the Assembly's ethical standards, and determine the extent thereof;
 - establish, in the light of these findings, whether there is sufficient proof to take action against members or former members of the Assembly, pursuant to paragraphs 19 and 20 of the Code of Conduct for members of the Parliamentary Assembly;
 - draw up recommendations on the measures to be implemented to rectify the shortcomings and fill the gaps in the Assembly's ethical framework.

Composition

4. The investigation body shall comprise three members, independent senior figures, from institutions enjoying the highest moral reputation, having proven and acknowledged professional competence, expertise and experience in connection with the mission of the investigation body (such as ethics officer, financial auditor, fraud examiner, legal professional having served as an investigator, prosecutor, judge or expert in procedures for monitoring ethical standards).
5. Members must have knowledge of parliamentary functioning and, if possible, of the functioning of the Council of Europe.
6. Members are appointed by the Bureau of the Assembly, which shall seek a suitable balance of skills and knowledge – and wherever possible a gender balance. These appointments are submitted to the Assembly for ratification. Once appointed, members cannot be dismissed.
7. A vacancy caused by resignation or death shall be filled for the remainder of the term of office by the Bureau of the Assembly, subject to ratification of the appointment by the Assembly.

Procedure and competence

8. The investigation body shall decide on its mode of operation, its working methods and the procedures required to enable it to fulfil its mission, in keeping with the legal and regulatory framework of the Council of Europe. It informs the Bureau accordingly and seeks its advice if needed. The Bureau may decide if necessary to create an ad hoc liaison committee to facilitate this task.
9. The investigation body shall gather and make use of all relevant information and all documentary, testimonial and material evidence necessary for the fulfilment of its mission. It may, in particular:
 - summon anyone, in particular any member or former member of the Assembly, while respecting their parliamentary status,¹ and any member of the Assembly secretariat, to give evidence,

1. General Agreement on Privileges and Immunities of the Council of Europe, Part V:
"Article 13

- hear any witness wishing to be heard by the investigation body,
- request the assistance of any national authority of a member state,
- request the provision of any document it deems relevant for its investigation.

10. The investigation body shall have no jurisdictional competence. It may decide to transmit the information it has gathered to any national judicial authorities, on official request, in the context of ongoing criminal investigations or proceedings, in keeping with the legal and regulatory framework of the Council of Europe.

11. The work of the investigation body shall enjoy the utmost confidentiality.

12. The investigation body shall report back to the Bureau of the Assembly, presenting a final report. This report shall be made public. The investigation body may decide that parts of this report shall remain confidential.

13. The working languages of the investigation body shall be the two official languages of the Organisation.

14. The investigation body shall sit in Strasbourg (at the seat of the Council of Europe) and may, in the exercise of its mission, travel to any member state.

15. In drafting its recommendations, the investigation body shall refer to the ethical standards in force in the Assembly and shall take account of the case-law of the European Court of Human Rights and the work of the Group of States against Corruption (GRECO), MONEYVAL and the Venice Commission.

Status of the investigation body

16. The members of the investigation body shall serve in an individual capacity, independently of their national obligations.

17. In the exercise of their duties, the members of the investigation body shall enjoy the privileges and immunities granted to experts of the Council of Europe (applicable under Article 2 of the Protocol to the General Agreement on Privileges and Immunities (ETS No.10)).² Council of Europe member states are called upon to facilitate the mission of the investigation body and, in particular, guarantee the freedom of movement of its members within their respective territory.

No administrative or other restriction shall be imposed on the free movement to and from the place of meeting of Representatives to the Consultative (Parliamentary) Assembly and their Substitutes.

Representatives and their Substitutes shall, in the matter of customs and exchange control, be accorded:

- a. by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official duty;
- b. by the governments of other Members, the same facilities as those accorded to representatives of foreign governments on temporary official duty.

Article 14

Representatives to the Consultative (Parliamentary) Assembly and their Substitutes shall be immune from all official interrogation and from arrest and all legal proceedings in respect of words spoken or votes cast by them in the exercise of their functions.

Article 15

During the sessions of the Consultative (Parliamentary) Assembly, the Representatives to the Assembly and their Substitutes, whether they be members of Parliament or not, shall enjoy:

- a. on their national territory, the immunities accorded in those countries to members of Parliament;
- b. on the territory of all other member States, exemption from arrest and prosecution.

This immunity also applies when they are travelling to and from the place of meeting of the Consultative (Parliamentary) Assembly. It does not, however, apply when Representatives and their Substitutes are found committing, attempting to commit, or just having committed an offence, nor in cases where the Assembly has waived the immunity."

2. Representatives attending meetings convened by the Council of Europe (...) shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the following privileges and immunities:

- a. Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind.
- b. Inviolability for all papers and documents.
- c. The right to use codes and to receive papers or correspondence by courier or in sealed bags.
- d. Exemption in respect of themselves and their spouses from immigration restrictions or aliens registration in the State which they are visiting or through which they are passing in the exercise of their functions.
- e. The same facilities in respect of currency or exchange restrictions as are accorded to representatives of comparable rank of diplomatic missions.

18. Privileges and immunities are granted to the members of the investigation body in the interests of the Council of Europe, not for their personal benefit, in order to enable them to carry out their duties in an independent and efficient manner.

Rights and obligations

19. The members and honorary members of the Assembly shall undertake to co-operate fully with the investigation body, in the exercise of its mission and at every stage of its investigation. They shall be required to provide any information demanded of them and any document in their possession. Due account shall be taken of relevant national legislations providing parliamentarians with specific rights and protection in this regard.

20. Staff of the Council of Europe Secretariat, including the Assembly secretariat, shall be covered, from the point of view of whistle-blowing, by the provisions of Rule No. 1327 of the Secretary General of the Council of Europe of 10 January 2011 on awareness and prevention of fraud and corruption.³

21. The protection recognised by the above mentioned Rule No. 1327 shall apply to any witness heard by the investigation body who, although they are not Council of Europe Secretariat members, participate in the Council of Europe's activities, wherever they may be held – in particular trainees, experts, consultants.

22. The rules governing the access to, holding of and exploitation of Council of Europe documents apply to the investigation body. The Secretary General of the Council of Europe is called upon to facilitate the mission of the investigation body by putting at its disposal the documents, of any kind, which the investigation body believes are necessary. The investigation body shall make use of confidential or restricted documents only if they are directly related to the investigation it is tasked with.

23. In its final report the investigation body shall mention any refusal to co-operate, or any refusal to disclose information or to give access to or transmit any document necessary to carry out its duties.

Means and material conditions of operation of the independent investigation body

24. The Secretary General of the Parliamentary Assembly shall ensure that the investigation body is provided with the administrative and financial resources required to fulfil its mission and covering all operating costs of the investigation body and its secretariat (wages, fees, per diem, travel expenses in accordance with the rules applicable to Council of Europe official journeys, insurance).

25. The investigation body shall be assisted by a secretariat with knowledge and expertise in the functioning of the Council of Europe, that is however independent of the Parliamentary Assembly.

26. The premises made available to the investigation body shall ensure a working environment guaranteeing confidentiality, security and calm.

f. The same immunities and facilities in respect of their personal baggage as are accorded to members of comparable rank of diplomatic missions."

The representatives, however, "shall not be exempt from arrest and prosecution when found committing, attempting to commit, or just having committed an offence".

Lastly, "the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties".

3. [Rule No. 1327 of 10 January 2011](#)

Reference is also made to the Committee of Ministers Recommendation CM/Rec(2014)7 on the protection of whistleblowers.