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Follow-up to the report of the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly

Report[1]
Committee on Rules of Procedure, Immunities and Institutional Affairs
Rapporteur: Ms Petra De SUTTER, Belgium, Socialists, Democrats and Greens Group

Summary

On 22 April 2018, the Independent Investigation Body on allegations of corruption, which was tasked with conducting a detailed independent investigation into the allegations of corruption and fostering of interests made against certain members or former members of the Parliamentary Assembly, after ten months of investigations, delivered its report. The report of the Committee on Rules of Procedure, Immunities and Institutional Affairs draws the first lessons from the recommendations and conclusions of the investigation body, be they recommendations aimed at improving the general operating framework of the Assembly and at remedying shortcomings in the transparency of parliamentary procedures, or conclusions criticising the conduct of some members or former members of the Assembly who had conflicts of interest and breached the Assembly's rules of conduct.

1. Reference to committee: Assembly decision, Reference 4372 of 23 April 2018.

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A. Draft resolution[2]

1. In January 2017, the Parliamentary Assembly took a courageous step in response to the allegations of corruption and fostering of interests against members or former members of the Assembly, and put in place an overall strategy to firmly promote the principles of integrity and transparency in its functioning and strengthen the duty of integrity of its members. In this connection, the Assembly draws attention to its Resolution 2182 (2017) "Follow-up to Resolution 1903 (2012): promoting and strengthening transparency, accountability and integrity of Parliamentary Assembly members", which helped to improve its rules of conduct and in particular to make provisions related to conflicts of interest more consistent.

2. On 24 April 2017, the Assembly approved the terms of reference of an independent external body of investigation into allegations of corruption (IBAC), which was tasked with conducting a detailed independent investigation into the allegations of corruption and fostering of interests with a view to putting an end to impunity and restoring confidence in the Parliamentary Assembly, its activities and its decisions.

3. The Assembly took note of the report submitted by the IBAC, which was published on 22 April 2018. The allegations made by non-governmental organisations and by the media through reports, reporting or journalistic inquiries, which had until recently been criticised, challenged or denied, are now indisputable.

4. The Assembly expresses its sincere thanks to the members of the IBAC, Sir Nicolas Bratza, Mr Jean-Louis Bruguière and Ms Elisabet Fura, and to its secretariat, for their invaluable assistance to the Assembly during this critical period. It also pays tribute to their excellent work, which was carried out in difficult conditions, given the time constraints to which they were subjected and the specific and restricted scope of the investigation.

5. The Assembly believes that although the report deals principally with allegations and facts concerning Azerbaijan, similar practices have probably also existed in relations with the authorities and parliamentary delegations of other member States. The Assembly notes with satisfaction that the report presented by the IBAC gives grounds to hope that the image of integrity of the Assembly and the confidence in its some 600 other members can be restored, given that the allegations concern the conduct of only a few members or former members. The Assembly has the vital support of a large number of upright and committed parliamentarians, who have been unfairly brought into disrepute on account of these allegations of corruption against a number of their peers. Nevertheless, the report uncovers practices of which few parliamentarians are unaware, but which they may have allowed to prosper for too long through their silence, their indifference or their passive complicity.

6. The Assembly, seeking to restore its credibility, has undertaken to establish an environment of zero tolerance of corruption and of any practice which may leave any doubt as to a possible conflict of interests; it is up to its members to ensure that this is achieved, without compromise.

7. In the context of its terms of reference, the IBAC was asked not only to review and update the conduct and practices which are incompatible with the rules of conduct of the Assembly, but also to make recommendations with regard to the measures required to address any weaknesses and shortcomings in those rules. The Assembly takes note of the IBAC's recommendations concerning its methods of functioning and its procedures. It notes that the report mentions problems in the appointment of the members of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and of the Committee on Rules of Procedure, Immunities and Institutional Affairs, as well as in the appointment of rapporteurs.

8. The report identifies three former members of the Assembly who "engaged in activity of a corruptive nature" and "seriously breached the Code of Conduct of members of the Parliamentary Assembly". The report also refers to the use of financial means and corruptive activities in influencing the Assembly's work concerning Azerbaijan, and mentions the names of former members who have taken part in lobbying activities in the Assembly, in breach of the Code of Conduct.

9. The report also reveals a number of cases of breach of some of the provisions of the Code of Conduct for Assembly rapporteurs and/or the Code of Conduct for members of the Parliamentary Assembly by members or former members of the Assembly.

10. Moreover, the IBAC has drawn up a list of members and honorary members of the Assembly who refused to co-operate in the investigation.

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2. Draft resolution adopted by the committee on 24 April 2018.

11. The Assembly believes that the conclusions of the IBAC with regard to the individual conduct of members of the Assembly mentioned in the report require serious consideration. It points out that the Code of Conduct which it revised in October 2017 establishes a precise and detailed procedure, including respect for the principle of adversarial proceedings and the rights of the defence, with which it intends to comply in the action it takes in response to these conclusions.

12. In response to the IBAC's report and with regard to the general recommendations and conclusions set out therein, the Assembly:

12.1. invites the political groups of the Assembly to draw the consequences from the standpoint of their practices, in particular their position and decisions with regard to appointments to the Monitoring Committee and the Committee on Rules of Procedure, Immunities and Institutional Affairs, and to the Committee on the Election of Judges to the European Court of Human Rights, as well as to ad hoc committees for the observation of elections, when putting forward candidatures for posts of rapporteur, or in elections of the bureaux of committees or sub-committees;

12.2. instructs the Committee on Rules of Procedure, Immunities and Institutional Affairs to give thought to the changes that must be made to the Rules of Procedure and to the integrity framework of the Assembly;

13. With regard to the recommendations and conclusions concerning the individual conduct of members or former members, the Assembly:

13.1. invites the political groups of the Assembly, as well as the political groups within the national parliaments, to each draw the consequences of any allegations against their members;

13.2. invites the national parliaments of member States, and their national delegations to the Parliamentary Assembly, as well as the national governments, to examine the IBAC's report and to take the necessary measures in respect of the cases mentioned, which require their full attention;

13.3. instructs the Committee on Rules of Procedure, Immunities and Institutional Affairs to implement, as soon as possible, the procedure provided for in paragraphs 20 et seq. of the Code of Conduct of members of the Parliamentary Assembly in respect of the members mentioned in the report, including those who have refused to co-operate with the IBAC, bearing in mind that it falls within the committee's remit to assess the degree of seriousness of alleged breaches of the Code of Conduct in respect of each member concerned.

14. The Assembly calls on the European Parliament and the parliamentary assemblies of other international organisations, in particular the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE), to follow the example of the Parliamentary Assembly and to draw on the recommendations of the IBAC.

15. Neither the measures taken nor any future measures concerning the examination of individual cases nor subsequent changes to rules and regulations must become the sole focus of debate. The Assembly cannot stop halfway; it requires a complete overhaul: and that calls for a profound and real change in parliamentary attitudes and practices. The Assembly therefore urges its members to put the interests of the 825 million European citizens they represent above any private interests, so as to restore the full political legitimacy of the Assembly, in a period when the Council of Europe has a greater need of a strong parliamentary body than ever before.

B. Draft recommendation[3]

1. With reference to Resolution …. (2018) on follow-up to the report of the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly, the Parliamentary Assembly affirms its determination to promote an atmosphere of zero tolerance towards corruption and to fully recover its institutional and political credibility within the Council of Europe. It recalls the decisions it has taken to deal with the allegations of corruption and fostering of interests made against some of its members or former members, which have led it to improve its integrity and transparency framework.

2. On 22 April 2018, the Independent External Investigation Body on allegations of corruption (IBAC), set up a year earlier on the Assembly's initiative to conduct a detailed independent investigation into the allegations of corruption and fostering of interests, delivered its report.

3. As the Investigation Body acknowledges, "the Parliamentary Assembly is to be commended for its courage in reacting to these allegations and making clear its determination not to tolerate corruption within its ranks. It has done so not only by inviting GRECO [the Group of States against Corruption] to assess and recommend improvements to the regulatory framework governing the conduct of members of the Assembly but by responding to the call, made both inside and outside the institution itself, for an independent investigation of the allegations of corruption and other forms of unethical conduct. In doing so, it has set an example to other national and international institutions confronted with similar grave challenges" (report of the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly, paragraph 759).

4. The Assembly intends to draw all the necessary consequences, on all levels, from the recommendations and conclusions of the Investigation Body's report, be they the recommendations aimed at improving its general operating framework and at remedying shortcomings in the transparency of parliamentary procedures, or the conclusions criticising the conduct of some members or former members of the Assembly who had conflicts of interest and breached the Assembly's rules of conduct.

5. The Assembly nevertheless notes that, although the Investigation Body cannot provide proof of the existence of a co-ordinated network of corruption within the Assembly, the failings of some members and former members clearly involve corrupt practices extending far beyond the scope of the Parliamentary Assembly itself and, indeed, the parliamentary environment itself: they were only possible, and might still persist, as a result of the direct involvement, the active support or, at the very least, the culpable abstention of governments of Council of Europe member States. The Assembly deplores this behaviour and invites them to take appropriate action.

6. The Assembly therefore invites the Committee of Ministers to take due stock of the steps taken by the Assembly since January 2017 and to support it in its efforts. "The fight against corruption … is not one for the Assembly alone", as the Investigation Body stresses.

3. Draft recommendation adopted unanimously by the committee on 24 April 2018.

C. Explanatory memorandum by Ms Petra De Sutter, rapporteur

1. On 23 April 2018 the Parliamentary Assembly decided to hold a debate under urgent procedure on the follow-up to the report of the Independent Investigation Body on the allegations of corruption within the Parliamentary Assembly, which had been made public on the evening of the previous day after ten months of investigations, and asked the Committee on Rules of Procedure, Immunities and Institutional Affairs to draw up a further report. At its meeting on 24 April 2018, the committee appointed me rapporteur and held an initial in-depth exchange of views.

1. Reminder

2. During the January 2017 part-session, the Committee on Rules of Procedure, Immunities and Institutional Affairs decided to respond to the allegations of corruption and fostering of interests against members or former members of the Assembly, revealed by a number of international non-governmental organisations (NGOs) and given wide coverage in the European media, in particular in the context of the "Volonté affair". These allegations highlighted shortcomings in the procedures and mechanisms for implementing rules of conduct in force in the Assembly at that time. These NGOs and several parliamentary delegations – the Swiss, Luxembourg, Belgian, Dutch, French and German delegations, and eight delegations from the Baltic and Nordic regions – the EPP/CD and SOC groups, and a substantial number of members (64 signed a written declaration on "Parliamentary Assembly integrity") voiced their extreme concern with regard to the impact such allegations of corruption could have on the image, reputation and credibility of the Assembly and asked that the Assembly conduct an investigation to shed light on the allegations.

3. On 26 January 2017, in response to these calls for an investigation, the Committee on Rules of Procedure unanimously adopted an official declaration on the allegations of corruption and fostering of interests against certain members or former members of the Assembly, reaffirmed its commitment to promoting the principles of integrity and transparency in the functioning of the Parliamentary Assembly and said that it stood ready and was determined to do everything it could to respond usefully to the allegations of corruption.

4. On 27 January 2017, the Bureau of the Assembly took note of the declaration of the Committee on Rules of Procedure and unanimously endorsed the three-pronged overall strategy advocated by the committee to deal with the situation:

– to set up an Independent External Investigation Body (hereafter referred to as the "IBAC"), tasked with assessing the functioning of the Assembly and shedding full light on covert practices facilitating corruption, the only measure likely to put an end to impunity for certain acts and to restore confidence in the Assembly, its activities and its decisions;

– to ask the Council of Europe's Group of States against Corruption (GRECO) to provide the Assembly with guidance in establishing a sound and coherent framework of integrity;

– to review the Code of Conduct for members of the Assembly so as to establish new rules of conduct and declaratory requirements to prevent all forms of corruption within the Assembly, including the revision of arrangements for the oversight of principles and rules governing the conduct of its members.

5. On 10 October 2017, the Assembly adopted Resolution 2182 (2017) "Follow-up to Resolution 1903 (2012): promoting and strengthening transparency, accountability and integrity of Parliamentary Assembly members",[4] which provided the opportunity to:

– strengthen the duty of integrity, accountability and transparency of its members;

– to make provisions related to conflicts of interest more consistent;

– give the Assembly a coherent framework to strengthen transparency in relations with extra-institutional actors and prevent any undue influence of public or private interests on the independent, impartial and objective exercise of the parliamentary mandate in the Assembly.

6. Members are henceforth asked to undertake not to promise, give, solicit or accept any reward, payment or gratification in the performance of their duties and must submit a declaration of interests at the opening of each annual session. With a view to increasing transparency, these declarations of interests will be published online. Measures aimed at increasing transparency in relations with extra-institutional actors during the

4. See the report by the Committee on Rules of Procedure, Immunities and Institutional Affairs, Doc. 14407 (rapporteur: Mr Ian Liddell-Grainger, United Kingdom, EC).

sessions and meetings of the Assembly and more rigorous restrictions on lobbyists, including stricter rules on access to and movement within Council of Europe premises, will be introduced. Finally, measures will be taken to guarantee that former members who are remunerated for their consultations do not benefit from any special privileges.

7. From now on, new oversight arrangements, set out in the Code of Conduct of members of the Parliamentary Assembly, will make it possible to expedite the opening of investigations into allegations of breaches of the rules of conduct by its members, including when such violations are revealed by external sources, as well an impartial examination of such allegations of breaches of the rules. The Committee on Rules of Procedure can also open an investigation at its own initiative.

8. The system of penalties has also been reviewed and the list of possible penalties extended. In the event of serious or repeated breach of the rules of conduct by a member, the Committee on Rules of Procedure can take one or several measures, from temporary deprivation of the right to speak, of the right to be appointed rapporteur or to take part in an ad hoc committee for the observation of elections, to standing for election as President of the Assembly or as the Chair or Vice-Chair of a committee or sub-committee.

9. The revision of the Code of Conduct of the members of the Assembly takes account of the recommendations of GRECO, which carried out a thorough review of the Assembly's integrity framework and the set of rules and mechanisms governing the conduct of the members of the Assembly.[5]

10. Finally, it should also be noted that in adopting Resolution 2169 (2017) "Recognition and implementation of the principle of accountability in the Parliamentary Assembly" in June 2017, the Assembly drew attention to the fact that "[t]he members of the Parliamentary Assembly are required to act in the strictest compliance with the duties and obligations by which they are bound, as set out in particular in Rule 6.2.*b* (statement that members subscribe to the aims and basic principles of the Council of Europe), Rule 13 (members' ethical conduct) and Rule 22 (maintenance of order) of the Rules of Procedure, and in the Code of Conduct for Members of the Parliamentary Assembly" and underlined the fact that "in a representative democracy, the requirements of transparency, integrity, responsibility, primacy of the public interest, confidence and accountability constitute the foundation of the contract which binds an elective representative to citizens, the Assembly wishes to reiterate the importance of the principle of accountability which links those of its members who are elected to certain functions with those who have elected them. If this undertaking of accountability, which includes a duty of transparency and an obligation to account for one's acts, is not fulfilled, the Assembly cannot have any confidence in those it has elected to office. Representing an institution also means respecting it with integrity and honesty".

2. Recommendations and conclusions of the Independent External Investigation Body

2.1. The IBAC: purpose and terms of reference

11. On 24 April 2017, the Assembly approved the terms of reference of an independent external body into allegations of corruption (IBAC), which was tasked with conducting a detailed independent investigation into the allegations of corruption and fostering of interests with a view to putting an end to impunity and restoring confidence in the Parliamentary Assembly, its activities and decisions. On 29 May 2017, the Bureau appointed the three members of the IBAC:

– Sir Nicolas Bratza (United Kingdom), former judge and former President of the European Court of Human Rights;

– Jean-Louis Bruguière (France), former judge in charge of investigations, in particular in cases linked to terrorism, and expert with international organisations and States on anti-terrorism issues;

– Elisabet Fura (Sweden), former judge at the European Court of Human Rights and former chief parliamentary Ombudsman of Sweden, legal adviser.

The IBAC began its investigations on 26 June 2017.

5. Evaluation report entitled "Assessment of the Code of Conduct for Members of the Parliamentary Assembly of the Council of Europe", adopted by GRECO on 19 June 2017, https://rm.coe.int/evaluation-de-la-deontologie-des-members-de-l-assemblee-parlementaire-/1680728009.

12. The IBAC's task is to carry out a detailed independent investigation 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.

13. In the light of these findings, the Investigation Body was asked to:

– verify whether there are any forms of individual conduct by members of the Assembly or former members of the Assembly which are incompatible with 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.

The investigation body shall have no jurisdictional competence.

14. The IBAC's report was published on the internet site of the Assembly on the evening of Sunday 22 April. It was sent by letter by the President of the Parliamentary Assembly to the Presidents of national parliaments of member States.

2.2. Findings on the general functioning of the Assembly

15. From its assessment of the general functioning of the Assembly, the Investigation Body drew a number of conclusions and made some very detailed recommendations on the measures to be implemented to rectify the identified shortcomings and fill the gaps found in the Assembly's ethical framework.

16. Firstly, the Investigation Body calls on the Assembly to "consider *implementing all the remaining recommendations made by GRECO* which are not fully or partially covered by the new ethical framework", namely:

– the need to further harmonise the various existing codes and guidelines on the conduct of Assembly members;

– to define more clearly the sanctions that may be applied for breaches of the Code of Conduct, in particular by clarifying the meaning of the concept "minor violation" and "serious breach" of the Code and by providing guidance on when to publish a finding of a "minor violation" by an MP and when to apply a sanction for a "serious breach";

– to complement the existing rules on immunity with a set of clear and objective criteria;

– to establish mechanisms for the receipt and processing of information on allegations of corruption and fraud.

17. Secondly, as regards *transparency in the work and decision-making processes,* the IBAC noted that the key deficiency relates to the manner in which the decisions on appointments to different functions are made and, specifically, the lack of transparency and insufficient regulation of the procedures for such appointments, which are a matter of particular concern in connection with the appointments of members of the Monitoring Committee and the Rules Committee, as well as the appointments of rapporteurs in general. A similar lack of transparency and safeguards against abuses was observed with regard to the voting processes in the committees, which may affect the voting results and open the door to the possibility of the exertion of improper influence. The IBAC accordingly invites the Assembly:

– to establish mechanisms which will ensure that the decision-making processes on appointments in the Assembly's various committees and other bodies, notably in the Monitoring Committee and the Rules Committee, are transparent and sufficiently regulated;

– to ensure that transparent and sufficiently regulated procedures for the appointment of rapporteurs are put in place;

– to ensure that the principles related to the concept of "conflict of interest" are made clearer to rapporteurs;

– to emphasise the rapporteurs' duty to make the necessary declarations of the absence of any such conflict, and to ensure that a robust and consistent approach is applied to monitor the observance of these declarations, both at the time when the declaration is made and at any time during a rapporteur's term of office. In particular, procedures should be put in place to allow for arguable allegations of a conflict of interest on the part of a rapporteur, or other forms of inappropriate conduct or breaches of ethical standards, to be investigated and, where appropriate, sanctioned;

– to consider introducing a fully transparent voting system in the committees, based on the one existing in the Assembly's plenary sittings, subject to ensuring that adequate safeguards against abuse are put in place;

– to put in place relevant procedures to allow for a clear identification of those who have the right to vote in a committee and to safeguard against deliberate attempts to falsify the vote. Any attempt to falsify a vote must be investigated and met with appropriate sanctions;

– to take steps to ensure that improper pressure, including pressure from governments, is not brought to bear on the free and independent voting of MPs.

18. As regards the *conduct of MPs in the context of missions* undertaken on behalf of the Assembly, the IBAC recommends putting in place clear rules and procedures and ensuring that those rules and procedures are made known to every MP taking part in such missions. These procedures should in particular regulate:

– participation in meetings (including the reporting protocols for cases where private meetings are held with the authorities);

– compliance with the agreed programme for a visit;

– conduct in the context of an offer of hospitality by the local authorities;

– the respective roles of the Assembly secretariat and MPs in the mechanisms for reporting on missions.

Failure to comply with the procedures regulating appropriate conduct in the context of missions should be investigated and met with appropriate sanctions.

19. As regards the Assembly's *election observation missions*, the IBAC proposes strengthening the Guidelines on the observation of elections and including them in the ethical framework. It further emphasises that:

– the Assembly should in principle refrain from deploying election observation missions if the Office for Democratic Institutions and Human Rights (ODIHR) decides for valid reasons not to deploy its own;

– for the same reasons, the heads of the Assembly's election observation missions should use every endeavour to reach a common position with ODIHR and the other members of the International Election Observation Mission in any statements made on election observation.

20. As regards *gifts and different forms of benefits*, the Investigation Body "has not found that the receipt of gifts and benefits has played a prominent role in the PACE activities concerning Azerbaijan or that it has been shown to have affected the requirements of neutrality in the work of the PACE MPs, in particular the rapporteurs". Nevertheless the Investigation Body "notes with concern that only a few declarations of gifts have been made so far in PACE" and that, in accordance with the principle of transparency, "there is a need for diligent observance by MPs of the rules on declarations of gifts and interests as envisaged under the relevant PACE ethical framework".

2.3. Findings on the individual behaviour of Assembly members

21. The Investigation Body "established the facts concerning two principal forms of the use of financial means to influence PACE's work concerning Azerbaijan. The first concerned the remunerated lobbying activities performed by a number of former PACE MPs. The second concerned the actual use of money and other corruptive activities as a means of influencing various activities which were directly or indirectly seen as being in favour of Azerbaijan". With regard to the performance of lobbying activities in the Assembly, the Investigation Body found that a number of former members of the Assembly who had performed such activities had acted contrary to the Assembly's Code of Conduct. As to the corruptive activities in favour of Azerbaijan, the Investigation Body established that there was a strong suspicion that certain current and former members of the Assembly had engaged in activity of a corruptive nature.

22. The Investigation Body found that the following current and former members of the Assembly had violated certain provisions of the Code of Conduct for rapporteurs of the Assembly and/or the Assembly's Code of Conduct (paragraphs 748, 749, 750 and 752 of the report), namely:

– as regards *serving members* of the Parliamentary Assembly (in alphabetical order):
  - Mr Pedro Agramunt (Spain, EPP/CD)
  - Mr Cezar Florin Preda (Romania, EPP/CD)
  - Mr Stefan Schennach (Austria, SOC)
  - Mr Samad Seyidov (Azerbaijan, EC)
  - Mr Jordi Xuclà (Spain, ALDE)

– as regards *former members* of the Parliamentary Assembly (in alphabetical order):
  - Mr Agustín Conde
  - Mr Alain Destexhe
  - Mr Tadeusz Iwinski
  - Ms Karin Strenz
  - Mr Robert Walter.

23. As regards the use of financial means and corruptive activities in influencing the Assembly's work concerning Azerbaijan, the Investigation Body has found that the following former Assembly members performed lobbying activities in the Assembly in breach of the Assembly's Code of Conduct:

– M. Eduard Lintner
– M. Stef Goris
– M. Jaakko Laakso
– M^{me} Karin S. Woldseth
– M. Göran Lindblad.

And it concludes that: "There are substantial grounds to believe that Mr Luca Volontè, Mr Elkhan Suleymanov and Mr Muslum Mammadov engaged in activity of a corruptive nature and that Mr Volontè and Mr Suleymanov seriously breached paragraph 12 of the PACE Code of Conduct. There is a strong suspicion that Mr Pedro Agramunt was party to activity of a corruptive nature" (paragraph 756).

24. Lastly, the Investigation Body compiled a list of the members and honorary members of the Assembly who were summoned but who failed or declined to appear before the Investigation Body:

– as regards *serving members* of the Assembly:
  - Mr Pedro Agramunt (Spain, EPP/CD)
  - Mr Cezar Florin Preda (Romania, EPP/CD)

– as regards *former members* of the Assembly:
  - Mr Elkhan Suleymanov
  - Mr Muslum Mammadov
  - Mr Luca Volontè
  - Mr Andeas Gross
  - Mr Michael Hancock.

Some former members of the Assembly were summoned to give evidence before the Investigation Body and declined to appear but provided written statements:

– Mr Agustín Conde
– Mr Eduard Lintner
– Ms Karin Strenz

– Ms Karin Woldseth.

Lastly, other current or former members were not summoned but failed to comply with the IBAC's requests for the submission of written statements:

– as regards *serving members* of the Assembly:
  - Mr Tiny Kox (Netherlands, UEL)
  - Ms Ria Oomen-Ruijten (Netherlands, EPP/CD)
  - Mr Ondřej Benešik (Czech Republic, EPP/CD)
– as regards *former members* of the Assembly:
  - Ms Gultakin Hajibayli
  - Mr Zmago Jelinčič Plemeniti
  - Mr Jaakko Laakso.

3. Thoughts of the Rules Committee

25. At its meeting on 22 April 2018, the Bureau of the Assembly took note of the Investigation Body's report and, in response, decided to:

– invite the current and former members of the Assembly whose behaviour had been found by the investigation body as unethical or in violation of the Assembly's Code of Conduct, or who had refused to co-operate with the Investigation Body, to suspend all their activities within the Assembly with immediate effect;

– invite the Rules Committee to consider further possible actions;

– invite the Rules Committee to ensure proper follow-up to the recommendations for the Assembly's ethical framework made in the report.

26. At its previous meeting on 15 March 2018, the Bureau had, as a preliminary measure, decided "to invite the members of the Assembly whose behaviour has been found by the investigation body as unethical or in violation of the Assembly's Code of Conduct, or who have refused to co-operate with the investigation body, to suspend all their activities within the Assembly with immediate effect".

27. As part of the follow-up to the IBAC report, it is essential for the Rules Committee to first of all define its framework for action. To this end, a distinction must be made between, on the one hand, the Investigation Body's recommendations relating to the functioning of the Assembly, current procedures, the decision-making mechanism and, in general, its integrity framework (see Section 2.2 above), and, on the other, the conclusions which call into question, at an individual level, the actions of certain members or former members of the Assembly who have violated the Assembly's ethical rules and principles (see Section 2.3 above).

3.1. The committee's proposed response to the recommendations on the general functioning of the Assembly and on improving its integrity framework

28. The IBAC report acknowledges the Assembly's efforts to improve its integrity framework and consequently makes a rather positive assessment. Some of the recommendations made – drawing up a set of criteria on immunities, strengthening the guidelines on election observation – are currently being considered by the Assembly. Other recommendations relate more to clarifying certain existing regulatory provisions (the concept of rapporteurs' "conflict of interest"; scrutiny of rapporteurs' declarations of interest; assessing the seriousness of a violation of the ethical rules and principles), "logistical" implementation of integrity measures (reception and processing of information on allegations of corruption; drawing up guidelines on the conduct of missions) but in no cases do these require a modification of the Rules of Procedure.

29. In contrast, the Rules Committee should continue its deliberations, if appropriate in the report under preparation on "Modification of various provisions of the Rules of Procedure", concerning a number of the IBAC's recommendations, and in particular:

– procedures governing the appointment of members of the Monitoring Committee and the Rules Committee;

– the procedures for appointing rapporteurs;

– voting procedures in committee;

These deliberations could result in a modification of the procedures currently in force.

30. Moreover, the committee considers that the framework for preventing corruption and fraud should be strengthened, and that there is a need for a better protection of whistle-blowers in this context. It shall be recalled that, within the Council of Europe, not only staff of the Council of Europe Secretariat, including the Assembly secretariat, shall be covered, from the point of view of whistle-blowing, but this protection shall also apply to "persons who are not Council of Europe Secretariat members who participate in the Council of Europe's activities, wherever they may be held. These include, but are not limited to, judges of the European Court of Human Rights, the Commissioner for Human Rights, members of the Parliamentary Assembly and the Congress of Local and Regional Authorities of the Council of Europe, members of Permanent Representations, trainees, experts, consultants, and employees of outside companies", pursuant to Rule No. 1327 of the Secretary General of the Council of Europe of 10 January 2011 on awareness and prevention of fraud and corruption.[6] Rule No. 1327 requires staff and the above-mentioned persons to report suspected fraud and corruption.

3.2. The committee's proposed response to the conclusions on the actions of certain members or former members of the Assembly in violation of the Assembly's integrity framework

31. The Rules Committee was asked by the Bureau to consider "further possible actions" relating to Assembly members whose behaviour was deemed by the Investigation Body to be contrary to the Assembly's ethos or in violation of the Assembly's Code of Conduct, or who had refused to co-operate with the Investigation Body.

32. It should be recalled that when the Assembly revised its Code of Conduct for members in October 2017, it set up a means of monitoring implementation of this code, making provision for an impartial examination of the alleged breaches of ethical rules and principles, offering the Assembly members in question the necessary procedural guarantees:

– an adversarial procedure (enabling the person in question to become aware of and comment on the observations put forward and the evidence adduced, at all stages);

– equality of arms (granting each party a reasonable opportunity to have his or her case heard in conditions which do not place him or her at a disadvantage vis-à-vis the other party).

33. It is therefore proposed to implement this procedure forthwith, as the committee has the authority to initiate an investigation of its own motion (paragraph 20 of the Code of Conduct), bearing in mind that some of the Assembly members concerned have already suspended their activities, as requested by the Bureau, pending a decision by the Rules Committee.

34. Pursuant to paragraph 21 of the Code of Conduct, the committee may examine cases relating to serving members of the Assembly who:

– have violated certain provisions of the Code of Conduct for Assembly rapporteurs and/or the Code of Conduct for members of the Parliamentary Assembly, namely Mr Pedro Agramunt, Mr Cezar Florin Preda, Mr Stefan Schennach, Mr Samad Seyidov and Mr Jordi Xuclà;

– have failed to comply with their duty to co-operate with the Investigation Body by not responding to the summons to appear addressed to them,[7] namely Mr Pedro Agramunt and Mr Cezar Florin Preda.

35. With regard to the *former members of the Assembly*, the sanctions provided for in paragraph 16 of the Code of Conduct for members of the Assembly ("Former members of the Parliamentary Assembly involved in representing and fostering another person's or entity's interests in the Parliamentary Assembly shall not,

6. Rule No. 1327 of 10 January 2011.
Reference is also made to Committee of Ministers Recommendation CM/Rec(2014)7 on the protection of whistleblowers.

7. Pursuant to paragraph 19 of the terms of reference of the investigation body, "[t]he 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".

throughout the period of such activity, benefit from the prerogatives of the honorary associates or the Honorary President of the Parliamentary Assembly as far as the distribution of documents and **access to the buildings and meeting rooms are concerned**") should be applied.

36. Consequently, the committee should examine the cases of the following former members (in alphabetical order) and ascertain whether they have breached the provisions of paragraph 16 of the Code of Conduct: Mr Agustín Conde, Mr Alain Destexhe, Mr Stef Goris, Mr Michael Hancock, Mr Tadeusz Iwinski, Mr Jaakko Laakso, Mr Goran Lindblad, Mr Eduard Lintner, Mr Muslum Mammadov, Ms Karin Strenz, Mr Elkhan Suleymanov, Mr Luca Volontè, Mr Robert Walter and Ms Karin Woldseth. If such is the case, they will no longer be allowed access to the buildings of the Council of Europe.

37. For those who have the title of honorary associate with the Assembly, namely Mr Agustín Conde, Mr Stef Goris, Mr Michael Hancock, Mr Jaakko Laakso, Mr Goran Lindblad, Mr Eduard Lintner, Mr Luca Volontè, Mr Robert Walter and Ms Karin Woldseth, it will be necessary to verify, in the light of the declarations on honour they have submitted to the Assembly secretariat, whether paragraph 3 of the Special rules on honorary association with the Parliamentary Assembly should apply ("When awarded the title of honorary associate, the former member of the Assembly shall sign a sworn declaration stating that he or she is not involved in representing or fostering another person's or entity's interests in the Assembly. The former member **shall be stripped of the title** if he or she failed to declare any relevant interests or made an untruthful declaration"). Decisions concerning them will be taken later, in due course.