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Bureau of the Assembly

Ad hoc Committee on the role and mission of the Parliamentary Assembly

Revised memorandum prepared by the Chairperson

¹: On 1 June 2018, the Ad hoc Committee decided to declassify this document.

1. Introduction

1. Following the discussions on the memorandum I presented at the last meeting of the Ad hoc Committee, held in Strasbourg on 26 April 2018, and as agreed, I have revised my memorandum to include a separate chapter on “voting rights and procedures” and integrate contributions which arrived after the finalisation of the earlier version. The revised memorandum is based on contributions received by 38 participants, including all six political groups (SOC, EPP/CD, EC, ALDE, UEL and FDG).

2. The present document is based on the understanding that the Ad hoc Committee has no decision-making power: it was set up to stimulate national delegations and political groups to reflect upon the main issues related to the nature and functioning of the Assembly, as well as to give the chance to as many national delegations as possible to have a clear expression of political will on the future of the Assembly.

3. As discussed at the last meeting of the Ad hoc Committee, the revised memorandum does not deal with issues related to the internal functioning of our Assembly (such as the number of part-sessions per year and their duration, MPs participation in plenary sittings and in committee meetings etc.). The latter do not necessitate discussions among representatives of all member States in the context of the Ad hoc Committee and most of them require changes in policy action and not in the Rules of Procedures. They can thus be dealt with at a later stage by the Bureau of the Assembly once principled decisions on the future of our Assembly have been taken.

4. Discussions at the last meeting also confirmed my understanding that, on some issues, there is consensus or at least a clear majority among participants; while, on other issues, views vary substantially. It is not the role of the Ad hoc Committee to reach consensus on all issues but to facilitate the dialogue on those where there is no consensus, and to pass the various proposals over to the competent structure where decisions can be reached.

5. The document therefore structures the various proposals made by the participants and groups the possible avenues for concrete follow-up action. It indicates in particular which proposals could be dealt with by the Bureau; which required an Assembly decision, and on the basis of which Committee’s report: either the Committee on Political Affairs and Democracy, where a report is already ongoing, or the Rules Committee, on the basis of a decision by the Bureau. Finally, the document indicates which decisions imply prior consultation with the Committee of Ministers and which may have far-reaching implications, including a change of the Statute.

6. Specific decisions taken at the last meeting concerning a more concrete follow-up on issues where a consensus is clear are indicated at the end of each section.

2. The nature and identity of the Assembly: deliberative organ of the Council of Europe; pan-European forum for dialogue; human rights and democracy “watchdog”

7. A number of participants put emphasis on the Assembly’s role as a Human Rights and Democracy watchdog (Iceland, Liechtenstein, Luxembourg, Netherlands, Romania, Sweden, Ukraine, United Kingdom, EPP/CD), also vis-à-vis the European Union (Netherlands, FDG); other participants stressed its role as a pan-European forum for dialogue (France, Hungary, San Marino, Slovak Republic, Spain, Russian Federation, UEL), while some gave equal importance to both missions of the Assembly (Bulgaria, Croatia, Finland, Norway, Romania, SOC, ALDE). One delegation (Spain) suggested reinforcing the rule of law pillar in the Assembly’s mission, taking into account the check-list recently adopted by the Venice Commission and endorsed by the Assembly itself.

8. For one delegation (San Marino), dialogue between the Assembly and the Organisation’s member States should be the basis of all values and Assembly actions and should never be interrupted since putting an end to dialogue may lead to putting an end to membership and may thus jeopardise access to the European Court of Human Rights. For one political group (ALDE), the fact that the Assembly is a body of pan-European co-operation aimed at reinforcing human rights, democracy and the rule of law through national legislations implies that member States cannot abstain from participation without breaking their commitments.

9. For some participants (Croatia, Finland, ALDE), the Assembly’s strength and uniqueness lie in its autonomous identity and its possibility to act independently, with its proper set of rules and its transparent, credible and consistent working methods. Reference was also made to the Assembly’s unique role in providing democratic legitimacy to an overall effort of enhancing the Organisation as a whole (with its unique treaty-based system, its legal and political *acquis*) as part of a new vision of European unity through

diversity: this could, for instance, be the aim of a well-prepared Summit of the Council of Europe Heads of State and Government (Greece). It is worth recalling that in its Resolution 2186 (2017) and Recommendation 2113 (2017), the Assembly called for a 4th Summit of Organisation's Heads of State and Government which would *inter alia* enhance the Council of Europe's mission both as guardian and innovator of democracy, including by strengthening the role of the Assembly as a pillar of European parliamentarism, bringing together representatives of citizens from almost all European States.

10. For some participants (Latvia and EPP/CD), the Assembly should focus on international law or human rights violations as well as violations of accession commitments. In line with the same logic, some delegations (Estonia, Sweden) suggest that the identity and nature of the Assembly as well as the cooperation it proposes are based on a strong and firm belief in core values and are supported by the option of sanctions. For one political group (SOC), there should be no compromise on values and principles but openness for dialogue. No fundamental changes should be adopted in times of uncertainty and crisis and any Assembly reform should be principle-based.

11. For other participants (San Marino, Turkey, UEL), it is particularly important to harmonise the rules governing participation and representation of member States in both statutory organs so that a State is present in both or absent from both (see also below). Values cannot be used to make rankings to turn countries against each other, according to one participant (San Marino).

12. A number of delegations insist on the importance of ensuring the participation of all member States' parliaments in the Assembly. Among them, one delegation (Switzerland) explicitly stated its wish to see in place conditions that would enable a delegation from the Russian parliament to submit again their credentials.

13. Two delegations (France, Italy) referred to the Assembly's role as a deliberative body and, in particular, to its elective powers (see below under section 5.2).

Following discussions at its meeting of 26 April 2018, the Ad hoc Committee proposes to the Bureau that the issues related to the nature, identity and mission of the Assembly be addressed in the context of the Political Affairs and Democracy Committee report on the Role and mission of the Assembly: main challenges for the future.

3. Functions of the Assembly

3.1. Streamlining the Assembly work

14. Almost all participants underlined the need to streamline Assembly work, redefine Assembly core-business and prioritise its core tasks (Bulgaria, Croatia, Estonia, France, Germany, Hungary, Iceland, Liechtenstein, Netherlands, Norway, San Marino, SOC, EC, ALDE and UEL).

15. Concrete proposals include:

- a. introduction of a higher threshold (currently 20 signatures, unless in exceptional circumstances, or a committee decision) for putting forward a motion for a resolution or recommendation (Norway), a proposal which one delegation (Bulgaria) explicitly opposed;
- b. requesting the Rules Committee to evaluate and revise the procedure for considering motions for resolution and recommendations as well as requests for urgent and current affairs debates (Norway);
- c. a stricter selection by the Bureau of which motion should lead to a report (Bulgaria, Croatia, EC);
- d. entrusting the committees with the selection of which motion should lead to a report, the Bureau limiting itself to checking whether the motion meets the formal criteria (France);
- e. avoiding duplication with other international organisations, such as the OSCE and the OECD (Croatia);
- f. restricting the thematic and geographic scope of reports (France) and topics of current affairs or urgent procedure debates (Liechtenstein);
- g. limiting the number of reports to be entrusted to the same member of the Assembly (France, Greece, Italy, Malta, Romania) with one delegation suggesting that no member should be entrusted with more than one report at a time (France);
- h. reducing the number of reports to be presented to the plenary per session (Bulgaria, Croatia, France) or to be prepared by each committee;

- i. increasing the time devoted to free debate (France);
- j. restructuring Assembly part-sessions, plenary debates, committee meetings and decision making processes (France, Netherlands).

16. For some participants (Croatia, SOC), decisions on prioritisation of issues should be guided by the criterion of relevance and not by economic arguments due to financial constraints. In this respect, one delegation (Switzerland) suggested that the parliaments represented in the Assembly and the members of the Assembly must demonstrate a spirit of solidarity in resisting any attempts to apply pressure for financial reasons.

17. Another political group (UEL) suggested that the Ad hoc Committee should also take note of the Memorandum prepared by the Secretary General of the Assembly on the procedure for considering motions for resolutions and recommendations and its possible improvements which is now referred to the Committee on Rules of Procedure, Immunities and Institutional Affairs for follow-up. In particular, this memo enumerates the following guidelines for the Presidential Committee and the Bureau to respect when considering new motions which can precisely help streamline Assembly work: the motion shall fall within the scope of the Council of Europe competences; the relevance of a motion should be taken into account, especially when it concerns new issues and challenges or would help to enhance the political relevance and visibility of the Assembly; the previous work of the Assembly in a given field should be taken into account; as well as the existence of previous motions tabled which are still under consideration by the committees.

18. As one delegation (France) put it, the Assembly is first and foremost a platform for political dialogue and for raising awareness of human rights and rule of law issues, not a do-gooder that seeks to lay down the law to member States. For another delegation (Bulgaria), streamlining the Assembly work should not imply depriving it from the opportunity to address conflicts in Europe and in its neighbourhood that could lead to serious violations of international law, democratic principles or human rights.

19. As regards the themes which should be dealt with by the Assembly as a matter of priority, a number of participants suggested themes relating to existing or possible new Council of Europe conventions (Greece, Netherlands, UEL), with one delegation (Greece) suggesting the appointment of an Assembly rapporteur to act as a contact point between the Assembly and the Committee of Ministers in each drafting procedure of a new convention and another delegation (Bulgaria) suggesting joint hearings between Assembly committees and experts from the Committee of Ministers during the drafting procedure (see also below). Some participants (Cyprus, Iceland, Spain, SOC) mentioned in particular the effective monitoring of compliance with the European Convention of Human Rights and the implementation of the European Court of Human Rights judgments as priority tasks for the Assembly, with one delegation (Cyprus) suggesting the latter theme as a possible topic for discussions with the Committee of Ministers in the Joint Committee. One delegation (Slovak Republic) raised the need for the Assembly to be more active in the field of social rights (beyond civil and political rights) while another delegation (Hungary) explicitly mentioned the rights of national minorities. One delegation (Iceland) and one political group (SOC) insisted on the importance of gender balance and gender mainstreaming at all levels, among members of the Assembly but also among staff. The themes of sustainable development and digital modernisation of all Assembly activities were also mentioned (Spain). One political group (FDG) suggested enhancing the visibility of the Assembly work in the media, including social media, in the member States and the international press.

20. One delegation (Turkey) suggested that, with respect to the Human Rights Prize awarded by the Assembly, the nominees' histories should be investigated more effectively and the member States' sensitivities should be taken into account.

Following discussions at its meeting of 26 April 2018, the Ad hoc Committee proposes to the Bureau that decisions aiming at streamlining the Assembly work be taken by the Committee on Rules, Immunities and Institutional Affairs which has already been asked to deal with the above-mentioned memorandum by the Secretary General of the Assembly.

3.2. *Ensuring follow-up to and implementation of Assembly resolutions, including by national parliaments*

21. Strictly linked to the issue of streamlining the work of the Assembly is that of ensuring implementation of its resolutions and thus follow-up to its work.

22. A number of participants insisted on the need to enhance follow up to and implementation of Assembly resolutions and recommendations and maximise the potential and dynamic they can generate at national level (Belgium, Croatia, Cyprus, Estonia, France, Iceland, Luxembourg, San Marino, Spain, SOC, EPP/CD and UEL). National parliaments are seen as the necessary bridge to ensure such implementation at national level. The need to strengthen interaction with national parliaments and enhance the impact of Assembly activities on them, including through joint initiatives (Russian Federation), has thus been given particular emphasis by a number of participants (Bulgaria, Italy, Norway, Romania, Russian Federation, UEL).

23. Concrete proposals include the following:

- a. the Parliamentary Assembly should draw up co-operation agreements with the national parliaments of the 47 member States, in which the national parliaments should undertake to put an Assembly report on the agenda of their plenary at least once a year or to present an annual report of the work of the Assembly during their plenary (Belgium, ALDE) or the relevant committee (ALDE); such agreements or an overall binding cooperation agreement could be discussed at the next European Conference of Speakers of Parliaments (ALDE);
- b. national parliaments should be invited to hold follow-up sessions and/or take initiatives on certain pivotal resolutions adopted by the Assembly (Cyprus), including through reference of each resolution to their relevant committees (Luxembourg, Romania, UEL);
- c. national parliaments should be invited to play their oversight role towards government action and scrutinise implementation by their governments of Assembly resolutions or recommendations addressed to them (Romania) and, as regards more specifically the human rights field, scrutinise the implementation by their governments of the European Court of Human Rights judgements, as well as the conformity of draft legislation with the European Convention of Human Rights before proceeding to its adoption (Italy);
- d. the Assembly could hold debates without vote on the follow-up given to specific resolutions during which national delegations would report on the relevant action taken by their own States (France);
- e. the results regarding the implementation of Assembly resolutions should become visible and accessible to the public (Iceland, UEL), through a mechanism of evaluation and “mapping” of national follow-up (ALDE), possibly following a survey of best practices in national parliaments (the Netherlands);
- f. Assembly committees should step up contacts with the relevant commissions of national parliaments on a thematic and regular basis (Bulgaria, Russian Federation).

In line with a decision taken by the Ad hoc Committee at its meeting of 26 April 2018, a questionnaire was sent to national parliaments of all 47 member States via the European Centre for Parliamentary Research and Documentation (ECPRD) in order to gather information about best practice in ensuring implementation of Assembly resolutions. Replies were requested by mid-June and have already started arriving. They could be processed in the report being prepared by the Committee of Political Affairs and Democracy.

Moreover, the Ad hoc Committee notes that most proposals and other concrete measures aimed at enhancing implementation of Assembly resolutions by national parliaments and in general relations between the Assembly and the latter have been already adopted by the Assembly 10 years ago as part of its Resolution 1640 (2008) on Use by Assembly members of their dual parliamentary role-both national and European. No further Assembly decision is therefore required but rather enforcement of earlier decisions.

Finally, a greater effort is needed to ensure that decisions on stepping up relations with national parliaments will also be implemented by these parliaments. This could be done for instance in the context of a future European Conference of Presidents of Parliament and/or through the signing of Memoranda between the Assembly and national parliaments as some participants have also suggested.

3.3. Working methods and procedures regarding the monitoring of accession commitments and statutory obligations

24. A number of participants (Bulgaria, Croatia, Greece, Republic of Moldova, Russian Federation, EC and UEL) referred to the need to reform the Assembly's monitoring procedure and/or streamline the relevant working methods. It was also suggested that:

- a. monitoring reports be supplemented with expertise and assistance packages from the Assembly or the Organisation as a whole (UEL);
- b. coordination with other Council of Europe monitoring mechanisms be enhanced (UEL);
- c. monitoring of human rights in grey zones and in armed conflict areas remain high on the agenda (EPP/CD);
- d. the Assembly should be able to act publicly and more decisively than at present, especially in cases of serious breaches of human rights, democratic standards and the rule of law, without this approach being confrontational in nature (Croatia).

25. Some participants referred to the need to consider broadening monitoring to cover all 47 member States of the Organisation on the basis of a thematic rather than a country-by-country approach (Bulgaria, Republic of Moldova, Russian Federation, UEL) with one participant (Russian Federation) arguing that the current approach is often biased and applied purely selectively. One delegation (Romania) insisted on the need for the Assembly's monitoring procedure to continue to be based on a country-by-country approach whereas other participants (Estonia, EPP/CD, ALDE) were against introducing any changes to the current monitoring mechanisms which would undermine and weaken the Assembly's role in safeguarding the system of democracy, rule of law and human rights. One delegation (Croatia) raised the question of balance between monitoring and an excessive intervention in the internal affairs of a state concluding that there is substantial room for improvement

26. One participant (Russian Federation) criticised the fact that accession commitments are supplemented by new conditions during the review process while one political group (EPP/CD) argued that accession commitments and statutory obligations of member States should be strengthened and their implementation should be evaluated on a permanent basis. One delegation (Cyprus) and one political group (ALDE) suggested introducing some more constraining measures for countries persistently failing – for lack of political will – to live up to their contractual obligations vis-à-vis the Council of Europe.

27. One delegation (France) suggested that Assembly members not registered in any political group should also be given the opportunity to sit on the Monitoring Committee, as is the case for the Rules Committee. The same delegation suggested that rapporteurs for the Monitoring Committee should not be rapporteurs on any other report at the same time. Another delegation (Spain) suggested that regular review country monitoring reports should not be entrusted to the Chairperson of the Monitoring Committee but distributed among its members.

28. One delegation (Republic of Moldova) proposed changing the rules governing access to the meetings of the Monitoring Committee (currently held *in camera*) so as to make the process more transparent.

29. One delegation (Belgium) suggested that election observation should take place in all 47 member States and not only in those under monitoring or post-monitoring. For another delegation (Netherlands) there should be better guarantees to ensure the independence of both monitoring missions and election observation missions. Members should also be given necessary training before participating in election observation (Norway).

Any changes to the current monitoring procedure, as those suggested by a number of participants, whether they concern the working methods or the working structures (competent committee) necessitate changes in the Assembly's Rules of Procedure and can only be introduced by an Assembly Resolution on the basis of a report by the Committee of Rules of Procedure, Immunities and Institutional Affairs. The Bureau could instruct the latter committee to look further into the matter and consider relevant proposals, including those put forward from the Ad hoc Committee.

4. Composition of the Assembly: credentials of national delegations, and “sanction” system

30. Under this section a significant number of participants raised various options arguing in favour of or against the current “sanction” system and Assembly procedures related to the credentials or the representation and participation rights of members of national delegations. Views vary substantially.

31. The main arguments in favour of maintaining or even expanding the current system of sanctions are linked to the idea that the very nature of the Assembly is based on a strong and firm belief in core values and the co-operation it proposes is value-based and supported by the option to use sanctions so that the credibility and legitimacy of the institution risks to be lost if this option is restricted (Luxembourg, Sweden, Ukraine, EPP/CD, ALDE). For one political group (ALDE), membership of the Council of Europe implies an obligation to take part in its work, especially its statutory organs, and to pay budgetary contributions; in case of failure, the question of membership should be raised. Also, examining credentials of delegations on both procedural and substantive grounds constitutes key instrument to signal the position of the majority of the Assembly members.

32. For other participants, challenging credentials as a means of “sanctions” could be counterproductive to the position of the Assembly (and the Council of Europe as a whole) as an arena for dialogue and a watchdog for human rights and democracy (Greece, Norway, Serbia, Slovak Republic, Turkey, UEL). According to one delegation (Netherlands), it is necessary to clarify whether the role and function of sanctions is consistent with the role and function of the Assembly as an organ of international organisation and compared to other international organisations.

33. According to another delegation (Norway), in cases where member States no longer adhere to, or wish to adhere to, the core values of the Council of Europe, more responsibility should be put on the member States and/or their national delegations themselves to consider their membership and/or the nature of their membership.

34. For one participant (Russian Federation), Assembly decisions of sanctioning a national delegation cannot be eligible because they are contrary to the essence of the parliamentary system and the principles of organising the work of the Council of Europe, as no one has the right to deprive elected deputies of their powers, except for their voters in regular elections. For another participant (Italy), the current system leads to a highly dubious result in terms of institutional legitimacy as it combines two distinct dimensions (judicial control and a formal decision regarding credentials with political control regarding the Council of Europe member States and their compliance with the principles and commitments stemming from their Council of Europe membership) thus affecting the very nature of the Assembly as an organisation of representatives of national parliaments, who are free and empowered to express positions that may differ from those of their national governments.

35. Concrete proposals include the following options:

- No change to the existing rules (Bulgaria, Estonia, Sweden, Ukraine, EPP/CD, ALDE), thus maintaining the following options:
 - a. Possibility to challenge credentials on both procedural and substantive grounds;
 - b. Possibility to challenge non ratified credentials at the opening of the session or to challenge already ratified credentials in the course of a session;
 - c. Once challenged, at any moment and whether this challenge is based on procedural or substantive grounds, 3 possibilities:
 - to ratify (or confirm ratification of already ratified) credentials with no restrictions, i.e. the parliamentary delegation of the member State concerned is represented to and participates in the work of the Assembly with the same rights and obligations as any other delegation;
 - not to ratify (or annul already ratified) credentials altogether, i.e. no parliamentary delegation of the member States concerned is represented to and participates in the work of the Assembly for the rest of the session (until the opening of the next session in January of the following year);
 - to ratify (or confirm ratification of already ratified) credentials but at the same time deprive the parliamentary delegation of the member State concerned of certain representation or participation rights, i.e. the member State concerned has a parliamentary delegation in the Assembly but this delegation is deprived of some of its representation and/or participation rights (not exhaustively listed in the Rules but defined in the Assembly Resolution on the challenge of credentials imposing the “sanctions”) such as: the right to vote in plenary or in committees, the right to speak in plenary or in committees, the right of its members to be rapporteur, the right to participate in election observation mission or in certain Assembly

bodies, such as its Bureau or the Presidential Committee, etc. (see Opinion of the Rules Committee to the Bureau of the Assembly, document AS/Pro (2014) 10 def).

- Change the Rules so as to:
- a. exclude the possibility of challenging credentials on substantive grounds (Serbia);
 - b. provide that challenging of credentials (on substantive grounds) should be requested by at least 10% of the total number of Assembly members, that a quorum equal to two thirds of the total number of Assembly members be introduced and that decisions should be taken by a qualified majority equal to the absolute majority of the total number of members of the Assembly and not just of the votes cast (France);
 - c. provide for quorum equal to the absolute majority of the total number of Assembly members and a two thirds majority of the votes cast when credentials are challenged on substantive grounds or for imposing the sanction of deprivation of the right to vote (Serbia);
 - d. provide for quorum equal to one third of the total number of Assembly members and a two thirds majority of the votes cast (as in the case of the rules governing the removal of the President of the Assembly) for imposing sanctions on Assembly members following a challenge of their credentials (Switzerland);
 - e. provide for quorum (without specifying it, currently set at one third of the total number of Assembly members) for the adoption of all Assembly decisions, possibly combined with fixed voting time on all reports (Netherlands);
 - f. provide that credentials, representation and participation rights of national delegations can only be affected in case of a fundamental breach of Council of Europe core values and principles, such as a of military dictatorship, in which case, at any event, there are no elected MPs (Greece);
 - g. introduce objective and narrowly defined criteria for challenging credentials (Norway);
 - h. exclude the right to speak and the right to vote (participation rights, see Rule 10.1.c) from the list of possible “sanctions” (Slovak Republic, UEL); this would also ensure that all national delegations of member States would participate in the election of judges, the Secretary General, the Deputy Secretary General, the Secretary General of the Assembly and the Human Rights Commissioner;
 - i. introduce a graduation of sanctions when suspending a delegation’s voting rights: the sanction of depriving a delegation from the right to vote in the election of the Secretary General or Deputy Secretary General of the Council of Europe, the Secretary General of the Parliamentary Assembly, the Human Rights Commissioner and the judges at the European Court of Human Rights (in other words appointments which should be made by all 47 member States) should be the most serious sanction (Belgium);
 - j. introduce a graduation of representation and participation rights depending on the level of respect by national delegations of their obligations (Malta);
 - k. ensure that the Rules of Procedure of the Assembly are in line with the Assembly’s mission as a forum for open and constructive dialogue of all member States of the Council of Europe (Hungary);
 - l. harmonise rules governing participation and representation rights of member States between the Assembly and the Committee of Ministers so that a member State is either represented to both statutory organs of the Organisation or to none of them (San Marino, Turkey, UEL, as well as Resolution 2186 (2017) and Recommendation 2113 (2017)).
- Supplement the existing Rules by:
- a. reinforcing the existing “signalling mechanism” of credentials to address systemic violations of principles of democracy, human rights and the rule of law (ALDE);
 - b. introducing a Rule allowing the Assembly to decide on measures to be taken if a member State unilaterally decides to stop paying its contribution to the Organisation’s budget (EPP/CD);
 - c. introducing the condition that national delegations may only consist of members of parliament elected at legitimate elections held exclusively on the territory of the member State concerned within its internationally recognised borders (Ukraine, EPP/CD);
 - d. extending grounds for challenging credentials and introducing additional mechanisms for assisting in the implementation of Assembly demands (Ukraine);
 - e. providing that challenged credentials of national delegations may be restored only if the violation, which caused the challenge, ceased to exist (Ukraine);

36. Two delegations made proposals which are not linked to the “sanction” system of the Assembly, namely suggesting to:
- a. simplify the ratification of credentials system introducing an arrangement whereby delegations’ credentials must be ratified after each parliamentary election in the State of origin, and thereafter only new members would be required, on an individual basis, to have their credentials ratified if they replaced a national colleague during his/her term of office (France);
 - b. allow each delegation to fill its seats at any time during a year and not exclusively before the January part-session (Romania); the replacement within a national delegation of a representative or a substitute should not be conditioned by a resignation letter of the member who is to be replaced (Romania).

All above-mentioned proposals aimed at changing or supplementing the Rules governing ratification or challenging of credentials and/or representation or participation rights of members of national delegations can only be discussed in the context of a report by the Assembly Rules of Procedure, Immunities and Institutional Affairs Committee.

Proposals regarding harmonisation of rules between the Assembly and the Committee of Ministers require prior consultation with the Committee of Ministers, possibly within the context of the Joint Committee, and may also require a modification of the Organisation’s Statute.

Proposals mentioned in paragraph 36 above would certainly require a modification of the Organisation’s Statute.

5. Voting rights and procedures

37. This section has been added following the decision of the Ad hoc Committee at its meeting of 26 April 2018 and upon the proposal of members. For reasons of convenience of the reader and in line with the decision by the Ad hoc Committee I will include here all proposals regarding voting rights and procedures even if there will be a partial repetition with section 4 above with respect to the “sanction” system of the Assembly.

5.1. Voting procedures

38. The Rules of Procedure lay down the methods of voting (Rule 40), the majorities required for the adoption of the Assembly decisions (Rule 41), as well as the possibility to request a quorum (Rule 42).

39. Decisions in the Assembly are generally taken by simple majority; however a majority of two thirds of the votes cast is required for the following decisions (Statute art. 29, Rules 41, 17.7, 27.5, 51.4, 52.6 and 54.7):

- the adoption of a draft recommendation or a draft opinion to the Committee of Ministers,
- the adoption of urgent procedure,
- an alteration to the session agenda,
- the setting up of a committee,
- the fixing of the date for the opening or resumption of ordinary sessions
- a decision to dismiss the holder of an elective office
- a decision to withdraw a report from the Standing Committee agenda and refer it to the plenary Assembly.

40. Verification of the quorum may be requested before any vote in the Assembly. It shall be requested by “at least one sixth of the representatives authorised to vote, belonging to at least five national delegations” (Rules 42.2, 40.6). The quorum is “one third of the number of representatives of the Assembly authorised to vote” (Rule 42.3), i.e. currently 102 members. The procedure for dismissing the President or a Vice-President of the Assembly is the only one where the quorum is absolutely required for the vote to be valid (Rule 54.7).

41. Appointments and elections by the Assembly are based on a set of different specific conditions and procedures stipulated either in the Assembly’s Rules of Procedure for the election of the President and Vice-Presidents (Rules 15 and 16) or on various texts which fall outside the exclusive competence of the

Assembly (Regulations relating to the appointment of the Secretary General, Deputy Secretary General and Secretary General of the Assembly, Commissioner for Human Rights, Judges to the European Court of Human Rights).

42. Several participants referred to the need to strengthen the legitimacy and the integrity of the decision-making processes, possibly through stricter voting requirements (Belgium, France, Netherlands, Norway, Serbia, Switzerland, UEL) in all or some particular cases.

43. Concrete proposals include the following:

- a. provide for quorum for all decisions taken by the Assembly so as to avoid the adoption of reports by a very low number of votes (Belgium, France, Netherlands, UEL). As no other proposal is made, it can be assumed that here reference is made to the currently in force quorum of one third of the total number of members of the Assembly;
- b. decisions on challenging credentials (on substantive grounds) can only be made with a quorum of two thirds of the total number of Assembly members (France) or the absolute majority of the total number of Assembly members (Serbia) and taken by an absolute majority of the total number of members of the Assembly (France) or a two thirds majority of the votes cast (Serbia);
- c. provide for quorum equal to one third of the total number of Assembly members and a two thirds majority of the votes cast (as in the case of the rules governing the removal of the President of the Assembly) for imposing sanctions on Assembly members following a challenge of their credentials (Switzerland).

44. Two delegations (France, Netherlands) and one political group (UEL) suggested that there should be fixed voting times during part sessions in order to stimulate high participation in voting, for instance by scheduling two voting moments during the plenary week (as in the European Parliament). This proposal should be read in conjunction with the proposal to introduce quorum (see above) for all decisions taken by the Assembly.

45. One delegation (France) suggested that the procedure for electing the Human Rights Commissioner, judges to the European Court of Human Rights and in general elections to high posts should be carried out on the basis of a multiple-choice single vote and at the beginning of the part-session so as to ensure the largest possible participation. Another delegation (Italy) agreed with the above-mentioned proposal as concerns the election of the Human Rights Commissioner and further suggested that it could be appropriate to reflect on the election procedures for other high posts, e.g. the Deputy Secretary General (using a short list, the Secretary General of the Council of Europe could nominate a candidate that the Assembly could ratify or not) and the Secretary General of the Parliamentary Assembly (the Assembly President, acting on the basis of a shortlist, could propose a nomination which the Bureau would ratify with a qualified majority vote in favour).

46. One delegation (Spain) suggested that those responsible for determining the candidates to certain posts at the last phase of selection should explain before the plenary of the Assembly the criteria on which their decision was based so as to enhance transparency.

47. According to one delegation (Netherlands) and one political group (UEL), committee reports should be brought to a plenary vote only as amended by the committees provided there is quorum.

5.2. *Voting rights*

48. According to the Assembly Rules of Procedure, the right to vote is a personal right (Rule 43.1 “The right to vote is an individual one”). However, at present, Assembly members may be deprived from their voting rights, or have their voting rights temporarily restricted, as a result of a “collective” procedure against the delegation they belong to (Rules 10.1.c and 10.3). No other provisions/procedure exist in the Rules of Procedure that would result in depriving a member from his/her voting rights.

49. A number of proposals made under the section concerning the “sanction system” of the Assembly concern the conditions under which members can be deprived of their right to vote. In particular concrete proposals include the following:

- a. provide that the right to vote can only be affected in case of a fundamental breach of Council of Europe core values and principles, such as a of military dictatorship, in which case, at any event, there are no elected MPs (Greece);

- b. exclude the right to vote (participation rights, see Rule 10.1.c) from the list of possible “sanctions” (Slovak Republic, UEL); this would also ensure that all national delegations of member States would participate in the election of judges, the Secretary General, the Deputy Secretary General, the Secretary General of the Assembly and the Human Rights Commissioner;
 - c. introduce a graduation of sanctions when suspending a delegation’s voting rights: the sanction of depriving a delegation from the right to vote in the election of the Secretary General or Deputy Secretary General of the Council of Europe, the Secretary General of the Parliamentary Assembly, the Human Rights Commissioner and the judges at the Court of Human Rights (in other words appointments which should be made by all 47 member states) should be the most serious sanction (Belgium);
 - d. introduce a graduation of representation and participation rights depending on the level of respect by national delegations of their obligations (Malta).
50. One delegation (Belgium) suggested that the members of national delegations should not be allowed to vote on a report which concerns their country at either plenary or committee meetings as is the case at present for votes in the Monitoring Committee (but not in plenary). Another delegation (France) agreed to this proposal but clarified the point that members of the national delegation concerned should nevertheless be allowed to table and defend amendments to present their point of view.

Most proposals regarding voting procedures and voting rights of members of the Assembly can only be discussed in the context of a report by the Assembly Rules of Procedure, Immunities and Institutional Affairs Committee (see also section 4 above).

In addition, any changes to the election procedures referred to in paragraph 45 necessitate prior consultation and agreement with the Committee of Ministers.

6. Fostering Assembly relations with the Committee of Ministers and other Council of Europe organs and bodies

51. A number of participants insisted on the need to step up the political dialogue between the Assembly and the Committee of Ministers (Bulgaria, Croatia, Denmark, Finland, France, Liechtenstein, Luxembourg, Norway, San Marino, Spain, SOC and UEL) while at the same time respecting the prerogatives of the executive, on the one hand, and of the Parliamentary Assembly, on the other. One delegation (Luxembourg) also referred to the need to improve the dialogue between the Assembly and the Secretary General of the Organisation (joined by San Marino and SOC on this first point), as well as to ensure greater respect for the Assembly work by both the Committee of Ministers and the Secretary General as this would avoid conflicting approaches and enhance the credibility of the Organisation.

52. Concrete proposals include:

- a. revise the current modalities regarding the Communication by the Chairperson of the Committee of Ministers to avoid duplication and improve focus on priorities, including possibly in the context of a restructured Free Debate (EC);
- b. further develop the dialogue between the Assembly and the government of the member State holding the chairmanship of the Committee of Ministers by including an exchange of views with the Prime Minister of the State concerned and other ministers whose area of competence falls within the scope of the Committee of Ministers (Minister of Justice, Internal Affairs etc.) and/or in preparation of Council of Europe ministerial conferences (Finland);
- c. improve the content of Committee of Ministers replies to Assembly Recommendations and accelerate their adoption (UEL);
- d. the Assembly should have the capacity to exercise parliamentary oversight over the Committee of Ministers for example by calling on the Secretary General and/or the Committee of Ministers Chairmanship to report and answer questions on a specific issue (Greece, Spain) or on the follow-up given by the Committee of Ministers to its own recommendations (France, Spain); the questions and answers exercise with the Chairperson of the Committee of Ministers, following his or her introductory speech, should last for at least one hour (France);
- e. the Assembly should also be able to call upon the Committee of Ministers to at least examine the drafting of new Council of Europe conventions or of amendments and Additional Protocols to the existing ones with the Committee of Ministers being bound to take up this proposal in case such an invitation is included in an Assembly recommendation (Greece);

- f. consider possible joint hearings between Assembly committees and CM experts during the drafting process of new Council of Europe conventions so as to ensure better support by national parliaments after the adoption of these conventions (Bulgaria);
- g. increase the number hearings, at committee or plenary level, as part of specific debates, with the Secretary General, the Human Rights Commissioner, the President of the European Court of Human Rights (France);
- h. revive Joint Committee meetings by increasing their frequency and enhancing their relevance for instance by adding on their agenda the issue of implementation of the European Court of Human Rights judgments or that of exchange of views with the Human Rights Commissioner (Cyprus);
- i. foster relations with the Secretary General of the Organisation, the Human Rights Commissioner and the Organisation's standard-setting and monitoring bodies by organising hearings with them on a more regular basis during session weeks (France), at plenary or committee level, and possibly focused on specific themes (Romania);
- j. improve the quality of the dialogue with the Secretary General of the Organisation during the Assembly part-sessions by improving the preparation (on the basis of written questions) and the handling of the question time (UEL);
- k. improve the consultation between the Secretary General of the Organisation and the Secretary General of the Assembly and ensure that it takes place on a more regular basis (Luxembourg);
- l. further strengthen the relationship between the Assembly and the Venice Commission by introducing an open channel of communication at all times (Greece).

53. It is worth noting that a number of other concrete proposals were made in earlier Assembly texts as listed in the Summary of proposals distributed at the last meeting of the Ad hoc Committee. They mainly aim at strengthening the Assembly role in:

- a. the adoption of the Council of Europe budget and of its own budget (Rec 1728 (2005) and Rec 1763 (2006));
- b. the supervision of Council of Europe activities, including: the elaboration of the priorities for the Organisation's intergovernmental activities and their implementation (Rec 1728 (2005) and Rec 1763 (2006));
- c. the elaboration, adoption and implementation of the conventions and other Council of Europe legal instruments (Rec 1763 (2006)), including a formal procedure with a timetable, a minimum 3 months period of consultation and the obligation of the Committee of Ministers to inform the Assembly in writing of the follow-up to its opinion/amendments (Rec 1999 (2012));
- d. the Council of Europe decision-making process, including adoption of joint political declarations or resolutions on the Council of Europe in general or on its main mechanisms; consultation of the Assembly, also with respect to its involvement, before adopting or amending texts setting up new Council of Europe bodies and institutions; ensuring an efficient follow-up to the Assembly's statutory opinions and inform the Assembly on a regular basis on action taken on these opinions; enhancing the role of the Joint Committee to make it a more effective instrument of dialogue (Rec 1999 (2012)), in particular by setting up mixed working parties on major issues (Rec 1763 (2006)); Committee of Ministers chairmanship to involve/consult the parliamentary delegation beforehand on the setting of their Council of Europe priorities (Rec 1999); national delegations to initiate, within their parliaments, debates with their governments due to take over the CoE Chairmanship on the setting of priorities and the follow-up thereto Res 1880 (2012); regular working relationships between chairs of rapporteur groups and working parties, as well as thematic co-ordinators, and Assembly's committee chairs, rapporteurs and general rapporteurs (Rec 1999 (2012) and Res 1880 (2012));
- e. ensuring implementation of the European Convention of Human Rights through introduction of a new competence for the Assembly to bring before the European Court of Human Rights serious violations by member states of the rights guaranteed by the Conventions (Rec 1763 (2006)) and/or assisting the Committee of Ministers in its capacity of supervising the execution of the judgments of the Strasbourg Court (Rec 1763 (2006)).

54. As regards Committee of Ministers replies to Assembly recommendations, earlier proposals require the Committee of Ministers to actively examine Assembly recommendations in depth and in detail, providing practical follow-up and giving a substantial reply within a period of no more than six months (Rec 1999 (2012), see also above UEL), and to inform the Assembly on member States which are blocking the adoption of decisions on replies to Assembly recommendations (Rec 1763 (2006)). The Assembly, for its part, is required to examine in detail Committee of Ministers replies to Assembly Recommendations and the follow-up given to its opinions and seek clarification from the Committee of Ministers (questions to Committee of Ministers, letter, statement) (Res 1880 (2012)).

55. The Assembly has also requested to be closely associated in an appropriate way in the preparation of the draft agenda and draft declaration of the next summit of Council of Europe Heads of State and government ([Resolution 2186 \(2017\)](#), [Recommendation 2113 \(2017\)](#) and [Recommendation 2114 \(2017\)](#)). In this respect, one delegation (Bulgaria) opposed the idea of combing the debate on the summit with the issue of the Russian boycott against the Assembly and its financial consequences.

All above-mentioned proposals, both new and older, aimed at enhancing the Assembly role vis-à-vis the Committee of Ministers or improving the dialogue between the two statutory organs, require further consultation with the Committee of Ministers. Consultation between Assembly members and the representatives of governments of member States could take place in the Joint Committee.

Some proposed changes such as strengthening the Assembly's oversight role vis-à-vis the Committee of Ministers would eventually need revision of the Statute of the Organisation.

More practical changes, such as those regarding the format of the Assembly's dialogue with the government of the member State chairing the Committee of Ministers or the format of the dialogue with the Secretary General could be introduced easier (requiring no changes in rules) by decisions at the level of the Bureau of the Assembly but always after prior consultation with the Committee of Ministers or the Secretary General.

7. External relations

56. A number of participants referred to the importance of high level dialogue between the Assembly and the European Union (EU), in particular with the European Commission and the European Parliament, and the need to build up common synergies and partnerships as this would both improve the Assembly's visibility and prevent unnecessary duplication of work and resources (Croatia, Cyprus, France, Netherlands, San Marino, Spain, FDG).

57. Concrete proposals include:

- a. promote EU accession to the European Convention of Human Rights at the forefront of the Assembly political dialogue with the various EU organs, namely the European Commission and the European Parliament (Greece, UEL; see also a significant number of earlier Assembly resolutions or recommendations, the most recent one being [Recommendation 2114 \(2017\)](#));
- b. set up a network of European parliamentarianism, comprising the Assembly, national parliaments and the European Parliament with the purpose of coordinating political action, streamlining communication and facilitating the flow of information, best practice, ideas and recommendations and thus enhance the harmonisation of national legislations (Greece);
- c. establish direct contacts with the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) (Greece);
- d. organise regular hearings, either in committee or in plenary, with senior EU officials (European Commissioner responsible for the rule of law and human rights, European Commissioner responsible for justice and home affairs, head of the European Union Fundamental Rights Agency, etc.) (France);
- e. organise frequent discussions between Assembly committees and European Parliament committees (France) or otherwise foster the co-operation between the Assembly and the European Parliament, e.g. through the promotion of common projects (Bulgaria);
- f. propose an evaluation of the memorandum of understanding between the Council of Europe and the European Union (UEL).

58. Earlier Assembly resolutions have made similar or more ambitious proposals such as the European Union accession to the Council of Europe Statute (originally a proposal in the 2006 Juncker report on Council of Europe – European Union: “A sole ambition for the European continent”, repeated in [Res 1836 \(2011\)](#) and most recently in [Res 2186 \(2017\)](#)). More pragmatic proposals include:

- a. discuss in an Assembly – European Parliament Joint Informal Body topical issues of common interest, in a variable composition, as appropriate, or to organise jointly with the European Parliamentary interparliamentary conferences on specific topics of common interests ([Res 1836 \(2011\)](#));
- b. enhance co-operation in joint electoral observation missions ([Res 1836 \(2011\)](#));

- c. consider updating the agreement on the strengthening of co-operation between the Assembly and the European Parliament of 28 November 2007, with a view to taking into account the most recent developments since the entry into force of the Lisbon Treaty (Res 2029 (2015)).

59. A number of participants referred to the need for the Assembly to enhance relations with other international and/or regional organisations or institutions (United Nations, notably via the High Commissioner for Refugees or for Human Rights, OECD etc.) and especially with their parliamentary assemblies (such as the OSCE PA) on issues of common interest (Cyprus, Finland, France, Greece, Russian Federation, FDG). One participant (Russian Federation) referred also to relations with IPU and the IPA CIS, another one referred to NATO (Greece) and a third one (Spain) referred to contacts with human rights mechanisms existing in the American, Asian and African continents (supported also by FDG). For one delegation (Norway), dialogue and cooperation with other international or regional organisations should be based on the potential for added value to the work of the Assembly, while avoiding duplication of work.

60. Concrete proposals include:

- a. fine-tune the close interaction of the Assembly with other interparliamentary institutions, primarily the IPU, the OSCE PA, the EP, the IPA CIS, in order to resolve international conflicts and join forces in combating such dangerous trends and common threats as terrorism and extremism; focus cooperation on topics such as fight against racism, xenophobia, and aggressive nationalism as well as integration of harmonisation processes (Russian Federation, FDG);
- b. set up an internal mechanism for the prevention and the peaceful resolution of conflicts between states, including extraordinary meetings of the Committee of Ministers and the appointment of personalities to serve as mediators (Greece, FDG).

61. For one delegation (Greece), the Assembly would have a major role to play in a mechanism of parliamentary diplomacy especially through its Subcommittee on conflicts between Council of Europe member states, while another delegation (Netherlands) does not take it for granted that the Assembly should engage itself into more parliamentary diplomacy. According to the same delegation, current practices should be reviewed on the basis of efficiency and effectiveness.

62. It is worth recalling that in its [Recommendation 2114 \(2017\)](#) the Assembly asked the Committee of Ministers and the Secretary General to adequately prepare a general evaluation of relations between the Council of Europe and the other main European Organisations (EU, Eurasian Economic Union, Nordic Council, OSCE, OECD) with regard to the convention-based system. Regarding relations with the OECD, for which the Enlarged Assembly is its parliamentary wing, when I met the Secretary General of the OECD in February 2018, we agreed to set up a closer and stronger co-operation underlying that the Assembly, through its 47 national parliamentary delegations, offers an excellent forum for disseminating OECD work to more than 800 million Europeans.

All above-mentioned proposals, both new and older, aimed at enhancing the Assembly relations with the European Union and other international organisations or parliamentary assemblies could be addressed in the context of the Report of the Political Affairs and Democracy Committee on the Role and mission of the Assembly: main challenges for the future.