



Bureau of the Assembly

Committees' decision-making framework – adaptation of the working procedures of the committees in response to the COVID-19 pandemic exceptional situation

Memorandum prepared by the Secretary General of the Parliamentary Assembly¹

1. The measures taken by member states in response to the Covid-19 pandemic – border closures, restrictions on national and international travel, health containment – require the Assembly to adapt, on an exceptional and provisional basis, its decision-making framework, initially that of its committees, in order to enable it to continue its activities.
2. The Assembly's rules and procedures in force have been adopted by the Assembly or ratified by it with respect to some complementary texts adopted by the Bureau of the Assembly. It is not within the competence of the President of the Assembly, or of the Secretary General of the Assembly, and even less so of a committee chairperson, the head of a committee secretariat or a member of the Assembly, whatever their function or mandate, to decide to disregard, derogate from or interpret these rules – except where such competence is expressly specified in the Rules of Procedure –, even if the present exceptional situation is a case of *force majeure*.
3. A distinction should be made in this respect between what falls under the practice or working methods of committees – which may be subject to adjustments – and what falls under the formal rules of the Assembly, which can only be changed in accordance with the procedures laid down in the Rules of Procedure.
4. In order to ensure the uniform application by all committees of the procedures relating to actions and decisions falling within their remit when the usual practice cannot be followed, the committee secretariats are required to follow the following recommendations:
 1. **Decisions to be taken by committees during meetings, which may not be subject to any derogation procedure**
5. Any decision which the Rules of Procedure expressly stipulate must be taken by the committee during formal meetings shall not be subject to any derogation procedure.² Therefore, the following decisions cannot be taken by any kind of remote consultation procedure:

¹ As revised and approved by the Bureau of the Assembly at its meeting on 30 April 2020.

² See Rules 45 to 48 and 50 of the Rules of Procedure. The same applies to meetings of sub-committees (Rule 49).

- appointment of a rapporteur (Rule 50.1) or a general rapporteur (Rule 50.7)³
- approval of a report and adoption of the draft text(s) contained therein (Rules 50.2 and 50.5)
- approval of an addendum to the report (Rule 50.5)
- approval of the modalities for the inclusion of a dissenting opinion in a report (Rule 50.4)
- approval of amendments to a report by another committee (Rule 45.4)
- consideration of amendments to a report of the committee (Rule 34.9)
- approval of the minutes of the previous meeting (Rule 48.9)
- adoption of a motion for a resolution or recommendation (Rule 25.2)
- setting up of a standing or ad hoc sub-committee (Rule 49.2)
- election of the chairperson or a vice-chairperson of the committee (Rules 46 and 47.3)
- removal of the chairperson or a vice-chairperson of the committee (Rules 55 and 47.3)
- request for urgent procedure (Rules 51.1 and 52.1) or current affairs debate (Rules 53.2 and 53.6)
- request for an opinion from the Venice Commission
- decisions on the implementation of measures taken in the framework of the Code of Conduct for Members of the Assembly
- request for the opening of a procedure for monitoring the obligations and commitments of the Member States
- hearing of candidates for the post of judge to the European Court of Human Rights.

2. Acts of committees which may be taken following written consultation of members

6. Certain acts, which cannot be considered as formal decisions by committees (in the regulatory sense), are, according to a constant practice, also taken by committees during meetings, most often on the initiative of the chairperson or a rapporteur. These decisions may be submitted to members for consultation by electronic means. This may apply in particular to:

- examination of any document of which the committee "takes note" (information memorandum, outline report, introductory memorandum, preliminary draft report, work programme, replies by the Committee of Ministers to a recommendation, various institutional communications)
- examination of the rapporteur's proposals for action of which the committee "takes note" (decision on the organisation of a hearing; examination of the draft programme, where appropriate) or which it "authorises" (conduct of a fact-finding visit)
- decision on the organisation of a seminar or a conference (or any other similar event) and consideration of the draft programme
- call for candidatures prior to the appointment of a rapporteur⁴
- call for candidatures and appointment of committee representatives for the institutional representation of the Assembly
- committee authorisation for a member's participation in a meeting or outside event
- decision to instruct the Chairperson, one of the Vice-Chairpersons or, failing that, a member of the committee concerned, to present a report to the Assembly if the rapporteur is unavailable
- consultation of committees on the action to be taken on a motion for a resolution or recommendation (Rule 26.1)
- consultation of relevant committees on the admissibility of petitions (Rule 67.3)
- examination of candidatures for the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment.

7. In addition, at the request of the rapporteur, a draft report containing a draft text or a draft opinion may be sent to committee members for comment. These comments shall remain indicative and the rapporteur will not be required to take them into account.

³ A commission cannot take action on its own initiative (Rules 26 and 45.1). However, in accordance with practice, a committee may appoint a rapporteur in advance, subject to the Bureau decision and ratification by the Assembly or the Standing Committee.

⁴ In accordance with established practice, a committee which has not been formally seized may nevertheless proceed to an early call for candidatures, subject to the decision of the Bureau and ratification by the Assembly or the Standing Committee.

3. Guidelines for the implementation of the remote consultation procedure

8. Any remote consultation of committee members requires strict rules to be followed so that the result is free of criticism. The consultation process is the sole responsibility of the committee secretariat as instructed by the chairperson (it cannot be carried out directly by the committee chairperson or a committee rapporteur). The consultation process is open to all members of the committee, whether they are full members or alternates (however, the position expressed by an alternate will only be taken into account in the absence of a position expressed by the corresponding full member).

9. Accordingly, the secretariat must ensure that:

1/ all members have a personal and valid e-mail address at which they can be contacted; delegation secretaries' emails do not constitute a personal address;⁵

2/ the message sent shall indicate precisely the subject of the consultation, the purpose of the consultation (use to be made of the replies) and the time-limit for the consultation;

3/ the deadline set for a consultation may not be less than 7 days; lack of response by the required deadline shall be considered as tacit approval of the decision or authorisation submitted for consultation;

4/ on expiry of the deadline, a second message shall be sent to members informing them of the result of the consultation (number of replies received; agreement or rejection of the proposal when the consultation concerned a decision or an authorisation).

10. Confidentiality rules must be respected with regard to any document classified as "confidential" or "restricted" (draft report).

4. Exceptional decisions in connection with the activities of committees

11. In accordance with Rule 14.1 of the Rules of Procedure, the Bureau of the Assembly "is responsible for the co-ordination of the activities of the Assembly and of its committees". It may decide that certain supplementary working methods of committees shall be temporarily introduced. Such a decision shall stipulate its precise length of time. It could, however, be extended, under the same conditions, if the exceptional circumstances which make it necessary remain unchanged.

4.1. Decisions on the arrangements for holding remote committee meetings

12. Committee members are required to sit in person.⁶ The purpose of introducing supplementary working methods of committees is to enable members of the Assembly, who are prevented from travelling because of restrictions decided by member states, to fulfil their mandate in the Assembly, to speak and take part in the decisions of the committees of which they are members. To this end, the Bureau could allow committees to hold a remote meeting without the physical presence of their members. Such a decision shall specify:

- the technical means by which members may take part in such meetings;
- the guarantees that the decisions taken will in no way derogate from the regulatory provisions (verification of the identity of members, preparation of minutes, indication of voting procedures);
- any adjustments to the decision-making procedure in committee.

13. With regard to the voting procedure in committee:

- the consideration of a preliminary draft text contained in a draft report (Rule 50.2) may be subject to a simplified procedure when the text appears to enjoy a broad consensus, without having to examine the draft paragraph by paragraph, but deciding only on amendments submitted in advance by members, followed by a vote on the draft text as a whole;

⁵ The database used for declarations of interest may be made available to the secretariats where appropriate.

⁶ Rule 47.3: "A committee may deliberate and take decisions when one third of its members are present ...". See also Rules 47.2, 47.3 and 47.4 on voting modalities.

- proposals for amendments to a draft text should be submitted to the secretariat at least 48 hours before the meeting;
- the roll-call procedure may be used for the final vote on the draft text if at least two members so request (Rule 47.2);
- a vote shall not be valid unless at least one third of the committee members took part in it;
- (if *technically feasible*) for other decisions, a remote, telematic voting procedure (by e-mail or extranet connection) may be used.⁷

4.2. *Decisions on references to committees*

14. The Bureau of the Assembly could authorise “paper-free” tabling of motions for resolutions and recommendations (Rule 25.2) (scanned signatures).

15. The Bureau could also consider extending by six months the validity of current references to committees (Rule 26.4).

5. The Bureau of the Assembly is invited to:

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- approve the above memorandum and decide its entry into force as from the day of its approval;
 - authorise the tabling of motions for resolutions and recommendations through electronic means with scanned signatures of members, until the next part-session of the Assembly in Strasbourg;
 - extend by six months the validity of all current references to committees;
 - ask the Secretary General of the Assembly to prepare not later than by 30 April 2020 all necessary arrangements that would allow the holding of remote Bureau or committee meetings as described in paragraph 4 of the memorandum.

⁷ Rule 43: “The right to vote is an individual one. Voting by proxy is prohibited. ...”