



Bureau of the Assembly

Enhancing intra-institutional interaction between the Parliamentary Assembly and the Committee of Ministers: clarifying applicable Assembly guidelines relating to written questions to the Committee of Ministers

Memorandum prepared by the Secretary General of the Parliamentary Assembly

I. Introduction

1. In line with the recently strengthened institutional dialogue and co-operation between the Assembly and the Committee of Ministers, the issue of intra-institutional relations was discussed during the informal Joint meeting between the Presidential Committee of the Assembly and the Bureau of the Ministers' Deputies (so-called "Enlarged dialogue" format) held in the margins of the Assembly 2022 January part-session.
2. The exchange of views focused on two issues: a) replies to written questions from parliamentarians; b) replies to Assembly Recommendations.
3. As regards replies to Recommendations, while both Assembly and Committee of Ministers' representatives welcomed improved interaction in the preparation of replies, including through exchanges of views with Assembly rapporteurs at the level of CM's Groups of rapporteurs as well as with the President of the Assembly after part-sessions, it was agreed to continue joint reflection on this issue in order to, on the one hand, sharpen the focus of Assembly Recommendations, and, on other, further develop co-operation at the level of CM Rapporteurs' groups and intergovernmental Steering Committees.
4. As regards written questions, it was agreed to ask the Secretariat of the Assembly and of the Committee of Ministers to jointly seek ways of further improving existing procedures and practices in order to enhance the impact of the written "question & answer" exercise.
5. Thus, the purpose of the present Memorandum is to propose to the Bureau of the Assembly clarifications to the existing guidelines and practices governing written questions from parliamentarians.

II. Legal basis under Assembly Rules

6. The members' right to ask questions to the Committee of Ministers is foreseen under the Assembly's Rules of Procedure.

7. Rule 61.1 provides that representatives and substitutes may at any time address to the Committee of Ministers, or to its Chairperson-in-office, written questions bearing on matters within the competence of the Committee of Ministers.¹
8. General guidelines for questions to guest speakers apply to written questions to the Committee of Ministers.
9. The President has the authority to decide whether questions are in order.

III. Applicable guidelines within the Assembly

In accordance with the "Additional provisions relating to Assembly debates"², the President shall be guided by the following criteria when deciding whether questions are in order:

- the question must be of general interest and not relate to strictly personal matters;
- the question shall be formulated clearly and concisely and be restricted to the elements which are absolutely essential for an understanding of the question;
- the question shall be interrogatory in form and contain only one request;
- the question shall not contain any personal accusation against third parties mentioned by name, or any insulting or defamatory remarks;
- a question to the Chairperson-in-office of the Committee of Ministers must fall within the competence of the Organisation and the sphere of responsibility of the Committee of Ministers.

IV. Committee of Ministers' relevant rules and procedures governing written questions

10. In its "Revised guidelines for the reform and modernisation of the Committee's working methods"³ the Committee of Ministers recalled that, in general, questions should be in the remit of the Council of Europe in so far as they deal with controversial bilateral questions and that priority should be given to questions tabled by groups of Parliamentarians⁴ and to questions on subjects immediately relevant to the Council of Europe's activities.
11. The Committee of Ministers' primary objective is to arrive to a consensual reply to questions from parliamentarians. Thus, following an exchange of views in the Committee, the Chairperson is expected to make every attempt possible to arrive to a consensual reply, including by encouraging delegations to submit written comments and by holding consultations with delegations.
12. The practice is to require the unanimous vote of the representatives casting a vote and of a majority of the representatives entitled to sit on the CM.⁵
13. Written questions should receive a reply within 3 months whenever possible.
14. If, in the light of consultations, it appears impossible to prepare a consensual reply, the Chairperson of the Committee of Ministers informs the Committee accordingly. The Committee of Ministers may then decide, by a two-thirds majority of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee,⁶ to instruct the Chairperson to inform the President of the Assembly that, "owing to a lack of consensus it has not been possible to adopt a reply". The Chairperson's letter would not be a reply of substance.

¹ Oral and written questions to the Chairperson of the Committee of Ministers, following his or her statement to the Assembly, are governed by Rule 61.2.

² Adopted by the Bureau of the Assembly on 25 March 2002 and approved by the Standing Committee on 26 March 2002, as updated on 17 December 2007.

³ Doc. [CM\(2011\)96-final](#)

⁴ It is to be noted that at present, Assembly Rules do not provide the possibility of putting forward « collective » questions.

⁵ Article 20.a.iii and 21.b. of the [Statute](#). The agreement of 4 November 1994 ([CM/Del/Dec\(94\)519bis/2.2](#)) has been applied to the replies to recommendations but it has never been applied to replies to Written Questions.

⁶ i.e. the majority provided for in Article 20.d of the [Statute](#)

V. Analysis

15. From the outset, it should be recalled that the practice of parliamentary questions is inherent to a parliamentary system of governance, where one of Parliament's key functions is to exercise democratic oversight over the executive.
16. While a direct parallel should not be drawn with the functioning of an international organisation such as the Council of Europe, it is generally acknowledged that the right to put questions to the Committee of Ministers (as well as to invited guests) is one of the fundamental rights of the members of the Assembly.
17. Thus, written questions are included in the Assembly's official documents (Rule 24.2.b) and are governed by Rule 61.1 as well as by the Assembly's complementary texts (i.e. "Additional provisions relating to Assembly debates" quoted above).
18. The Committee of Ministers' rules and procedures governing replies to written questions reflect the Committee of Ministers' specificity, as one of the Statutory bodies of the Council of Europe bringing together Ministers of Foreign Affairs (or their representatives) from 46 member States. The consensus rule aims at enhancing the legitimacy of replies provided. At the same time, it should be noted that on some issues, consensus would be difficult, if not impossible, to achieve, especially when questions are related to controversial bilateral issues, conflict situations between member States or sensitive societal issues where different approaches are taken by member States.
19. The statistics and current practice regarding written questions confirm this analysis.
20. To date, 774 written questions have been tabled by members of the Assembly. It appears that most of them receive a substantiated reply by the Committee of Ministers, generally, within a reasonable timeframe.
21. In 2017, the Committee on the Rules of Procedure, Immunities and Institutional Affairs conducted a survey of written questions tabled by members during the period 2014-2017. Thus, it appeared that out of 72 questions tabled, only 12 could not be answered by lack of consensus. These questions concerned a) specific situations of individuals (detained or imprisoned); b) specific country situations; or c) societal issues where different practices are developed in member States.
22. The practice during the period 2018-2021 generally confirms this trend: out of 45 questions tabled, 28 received a substantiated answer, broadly, within a reasonable timeframe⁷. Cases where a substantiated reply could not be provided concerned controversial bilateral issues, consequences of a conflict between member States, as well as sensitive societal issues.

VI. The way forward

In the light of the above, the following steps could be taken:

- The President of the Assembly should continue to exercise his authority regarding the compliance of written questions with the Assembly Rules and guidelines;
- The possibility of tabling questions by several members could be added to the Assembly Rules of Procedure; this would help avoid a situation where the same or related questions, are tabled separately by several members;

⁷ Questions tabled in 2022 (5 to date) are not taken into account for the purposes of the present Memorandum.

- The Bureau could be invited to further enhance the guidelines regarding written questions in order to clarify the meaning “general interest” of written questions;
- In particular, it may be suggested that, when assessing the general interest of a written question, the President should be guided by the following considerations:
 - The subject matter of the question should fall within competence of the Council of Europe and the sphere of responsibility of the Committee of Ministers;
 - The question should be of interest and importance for several member states, highlighting for example:
 - systemic issues relating to the implementation of a key Council of Europe legal instrument (e.g. the European Convention on Human Rights, European Social Charter etc.) or a judgement of the European Court of Human Rights (CM competency);
 - the development of emerging practices in a given field (e.g. artificial intelligence);
 - the added value of Council of Europe action regarding the subject matter of the question.
 - Written questions should, as far as possible, avoid addressing bilateral issues; instead, parliamentarians could be encouraged to table written declarations.

The Bureau is invited to take note of these proposed steps and to amend the Additional provisions relating to Assembly debates (as approved by the Bureau on 25 March 2002 and 17 December 2007).

The Bureau is called upon to ask the Committee of the Rules of Procedure, Immunities and Institutional Affairs to study the possibility of including in one of the future general revisions of the Rules a possibility of tabling questions by several members.