

For debate in the Standing Committee — see Rule 15 of the Rules of Procedure

Doc. 11076
10 October 2006

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Open and transparent voting in the Parliamentary Assembly

Report
Committee on Rules of Procedure and Immunities
Rapporteur: Mr Erol Aslan Cebeci, Turkey, Group of the European People's Party

Summary

The accountability of parliamentarians is an essential requirement of the democratic system. It means that parliamentarians must answer for their actions to the institution they serve and to which they are accountable, although they are above all answerable to their electorates. Consequently, information on their activities and actions must be effectively available to the public.

The general public, and more particularly the electorate, the media and the various lobbies, are expressing a definite and growing interest in ascertaining the opinions voiced by representatives on specific crucial issues and how they have voted on them. This holds not only for the national level but also for the international parliamentary institutions. The publication of votes, i.e. making known not only the actual results but also the manner in which individual members have voted, as well as the parliamentarian's explanation of his/her vote, correspond to this need for transparency.

In order to respond to the public demand for greater transparency in the decisions taken by the Assembly, the Committee on Rules of Procedure and Immunities considers that it is necessary:

- to publish numerical results of votes on texts for adoption in the minutes of proceedings of the sitting;
- to publish in electronic form on the Assembly website the results of all voting, stating the names of voters and the manner in which they voted.

A. Draft resolution

1. In a democracy, which is fundamentally based on public debate and discussion, the accountability of parliamentarians is an essential requirement and a basic feature of the democratic system. It means that parliamentarians must answer for their actions to the institution they serve and to which they are accountable, although they are above all answerable to their electorates. Consequently, information on their activities and actions must be effectively available to the public.

2. The general public, and more particularly the electorate, the media and the various lobbies, are expressing a definite and growing interest in ascertaining the opinions voiced by representatives on specific crucial issues and how they have voted on them. This holds not only for the national level but also for the international parliamentary institutions. The publication of votes and the individual parliamentarian's explanation of his/her vote correspond to this need for transparency, which the development of electronic facilities and Internet are helping to meet.

3. The Parliamentary Assembly considers that it is important to respond to the public demand for greater transparency in the decisions taken by the Assembly. The publication of votes means making known not only the actual results but also the manner in which individual members have voted, and this is a vital part of such transparency.

4. It takes note of the Bureau's decision at its meeting on 6 September 2006, which was a first step in the right direction, to allow the names of members voting in the Assembly to be made public via the Assembly website from the October 2006 part-session onwards.

5. The Assembly considers that it is important to have a clear, precise rule, understood by all, applying to all members in a standard manner. Therefore, the Assembly feels that it is necessary to:

5.1. publish numerical results of votes on texts for adoption in the minutes of proceedings of the sitting;

5.2. publish in electronic form on the Assembly website the results of all voting, whether on texts for adoption, amendments, procedural motions, etc, stating the names of voters and the manner in which they voted.

6. Consequently, the Assembly decides to amend the Rules of Procedure of the Assembly as follows:

6.1. replace Article 39.4 with the following text:

"Only affirmative and negative votes shall count in calculating the number of votes cast. The President shall declare the voting closed and announce the result, which may not subsequently be modified. In case of an electronic vote, the numerical result shall be displayed publicly in the Chamber; the numerical results of votes on draft resolutions, recommendations and opinions to the Committee of Ministers shall also be recorded in the minutes of proceedings of the sitting."

6.2. insert the following new paragraph after Article 39.4:

"Where the vote takes place by means of the electronic voting system, members' individual votes shall be made public."

6.3. replace Article 39.5 with the following text:

"Voting by roll-call can only be requested if the electronic system cannot be used for technical reasons. It will be taken if at least one sixth of the Representatives of the Assembly authorised to vote, belonging to at least five national delegations, so request."¹

¹ The number of Representatives of the Assembly authorised to vote shall correspond to the number of seats allocated to each of the member states under Article 26 of the Statute of the Council of Europe, and to which appointments were made in accordance with Article 25 of the Statute and Rules 6 to 11 of the Assembly's Rules of Procedure, excluding Representatives who have been deprived of their voting rights in the Assembly or whose

[¹ The number of Representatives of the Assembly authorised to vote shall correspond to the number of seats allocated to each of the member states under Article 26 of the Statute of the Council of Europe, and to which appointments were made in accordance with Article 25 of the Statute and Rules 6 to 11 of the Assembly's Rules of Procedure, excluding Representatives who have been deprived of their voting rights in the Assembly or whose voting rights have been suspended under Rule 7.3., 8.5. or 9.4. If the number of Representatives authorised to vote is not divisible by six, the number obtained as a result of the division is rounded down.]

6.4. replace Article 39.7 with the following text:

"Voting by roll-call shall proceed in the alphabetical order of the Representatives' names. Voting shall be by word of mouth and shall be expressed by "Yes", "No" or "abstention" only. The President shall ask whether all members have been called before declaring voting closed and announcing the result. The votes are recorded in the minutes of proceedings of the sitting in the alphabetical order of the Representatives' names."

7. The Assembly decides that the new provisions will come into force at the opening of the January 2007 part-session.

voting rights have been suspended under Rule 7.3, 8.5 or 9.4. If the number of Representatives authorised to vote is not divisible by six, the number obtained as a result of the division is rounded down.

B. Explanatory memorandum, by Mr Cebeci, Rapporteur

I. INTRODUCTION

1. On 21 June 2005 Mr Berzins and others tabled a motion for a resolution entitled "Voting in the Assembly must be made in the spirit of openness, transparency and accountability" (Doc.10603), which was referred for report to the Committee on Rules of Procedure and Immunities on 17 March 2006.

2. The authors of the motion put forward the idea that Parliamentary Assembly members should be accountable to the general public for the way in which they have voted in the same way as their counterparts in several national parliaments. They proposed that the Assembly should ask the relevant committee to prepare amendments to the current Rules of Procedure with a view to making print-outs available to the members of the Assembly and interested parties immediately after each vote² as well as making the individual votes available to the general public via the Internet appended to the minutes of proceedings of the relevant debate.

3. This report will first describe the current rules and practice concerning votes in the Assembly as well as those used in the European Parliament and other international parliamentary institutions in Europe. Finally, the rapporteur will put forward proposals for finding solutions to the problems referred to in the draft motion. To this end, he will take into account:

- the views expressed by members at the Committee meetings of 1 June and 7 September 2006,
- the replies received to the questionnaire sent to members for the report in preparation on "*improving the participation of members in Assembly plenary sessions and Committee meetings*" which included the problem of open voting,
- the proposals of the Presidential Committee relating to public access to the lists of members participating in Assembly votes and the decision taken by the Bureau on 6 September 2006.

4. If transparency is to be introduced into voting in the Assembly, thought has to be given to the practical aspects. Various approaches are possible, depending on the level of transparency desired: should the results of all the votes be made public immediately after each vote? Should it be just the votes on the adopted texts? Should one publish the individual votes of each Assembly member? Should they be published on paper, in an appendix to the minutes of proceedings of debates and/or on Internet? There is no technical difficulty in presenting or publishing the results of the votes, including individual votes, or their distribution by political group or national delegation.

5. Above and beyond the stated aim – transparency – thought needs to be given to the implications of the approach in other respects. Clearly, from a more general point of view, the issue of transparent voting is linked to that of participation by members in the work of the Assembly.

II. CURRENT RULES OF AND PRACTICE IN THE ASSEMBLY CONCERNING THE FIGURES OF VOTES

i. Current Rules

6. Rule 39 of the Assembly's Rules of Procedure governs the methods of voting. According to Rule 39 paragraph 2, the Assembly shall normally vote by using the electronic voting system. Rule 39 paragraph 3 specifies that, if need be, the President may decide that the Assembly shall vote by show of hands or by standing up.

7. In the case of individual appointments (in particular the election of the Secretary General, the Secretary General of the Parliamentary Assembly, Judges of the European Court of Human Rights,

² It is interesting to note that a similar motion on more transparency and on the publication of figures of votes was tabled in the Swiss National Council in October 2005 (Doc. 053698)

the Council of Europe Commissioner for Human Rights), voting shall take place by secret ballot (Article 39.10).

8. With respect to the proclamation of the results of a vote, the Rules establish the following:

- in cases of an electronic vote the President shall announce the result displayed publicly which may not subsequently be modified (Rule 39.4, second sentence)
- in cases of a show of hands or of a vote by sitting and standing the President shall announce the result without giving the figures of the vote (Rule 39.4, third sentence)
- voting by roll-call shall begin five minutes after warning bells have been rung (...).The votes are recorded in the minutes of proceedings of the sitting in the alphabetical order of the representatives' names (Rule 39.7).

ii. Practice

9. At present only the figures of roll-call votes are systematically indicated in plenary session and recorded in the French and English editions of the official report of debates. The votes made by individual members are recorded in an appendix to the minutes of proceedings.

10. However, since January 1996, no vote by roll-call has taken place in the Assembly. During the three years between January 1993 and January 1996 four roll-call votes were held (May 1993, October 1994, April 1995, January 1996).

11. With the exception of elections by the Assembly, practically all votes take place by electronic voting which was introduced in April 2000. In such cases, the result is always displayed for a short time on three screens in the Assembly Chamber and members may note it (as well as the public in the galleries). However, normally the President does not give the figures when he proclaims the result of an electronic vote. Furthermore the votes made by individual members ("Yes", "No", abstention) are not recorded in an appendix to the minutes of proceedings, unless a vote by roll-call has been requested.

12. Before the introduction of electronic voting results (figures) of votes by show of hands and by sitting and standing were never given, in conformity with Rule 39.4 (in fine).

13. Following the introduction of electronic voting, it has happened on rare occasions that the President not only declared that a draft resolution or recommendation had been adopted but also gave the figures of the "Yes" and "No" votes and any abstentions.

14. The most recent example was in the Assembly on 25 January 2006 at the end of the debate on the need for international condemnation of the crimes of totalitarian communist regimes.

III. RULES AND PRACTICE OF OTHER INTERNATIONAL PARLIAMENTARY INSTITUTIONS IN EUROPE RELATING TO VOTING

15. It emerges from the information collected on voting in a number of other international parliamentary assemblies in Europe that two of the international parliamentary institutions mentioned below, the EP and the Nordic Council, include more or less systematically the figures of votes held in plenary on draft resolutions (or similar draft texts). Furthermore, in the European Parliament and in the WEU Assembly (as in the Parliamentary Assembly of the Council of Europe) an appendix to the minutes of proceedings indicates how the individual EP members have voted during roll-calls. In the Nordic Council this is the case also for other voting methods.

i. European Parliament

16. In the European Parliament, Rule 159 of the Rules of Procedure establishes that:

- normally Parliament shall vote by show of hands;
- if the President decides that the result is doubtful, a fresh vote shall be taken using the electronic voting system and, if the latter is not working, by sitting and standing;
- the result of the vote shall be recorded.

17. According to Rule 160 (...) the vote shall be taken by roll-call if so requested in writing by a political group or at least thirty-seven members the evening before the vote unless the President sets a different deadline. (...). The President shall establish the result of the vote and announce it. Votes shall be recorded in the minutes of the sitting by political group in the alphabetical order of Members' names with an indication of how they voted. (...).

18. Rule 161 stipulates that the President may at any time decide that the voting operations indicated in Rules 158,160 and 162 shall be carried out by means of the electronic voting system. (...) Where an electronic vote is taken, only the numerical result of the vote shall be recorded in the minutes of the sitting by political group in the alphabetical order of members' names. The vote shall be taken in accordance with Rule 160 (2) if a majority of members so request. The electronic voting system may be used to determine whether a majority exists.

19. In practice, the votes of members on draft resolutions on general issues are recorded in an appendix to the minutes of the sitting by political group in the alphabetical order of members' names with an indication of how they voted. No figures are given concerning votes on the adoption of the order of business, of the agenda of the next sitting and similar matters.

20. A new EP website "Parliament live", results of votes (roll-call votes) indicates how individual members have voted and also which members have corrected any votes within the deadlines.

ii. WEU Assembly

21. The Rules in the WEU Assembly are quite similar to those of the Parliamentary Assembly:

- the Assembly shall vote by show of hands or according to the decision of the President, by any other method enabling votes to be counted quickly, except in cases where a roll-call vote or secret ballot is required (Rule 35 paragraph 1);
- the roll shall be called in alphabetical order beginning with the name of a representative drawn by lot. Voting shall be by word of mouth and shall be expressed by "Yes", "No" or "I abstain". (...). The President shall be responsible for the counting of votes and shall announce the result. The votes shall be recorded in the minutes of proceedings of the sitting in the alphabetical order of representatives' names (Rule 35 paragraph 3).

22. The WEU Assembly currently has no electronic voting system but its introduction is under consideration. The figures of a vote by show of hands are not given by the President.

iii. Nordic Council

23. The Rules of Procedure of the Nordic Council stipulate that:

- the plenary may adopt recommendations or pass other resolutions without a division unless an elected member requires a division to be held (article 14 of the Rules);
- divisions shall be conducted by roll call or by means of electronic voting equipment. Members may vote Yes, or No or may abstain from voting (Article 17 of the Rules).

24. In practice the President of the Nordic Council indicates the figures of votes taken on resolutions (and, possibly amendments). Individual votes of members are recorded in the appendix to the official report of debates.

iv. OSCE Assembly

25. The central provisions regarding voting in that Assembly's Rules are:

- the Assembly shall vote by show of hands except in cases where a roll-call vote or secret ballot is required (Rule 30 par.1)
- the Assembly shall vote by roll-call when one third of its membership so requests (Rule 30 par.2)

- the roll shall be called in French alphabetical order. The Chair shall be responsible for the counting of votes and shall announce the result. The Head of each national delegation or his or her duly appointed deputy shall announce the voting of the Delegation.

26. According to information received, OSCE Assembly texts are generally adopted by consensus. Figures of a vote by show of hands are normally not indicated by the President.

27. It is to be noted that a Sub-Committee on Rules of Procedure, appointed in June 2005 has proposed amendments to the Rules, of the OSCE Assembly, conducted a complete review of the Rules and considered ways to improve the overall effectiveness of the work conducted by the Assembly. In the meantime the Sub-Committee has agreed on the changes

v. *Euro-Mediterranean Parliamentary Assembly*

28. According to Rule 9 of the Euro-Mediterranean Assembly's Rules of Procedure "The Assembly shall act by consensus and in the presence of half of the delegations plus one within each of the two components parts of the Assembly, namely, the European component and that of the partner countries. When it is not possible to reach a consensus, the Assembly shall adopt its decisions by a qualified majority of at least four-fifths of the votes of representatives from each of the two parties of the European component and of at least four-fifths of the votes of the representatives from the partner countries. "

IV. FACTORS TO BE TAKEN INTO ACCOUNT FOR A DECISION

i. *A wish for greater transparency*

29. An important consequence of systematically giving the figures of votes in an Assembly would be that any low attendance of members at certain times of a part-session (e.g. some sittings in the early evening or on Friday mornings in the Parliamentary Assembly) would be documented. This concern was clearly expressed during the preparatory work for the introduction of an electronic voting system in the Assembly in 1995 and 1998.

30. It has to be admitted, however, that since that time the transparency of international organisations has considerably increased. Furthermore, transparency is regularly strengthened in such organisations as the EU and the Nordic Council. The EU is preparing a new series of proposals for more transparency in decision-making. The current Finnish presidency of the EU announced on 4 April 2006 that among its priorities it would promote access to documents, ensure efficient communications and enhance the transparency of decision-making and proceedings.

31. At Council of Europe level, the Action Plan adopted by Heads of State and Government at the Warsaw Summit (May 2005) contains a Chapter V with the title " A transparent and efficient Council of Europe". According to this chapter special attention should be paid to initiatives that will *inter alia* secure further transparency. The Parliamentary Assembly may wish to follow this trend. It would in particular be important to improve the "accessibility" of the results of a vote.

32. According to a written communication presented to the Association of Secretaries General of Parliaments in October 2003 by Ms. Judy Middlebrook on "voting methods in parliament"³ there is no activity more central to the functioning of a legislative body than decision-making by the elected members on questions before them. *Mutatis mutandis* this statement is also applicable to international parliamentary institutions. The written communication, in paragraph 5, also underlines the impact which the immediate display of members' votes on the Internet has on their attitudes. It also observes that electronic voting clarifies the political responsibility of members and leads to a more accountable commitment on their part.

33. Lastly, reference shall be made of the important work carried out by the Inter-Parliamentary Union (IPU), which published a Handbook this year ("Parliament and democracy in the twenty-first

³ http://www.asgp.info/documents/Geneva_2003/middlebrook_geneva_2003.pdf

century: A guide to good practice" ⁴). The guide reviews, in particular, the means for parliaments to become more genuinely representative of their electorates, more accessible and accountable to them, more open and transparent in their procedures, and more effective in their key tasks.

ii. The absence of any technical obstacles

34. There would be no problem for the President to give as a matter of course the figures of "Yes" and "No" votes (and abstentions) on draft resolutions, recommendations and opinions. For electronic voting, this is explicitly covered by Rule 39.4 of the Assembly's Rules of Procedure.

35. On a technical point of view, these results together with the list of names, indicating individual members' votes, could be put on the Assembly's website without any difficulty.

iii. Procedural implications

36. Bearing in mind these technical possibilities and the need for greater transparency the Committee on Rules of Procedure and Immunities examined the possibility of

- indicating the results of votes taken on draft assembly texts (opinions to the Committee of Ministers, recommendations, resolutions);
- making this information available for the public (while considering the most appropriate format, i.e. favouring the electronic format via Internet).

37. The Committee also examined if it would be appropriate to indicate the figures of votes on amendments, decisions on requests for debate under urgent procedure, changes to the order of business, ratification of references to committees etc. on a regular basis (this had been done on a few occasions e.g. in April 2005 and January 2006 concerning request for debates under urgent procedure or current affairs debates). The Committee decided, by following the practice of other international parliamentary institutions, that this should not be done systematically.

38. The Committee also discussed under what conditions votes by individual members should be recorded in the minutes of proceedings (or the appendix). This is already the case in the Assembly for electronic (and "classic") roll-call votes. However, as mentioned above, there have been no roll-call votes in the Assembly during the last ten years. Currently, according to Rule 39.5, a vote shall be taken by roll-call if at least one sixth of the representatives of the Assembly authorised to vote, belonging to at least five delegations, so request. The Committee considered in particular

- if and how this provision should be made more flexible
- or if another more specific provision should be introduced indicating the conditions for recording votes by individual members in the (appendix to the) minutes of proceedings.

39. In the latter case provision should also be made for members to correct their votes within a given deadline, without however changing the proclaimed results of the vote.

iv. Opinion of Committee members

40. Replies received to a questionnaire sent to committee members on improving members' participation in the work of the Assembly show that on the issue of the publication of votes⁵, opinions are divided with half of the replies (8 out of 16) against publishing votes, the other half believing that that lists showing the names of members who have voted in Assembly debates should be published.

41. Members in favour of publishing the names of voters argue the need for transparency in the work of the Assembly and for increasing the attendance and participation of members. The more

⁴ <http://www.ipu.org/dem-e/guide.htm>

⁵ Question No. 5 read as follows: "Should lists be published with the names of members who have voted in the relevant Assembly debates?"

serious the work of the Assembly is perceived to be from the outside, the greater will be its visibility. Publishing voters' names could not but encourage greater attendance by members.

42. Members opposed to this underline each member's independence and put forward two arguments. First, the risk of pressure on or retaliation against members whose name and the way they had voted were published. Publication of votes could have repercussions in the political groups which call for voting discipline and create tension in cases where instructions have not been followed. In the view of some members the introduction of new possibilities for requesting the publication of how individual members have voted could have the effect of a disciplinary exercise and provide proof as to whether members have complied with the voting instructions laid down by their political groups in the Assembly (although such provisions do not exist in the Assembly Rules of Procedure). In addition, there is a danger that revealing that only a small number of members voted in a debate or that only a few parliamentary delegations showed any interest, could discredit the work of the Assembly and the legitimacy of its decisions.

43. One member of the Committee has suggested, as an alternative, not publishing the results of each vote, but statistics on the participation and initiatives by individual members, political groups and national delegations

V. CONCLUSIONS AND PROPOSALS

44. In the light of the arguments and proposals summarised above, there would appear to be some consensus on the following:

- a. Committee members unanimously agree with the need to include an additional element of transparency by providing a record of the votes;
- b. members unanimously agree that the results of votes need not be systematically published for every vote, but only for certain votes, such as votes on adopted texts;
- c. a majority of members believe that electronic voting would not need to be used systematically - in particular when, in a very clear situation, votes can be taken by consensus - and should be kept for "the most important votes or votes of major importance".

45. At its meeting on 7 September 2006, the Committee was invited to conclude its reflection and to take a stand on the following questions:

- a. should there or should there not be systematic publication of the results of votes on draft Assembly texts
 - i. indicating only the names of those having voted?
 - ii. indicating how members have voted?
 - iii. indicating the distribution of votes by political group?
 - iv. indicating the distribution of votes by national delegation?
- b. should the results of other Assembly votes be published or not, and in particular votes on amendments, procedural motions, requests for urgent debate, etc?
- c. what should be the format of the publication ?

46. During the said meeting, the Committee also took note of the proposals made by the Presidential Committee, which discussed the issue of open voting in the Assembly in the framework of a wider reflection on the functioning of the Assembly. The Bureau examined these proposals at its meeting on 6 September 2006. The Bureau therefore took the decision to authorise the publication of the names of voting members in the Assembly, by making available to the public the list of members who took part in the Assembly votes, via the Assembly Web site, as from the October 2006 part-session.

47. However, it is important to have a clear, precise and fully understood rule applying uniformly to all Assembly members. At the meeting on 7 September 2006, a majority of members considered that publication of votes by political group or by national delegation has little interest. In the light of current technical possibilities, the Committee decided to support the following:

- i. publication of detailed results of the votes on adopted texts in the minutes of proceedings of each sitting;
- ii. where the vote takes place by means of the electronic voting system, publication in electronic format on the Assembly website of the results of each vote, indicating the name of each voter and how he or she voted.

48. The corresponding provisions of the current Assembly's Rules of Procedure shall be modified accordingly.

Reporting committee: Committee on Rules of Procedure and Immunities

Reference to committee: Doc. 10603, Reference no. 3191 of 17 March 2006

Draft resolution unanimously adopted by the Committee on 2 October 2006

Members of the Committee: Mr Andreas **Gross** (Chair), Mr Andrea Manzella (1st Vice-Chair), Mrs Ganka Samoilovska-Cvetanova (2nd Vice-Chair), Mr Mats **Einarsson** (3rd Vice-Chair), Mr Sándor Albert, Mr Alexander Arabadjiev, Mr Birgir Ármannsson, Mrs Olena Bondarenko, Mrs Anne Brasseur, Mr Erol Aslan **Cebeci**, Mr Manlio Collavini, Mrs Helen d'Amato, Mr Miljenko Dorić, Mr Adolfo Fernández Aguilar, Mr Herbert Frankenhauser, Mr Tihomir Gligorić, Mr John **Greenway**, Mrs Arlette Grosskost, Mr Gerd Höfer, Mr Ali Huseynov, Mr Tomáš Jirsa, Mr Armand Jung, Mr Erik Jurgens, Mr Attila Gruber, Mrs Mojca Kucler-Dolinar (alternate: Mr Dimitrij Kovačič), Mr Markku **Laukanen**, Mr Jan Filip Libicki, Mr Alan **Meale**, Mrs Ana Caterina **Mendonça**, Mr Jakob-Axel Nielsen, Mr Nikolaos Nikolopoulos, Mr Alexey Ostrovsky, Ms Eli Sollied Øveraas (alternate: Mr Jorodd **Asphjell**), Mrs Maria Postoico, Mr Christos Pourgourides, Mr Armen **Rustamyan**, Mr Peter **Schieder**, Mr Yuri Sharandin, Mr Gintaras **Šileikis**, Mrs Rodica Mihaela Stănoiu, Mr Karin Van Overmeire, Mr G. V. Wright (alternate: Mr Paschal Mooney)

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the Committee: Mr Heinrich, Mrs Clamer