

## **The administrative and financial autonomy of parliamentary assemblies**

**Report prepared by Mr Michel Couderc (France), adopted at the Moscow Session (September 1998)**

The autonomy of parliamentary assemblies is a question which one might describe as "cross-disciplinary" since it touches on all aspects of the organisation and functioning of parliaments. Even when limited to its administrative and financial dimensions, the question might seem too broad and as a result to elicit responses which are too general to be relevant. In fact the reverse is the case.

I sincerely thank my fifty-two colleagues (Annex 1) for the quality and detail of their responses. This embarrassment of riches has led me to present a first report which will be at the same time both overfull and inevitably incomplete. I would therefore ask everyone to forgive me if they do not find an analytical discussion of their own response. Apart from in the Tables, I have only mentioned in particular the Assemblies which conveyed a viewpoint with especial clarity on some aspect of the problem or those which were an exception to the majority of responses.

Autonomy is not therefore an "empty shell" but a concrete reality which expresses in some way and to various degrees depending on the country, the shared specificity of the parliamentary phenomenon throughout the world. This is not surprising since autonomy is defined in effect by on the one hand non-dependence and non-subordination of Assemblies in relation to the Executive, and, on the other, by the possibility of the Assembly freeing itself at least partially from the rules of ordinary law so as to follow instead its own regulations.

This is what the responses revealed on the basis for the principle of autonomy which will be examined as an introduction to this report.

First of all, in almost all states, the principle of the autonomy of Parliament<sup>1</sup> is formally recognised in the constitutional texts. This recognition is found either in the Constitution itself one or more articles of which expressly sanction this autonomy (the principle of the separation of powers formally set out either in the text of the constitution or in a text having constitutional value (in France one speaks of the "bloc de constitutionnalité"), or as found among the general principles of law) or in the actual organisation of the three powers as described in the Constitution. It is this separation of powers, in particular in relation to the Executive, which is the basis for the autonomy of Assemblies.

However, the principle of autonomy is expressed differently in those assemblies which are not governed by a written constitution but by conventions and in which the principle of separation of powers has a particular meaning. Thus in the United Kingdom Parliament consists of the Crown, and the two Houses. Consequently one can but sympathise with the intellectual scruples of our colleague from the United Kingdom House of Commons when he recognises that it "is not easy to answer precisely" on the question of autonomy. Fortunately we read a few lines further on, from the same authoritative pen of the Clerk of the Mother of Parliaments, this modest statement: "it was only in 1341 that the House of Commons began ... to act in a wholly autonomous manner. It acted autonomously from this date onwards". We are greatly reassured. The same response applies "mutatis mutandis" to the House of Lords and for the Parliaments which belong to the Westminster tradition even when they have taken on a written constitution.

These variations in the expression of the principle of autonomy lead on to another reflection which is also rather relative. The very strong link which binds the autonomy of assemblies to the principle of the separation of powers or to the historical victory for their prerogatives could encourage us to see in the

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<sup>1</sup> Exceptions are the European Parliament, the Chamber of Representatives of Cyprus, the National Assembly of Kenya, and, to some degree, the Federal Assembly of Switzerland

administrative and financial autonomy of a Parliament the criterion and the measure of the extent of its powers. The stronger the autonomy, the more Parliament has power. The example of the French Parliament which enjoys a strong autonomy in these areas leads us to apply this kind of reasoning with very great care. In other words if administrative and financial autonomy is often a necessary condition for the full exercise of its powers by a Parliament, it is not a sufficient condition - far from it.

This autonomy has a common characteristic in all Assemblies. It clearly does not preclude cooperation with the Government. The separation of powers from which it derives is characterised in the majority of Parliaments by a "flexible separation" or "separation-cooperation". It is thus that parliamentary autonomy exists in the institutional organisation of the State, to which Parliament belongs.

This autonomy has a purpose: to allow Parliament freely to exercise the competence with which it is invested by the Constitution. It is thus a functional autonomy which manifests itself in the possibility of each Assembly "determining its form of organisation and its procedures, electing its own bodies, in particular its committees, being convoked by its President/Speaker, and above all deciding on its own rules", to use the words of our colleague from the Bundestag.

In the hierarchy of laws, after the Constitution, the state authorities acts adopted for the application of the Constitution, the general principles of rights and law, it is then the Rules of Parliament (in certain Parliaments they have a legislative value) which confirm and above all organise the administrative autonomy of each assembly. In a bicameral system, autonomy must be peculiar to each assembly, even if these two distinct autonomies have the same constitutional basis. This distinction merely reflects the respective roles of the two chambers, different and complementary, in the functioning of each country's institutions.

The fact that Parliament is an integral part of the state explains why in the majority of cases assemblies do not enjoy a legal personality to the extent that the State possesses such a personality.

However, exceptions confirm the rule. The clearest responses came from the two Chambers of the Netherlands and, above all, from the two Chambers of the Republic of Italy and in particular from our colleague in the Italian Senate who enumerated the principle attributes of the legal personality as "to have standing before a court, to acquire property, to agree contracts in law".

For many other parliaments the answer to the question remained in doubt. As our Egyptian and Portuguese colleagues observed, the response presumes that the notion of the State is clearly defined. In this context, it will be noted that the responses of two assemblies from the same Parliament were sometimes divergent: thus, the House of Commons of Canada answers "yes" whereas the country's Senate answers "no". The French Assemblée Nationale gives a negative response where the French Senate expresses uncertainty, joining in this respect the Parliament of the United Kingdom.

In fact, as we will see, responses on the principle to do not exhaust this question. It is the effective exercise of their prerogatives which demonstrates the degree of autonomy for assemblies and which reveals whether they possess the attributes of a legal personality in their totality, in part or not at all.

## **FIRST PART: THE SCOPE OF AUTONOMY**

1. - the questions under this heading were primarily aimed at measuring, in practice, the extent of the parliamentary autonomy in the three areas of institutional powers, administration and finances of each assembly in its internal organisation.

1.1 - With the exception of the European Parliament where "the precise frontiers of its powers and functions ... have not yet been determined", almost all assemblies recognise an effective autonomy

although variable in its institutional extent, that is to say, its powers. In fact the freedom of organisation and proceeding for parliamentary bodies such as committees and political groups confirms the autonomy found in constitutional law. The existence of the Rules of Parliament which apply through the exclusive authority of each Assembly (given their conformity to the Constitution) is the proof of an autonomy in the drawing up and application of procedure, strongly underlined by all Parliaments, even if parliamentary law is only a part of constitutional law.

However, this autonomy varies in the powers which the Constitution of each State recognises for Parliament. Powers for the same Parliament can be more or less great depending upon whether they concern the legislative function, budgetary powers or the scrutiny of government. It should be noted that many Upper Houses or Second Chambers mention the constitutional limitations of their powers (German Bundesrat, the Parliament of the United Kingdom, the Australian Senate); other assemblies explicitly limit their autonomy to parliamentary law and procedure (the Knesset of Israel, the National Assembly of Zambia), or only recognise a partial autonomy (Sri Lanka).

1.2 - Most Parliaments state that they effectively enjoy administrative autonomy characterised by an internal organisation of departments peculiar to themselves and by the authority and control exercised over parliamentary staff.

The overall appraisal of financial autonomy is more nuanced and thus more difficult to ascertain. On the one hand, the budget of each assembly is in effect part of the general budget of the State. In this context, it is effectively voted for by Parliament. But on the other hand the influence of, and even control of government, are far from negligible. More than half of the responses analysed state that financial autonomy is only partial and in three cases at least non existent.

We will see in the second report of this report the basis for these responses.

1.3 - In contrast with the above, all the assemblies have bodies with powers of decision and arbitration over internal organisation and functioning.

With the exception of the two Chambers of the United Kingdom who make clear that apart from select committees the Westminster model does not have permanent bodies but a practice of consultation of persons ("elder statesmen" or senior politicians), all Parliaments have permanent bodies which are elected and as a result autonomous and which take decisions at the highest level. Most often they are the Bureaux and the Presidents/Speakers of the assembly. Sometimes also the Vice Presidents/Deputy Speakers. The Bundestag draws attention to the "Council of Elders", the body for political management provided for in the Rules of Parliament, and the Presidium, whereas the Bundesrat mentions, in addition to the Bureau, a permanent consultative committee.

In the majority of Parliaments these bodies or authorities, in particular the President/Speaker and the Bureau, possess powers of management and arbitration both for political questions and for questions of organisation and internal functioning, in particular in administrative and financial matters.

The Assemblée Nationale and the Senate in France mention in this context the Questeurs who are part of the Bureau but have a specific administrative and financial role. This is also a characteristic common to the Italian, Romanian and Belgian Parliaments and to almost all the francophone African assemblies. This is why one might speak of a romano-francophone type of parliamentary organisation.

2. - Another way in which to appraise the extent of parliamentary autonomy is to measure the protection enjoyed by assemblies and their members in three particularly sensitive areas: security, social protection and the remuneration of members of parliament which are as important for the independence of those elected as material guarantees.

2.1 - The most elementary condition for the freedom of debate of an assembly is the security of its members and as a consequence the protection of its premises. It can be presumed that the more those responsible for security are dependent on the parliamentary authorities, the greater will be the autonomy of Parliament and the more will this security be ensured.

The content of the responses analysed has led to the drawing up of a table containing four criteria for autonomy:

- Are the control of entry (column 1) and the internal security of the precincts (column 2) secured by services answerable to the Assembly?
- Is the entry of the police into the parliamentary precincts subject to parliamentary authorisation (column 3)?
- Is there a parliamentary body which effectively has authority over staff and security forces within the assembly, and is so what is that body?

A clear majority (31 out of 49) answered positively to the four criteria of autonomy. This generality of positive responses to the four questions must not however obscure the following points:

- Apart from control of entry where half of the Parliaments employ their own staff, internal security is only established exclusively by parliamentary staff in a minority of cases.
- 11 assemblies employed the police or the army and 9 had their own departments collaborate with these forces within their buildings.
- By contrast, in a large majority of Parliaments, entry of the police must be specially permitted by the parliamentary authorities.
- Finally, in almost all assemblies, the parliamentary bodies have express authority over security staff, even if they belong to an organisation external to Parliament.

Certain Parliaments (for example the Bundestag and the French Assemblée Nationale) state that the President/Speaker has the right to call on the army if necessary, others (the Belgian Chamber of Representatives and Senate) that external security for the Parliament is also under the authority of the President/Speaker.

The classification into three categories - autonomous, semi-autonomous and non-autonomous - is no doubt too schematic. The fact, for a Parliament, of reliance on the security forces of the State must be viewed in the context of the democratic traditions of the country, which allows for a certain coefficient of correction to this classification.

2.2 - Social protection of members of parliament The assemblies which, by virtue of a special law or regulation, possess autonomous social protection arrangements for retirement and sickness are twice as numerous as those who do not. In these latter assemblies members of parliament benefit either from general arrangements for retirement and sickness insurance or from other arrangements (in particular those for civil servants and members of the government).

On the other hand, the existence of autonomous arrangements exclusively for elected representatives does not necessarily imply direct management by Parliament. *Assemblies which have autonomous arrangements only intervene in a little more than half of cases involving the administration of sickness cover.* They intervene still less in the direct and total organisation of the *retirement* of their members. Either it is the government departments, social security or private insurance companies who are responsible or the assemblies cooperate with these bodies in a mixed management.

Symbols: = signifies an average degree of autonomy  
 - signifies a weak degree of autonomy  
 + signifies a strong degree of autonomy

**TABLE 1**

Country	Control of Entry to Parliamentary Buildings	Maintenance of order and internal security	Authorisation for entry of police	Parliamentary authority	Autonomy
Australia House of Representatives	YES	YES	YES	President Serjeant at Arms Usher of the Rod	+
Senate	YES	YES	YES		+
Belgium House of Representatives	YES	YES (+ military guard)	YES	President	+
Senate	YES	IDEM	YES	President	+
Canada House of Commons	YES	YES	YES	Seajeant at Arms	+
Senate	YES	YES	YES		+
Croatia	YES	YES	YES	President	+
Czech Republic Chamber of Deputies	Police (special unit)	Police (special unit)	YES	NO	(project to establish separate parliamentary guard)
Senate	IDEM	IDEM	IDEM	IDEM	IDEM
Denmark Folketinget	YES + Officer of Police	YES	YES		+
Egypt People's Assembly	Police	Police	YES	President	=

Country	Control of Entry to Parliamentary Buildings	Maintenance of order and internal security	Authorisation for entry of police	Parliamentary authority	Autonomy
Estonia Parliament	NO (Estonian Police & Security)	NO (Estonian Police & Security)	YES	Bureau	=
European Parliament	YES	YES	YES	Deputy Secretary General	+
Finland	YES	YES	YES		+
France National Assembly	YES	YES + Republican Guard	YES	President, Questeurs, Secretary General or Director General IDEM	+
Senate	YES	IDEM	YES		+
FYR of Macedonia Parliament		Special Service State Police	YES	President	=
Germany Bundestag	YES	YES	YES	President	+
Bundesrat	YES	YES (+ federal services)		President	+
Greece Parliament	Police	Police	YES	Speaker	=
Hungary National Assembly	Republican Guard (Interior Minister)	YES	NO		Proposal for greater autonomy

Country	Control of Entry to Parliamentary Buildings	Maintenance of order and internal security	Authorisation for entry of police	Parliamentary authority	Autonomy
India Second Chamber	YES	YES	YES		+
Indonesia House of Representatives	YES + Police	YES + Police	NO		-
Ireland House of Representatives	Police + Army	Police + Army		Superintendent of the Chambers	-
Israel Knesset		YES	YES	Serjeant at Arms	+
Italy Chamber of Deputies	YES	YES	YES	President, Questeurs, Security Committee IDEM	+
Senate	YES	YES	YES		+
Kuwait Parliament	YES	YES	YES	Speaker	+
Namibia National Assembly	Police (Interior Minister)			Assembly	-
Netherlands First Chamber	YES	Police (under direction of the the departments of the Assembly)	YES (except investigation)	Security Department	+
Second Chamber	YES		YES		+
Nigeria National Assembly		Police + Republican Guard	YES	President	+

Country	Control of Entry to Parliamentary Buildings	Maintenance of order and internal security	Authorisation for entry of police	Parliamentary authority	Autonomy
Philippines House of Representatives				Speaker Serjeant at Arms	
Senate	YES	YES	YES	IDEM	+
Portugal Assembly of the Republic	National Republican Guard	Public Security Police	YES	President Secretary General Security Officer	+
Romania Chamber of Deputies	Security Service and Guard	YES (+ Special Department of the Assembly)	NO	Questeurs	(Project for reorganisation with regard to autonomy)
Senate	Security Service and Guard and Ministry of the Interior	Security Service and Guard and Ministry of the Interior			
Russia Federation of	Federal Security (in cooperation)	Federal Security (in cooperation)	YES	NO	-
Senegal			YES	President	+
Spain Senate	Police	Police		President	=
Sri Lanka Parliament	YES	YES	YES	Speaker, Committee on Parliamentary Affairs	+

Country	Control of Entry to Parliamentary Buildings	Maintenance of order and internal security	Authorisation for entry of police	Parliamentary authority	Autonomy
Sweden Parliament	YES	YES (eventually in cooperation with police)	YES	Bureau Administration Director, Head of Security Depart	+
Switzerland Parliament	Federal service	Federal service		President	=
Thailand House of Representatives	YES	YES	YES	Speaker	+
Senate				President	+
Turkey National Assembly	Police & Army	Police & Army	YES	Bureau	- (security project proposed)
United Kingdom House of Commons	Metropolitan Police	Metropolitan Police (except in session)		Serjeant at Arms	+
House of Lords				Gentleman Usher of the Black Rod	=
Uruguay Senate	YES	Police Special corps	YES	President	=
Zambia	YES	YES	YES	Speaker	+

2.3 - The remuneration of members of parliament is in the majority of cases determined by law (sometimes on the basis of an article in the constitution which concerns parliamentary salaries), often with reference to the treatment of senior judges and civil servants. The determination of remuneration and salaries by the assemblies themselves accounts for almost the same number of respondents. One thus sees that in almost all cases the legislator, in general parliament, intervenes directly in the determination of the main salary. The parliamentary bodies (such as the Bureau for example) intervene more frequently in the direct determination of the supplementary financial benefits.

Cases of an exclusive management of salary and associated financial benefits by external organisations, such as Ministries of Finance, are rare. Administration by the assemblies is the rule but the calculation and payment are sometimes arranged in cooperation with government departments.

3. - A limit to the scope of autonomy: the control of a court of law. By a large majority the Assemblies state that they are subject to the control of a court of law for all or part of their acts of administration and management.

A third of assemblies state that they are not under any form of judicial control, a third that they are subject to the general law in all matters and to various competent court authorities, a third that they are partially subject to the control of courts for some of their administrative actions (relations with third parties only, or on the other hand matters in dispute with all or some of the staff ...).

Administrative courts are most frequently competent to deal with such disputes, especially when the control of the court of law is limited to certain administrative actions.

4. - The power to go to law, counterpart to the control of the court of law, exists in a majority of Parliaments.

It has most often a legal basis. It is exercised either by the Bureau, or by the President/Speaker, or sometimes by other bodies of the assembly such as committees. It seems that in these various instances the assembly is effectively represented by the Secretary General, the head of department, or a legal adviser specialising in this role. In other cases, it is private offices which exclusively provide this representation.

Legal proceedings are, in many parliaments, subject to initiation by the Prosecutor representing the government department or by a State body. Perhaps it is necessary to view this situation in the context of the absence of a legal personality for these assemblies but there is not always a clear correlation: thus the Netherlands Parliament possesses a legal personality without being subject to the control of a court of law and without being able to take part in court proceedings.

## **SECOND PART: FINANCIAL AUTONOMY**

This essential aspect of autonomy will be dedicated both to budgetary autonomy and to autonomy over the parliamentary estate.

### **I - Budgetary autonomy**

A common feature: in all parliaments with the exception of two (Zambia and the Bundesrat) and with some uncertainty for four assemblies, the budget of each assembly is voted on in the plenary session. Numerous assemblies noted that it is hardly debated, or not at all, and agreed without amendment even when successively examined by two chambers in bicameral parliaments (example of the Spanish Parliament). In the great majority of cases it is included within the draft budget of the state. In several assemblies (about a third of responses analysed) its agreement is through a vote on a separate estimate before or after that of the general budget.

## **1. Drawing up of the budget**

On the basis of the useable information conveyed by 46 assemblies, it appears that the preparation of the draft budget, before its presentation and the vote in plenary session, constitutes the determining phase for gauging the autonomy of each Parliament. Between the moment when the initial draft is prepared by the parliamentary departments and the presentation of the definitive draft to the assembly for debate and vote (if it is a distinct document to the general budget of the state) or to the Minister of Finance for inclusion in the general draft budget, then debate and vote by Parliament, two different situations are apparent.

In two thirds of cases the assemblies draw up their draft budget without the intervention of the government. The parliamentary authorities alone decide on the amount and the distribution of expenditure. It follows on from this that the parliamentary authorities are careful not to present a budget which bears no relation to the general budget of the State and that they take account in particular of its rate of increase, of economic policy, even of announced austerity measures. But they do it freely and without the intervening decision of the Ministry of Finance.

A third of Parliaments are, by contrast, subject to the intervention of the Ministry of Finance. Negotiation takes place with the parliamentary authorities who draw up the budget in almost all cases before the parliamentary authority (bureau, President/Speaker, committees, according to the assembly) adopt the draft. In several cases, the intervention goes as far as imposing a decision (Zambia, the Australian Parliament).

By contrast, certain assemblies state that they enjoy a genuine financial autonomy even though the draft budget is submitted for examination to the Minister of Finance. This is for example the case for the German Bundestag or the Parliament of the United Kingdom who say that the government does not challenge the parliamentary budget. Usage and parliamentary tradition prevail over the letter of the law. In the same context the case of the French Parliament is relevant: the budget of the two assemblies which is definitively agreed by a mixed body (judges and questeurs) presided over by a Head of Section in the Auditor General's Department includes without amendment the proposals of the Questeurs of the Assemblée Nationale and the Senate.

## **2. General structure and total amount of the budget**

It is in the nature of Parliaments to generate expenditure and little by way of receipts.

### **2.1 General structure**

Under the heading of receipts which supplement the budgetary resources in the majority of Parliaments one will find: the sale of parliamentary documents and publications, receipts from cafeterias and restaurants, the renting and leasing of rooms. A certain number of Parliaments make clear that apart from their budgetary resources they have no receipts.

The structure of expenditure is, however, revealing on the actual administration of assemblies. The distribution of the main items of expenditure is evidently very general. It does not take account of the detail of the items contained within the costs of the functioning of the services and facilities used by members of parliament (telephone, fax machine, photocopier, means of transport, etc...). The distinction between the cost of the remuneration and financial benefits of members of parliament on the one hand and the salaries and pensions of staff on the other is not made by the great majority of assemblies. Some partial indications lead me to believe that expenditure on the remuneration of members of parliament and that for staff are on average of a comparable order of magnitude.

TABLE 2

Country	Drawing up of Parliament's draft Budget				Debate and vote in Parliament	
	Draft preparation	External involvement	Adoption of draft	Presentation of draft	State Budget Bill	Separate Bill
Australia House of Representatives	Department of the House	<u>Finance Department</u>  <u>Office of Parliamentary Counsel</u> (Agency)				
Senate		Idem				
Belgium House of Representatives						
Senate						
Canada House of Commons	Administration	No	Bureau			
Senate		No	Committee for Internal Economy			
Cyprus	Assembly	<u>Finance Minister</u> Council of Ministers				
Croatia	Parliamentary Secretary		President	<u>Finance Minister</u>	Yes	

Country	Drawing up of Parliament's draft Budget				Debate and vote in Parliament	
	Draft preparation	External involvement	Adoption of draft	Presentation of draft	State Budget Bill	Separate Bill
Czech Republic Chamber of Deputies	Bureau	No	Budget Committee General Assembly	Yes		
Senate	Bureau	No	Committee	Yes		
Denmark Folketinget	Administration (Secretary General)					
Egypt Parliament	Bureau	No		Assembly		Yes
Estonia Parliament	<u>Finance Minister</u> Government		Parliament	<u>Finance Minister</u> Government	Yes	
Finland Parliament		No	Parliamentary Committee	Finance Minister	Yes	
France National Assembly		No		Finance Minister	Yes	
Senate		No			Yes	
FYR of Macedonia Parliament					Yes	

Country	Drawing up of Parliament's draft Budget				Debate and vote in Parliament	
	Draft preparation	External involvement	Adoption of draft	Presentation of draft	State Budget Bill	Separate Bill
Greece Parliament	Services	No	Speaker		Yes	
Hungary National Assembly	Departments Speaker	Ministry of Finance				
India Second Chamber	Department of Secretary General	No				
Ireland House of Representatives	Parliamentary Official Parliament Sub- Committee	Ministry of Finance Government		Ministry of Finance		
Israel Knesset		No	Committee			Yes
Italy Chamber of Deputies	Board of Questeurs	No				Yes
Senate	Idem	No				Yes
Kuwait Parliament		No			Yes negotiable with Finance Committee	
Namibia National Assembly	Secretary General Speaker	Ministry of Finance		Government	Yes	

Country	Drawing up of Parliament's draft Budget				Debate and vote in Parliament	
	Draft preparation	External involvement	Adoption of draft	Presentation of draft	State Budget Bill	Separate Bill
Netherlands First Chamber	President Vice-Presidents	Ministry of Interior	Assembly		Yes	
Second Chamber	Secretary General Bureau	Ministry of Interior	Assembly		Yes	
Nigeria National Assembly	Secretary General	Government (negotiable)	Finance Committee		Yes	
Norway Parliament		No	Bureau	Government	Yes	
Philippines Senate		Budget and Administration Department	Bicameral Committee Bureau of the President		Yes	
Portugal	Office of Secretary General	No		Government	Yes	
Romania Chamber of Deputies	Departments Questeurs	No	Bureau (on report from Questeurs) Budgetary Committee Assembly	Government	Yes	
Senate	Bureau	No	Idem	Idem	Idem	
Senegal National Assembly	Questeurs President	<u>Finance Minister</u>	Bureau	Finance Committee	Yes	

Country	Drawing up of Parliament's draft Budget				Debate and vote in Parliament	
	Draft preparation	External involvement	Adoption of draft	Presentation of draft	State Budget Bill	Separate Bill
Spain Senate	Department of Secretary General		Bureau	Ministry of Finance	Yes	
Sri Lanka Parliament		No	Parliament (consultative committee)	Finance Minister Government	Yes	
Sweden Parliament		No	Bureau		Yes	
Switzerland Federal Assembly	Deputy Secretary General		Administrative Delegation	Finance Department	Yes	
Turkey National Assembly		Negotiations	Speaker			
United Kingdom House of Commons  House of Lords		<u>Finance Minister</u>  <u>Finance Minister</u>	Finance and Administration Committee			
Uruguay Senate	President	No	Budgetary Committee and Internal Affairs Committee			
Zambia National Assembly			Speaker		No	No

It is clear, however, that many Parliaments include in their budget the distinction between administrative expenditure and expenditure on equipment, or between ordinary expenditure and capital expenditure, but the principal items of expenditure common to all assemblies are the following in decreasing order of importance:

- The remunerations and pensions (expenditure on personnel) which comprise remuneration and financial benefits and pensions of members of parliament on the one hand, the salaries and pensions of staff on the other.
- Administrative expenditure which covers the services and various equipment at the disposal of members of parliament (in particular, meeting expenses, purchase of equipment, office supplies, publication costs ..).
- Grants, in particular to political groups (and possibly to parties).
- Expenditure on equipment, including buildings.
- Other.

**TABLE 3**

% of budget	Principal items of expenditure				Others
	Remuneration Pensions	Administration	Grants to groups	Investments buildings	
-5			2 assemblies <sup>2</sup>	10 assemblies <sup>3</sup>	
5 to 10			2 assemblies <sup>4</sup>	2 assemblies <sup>5</sup>	
10 to 20	2 assemblies <sup>6</sup>	5 assemblies <sup>7</sup>	2 assemblies <sup>8</sup>	1 assembly <sup>9</sup>	
20 to 30		7 assemblies <sup>10</sup>		1 assembly <sup>11</sup>	
30 to 40	3 assemblies <sup>12</sup>	4 assemblies <sup>13</sup>		1 assembly <sup>14</sup>	
40 to 50		3 assemblies <sup>15</sup>		2 assemblies <sup>16</sup>	
50 to 70	10 assemblies <sup>17</sup>				
70 to 90	7 assemblies <sup>18</sup>				

- <sup>2</sup> France (National Assembly); Norway
- <sup>3</sup> Belgium (House of Representatives, Senate); Canada (Senate); Denmark (Folketinget); Finland; France (National Assembly); Germany (Bundestag, Bundesrat); Italy (Senate); Nigeria
- <sup>4</sup> Finland; Italy (Senate)
- <sup>5</sup> Sweden; Uruguay (Senate)
- <sup>6</sup> Czech Republic (House of Representatives, Senate)
- <sup>7</sup> Cyprus (House of Representatives); Croatia; France (National Assembly); Italy (Senate); Uruguay (Senate)
- <sup>8</sup> Denmark (Folketinget); Germany (Bundestag)
- <sup>9</sup> Norway
- <sup>10</sup> Australia (Senate); Canada (Senate); Germany (Bundestag, Bundesrat); Namibia (National Assembly); Niger; Norway
- <sup>11</sup> United Kingdom (House of Commons)
- <sup>12</sup> Sweden; United Kingdom (House of Commons, House of Lords);
- <sup>13</sup> Czech Republic (House of Representatives); Ireland (House of Representatives); United Kingdom (House of Lords); Sweden
- <sup>14</sup> United Kingdom (House of Lords)
- <sup>15</sup> Australia (House of Representatives); Denmark (Folketinget); Greece
- <sup>16</sup> Czech Republic (House of Representatives, Senate)
- <sup>17</sup> Italy (House of Representatives); Finland; Belgium (House of Representatives); Croatia; Germany (Bundestag, Bundesrat); Namibia (National Assembly); Netherlands (First Chamber); Niger

N.B.: This partial analysis reflects the variation in the detail of responses which differed from one assembly to another. It suggests however significant trends.

## 2.2 The share of the budget of Parliament within the State's budget

The table below reproduces whatever response has been supplied by the assemblies themselves in their response to the questionnaire.

ASSEMBLY	SHARE OF THE BUDGET WITHIN THE STATE'S BUDGET
<u>Australia</u> Chamber of Representatives Senate	0.36 0.05
<u>Canada</u> Senate	0.03
<u>Cyprus</u>	0.02
<u>Czech Republic</u> Chamber of Deputies Senate	0.25 0.16
<u>Denmark</u> Folketinget	0.011
<u>Estonia</u> Parliament	0.9 maximum
<u>Finland</u>	0.1
<u>France</u> Assemblée National Senate	0.17 0.09
<u>Germany</u>	0.2
<u>Greece</u>	1.6

ASSEMBLY	SHARE OF THE BUDGET WITHIN THE STATE'S BUDGET
<u>Hungary</u> National Assembly	1
<u>Indonesia</u> Chamber of Representatives	1.17
<u>Ireland</u> Chamber of Representatives	0.29
<u>Namibia</u> National Assembly	0.48
<u>Netherlands</u> First Chamber Second Chamber	0.07 0.15
<u>Norway</u> Parliament	0.086
<u>Philippines</u> Chamber of Representatives Senate	0.03 0.16
<u>Romania</u> Chamber of Deputies Senate	0.00169 0.89
<u>Russia</u> Council of the Federation	0.04
<u>Senegal</u> National Assembly	0.87
<u>Spain</u> Senate	0.03
<u>Sri Lanka</u> Parliament	0.015
<u>Sweden</u> Parliament	0.12
<u>Thailand</u>	

ASSEMBLY	SHARE OF THE BUDGET WITHIN THE STATE'S BUDGET
Assembly	0.17
Senate	0.02
<u>United Kingdom</u>	
House of Commons	0.001
House of Lords	0.001
<u>Uruguay</u>	2
<u>Zambia</u>	6

### 3. Management of the budget

Despite the diversity and the complexity of the procedures, several schemes for the management of the budget emerge from the responses analysed. They will be classified in diminishing order of frequency.

- The Secretary General or the Head of Division is charged with the management of the budget. He is the accounting officer, a financial or accountancy department, possibly various financial departments by delegation, commit expenditure. An auditor, a financial controller or a chief accountant audits these payments.
- The President or Speaker is responsible for the management of the budget. He delegates certain of his powers to the Secretary General or to a specialised department which assists him and which in practice manages the budget. Payment is audited by an accountancy department or by a chief accountant.
- The Bureau or a parliamentary committee is responsible for the management of the budget. This body is assisted by the Secretary General and a specialised department in the incurring of expenditure, a chief accountant audits the payments.
- The Questeurs in certain assemblies assume a key role in the management of the budget. It is necessary however to distinguish two cases:

That of Belgium, Italy and France where they play a preponderant role, if not an exclusive one, in the management of the budget, the committal of expenditure and payment. Yet the most important financial decisions necessarily involve the President/Secretary and the Bureau. The Secretary General has a power to incur expenditure up to a certain amount.

That of the francophone assemblies of Africa where it is the President/Speaker who is responsible for the management of the budget and is the chief accounting officer. The Questerurs have the role of proposing expenditure, they audit payments and their authorisation. They can receive delegated powers from the President/Speaker.

In all cases the role of departments and in the first place the Secretary General is of prime importance at all stages in the committal of expenditure. But the amount of financial commitment or payment authorised

is all the greater where the competent authority is more important. The financial competence of officials has generally an upper limit of a certain sum.

#### **4. Scrutiny of the management of the budget**

To what extent do the government or the supervisory bodies external to Parliament intervene at the time of the implementation of the budget? What freedom do the chambers have in cases of deficit or budget surplus?

##### **4.1 The forms of control of the budget**

Two pairs of criteria have been included in the following table: internal inspection (by parliamentary bodies) and/or external inspection (by bodies independent of the assemblies), on the one part; a priori inspection during the course of implementation of the budget or a posteriori at the end of the exercise, on the other.

The combination of these criteria indicates a both the importance of the procedures of inspection to which Parliament is subject and above all its degree of autonomy.

*The great majority of Parliaments depend on external bodies for inspection. 12 assemblies state that they only have a purely internal inspection. Two assemblies state that they have an optional external inspection (Egypt and Switzerland) and the Assembly of Portugal relies on a relative and very recent freedom of inspection by the Auditor General's Department.*

Two complementary and in a sense contrary observations:

- the strong autonomy affirmed of certain Parliaments: Belgium (Chamber of Representatives), Canada, France.
- the high level of supervision as much internal as external of certain assemblies: Czech Republic, Hungary, Namibia, Romania, Thailand, Zambia.

##### **4.2 Cases of budgetary deficit or surplus**

In cases of deficit, almost all assemblies can appeal for supplementary appropriations, in the majority of cases by supplementary budget credits (directly released by the Minister of Finance, after negotiation, or voted according to parliamentary procedure) or loans or advances. But the majority of Parliaments endeavour to proceed to the transfer of credits within their own budget or to reduce expenditure (for example, investment). Several assemblies state that these supplementary credits will be taken into account in the following year. Certain other Parliaments say that these supplementary requests are theoretical to the extent that they make use of reserve funds or of cash and sometimes are related to investment policy.

Surpluses are in the very great majority of cases, reserved for the State budget or not deducted from this budget if the Treasury itself makes all the payments of grants to Parliament. Some Parliaments are authorised to keep a small amount (1 to 10 % according to the assembly) of this surplus (Australia, Canada, Netherlands (Second Chamber)).

By contrast, seven assemblies (The Chamber of Deputies and the Senate of Belgium, the French Assemblée Nationale and Senate, the Italian Senate, the Spanish Senate, as well as the Senate of Uruguay) claim not to pay back any surplus but to have an autonomous policy of investment. Estonia has this possibility but within limits fixed in advance. The Senate of Spain states that “the surplus budgetary funds” must be invested but there is freedom as to where.

## **5. Publication of the budget**

It is assured in almost all Parliaments. With regard to the budget finally adopted a little under half of the assemblies publish the whole of it either in the Official Journal or in a special parliamentary document. Several parliaments publish at the same time the complete minutes of the debates, one or more budgetary documents in addition to the publication Budget Act in the Official Journal. Thus the public can acquire knowledge of the parliamentary budget either in its details or simply in its most significant aspects.

The majority of assemblies seem only to publish the general outline of the budget.

On the whole it appears that the most easily accessible information for citizens involves, in most cases, the general outlines of the budget, often to the level of the budget heads.

The public character of the parliamentary budget must have in principle a moderating effect on the amount of expenditure. Publicity works in the same way as the direct action of the Minister of Finance (in those cases where he intervenes) or the self-limitation which those assemblies impose on themselves who enjoy a very large measure of autonomy. Apart from those parliaments which are subject to a very strict supervision from the Executive, it is public opinion which in the last analysis is the real counterweight to the budgetary autonomy of parliamentary assemblies.

TABLE 4

Country	Purely internal control	External control	A priori (during execution)	A posteriori (at the end of the budgetary exercise)	Autonomy
Australia Senate	Yes		Yes	Yes	+
Belgium House of Representatives			Yes	Yes	+
Senate			Yes (internal)	Yes	+
Canada House of Representatives	Yes				+
Senate	Yes		Yes		+
Croatia				Yes	-
Cyprus			Yes	Yes	-
Czech Republic				Yes	-
Denmark					
Egypt	Yes				=
Estonia				Yes	-
European Parliament			Yes (internal)	Yes (external)	-
Finland	Yes			Yes	+
France National Assembly	Yes			Yes	+
Senate				Yes	

Country	Purely internal control	External control	A priori (during execution)	A posteriori (at the end of the budgetary exercise)	Autonomy
Greece	Yes		Yes		-
Hungary National Assembly	Yes	National Audit Office	Yes	Yes	-
India Second Chamber	Yes				+
Ireland House of Representatives		Ministry of Finance	Yes		-
Indonesia	Yes	Yes			-
Israel					-
Italy Chamber of Deputies	Examination of budget balance sheet by Assembly Office of administrative supervision		Yes	Yes	+
Senate	Accounts department, Questeurs, President's Office, Assembly		Yes	Yes	+
Kenya National Assembly		Treasury	Yes	Yes	-
Kuwait					-
Namibia National Assembly	Speaker Standing Committee on Payments	Office for Invitations to Tender Treasury	Yes (External)		-

Country	Purely internal control	External control	A priori (during execution)	A posteriori (at the end of the budgetary exercise)	Autonomy
Netherlands First Chamber		Accountant Department of Internal Affairs		Yes	-
Second Chamber		Expert Accountant Auditor General's Department		IDEM	-
Nigeria				Yes	+
Norway				Yes	-
Philippines House of Representatives			Yes	Yes	+
Senate	Audit		IDEM		+
Portugal				Yes	=
Romania House of Representatives	Director General of Budget Questeurs Bureau Committees & Assembly (Annual Management Report)	Auditor General's Department	Yes (internal and external)	Yes (internal & external)	-
Senate	Financial scrutiny of administration	Auditor General's Department	Yes (internal and external)	Idem	
Russia				Yes	-

Country	Purely internal control	External control	A priori (during execution)	A posteriori (at the end of the budgetary exercise)	Autonomy
Senegal				Yes (internal & external)	-
Spain Senate	Yes  Financial Controller of the Chamber		Yes		+
Sri Lanka			Yes	Yes	-
Sweden			Yes	Yes	-
Switzerland				Yes	=
Thailand Senate			Yes (internal)	Yes (external)	-
Turkey National Assembly			Yes		+
United Kingdom House of Commons		National Audit Office Idem		Yes	-
House of Lords					-
Uruguay Senate	Yes				-
Zambia National Assembly	Yes		Yes	Yes	-

## II - Autonomy over the parliamentary estate

1. - It appears to be affirmed for the majority of assemblies that there exists property distinct from that of the State or an autonomous property statute (25 assemblies<sup>19</sup>).

The difficult question of the legal personality of assemblies (see introduction above) does not allow us to hold a strict notion of the property of assemblies. It has therefore been considered that the existence of a special status for the parliamentary buildings particularly provided for in law (Australia, France for example) is the equivalent to property distinct from that of the State. But a significant minority states that it does not have a distinct property, the parliamentary buildings (and even all the furniture, as the Belgian Senate notes) belonging to the State (25 assemblies<sup>20</sup>).

2. - Freedom to undertake works or acquire property or the necessity of obtaining authorisation from external bodies does not exactly mirror the preceding distinction:

- among Parliaments possessing a distinct property, seven assemblies state that they seek authorisation or cooperation from municipal, regional or government departments (Australian Senate, Estonia, India (Second Chamber), Israel, Norway, Sweden, Senegal);
- by contrast, five assemblies not having their own estate (Belgian Senate, Denmark (Folketinget), Greece, Indonesia, Senate of the Philippines), appear to enjoy autonomy in the sale of buildings;
- the greater number of Parliaments seems to enjoy a genuine autonomy over the maintenance of buildings.
- Even so, all seem subject to a certain number of minimum town planning rules and several, whether they have their own estate or not, emphasise the constraints of listed or historic buildings (particularly Italy (Ch Depts), United Kingdom (House of Lords), Denmark (Folketinget), Czech Senate).

The system of property ownership for assemblies appears therefore to obey rules which do not necessarily correspond to their budgetary system. Of course, Parliaments with strong budgetary autonomy such as the French, Italian and Uruguayan assemblies also enjoy a strong autonomy over their estate; at the opposite end of the spectrum, the German Parliament experiences in both domains a certain subordination to the Executive. By contrast, the Parliament of the United Kingdom has an autonomy over its estate which contrasts with its budgetary status.

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<sup>19</sup> Australia (House of Repts and Senate), Belgium (Ch. Deputies), Croatia, Estonia, Finland, France (Ass. nat. and Senate), Israel (Knesset), Italy (Ch. Deputies and Senate), FYR Macedonia, Niger, Norway, European Parliament, Philippines (Ch. Repts), Portugal, Czech Rep (Ch. of Deputies), United Kingdom (House of Commons and House of Lords), Senegal, Sweden, Turkey, Uruguay, Zambia.

<sup>20</sup> Belgium (Senate), Canada (House of Commons and Senate), Cyprus, Denmark (Folketinget), Germany (Bundestag and Bundesrat), Greece, Hungary (National Assembly), Indonesia (Ch. of Repts), Ireland (House of Representatives), Kenya (Nat Assembly) Kuwait, Czech Rep. (Senate), Namibia, Netherlands (First & Second Chamber), Romania (Ch. Of Deputies & Senate), Russia, Spain (Senate), Sri Lanka, Switzerland, Thailand, Egypt.

### THIRD PART: ADMINISTRATIVE AUTONOMY

In all the assemblies apart from one (Indonesia where the decision-making power belongs to the President of the Republic), the organisation of services is decided upon by the assembly or certain of its bodies. Procedural autonomy, the privileged expression of the principle of the autonomy of Parliaments, and the Rules of Parliament are frequently cited as setting out the organisation of the parliamentary services and, more often, the legal basis for this organisation.

The authorities which have the power to organise these services are in the majority of cases:

- the Bureau (either Board of Directors or Council of the President/Speaker), alone or sharing power with the President/Speaker or the Questeurs,
- the President/Speaker,
- the Assembly itself,
- in a few cases the Secretary General.

We should note that the Secretary General, or Secretaries General, when there is a Secretary General of the Questure, intervene beforehand in making organisational proposals and always afterwards in order to manage services.

#### 1. - The different categories of staff

1.1 - The distinction between official, assistant to political groups and personal assistant to a deputy is recognised in almost all assemblies. However, the distinction is less clear in certain parliaments between officials and assistants to political groups, particularly in Hungary (National Assembly) and in Romania (Senate). Certain parliaments make clear that all posts are held by parliamentary officials.

- Officials enjoy a status in public law or a contract of unlimited duration.
- Assistants to a political group and above all assistants to members of parliament have contracts in private law, generally on a time-limited contract.

In a majority of assemblies it is possible to pass from one category to another, but certain Parliaments state that passing from an assistant to the category of official takes place through the normal procedures, in particular through examination.

A significant minority of Parliaments forbid passing from one category to another (Second Chamber of India, National Assembly of Hungary, National Assembly of Namibia), in particular passing from the category of official to that of a political assistant. This appears to certain assemblies (British House of Lords, French Assemblée Nationale, for example) as contrary to the political impartiality of officials.

An analysis of the numbers of officials reveals that with the exception of five assemblies (out of 35 responses examined), in the great majority of cases the number of officials is greater than the number of parliamentarians. 31% of the assemblies have two to three times more officials than deputies or senators. 37% of assemblies exceeded this proportion. The general trend was one of stabilisation, or even a decrease in numbers in these latter Parliaments, and an increase in those Parliaments which have a number of officials inferior or equal to the number of elected representatives.

The proportion of staff engaged in purely clerical tasks in relation to the total number of officials shows that, in half the Parliaments (out of the 33 responses examined), more than 50% of staff are clerical, this

percentage rising to 70% in a few assemblies. In the other half, the proportion of these officials is very variable (between 2 and 47%).

1.2 - Officials, for the most part, recruited specially by the Assemblies; their recruitment and career does not depend on the government (with the exception of Indonesia, Kenya, Namibia).

Certain assemblies insist on the absolute independence of parliamentary officials in their relation with the Executive and other officials (this is notably the case in the Parliaments of Belgium, Canada, Croatia, Estonia, Finland, France, Greece, Hungary, Italy, Romania and Uruguay). A certain number of assemblies employ government officials or those from other departments, or judges, beside those officials who are specifically recruited: Denmark (Folketinget), India (Second Chamber) Norway, European Parliament, Sweden, Czech Senate, Senegal, United Kingdom House of Lords.

The appointment of the Secretary General is a particular example of autonomy in the recruitment of officials. In a very great number of parliaments it is the President/Speaker who has the power of appointment; the Bureau or the assembly itself, very often on the proposal of the President/Speaker, also has this power in a very many cases. We note the involvement of the Crown in the Parliaments belonging to the Commonwealth or even of the Prime Minister and of the Finance Minister (the case of the Irish House of Representatives). Several Parliaments state that the Secretary General is appointed for a given period. Some assemblies state that the Secretary General is chosen from among parliamentary officials of a certain grade (French Parliament, Spanish Senate).

1.3 - Experts or consultants can be recruited in almost all assemblies. These are generally temporarily employed according to flexible procedures (time limited contract, fees, for example) and for very specific requirements.

## **2. Status of parliamentary officials**

The term "status" can be understood in the broad sense of situation. It also has the more precise legal sense of specific rule decided unilaterally by a public authority, as opposed to a contract which presumes the agreement of the parties and which is generally more flexible. Status is generally considered by the officials as rigid but also protective.

The great majority of assemblies grants their officials a status which in two thirds of cases is a special status peculiar to the officials of each chamber. However, in certain bicameral parliaments, they are officials of the parliament (in the Spanish Parliament they can move from one Chamber to another).

In a third of assemblies officials have the same general status as in the civil service. However, in a few assemblies, certain officials have the general status, others (the more numerous) the special parliamentary status. In a few Parliaments officials are governed by a contract. Several parliaments also mention the collective and trade union agreements between the assembly and its staff as being an aspect of staff guarantees. Almost all assemblies offer genuine stability of employment to their staff and affirm that the changes in the political majority have no effect on the recruitment and career of officials. Certain assemblies give a nuance to their response by the addition of an "in general" or "for the majority of staff". But it should also be observed that the assemblies which state that they do not offer a guarantee of a career to their officials (United Kingdom House of Lords, Second Chamber of the Netherlands, or Sweden) nevertheless in fact ensure stability of employment.

## **3. The career of officials**

The notion of career supposes duration. It has been shown that most assemblies guarantee by law or in practice this duration to their staff (with the exception of officials recruited for a limited period and of senior officials, the Secretary General, Directors General who, in certain assemblies, are appointed only for a limited time or subject to dismissal).

The notion of a career also implies a system of obligations, of rights and in particular the possibility of promotion for each official.

The following elements will be examined as they apply both at the beginning and during the course of a career. We will examine whether this career can proceed outside the parliamentary framework.

3.1 Recruitment takes place for each category of employment. It is on the basis of the requirements of an aptitude for the work and competence, which is tested by examination and open competition in a majority of assemblies or in the light of the qualifications and suitability of the candidates. Competition and choice based on qualifications or on a file can be combined. A certain number of Parliaments do not have a definite mode of selection. Several assemblies insist at the time of recruitment on the duties and particular obligations of the official, in particular on his neutrality and obligation of confidentiality.

3.2 Promotion can be automatic (a "career plan" to use the expression of the Belgian assemblies), by seniority, either for all staff regardless of grade or for certain grades only, access to certain executive and managerial posts being through selection. This selection is guided by the assessments of administrative superiors and is in many Parliaments made by them. But it is always a parliamentary authority which decides on promotion to management positions.

Certain assemblies guarantee career progression to their staff through promotion decided upon by a committee of both staff and management, by examination, or organise changes in grade through internal competition (the French assemblies, for example) according to pre-established rules. Other assemblies practice a policy of promotion by merit on the basis of ability and effectiveness, which are judged only by more senior staff, and facilitate mobility (German Bundestag or Parliament of the Netherlands for example). Whether there is a rigid status or more flexible management, concern for professional training and an improved matching of abilities to responsibilities is found in numerous Parliaments.

### **3.3 Secondment or placement to another department**

The position of secondment or placement, which allow links with the parliamentary administration not to be broken, exist in the very great majority of Parliaments. From among the 50 responses analysed, only nine were negative. In these cases, the staff of the assemblies have to be on unpaid leave, on half-pay, or have to suspend their employment contract, depending on the assembly, in order to fulfill another public function.

Among the positive responses, certain restrictions can be noted in assemblies where the staff are autonomous: the possibility of secondment or placement is limited to rare cases (Greece, Parliament of the United Kingdom) or in its length, or in the number of requests in the course of the same career (Egypt, Italy). The various limitations amongst assemblies on the acceptance by other departments of an official in terms of length of time or number of such requests, can be combined (French Assemblée Nationale). These limitations result from a concern for the independence of officials in relation to government departments or ministerial offices. They are a consequence of the administrative autonomy of Parliaments,

By contrast, possibilities of passing from one department to another are very much enlarged in Parliaments where staff are governed by the rules for the Civil Service (German Bundestag in particular) or originate from other departments (Niger for example).

### **3.4 Candidacy and elections of parliamentary officials.**

Three questions arise: the right to be a candidate in an election, the administrative position of someone elected, the position of someone defeated.

- The right to be a candidate in an election. The situation envisaged is election to the legislative assembly. But it could be extended to any national political election. The case of elections to

regional, local or professional bodies is not considered, or does not appear to pose a major problem. More than two-thirds of assemblies respond positively to this first question. Certain responses make clear that it is a constitutional right; others that the candidate has to take unpaid leave (Canadian Senate). But in one-third of assemblies, candidacy is considered to be incompatible with the position of a parliamentary official. Several assemblies formulate this incompatibility in terms of a prohibition based on the necessity of respecting the principle of the political neutrality of officials (Parliament of the United Kingdom, Sri Lanka, Zambia in particular). In other cases, resignation from the position of parliamentary official is the necessary prerequisite for candidacy. However, certain assemblies provide for re-employment in the event of failure in the election (Australian House of Representatives, Greece).

- The elected official cannot continue to fulfill his administrative duties (only the Swiss Parliament expressed doubt concerning the Assembly of States). Solutions mentioned are resignation, leave, suspension of position, secondment. These various solutions all imply the non-coincidence of administrative and elected functions and the non-coincidence of their remuneration. Some assemblies state that re-employment is a right at the end of the parliamentary mandate or in cases of failure. This is particularly so in Egypt, Italy, France, Russia, etc. In several assemblies the return of officials cannot take place until a certain period has elapsed.

But the main difference is between solutions which break relations with the parliamentary administration (resignation) and those which maintain them (secondment).

#### **4. Protection of officials in the case of an attack on their rights**

Parliamentary assemblies, like all other departments, provide for the possibility of an official contesting a decision which involves him or her, or the interpretation of a regulation, with his superiors. This appeal be it to a higher authority or to the same authority for reconsideration, can be made at several levels and, in certain cases, ends up before the President/Speaker or a Committee of the Chamber.

With regard to appeal to the courts, this is possible for individual actions relating to officials in a large number of assemblies. Sometimes an administrative court is competent (German Bundestag, France, Greece, Uruguay), sometimes an ordinary court depending on the nature of the dispute, sometimes a specialised court (an employment court in Senegal) or an arbitration tribunal (Canadian House of Commons). Most parliaments do not make a distinction according to whether the action disputed relates to general regulations or whether it is of an individual nature. Only this latter type of action is capable of challenge in certain assemblies (French Assemblée Nationale and Senate). Administrative actions of the Parliaments in Zambia, Belgium and Italy cannot be appealed against in court (in Italy a recent development is moving in the other direction). However, there exists in the two assemblies of the Italian Parliament internal committees with a legal authority.

In the Finnish Parliament, decisions taken by the parliamentary committee with regard to officials cannot be taken to appeal before a court.

Thus, despite the dominant tendency to submit actions concerning parliamentary officials to the control of the courts, some strongly distinct positions emphasise yet again the specificity and autonomy of the parliamentary service.

#### **5. Social protection of officials**

There are few Parliaments which enjoy absolutely autonomous arrangements for the social protection of their officials. The Italian, French and United Kingdom assemblies possess and administer autonomous systems which assure a comparable or superior protection to that of other public departments. Certain assemblies have an autonomous system but do not administer it themselves (Australian Senate, Thailand Senate, House of Representatives of Indonesia).

As a whole, assemblies stick to the general protection arrangements for public officials but add to it supplementary insurance (Norway, Belgian Senate) or a specific system for retirement administered by the assembly (Greek Parliament) or various benefits.

## CONCLUSION

The assessment of assemblies is, for 22 assemblies, positive since nineteen of them (Australian House of Representatives, House of Representatives of Cyprus, Senate of Spain, Folketinget of Denmark, Finland, Greece, House of Representatives of Indonesia, House of Representatives of Ireland, Kuwait, Norway, Portugal, European Parliament, Romanian Senate, Russia, Sweden, Senegal, Switzerland, Thailand, United Kingdom House of Lords and Zambia) think that their autonomy has increased or has a strong chance of increasing.

Thirteen Parliaments consider it stable (German Bundestag and Bundesrat, Canadian Senate, Czech Republic, Estonia, Italian Chamber of Deputies and Senate, Hungary (since 1990), Second Chamber of India, Netherlands, Sri Lanka, National Assembly of Turkey and Uruguay Senate). Only two assemblies mention a certain decline (Belgian Parliament), one assembly insufficient autonomy (Niger) and one assembly a stability under threat (French Assemblée Nationale).

On the other hand, certain young assemblies do not seem as yet to be granted genuine administrative and financial autonomy. This is the case for the National Assembly of Namibia.

The note of dissatisfaction, albeit relative, expressed by the Parliament of Belgium is due to the application of general law in matters of tax, contracts, allowances for members of parliament, and increased budgetary constraints. The French Assemblée Nationale notes for its part the attempts of important authorities to reduce its autonomy: a recent judgment of the Conseil d'Etat has extended the control of the courts over certain actions of the Assemblée, going beyond the instances provided for in law.

On the other hand for the Parliament of Niger (and many African assemblies are in the same situation) the issue is the legitimate aspiration to free itself from government supervision, in particular from the Ministry of Finance, and to gain that autonomy which its older francophone sisters are trying hard to defend.

It is this budgetary and financial freedom, particularly in the drawing up of the budget, which explains the positive assessments made by other Parliaments. The gaining of improvements in administrative autonomy through control of internal organisation and above all through the recruitment of parliamentary officials at a senior level is also considered to be clear progress. Improvement in the internal efficiency and competence of the parliamentary administration results in a decline in the supervision of government departments (examples of Greece and the United Kingdom). Control of the administration of parliamentary property and buildings is also a factor in the growth of autonomy, as are the attainment of legal personality and the control of internal security.

It is striking to note that this trend to a greater autonomy materialized in several Parliaments at the end of the 1970s and the beginning of the 1980s. A new wave of reforms of the same kind characterises, so it seems, the end of this millennium for many assemblies.

One of the striking aspects of this trend towards greater autonomy is its universality: whilst very strong in those new assemblies which have to achieve a basic autonomy, the trend is also found in the oldest parliaments.

It is clear, however, that the administrative and financial autonomy of Parliaments is also dependent on the institutions of the State to which they belong. Furthermore, they depend on the high or low regard in which Parliament is held by public opinion.

**List of the 52 responses to the Questionnaire of Mr Couderc**  
(52 assemblies - 40 countries plus the European Parliament)

<b>Australia</b> - House of Representatives and Senate	<b>Kenya</b> - National Assembly
<b>Belgium</b> - Chamber of Representatives and Senate	<b>Kuwait</b> - Parliament
<b>Canada</b> - House of Commons and Senate	<b>Namibia</b> - National Assembly
<b>Croatia</b> - Parliament	<b>Niger</b> - National Assembly
<b>Cyprus</b> - Chamber of Representatives	<b>Netherlands</b> - First and Second Chambers
<b>Czech Republic</b> - Chamber of Deputies and Senate	<b>Norway</b> - Parliament
<b>Denmark</b> - Folketinget	<b>Philippines</b> - House of Representatives and Senate
<b>Egypt</b> - People's Assembly	<b>Portugal</b> - Assembly of the Republic
<b>Estonia</b> - Parliament	<b>Romania</b> - Chamber of Deputies and Senate
<b>European Parliament</b>	<b>Russia</b> - Council of the Federation
<b>Finland</b> - Parliament	<b>Senegal</b> - National Assembly
<b>France</b> - Assemblée Nationale and Senate	<b>Spain</b> - Senate
<b>FYR Macedonia</b> - Parliament	<b>Sri Lanka</b> - Parliament
<b>Germany</b> - Bundestag and Bundesrat	<b>Sweden</b> - Parliament
<b>Greece</b> - Parliament	<b>Switzerland</b> - Parliament
<b>Hungary</b> - National Assembly	<b>Thailand</b> - Senate
<b>India</b> - Rajya Sabha	<b>Turkey</b> - National Assembly
<b>Indonesia</b> - House of Representatives	<b>United Kingdom</b> - House of Commons and House of Lords
<b>Ireland</b> - Chamber of Representatives	<b>Uruguay</b> - Senate
<b>Israel</b> - Knesset	<b>Zambia</b> - National Assembly
<b>Italy</b> - Chamber of Deputies and Senate	