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ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS

Minutes of the Autumn Session 2014

Geneva
17 – 20 March 2014

LIST OF ATTENDANCE

MEMBERS PRESENT

NAME	COUNTRY
Mr. Shah Sultan AKIFI	Afghanistan
Dr. Hafnaoui AMRANI	Algeria
Mr. Alexis WINTONIAK	Austria
Mr. Pranab CHAKRABORTY	Bangladesh
Mr. Hugo HONDEQUIN	Belgium
Mr. Marc VAN DER HULST	Belgium
Mr. Tshewang NORBU	Bhutan
Ms. Petya GLADILOVA	Bulgaria
Mrs. Emma ZUBILMA MANTORO (candidate member)	Burkina Faso
Ms. Libéria das Dores ANTUNES BRITO	Cabo Verde
Mr. OUM Sarith	Cambodia
Mr. Victor YÉNÉ OSSOMBA	Cameroon
Mr. Marc BOSC	Canada
Mr. Gali Massa HAROU	Chad
Mr. Luis ROJAS GALLARDO	Chile
Mr. Mario LABBE	Chile
Ms. Vassiliki ANASTASSIADOU	Cyprus

NAME	COUNTRY
Mr. David BYAZA-SANDA LUTALA	Congo (Democratic Republic of)
Mr. Modrikpe Patrice MADJUBOLE	Congo (Democratic Republic of)
Mr. Jiři UKLEIN	Czech Republic
Mr. Petr KYNŠTETR	Czech Republic
Ms. Libia Fernanda RIVAS ORDOÑEZ	Ecuador
Ms. Maria ALAJŎE	Estonia
Mr. Debebe BARUD	Ethiopia
Mr. Negus LEMMA GEBRE	Ethiopia
Mr. Victorino Nka OBIANG MAYE	Equatorial Guinea
Mrs Corinne LUQUIENS	France
Mr. Edmond SOUMOUNA	Gabon
Mr. Félix OWANSANGO DEACKEN	Gabon
Mr. Edmond SOUMOUNA	Gabon
Mr. Zurab MARAKVELIDZE	Georgia
Dr. Ulrich SCHÖLER	Germany
Mr. Emmanuel ANYIMADU	Ghana
Dr. Athanassios PAPAIOANNOU	Greece
Dr. György SUCH	Hungary
Mr. Shumsher K. SHERIFF	India
Dr. Winantuningtyas Titi SWASANANY	Indonesia
Mr. Hossein SHEIKHOLISLAM	Iran
Mr. Ayad Namik MAJID	Iraq
Mr. Hamad GHRAIR	Jordan
Mr. Jeremiah M. NYEGENYE	Kenya

NAME	COUNTRY
Mr. JI Sung-bae	Korea Republic of
Mr. Allam Ali Jaafer AL-KANDARI	Kuwait
Mr. Lebohang Fine MAEMA	Lesotho
Mr. Gedeminas ALEKSONIS	Lithuania
Dr. Madou DIALLO	Mali
Mr. Damir DAVIDOVIC	Montenegro
Mr. Najib EL-KHADI	Morocco
Mr. Abdelouahed KHOUJA	Morocco
Ms. Panduleni SHIMUTWIKENI	Namibia
Mr. Johannes JACOBS	Namibia
Mr. Geert Jan A. HAMILTON	Netherlands
Mr. Benedict EFETURI	Nigeria
Dr. Khalid Salim AL-SAIDI	Oman
Mr. Vela KONIVARO (candidate member)	Papua New Guinea
Mr. Karamat Hussain NIAZI	Pakistan
Mr. Amjed Pervez MALIK	Pakistan
Mr. Oscar G. YABES	Philippines
Mrs. Ewa POLKOWSKA	Poland
Mr. José Manuel ARAÚJO	Portugal
Dr. Mohammed Abdullah AL-AMR	Saudi Arabia
Mr. Baye Niass CISSÉ	Senegal
Ms. Azarel Jolinda ERNESTA	Seychelles
Mr. Daniel GUSPAN	Slovakia
Mr. Modibedi Eric PHINDELA	South Africa

NAME	COUNTRY
Mr. Manuel CAVERO	Spain
Mr. Neil IDDAWALA	Sri Lanka
Mr. Abdelgadir ABDALLA KHALAFALLA	Sudan
Mr. Claes MÅRTENSSON	Sweden
Mrs. Martina BUOL	Switzerland
Mr. James WARBURG	Tanzania
Mr. Somsak MANUNPICHU	Thailand
Mrs. Saithip CHAOWALITTAWIL	Thailand
Mr. Yambandjoï KANSONGUE	Togo
Dr. İrfan NEZİROĞLU	Turkey
Mr. Paul GAMUSI WABWIRE	Uganda
Dr. José Pedro MONTERO	Uruguay
Mr. Abdullah AHMED SOFAN	Yemen (Republic of)
Mrs. Doris Katai Katebe MWINGA	Zambia
Mr. Austin ZVOMA	Zimbabwe

ASSOCIATE MEMBERS

NAME	COUNTRY
Mr. Wojciech SAWICKI	Council of Europe
Dr. Cheick Abdelkader DANSOKO	ECOWAS Parliament
Mr. Kenneth MADETE	East African Legislative Assembly (EALA)
Mr. Boubacar IDI GADO	Inter-parliamentary Committee of the West African Economic and Monetary Union (WAEMU)
Mr. Said MOKADEM	Maghreb Consultative Council
Mr . Sergey STRELCHENKO	Union of Belarus & the Russian Federation

SUBSTITUTES

NAME	COUNTRY
Mr. Yousif A. ALROWAIE (for Mr. Jamal J. ZOWAYED)	Bahrain
Mrs. Christine VERGER (for Mr. Klaus WELLE)	European Parliament
Dr. Thorsteinn MAGNUSSON (for Mr. Helgi BERNÓDUSSON)	Iceland
Mr. Ken SHIMIZU (for Mr. Takeshi NAKAMURA)	Japan
Mr. Jossey MWAKASYUKA (for Dr. Thomas Didimu KASHILILAH)	Tanzania
Mr. Somphong PRECHATANAPOJ (for Mr. Suwichag NAKWATCHARACHAI)	Thailand
Ms. Keiba JACOB (for Ms. Jacqui SAMPSON-MEIGUEL)	Trinidad and Tobago
Mr. Brendan KEITH (for Mr. David BEAMISH)	United Kingdom
Mr. Andrew KENNON (for Sir Robert ROGERS)	United Kingdom

ALSO PRESENT

NAME	COUNTRY
Mr. Pedro AGOSTINHO DE NERI (non-member)	Angola
Mr. Domingas BRITO (non-member)	Angola
Mrs. Chris NFILA (non-member)	Botswana
Ms. Liliane NIZIGIYIMANA (non-member)	Burundi
Mr. John SMOK (non-member)	Chile
Mr. Roger MBOMBO GAYALA (non-member)	Congo (Democratic Republic of)
Mr. Basila Claude SWEDY (non-member)	Congo (Democratic Republic of)
Mr. Lawal Adegbite DUDUYEMI (non-member)	ECOWAS Parliament
Mr. Iván ROSALES (non-member)	El Salvador
Mrs Perla Divina DWONO EFUA (non-member)	Equatorial Guinea
Mr. Daniel CARDOS (non-member)	The Gambia
Mrs. Varvara GEORGOPOULOU (non-member)	Greece
Ms. Warsiti ALFIAH (non-member)	Indonesia
Mr. Slamet SUTARSONO (non-member)	Indonesia
Ms. Tatang SUTHARSA (non-member)	Indonesia
Mr. Ali AFRASHTEH (non-member)	Iran
Mr. Michael SIALAI (non-member)	Kenya
Ms. Irena MIJANOVIĆ (non-member)	Montenegro
Mr. César BONIFACIO (non-member)	Mozambique
Mr. Armando Mário CORREIA (non-member)	Mozambique
Dr. Rabi AUDY (non-member)	Nigeria
Mrs. Agata KARWOWSKA-SOKOŁOWSKA (non-member)	Poland
Mr. Abdullahi AHMED HUSSEIN (non-member)	Somalia

Mrs. Chanpen ANAMVAT (non-member)	Thailand
Mr. Piyachat CHUNCHIT (non-member)	Thailand
Mr. Wittawat HOMPIROM (non-member)	Thailand
Mr. Monton NOPPAWONG (non-member)	Thailand
Mrs. La Or PUTORNJAI (non-member)	Thailand
Mrs. Phinissom SIKKHABANDIT (non-member)	Thailand
Ms. Kanjanat SIRIWONG (non-member)	Thailand
Mr. Anuvat TANTIVONG (non-member)	Thailand
Mr. Vitorino F. M. DOS REIS (non-member)	Timor Leste
Mr. NGUYEN Si Dung (non-member)	Vietnam
Mrs. NGUYEN Thanh Hai (non-member)	Vietnam
Mr. VU Dai Phuong (non-member)	Vietnam

APOLOGIES

NAME	COUNTRY
Mr. Jamal ZOWAID	Bahrain
Mrs Emma DE PRINS	Belgium
Mr. Sérgio SAMPAIO CONTREIRAS DE ALMEIDA	Brazil
Mr. Klaus WELLE	European Parliament
Mr. Helgi BERNÓDUSSON	Iceland
Ms. Yardena MELLER-HOROWITZ	Israel
Mr. Satoru GOHARA	Japan
Mr. Takeshi NAKAMURA	Japan
Mr. Makoto ONITSUKA	Japan
Mr. Kyaw SOE	Myanmar

Ms. Ida BØRRESEN	Norway
Mr. Khan Ahmad GORAYA	Pakistan Institute for Parliamentary Services (PIPS)
Ms. Penelope Nolizo TYAWA	South Africa
Dr. Thomas Didimu KASHILILAH	Tanzania
Mr. Suwichag NAKWATCHARACHAI	Thailand
Mrs. Norarut PIMSEN	Thailand
Ms. Jacqui SAMPSON-MEIGUEL	Trinidad and Tobago
Mr. David BEAMISH	United Kingdom
Sir Robert ROGERS	United Kingdom

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FIFTH SITTING – Wednesday 19 March [pm]

SIXTH SITTING – Thursday 20 March [am]

FIRST SITTING
Monday 17 March 2014 (Morning)

Mr Marc BOSC, President, in the Chair

The sitting was opened at 11.10 am

1. Opening of the Session

Mr Marc BOSC, President, opened the session and welcomed members of the Association, particularly the new members. He asked all those attending to check the attendance lists in the entry hall.

He indicated that Inés, Emily, Karine and Jenny were there to welcome members and to answer their questions.

2. Election to the Executive Committee

Mr Marc BOSC, President, noted that there would be elections for two posts of ordinary member of the Executive Committee during the session. If necessary, the vote would be held on Wednesday 19 March at 11.00 am. The deadline for nominations had been fixed at 4 pm on Tuesday 18 March. He emphasised that it had been common practice that candidates were active members of the Associations and indicated that both women and French-speakers were under-represented on the Committee. Anyone interested could ask the Co-Secretaries for further information, and both nomination forms and guides to the relevant procedures were available at the back of the room.

3. Orders of the Day

Mr Marc BOSC, President, noted the following modifications to the draft Agenda:

- He had received apologies from Mr XASO and Mrs TYAWA (South Africa) and consequently they would not make their communications.

- A new communication had been agreed, from Mr MAGNUSSON (Iceland).

He reminded members of the etiquette for participation: speakers had ten minutes to present a communication, not including questions and other interventions, and five minutes for an intervention. Variations were possible depending on the circumstances, but the rules should permit everyone to participate. The limits on sitting times reflected

the need to give the interpreters a break from their work: consequently, sittings would conclude at 12.30 pm and 5.30 pm each day.

He thanked the speakers and moderators and asked those who had not yet provided the texts of the remarks to do so, in both languages, at their earliest convenience.

He reminded members that the following day, on the suggestion of Mr NATZLER (United Kingdom) there would be an excursion to the Grand Council of Geneva. The visit would begin at 10.30 am. Members were required to find their own way there. An aperitif buffet would be provided at the end of the visit. The Genevan authorities had kindly organised this visit and members were encouraged to participate.

He announced that on Thursday members would have a demonstration of the new website.

He read the proposed Orders of the Day as follows:

Monday 17 March

Morning

9.30 am Meeting of the Executive Committee

11.00 am Opening of the session

Orders of the day of the Conference

New members

Communication by Dr. Athanassios PAPAIOANNOU, Secretary General of the Hellenic Parliament: "Legislating at a time of economic crisis"

Communication by Mr Eric PHINDELA, Secretary to the National Council of Provinces of South Africa: “Enhancing laws affecting provinces: the role of the National Council of Provinces in the law-making process”

Afternoon

Communication by Mr Geert Jan A. HAMILTON, Clerk of the Senate of the States General of the Netherlands : “The role of national Parliaments in the European Union”

Communication by Mr. JI Sung-Bae, Deputy Secretary General of the National Assembly of the Republic of Korea: “2014 World e-Parliament Conference”

General debate: Co-ordination of assistance and support to other Parliaments

Moderator: Dr Ulrich SCHÖLER, Deputy Secretary General of the Bundestag of Germany

Tuesday 18 March

Morning

Excursion to the Grand Council of Geneva

Tuesday 18 March

Afternoon

2.30 pm	Meeting of the Executive Committee
3.00 pm	Communication by Mrs Corinne LUQUIENS, Secretary General of the National Assembly and of the Presidency, France: “Guidelines for ethics at the National Assembly”
	Communication by Mr Claes MÅRTENSSON, Deputy Secretary General of the Riksdag, Sweden: “A Code of Conduct for MPs – what, why and how?”
	Communication by Mrs Doris Katai Katebe MWINGA, Clerk of the National Assembly of Zambia: “The process of removing the immunity of a former President by the National Assembly – the Zambian experience”
	Communication by Mr David BYAZA-SANDA LUTALA, Secretary General of the Senate of the Democratic Republic of Congo: "The procedure for reviving the mandate of a parliamentarian following the exercise of an executive function by him or her – the case of DRC Parliament"
4.00 pm	Deadline for nominations for the vacant post on the Executive Committee (ordinary member)

Wednesday 19 March

Morning

9.30 am	Meeting of the Executive Committee
10.00 am	Communication by Mr Damir DAVIDOVIC, Secretary General of the

Parliament of Montenegro: “Involving civil society in the legislative and scrutiny process”

Communication by Mr Thorsteinn MAGNUSSON, Assistant Secretary General of the Althingi in Iceland: “A unique seating arrangement: the case of the Icelandic Parliament”

11.00 am Election of an ordinary member of the Executive Committee

11.15 am General debate: Parliamentary communications and public relations

Moderator: Mr Somsak MANUNPICHU, Deputy Secretary General of the Senate of Thailand

Introduction followed by informal discussion groups

Wednesday 9 October

Afternoon

2.30 pm Presentations by rapporteurs and general debate: Parliamentary communications and public relations

General debate: Restoring public trust in Parliament

Moderator: Dr Winantuningtyas Titi SWASANANY, Secretary General of the house of Representatives of Indonesia

Communication by Ms Maria ALAJÕE, Secretary General of the Riigikogu of Estonia: “Public access to records of committee meetings – a case study from Estonia

Communication by Mrs Saithip CHAOWALITTAWIL, Deputy Secretary General of the House of Representatives of Thailand: “Engaging the public in the new Thai Parliament”

Thursday 20 March

Morning

9.30 am Meeting of the Executive Committee

10.00 am Presentation on recent developments in the Inter-Parliamentary Union

Communication by Mrs Jacqueline BIESHEUVEL-VERMEIJDEN, Secretary General of the House of Representatives of the States General of the Netherlands, and Mr Peter BRANGER, Director of the Information Unit: "Innovative practices in the Dutch Parliament: a new corrections website and the system for reporting plenary and committee meetings"

Administrative and financial questions

Examination of the draft agenda for the next meeting (Geneva, October 2014)

12.30 pm Closure

The Orders of the Day were *agreed* to.

4. Members

Mr Marc BOSC, President, paid homage to Mr Fakhy KONATE, Secretary General of the National Assembly of the Ivory Coast, who had died in office. He also announced the resignation of Mr Manuel ALBA NAVARRO (Spain) and remembered his active contribution to the Association. The Association agreed, on the suggestion of the Executive Committee, that he would be made an honourary member of the Association.

NEW MEMBERS	POSITION
Mr. Tshewang NORBU	Secretary General of the National Council of Bhutan
Ms. Petya GLADILOVA	Acting Sectary General of the National Assembly of Bulgaria (replacing Mr. Ivan Slavchov)
Ms. Libéria das Dores ANTUNES BRITO	Secretary General of the National Assembly of Cabo Verde (replacing Mr. Adalberto de Oliveira Mendes)
Mr. Michel MEVA'A M'EBOUTOU	Secretary General of the Senate of Cameroon
Mr. Jl Sung-Bae	Deputy Secretary General of the National Assembly fo the Republic of Korea (replacing Mr. Chung, Jin-Suk)
Mr. Olivier CHABORD	Secretary General of the Questure of the

NEW MEMBERS	POSITION
	National Assembly of France (replacing Mrs. Danièle Rivaille)
Mr. Satoru GOHARA	Deputy Secretary General of the House of Councillors of Japan (replacing Mr. Takeshi Nakamura, who has become Secretary General)
Mr. Daniel GUSPAN	Secretary General of the National Council of the Slovak Republic (replacing Mr. Viktor Stromček)
Mr. Abdelgadir ABDALLA KHALAFALLA	Secretary General of the National General of the National Assembly of Sudan (replacing Mr. Ibrahim Mohamed Ibrahim)
Mr. Mateus XIMENES BELO	Secretary General of the National Parliament of Timor Leste (replacing Mr. João Rui Amaral)

FOR ASSOCIATE MEMBERSHIP	POSITION
Mr. Jandos ASANOV	Secretary General of TURKPA (Parliamentary Assembly of the Turkic countries) (replacing Mr. Ramil Hasanov)
Mr. Tshewang NORBU	Secretary General of the National Council of Bhutan
Ms. Petya GLADILOVA	Acting Secretary General of the National Assembly of Bulgaria (replacing Mr. Ivan Slavchov)
Ms. Libéria das Dores ANTUNES BRITO	Secretary General of the National Assembly of Cabo Verde (replacing Mr. Adalberto de Oliveira Mendes)
Mr. Michel MEVA'A M'EBOUTOU	Secretary General of the Senate of Cameroon

Mr. JI Sung-bae	Deputy Secretary General of the National Assembly of the Republic of Korea (replacing Mr. Chung, Jin-Suk)
Mr. Olivier CHABORD	Secretary General of the Questure of the National Assembly of France (replacing Mrs. Danièle Rivaille)
Mr. Satoru GOHARA	Deputy Secretary General of the House of Councillor of Japan (replacing Mr. Takeshi Nakamura, who has become Secretary General)
Mr. Daniel GUSPAN	Secretary General of the National Council of the Slovak Republic (replacing Mr. Viktor Stromček)
Mr. Abdelgadir ABDALLA KHALAFALLA	Secretary General of the National Assembly of Sudan (replacing Mr. Ibrahim Mohamed Ibrahim)
Mr. Mateus XIMENES BELO	Secretary General of the National Parliament of Timor Leste (replacing Mr. João Rui Amaral)

For associate membership:

Mr. Jandos ASANOV	Secretary General of TURKPA (Parliamentary Assembly of the Turkic countries) (replacing Mr. Ramil Hasanov)

The new members were *agreed* to.

5. Communication by Dr Athanassios PAPAIOANNOU, Secretary General of the Hellenic Parliament: "Legislating at a time of economic crisis"

Mr Marc BOSC, President, invited Dr Athanassios PAPAIOANNOU, Secretary General of the Hellenic Parliament, to open the debate.

Dr Athanassios PAPAIOANNOU (Greece) spoke as follows:

Dear Colleagues,

The economic crisis which many countries in Europe and around the world are undergoing in the last six years has a lot of victims: employees, businesses, unemployed, young people, women, vulnerable groups, and of course governments. This is apparent to any observer of the economic, social and political life of the countries which have been hit by the crisis.

What, however, is not always apparent are the negative consequences that this crisis has upon the parliamentary process and especially the legislative procedure within the parliament. The demands of the lenders, the expectations of the markets, the strict deadlines imposed by the need of a country to borrow money to avoid default lead the governments to change long existing laws within a matter of days and by the shortest parliamentary procedures.

All legal systems of democratic countries provide for some form of expedited, short legislative process in cases of emergency. This process is of course constitutional and in certain cases unavoidable but it has certain negative consequences upon the quality of legislation, the efficiency of the parliamentary process and, to some extent, to the appeal of the parliamentary system to the citizens.

In my presentation, I will use my country's case as an example to share with you my thoughts and concerns about this development which I find highly problematic, even if it is unavoidable to a certain degree.

Before I give precise statistics about what happened in these last four years of emergency legislation under the pressure of the economic crisis, I will briefly present the procedures which are applied in the Greek Parliament when a law is proposed by the Government.

In the Greek parliamentary system, there are three legislative procedures: the regular, the urgent and the very-urgent procedure. In this presentation, we will focus to the regular and the very-urgent procedure since the urgent procedure has a very limited practical importance.

According to the regular procedure, which is followed in most of the cases, when a law is introduced in the Parliament by the Government, the relevant Standing Committee is convened with at least three days notice, which may be shortened to two if the Speaker agrees to.

The elaboration of the law by the Committee takes place in two stages, the so called two readings. A period of 7 days must intervene between these two stages, unless the Committee decides to shorten the interval to two days. The first reading includes a maximum of three sittings of the Committees. In the first sitting, the draft law is discussed in principle; usually during the second sitting the so called non parliamentarian stakeholders (trade unions, business associations, scientific experts etc.) are called upon to give their opinion. In the third sitting, the law is discussed in its principle and article-by-article.

Thus, the first reading is concluded, seven days elapse and the second reading takes place where the law is examined again, article-by-article in one sitting.

Then the draft law, as it has been modified in the Standing Committee, is introduced in the Plenary Session. The debate may begin after at least three days from the date that the Standing Committee finishes its second reading and submits the draft law to the Plenary.

The debate in the Plenary Session concerning the principle and the articles of the draft law takes place, usually in two sittings and then after two days the draft law is voted as a whole, as it has been finalized by the amendments accepted during the debate.

To sum up, the regular parliamentary process of enacting a bill from the time of its introduction by the Government to the Parliament lasts for 16-21 days, a period during which the political parties, the media, the social partners, the N.G.O.s, the professional associations etc. may discuss both in and outside the Parliament and influence the procedure and the final content of the law, even if the government has a solid majority and passage of the law is not in question.

In contrast to this 16-21 days time schedule, we have the very-urgent procedure which has a strict 48 hours schedule. In other words, the Speaker may send the bill immediately as he receives it to the Standing Committee, the Committee –if it adopts the characterization as “very urgent”- will have to conclude the debate within one sitting and then the Plenary Session will sit the next day and will have to conclude the debate and the voting within ten hours.

In normal periods, the use of this procedure has been very rare. During the period from 1993 till 2009, when economic crisis broke out, the very urgent procedure was followed only in less than 0,5% of the draft laws which were discussed and voted in the Parliament. Following the 2009 elections, this percentage increased to 3.73% and since 2012 it further increased to 4.91%.

Now, one may assume that this 5% is a reasonable percentage and should not give cause for concern. However, these statistics are the verification of the dictum that “there are lies, there are big lies and there are statistics”.

To realize the extent of the problem, one should take in account that around 40% of the laws are mere enactments of international treaties or bilateral treaties which do not raise any political problems and are generally easily adopted by the Parliament by unanimity or by a broad consensus.

So, we have to discount these treaties from the total number of the laws. When we do this, we find that the percentage of very urgent law has risen since 2009 to 6,1% and since 2012 to 9,4%. In other words, one in every 10 laws was debated and enacted within 2 days after it was sent by the Government to the Parliament.

And the story does not finish here, because still the above statistics are misleading. Among the laws which were enacted within 2 days, were the most important laws which changed the law in social security, health care, labour law, civil administration law and tax law. Most of the provisions which were abolished or modified were in place for decades.

But this is not the whole story. One has to take in account that the draft laws which were debated and enacted with the very urgent procedure were composed of 100-200 articles and they covered hundreds of pages.

When we consider the importance, the amount and the complexity of the legislation which was enacted, we realize the problem, both for the individual MP and the political parties.

The individual MP had one night to study the law, consult his scientific associates, contact his fellow MPs of the same party to exchange views and finally prepare his approach to the law for the session of the Committee in the following morning, including drafting amendments to specific provisions of the law.

As for the political parties, they have to make up their minds and announce their position within a few hours, which means that a couple of deputies and experts read the text of the draft law, they gave their opinion to the leader of the party and thus the party announced its position without any internal democratic and well-informed process, which presumably should take place before a party announces its support or its opposition for the law.

But, there are, also, other aspects which are equally disturbing. When a statute is enacted with such fast-track procedure:

a) no public consultation takes place before the “very urgent” law is sent to the Parliament,

b) the Economic and Social Committee which is required by the Constitution to issue an opinion on the draft law is not given any opportunity to fulfill this duty,

c) the State’s General Accounting Office which has to prepare a report on the economic costs and benefits that the provisions of the draft law entail usually has one day to do it before the law goes to the Parliament,

d) the impact assessment report which has to accompany the draft law, is written piecemeal and within an asphyxiating time schedule. This report is supposed to assess the impact of the draft law upon the environment, the employment, the gender equality and other critical issues. One may easily imagine how insufficient such a report will be,

e) such a process, deprived of vital guarantees for proper legislation, also entails the following risk: Within the tenths or hundreds of provisions which have indeed

to do with the problem at stake and they are indeed of urgent nature, there may be other provisions, well hidden, not urgent but of highly questionable purpose, which will be enacted with the whole draft law and nobody will give them the proper attention. In other words, they will be voted without having been subjected to an adequate parliamentary screening.

Having stated the problem and its consequences, I feel obliged to make some suggestions as to what could be done to minimize the negative impact of such procedures. It would be easy to say that very-urgent procedures should be avoided but this would be just a meaningless wish since there will always be some extraordinary cases where an extraordinary procedure will be necessary to be followed. And if a country is in the middle of an unprecedented economic crisis, the frequency of the use of such procedures will be increased, no matter what the parliamentary law professors or the opposition parties or we, the administrators of the Parliaments will say.

So what we must pay attention at is, as I said before, to find ways to minimize the negative effects of these procedures.

I think that the key lies in how we legislate in normal times. In other words, if we fulfill the requirements of the so called good governance and more particularly, of good legislation, the process of changing the legislation in an extraordinary financial situation will be less chaotic and more focused. Here are some suggestions:

a. If institutionalized ways of social dialogue are being followed in normal periods and a culture of dialogue has been developed among the stakeholders in a given country, then the dialogue may sustain the pressure of a severe economic crisis and produce more consensual results.

b. If the laws are better expressed, if the basic labour, social insurance, tax and other legislation is codified during normal times, then the changes in a crisis time will be easier for an MP to understand and accordingly evaluate.

c. The laws which are enacted in normal periods, have to be constantly evaluated after their enactment; their application in real life must be assessed and reassessed so that they are timely reconsidered and adapted. Such changes are much more effective when they are done in a normal period rather than in a crisis period.

d. The MPs must be periodically briefed by the executive branch, academic research institutes, scientific experts as well as by the scientific services of the Parliament itself about the basic developments in the economy so that they have adequate information when the time comes that they will have to act in a few days period. In this context, the existence of a well staffed and independent from the Ministry of Finance Parliamentary Budget Office is of vital importance.

e. When the government is preparing a law which it intends to pass through very-urgent legislation, it must inform the Parliament about the basic issues and

dilemmas that it faces and the solutions that it is examining. In such a way, both the government will be better informed about the mood of the Parliament, and the MPs will be better prepared to evaluate the law when it is debated in a few days.

But if these suggestions concern what should happen before the crisis period or before the passage of very urgent procedures, there are also things which should be done after the passage of these emergency laws. Here are suggestions:

a. It is absolutely necessary to have a process of second reading in the urgent procedure. Extending a 2 days process by another, for example, two days for a second reading will not create a big problem to the executive power but it will certainly give the MPs the opportunity to read again the final text of the law and identify mistakes or, even worse, provisions of questionable or not urgent nature.

b. The laws which pass in such a way, should be reassessed in their application by the Parliament even more closely than the regular ones.

c. To take the above suggestion to its extreme, I would even suggest that in some critical provisions, a sunset clause perhaps should be added. In other words, these provisions should have an expiration date. Until that date, the Parliament will have to reconsider them and vote in favor of them again if these provisions are to continue after this expiration date. This will give the opportunity to the Parliament to debate the laws in a better way, free from the tensions and the pressures of a very urgent procedure.

d. Such emergency laws usually create a lot of legal problems, including constitutional questions. These issues must be quickly resolved in the courts. A way must be found so that cases arising out of such laws are quickly adjudicated. It would be wrong for such constitutionally questionable provisions to shape the legal order of a country for several years until they are decided by the courts.

With these remarks, I would like to conclude my representation. My purpose was to describe to you a situation which prima facie may concern my country, but I am sure that at some point of their history all countries have faced or will face similar challenges for their parliamentary procedures, whether it is because of a severe economic crisis or of a terrorist attack or some other emergency which require quick answers.

I hope that by the debate which will follow, we will all enrich our experiences in such a vital issue for the quality of our legislative process.

Mr Marc BOSC, President, thanked Dr Athanassios PAPAIOANNOU and indicated that there was some time remaining for questions, but before that, he would like to give an example from his country, Canada. Canada had enacted comparable legislation, a bill that contained a large number of clauses to be adopted quickly, in less than two days.

The contents of the Christmas tree bill had resembled the situation Mr PAPAIOANNOU had described quite closely.

Mr Manuel CAVERO GOMEZ (Spain), said that, in Spain, the economic crisis had not yet had an impact on the legislative process. He indicated that some Governmental decrees had the force of law. The Senate had not realised this. He added that, for two years, a number of law decrees had been adopted. They had not been voted for, but promulgated by Government decree and enacted by the Congress.

Dr Hafnaoui AMRANI (Algeria), asked if Parliament gave its opinions on the urgent matters decided by the Government. He also asked if, in plenary sitting, there had been any amendments or alternative propositions. He asked if there was a procedure for limiting debate and, finally, he asked if the population opposed that type of procedure.

Mr José Manuel ARAÚJO (Portugal), indicated that they had the same problem in Portugal. The number of bills presented by means of urgent procedure was increasing, as was their complexity. The situation was unprecedented. The Government informed Parliament only two days in advance and the quality of the texts suffered as a result. He asked whether the number of bills passed had increased as a result of the urgent procedure.

Mr Baye Niass CISSÉ (Senegal) asked which authority was charged with the decision on whether or not to use the urgent procedure. In Senegal, either ten members or the President of the Republic could demand the use of the procedure. He asked if members had recognised this right.

Mrs Corinne LUQUIENS (France) said that the procedure described was quicker by far than the French version of the urgent procedure. She had thought of Montesquieu: one should not touch the law except with a trembling hand. Times had changed and with each successfive change had come a rapid evolution in legislative terms but that change had arrived at its outer limit, because law, once made, existed in perpetuity.

Mr Damir DAVIDOVIC (Montenegro), indicated that most Parliaments had an urgent procedure. He noted that the Greek procedure was striking because of its rapidity: Members were always asking for more time to analyse the text. He asked if the public was consulted during the progress of a bill. He also asked if Parliament had already analysed an Act six months after is passing to improve its understanding of the impact of the procedure.

Dr Winantuningtyas Titi SWASANANY (Indonesia), stated that, in Indonesia, a national legislative programme spanning five years had been divided into annual plans. Urgent cases were taken as general legislation. There was no very urgent procedure. The Government could establish a Governmental rule in place of a bill and then present it as a bill in the following session.

Dr PAPAIOANNOU responded to Mr CAVERO by noting that the procedure he had described did not exist in Greece. In theory, amendments could be tabled, but for

several years bills had consisted of a single but complex section. What was most importance was the acceptance, or rejection, of the text.

He responded to Dr AMRANI, Mr CISSÉ and Mr ARAÚJO by noting that the deciding authority was the parliamentary committee. The Government proposed the urgent procedure and the committee voted systematically in favour. The problem was one of time: two days did not allow enough time for the procedure. Amendments were possible but only if the Government did not oppose them. Sometimes the amendments were worse than the bill itself. The public did not concern itself with the procedure but with the contents of the bill.b

He thanked Mrs LUQUIENS for having explained the genesis of the length of the procedure. If the Greek procedure took two or three months, nothing would happen. Sometimes consultation was required before the presentation of a bill to Parliament, but this was a matter of a few weeks.

He replied to Mr DAVIDOVIC by indicating that it was difficult to communicate the implications of a piece of legislation to the public in the 48 hours available. The public understood what was going on via the media.

He indicated to Dr SWASANANY that the Government announced its legislative programme after the elections without further procedure at the start of the session. The budget was agreed once the Government had announced its intentions.

Mr Marc BOSC, President thanked the speakers.

6. Communication by Mr Eric PHINDELA, Secretary to the National Council of Provinces of South Africa: “Enhancing laws affecting provinces: the role of the National Council of Provinces in the law-making process”

Mr Eric PHINDELA (South Africa) spoke as follows:

Introduction

The National Council of Provinces (the NCOP) was established by the Constitution as one of the Houses of Parliament of the Republic of South Africa. The other House is the National Assembly (the NA). It is on these two Houses that the legislative authority at national level vests. They owe their existence to section 42 of the Constitution.

Whereas the NA was established to represent the people, the NCOP was founded to represent the provinces to ensure that provincial interests are taken into consideration in the national sphere of government. It achieves this mainly by participating in the national legislative process.

Voting on matters affecting provinces takes place on the basis of the authority conferred by the provincial legislatures. Delegates are bound by this authority and cannot go against it. It is this method of voting that ensures that the interests of the provinces, rather than those of political parties, are fully taken into consideration in the national law-making process.

In summary, the NCOP

- represents the interests of the provinces in the national sphere of government;
- participates in the national legislative process; and
- provides national forum for consideration of issues affecting provinces

Powers of the of the National Council of Provinces
In terms of section 44(1)(b) in exercising its legislative authority the NCOP has the power to

(a) participate in amending the Constitution in accordance with section 74 of the Constitution;

(b) to pass, in accordance with section 76 of the Constitution, legislation with regards to any matter that falls within functional areas of concurrent national and provincial legislative competence, for example, basic education, housing, health services, environment etc; and

(c) to consider, in accordance with section 75 of the Constitution, any other legislation passed by the NA.

In exercising its legislative powers referred to above, the NCOP may in terms of section 68 of the Constitution

- Consider;

- Pass;

- amend bills affecting provinces (bills dealt with in terms of section 76 of the Constitution);

- propose amendments to bills not affecting provinces or money bills (bills dealt with in terms of sections 75 and 77 bills of the Constitution respectively);

- reject any legislation before it; or

- initiate legislation falling within the functional area of concurrent competence (Schedule 4); but

- may not initiate money bills.

- only the Minister of Finance may initiate money bills

Types of bills

There are four types of bills. For each bill to be passed, the Constitution prescribes a different procedure to be followed. These are

- bills amending the Constitution to be dealt with in terms of section 74 of the Constitution;
- bills affecting provinces to be dealt with in terms of section 76 of the Constitution;
- bills not affecting provinces to be dealt with in terms of section 75 of the Constitution; and
- money bills to be dealt with in term of section 77 of the Constitution

It is on bills affecting provinces that the NCOP has a greater role to play in the law-making process. This is so, at a risk of repetition, merely because these bills affect provinces and the National Council of Provinces, as indicated above, was created to ensure that provincial interests are taken into consideration in the national sphere of government. It must do this mainly by participating in the national legislative process. This paper therefore intends to deal mainly on the role played by the NCOP in the law-making process particularly on bills affecting provinces.

Legislative process

Bills affecting provinces

These are bills dealing with functional areas on which both the national government and the provincial government have legislative competence. In other words either parliament or a provincial legislature may legislate on these matters. They are dealt with in terms of the procedure outlined in section 76 of the Constitution. Unlike bills not affecting provinces, the NCOP has the power to amend a bill affecting provinces.

In terms of section 73(4) only a member or a committee of the NCOP may introduce a bill in the House. Ministers may not directly introduce a bill in the National Council of Provinces. This seems to emanate from the point that they are not members of the House.

Bills affecting provinces may either be introduced in the NA or the National Council of Provinces. A bill introduced in the NA must be dealt with in terms of the procedure prescribed in section 76(1) and the bill introduced in the NCOP must be dealt with in terms of section 76(2) of the Constitution.

Mandating Procedure

Once a bill is introduced it is then referred to the relevant committee for consideration and report. At the same a copy is submitted to the provincial legislatures for consideration and conferral of authority on the delegation to vote thereon. The conferral

of authority to cast a vote on behalf of a province is commonly referred to as mandating procedures which is regulated by the Mandating Procedures of Provincial Legislatures Act, 2010 (the Act). The Act is in pursuance of 65(2) of the Constitution which authorised the enactment of national legislation to regulate a uniform procedure in terms of which provinces may confer authority on their delegations to cast a vote on their behalf. Before the Act came into effect each legislature had the power to determine its own procedure to confer authority on its delegation to cast a vote.

The authority so conferred is referred to as a mandate and is binding on the delegation. Simply put, the delegation cannot deviate from the position of a province. Whether the head of delegation or individual delegates, who may belong to different political parties, do not agree with the position of the province is immaterial. This is so because, although nominated by their parties, delegates represent provinces.

The Act authorises a three stage process. The first is the negotiation which occurs once the provincial legislatures have been briefed on the bill by their respective delegates. For this purpose provincial legislatures confer on their delegations the authority to negotiate a particular position on a bill. At this stage, depending on whether there are different provincial views, delegates from different provinces attempt to convince one another to accept each other's position on the bill.

Once a committee has deliberated on different provincial positions and has decided which position(s) to accept or reject, delegates report back to their provincial legislatures on the position adopted by committee with a view to obtaining a final position of the province on a bill. This is referred to as a final mandate. At this stage, a province states whether it agrees or disagrees with a bill or will abstain from voting on the bill. No further negotiations are allowed.

After consideration of the final mandates by a committee, a report is then prepared for consideration by the House. This represents the voting stage which is the last in the process. It is at this stage that a province either votes in favour of or against a bill or abstains from voting on the bill. As indicated elsewhere in this paper the vote is cast by the head of delegation in accordance with the mandate or authority conferred by a provincial legislature.

In terms of section 65(1) of the Constitution, particularly, on matters affecting provinces, each province has one vote. The vote is cast on behalf of the province by the head of delegation. Except where the Constitution provides otherwise, for a question to carry the day, it must be supported by at least five provinces.

The process may be summarised as follows:

Week 1: briefing of the NCOP by the department
Week 2: briefing of the provincial legislatures by permanent delegates
Week 3: public participation and conferral of negotiating mandates (negotiating position)
Week 4: consideration of negotiating mandates by a committee

Week 5: conferral of final mandates (final position)
Week 6: consideration by the House and voting (voting position)

This is referred to as the Six Week Cycle.

When the two Houses agree
Bills introduced in the NCOP
Once passed, a bill introduced in the NCOP is transmitted to the NA for consideration and decision.

If the NA passes a bill without amendment, it is submitted to the President for signature and assent. If the NA amends it, a bill must be referred back to the National Council of Provinces for reconsideration and decision. If the NCOP passes a bill without amendment, likewise, it must be submitted to the President for signature and assent.

Bills introduced in the NA
A bill passed by the NA must be transmitted to the National Council of Provinces for consideration and decision. If the NCOP passes a bill without amendment, it must be referred to the President for assent and signature. If the NCOP amends the bill, it must be referred back to the NA for reconsideration and decision. If the NA passes it, a bill must be referred to the President for signature and assent.

When the two Houses disagree
Having foreseen that the Houses will not always agree on a bill affecting provinces, the drafters of the Constitution designed a deadlock-breaking mechanism referred to as the Mediation Committee. Disagreement may ensue if the NCOP is of the view that a bill does not fully take provincial interests into consideration. If after reconsideration the Houses still disagree, a bill is referred to the Mediation Committee.

The Mediation Committee
The Mediation Committee is neither a permanent committee nor does it have permanent members. It is formed as and when required by the need to break a deadlock between the Houses. It consists of nine members from NA and nine permanent delegates from NCOP with each province represented by one delegate.

If a bill is referred to it, the Mediation Committee may either agree on a bill as passed by the NA; or an amended bill as passed by the National Council of Provinces; or another version of a bill. The Mediation Committee must exercise any of these options within 30 days, failing which, a bill lapses if it was introduced in the NCOP and dealt with in terms of section 76(2) of the Constitution or may still be passed by the NA with the support of two-thirds majority if it was introduced in the NA and dealt with in terms of section 76(1) of the Constitution.

If the Mediation Committee agrees on the bill as passed by the NA, the bill must be referred to the National Council of Provinces, and if the latter passes the bill, it must be referred to the President for signature and assent. The converse is true if the Mediation

Committee agrees on the bill as passed by the National Council of Provinces. If the Mediation Committee agrees on another version, the bill must be referred to both Houses and if passed, it must be referred to the President for assent.

Bills not affecting provinces

These are bills dealing with functional areas on which only the national of government may legislate such as defence; intelligence etc. They are dealt with in terms of the procedure outlined in section 75 of the Constitution. These bills may only be introduced in the NA. Unlike on bills affecting provinces, the NCOP may only propose amendment which the NA may either accept or reject.

Decision

Unlike on matters affecting provinces, each delegate has one vote. For a vote to be taken on a bill not affecting provinces, at least a third of delegates must be present. For it to be passed, a bill must be supported by at least the majority of delegates present. Because these bills do not affect provinces, delegates need not be conferred with the authority to vote by their provincial legislatures. If the NCOP proposes amendments, the NA may either pass a bill with or amendments or it may decide not to proceed with the bill. Unlike bills affecting provinces, the mediation process is not applicable in the event of disagreement between the Houses.

Bills amending the Constitution

These bills are dealt with in terms of the procedure outlined in section 74 of the Constitution. They may only be introduced in the NA. Like bills affecting provinces, for it to be passed, this bill must be supported by at least six provincial delegations. Each provincial delegation has one vote. Delegations therefore require to be conferred with authority to vote by their provincial legislatures.

In terms of section 74(8) of the Constitution a bill that affects the national Council of Provinces, alters provincial boundaries or amends a provision that deals specifically with a provincial matter may not be passed unless it has been approved by the legislature of the affected province. The Constitution confers on the affected province or provinces the power to veto these amendments.

Conclusion

It is clear that the NCOP has greater influence in the law-making process on matters affecting provinces. It exerts it through the authority that it derives from the Constitution to ensure that provincial interests are taken into account in the national sphere of government. This enables the NCOP to effectively represent the interests of the provinces. The fact that decisions on bills affecting provinces are subjected to mediation in the event of disagreement between the NCOP and the NA emphasises this point. Although the NA may still pass a bill affecting provinces after mediation has failed, this has never happened in the history of our Parliament. One may venture to suggest that it may be that such a law may not enjoy legitimacy because it would have effectively been rejected by the provinces which may be required, to the extent that it implicates their powers, to administer it. Rather than proceeding with such a bill, the

best option would be to allow it to lapse. Here lies the power of the NCOP to represent the interests of provinces.

Mr Marc BOSC, President, thanked the speaker and invited members to pose questions.

Mr Shumsher K. SHERIFF (India) observed that in India the legislative process had been divided between the provinces and the Union, either one or the other. In 1993, departmental committees had been put in place to cover all Ministers and all texts. The public was able to participate in these committees and thus to take part in the legislative process.

Mr Marc BOSC, President, asked, because his own country was also a federation, whether the National Council of the Provinces had experienced disagreements between provinces.

Dr Hafnaoui AMRANI (Algeria) asked if five provinces were normally required to agree a bill and six for when it was a constitutional subject. He also asked if the Council could send bills to the Senate as well.

Dr Winantuningtyas Titi SWASANANY (Indonesia) wanted to know who could sit on the Mediation Committee, and whether its membership was permanent, or *ad hoc*.

Mr PHINDELA underlined the fact that the South African constitution foresaw that the National Assembly and the National Council of the Provinces would ensure the participation of the public in the legislative process.

In response to the question from the President, the National Council of the Provinces was composed of delegations from provincial councils dominated by the majority party. The provinces held many discussions but tended to agree with one another at the moment that a decision was taken.

In response to Dr AMRANI, he confirmed the requirements for majorities that had been described.

In response to Dr SWASANANY he indicated that the Mediation Committee was only used in case of deadlock and, consequently, its membership was not permanent. It consisted of nine members from each chamber.

7. Conclusion

Mr Marc BOSC, President, concluded the sitting.

The sitting ended at 12.20 pm.

SECOND SITTING
Monday 17 March 2014 (Afternoon)

Mr Marc BOSC, President, in the Chair

The sitting was opened at 2.35 pm

1. Introductory remarks

Mr Marc BOSC, President, reminded members of the deadline for nominations for membership of the Executive Committee. He also reminded the Association about the arrangements for the excursion due to take place in the morning of Tuesday 18 March 2014.

2. Communication by Mr Geert Jan A. HAMILTON, Clerk of the Senate of the States General of the Netherlands: "The Role of National Parliaments in the European Union"

Mr Geert Jan A. HAMILTON (Netherlands) spoke as follows:

Since 2009 national parliaments of the EU Member States have a formal role in the legislative processes in the European Union. The Treaty of Lis-bon has changed the functioning of the national parliaments of the EU Member States substantially. The purpose of this paper is to inform our colleagues from countries in other parts of the world on recent develop-ments in EU Member States and to stir discussion on how EU Secretaries General could further develop their cooperation in order to help improv-ing the decision making within their parliaments on EU related matters.

The European Union (EU) is an economic and political union of 28 mem-ber states that are located primarily in Europe. The EU operates through a system of supranational independent institutions and intergovernmental negotiated decisions by the member states. Institutions of the EU include the European Commission, the Council of the European Union, the Euro-pean Council, the Court of Justice of the European Union, the European Central Bank, the Court of Auditors, and the European Parliament. The European Parliament is elected every five years by EU citizens.

The EU traces its origins from the European Coal and Steel Community (ECSC) and the European Economic Community (EEC), formed by the Inner Six countries in 1951 and 1958, respectively. In the intervening years the community and its successors have grown in size by the ac-cession of new member states and in power by the addition of policy ar-eas to its remit. The Maastricht Treaty established the European Union under its current name in 1993. The latest major amendment to the con-stitutional basis of the EU, the Treaty of Lisbon, came into force in 2009.

The EU has developed a single market through a standardised system of laws that apply in all member states. Within the Schengen Area (which includes 22 EU and 4 non-EU states) passport controls have been abol-ished. EU policies aim to ensure the free movement of people, goods, services, and capital, enact legislation in justice and home affairs, and maintain common policies on trade, agriculture,fisheries, and regional development.

The monetary union was established in 1999 and came into full force in 2002. It is currently composed of 18 member states that use the euro as their legal tender. Through the Common Foreign and Security Policy the EU has developed a role in external relations and defence. The union maintains permanent diplomatic missions throughout the world and rep-resents itself at the United Nations, the WTO, the G8, and the G-20.

The EU is considered to be a potential superpower. With a combined population of over 500 million inhabitants, or 7.3% of the world popula-tion, the EU in 2012 generated a nominal gross domestic product (GDP) of 16.584 trillion US dollars, constituting approximately 23% of global nominal GDP and 20% when measured in terms of purchasing power parity, which is the largest economy by nominal GDP and the second largest economy by GDP (PPP) in the world. The EU was the recipient of the 2012 Nobel Peace Prize.

Constitutional structure of the European Union

The classification of the European Union in terms of international or con-stitutional law has been much debated, often in the light of the degree of integration that is perceived, desired, or expected. Historically, at least, the EU is an international organisation, and by some criteria, it could be classified as a confederation; but it also has many attributes of a federa-tion, so some would classify it as a (de facto) federation of states. For this reason, the organisation has, in the past, been termed sui generis (incomparable, one of a kind).

The organisation itself has traditionally used the terms "community", and later "union". The difficulties of classification involve the difference be-tween national law (where the subjects of the law include natural persons and corporations) and international law (where the subjects include sov-ereign states and international organisations). Especially in terms of the European constitutional tradition, the term federation is equated with a sovereign federal state in international law; so the EU cannot be called a federal state or federation - at least, not without qualification. Though not, strictly, a federation, it is more than a free-trade association. It is, however, described as being based on a federal model or federal in nature.

The German Constitutional Court refers to the European Union as an as-sociation of sovereign states and affirms that making the EU a federation would require replacement of the German constitution.Others claim that it will not develop into a federal state but has reached maturity as an in-ternational organisation.

The European Union has seven institutions: the European Parliament, the Council of the European Union, the European Commission, the European Council, the European Central Bank, the Court of Justice of the European Union and the European Court of Auditors. Competencies in scrutinising and amending legislation are divided between the European Parliament and the Council of the European Union while executive tasks are carried out by the European Commission and in a limited capacity by the Euro-pean Council (not to be confused with the aforementioned Council of the European Union).

The European Council gives direction to the EU, and convenes at least four times a year. It comprises the President of the European Council, the President of the European Commission and one representative per member state; either its head of state or head of government. The Eu-ropean Council has been described by some as the Union's "supreme po-litical authority". It is actively involved in the negotiation of the treaty changes and defines the EU's policy agenda and strategies.

The European Commission acts as the EU's executive arm and is respon-sible for initiating legislation and the day-to-day running of the EU. The Commission is also seen as the motor of European integration. It oper-ates as a cabinet government, with 28 Commissioners for different areas of policy, one from each member state, though Commissioners are bound to represent the interests of the EU as a whole rather than their home state.

One of the 28 is the Commission President (currently José Manuel Durão Barroso) appointed by the European Council. After the President, the most prominent Commissioner is the High Representative of the Union for Foreign Affairs and Security Policy who is ex-officio Vice-President of the Commission and is chosen by the European Council too. The other 26 Commissioners are subsequently appointed by the Council of the Europe-an Union in agreement with the nominated President. The 28 Commis-sioners as a single body are subject to a vote of approval by the Euro-pean Parliament.

Parliament

The European Parliament forms one half of the EU's legislature (the other half is the Council of the European Union, see below). The 736 (soon to be 751) Members of the European Parliament (MEPs) are directly elected by EU citizens every five years on the basis of proportional representa-tion. Although MEPs are elected on a national basis, they sit according to political groups rather than their nationality. Each country has a set number of seats and is divided into sub-national constituencies where this does not affect the proportional nature of the voting system.

The Parliament and the Council of the European Union pass legislation jointly in nearly all areas under the ordinary legislative procedure. This also applies to the EU budget. The Commission is accountable to Parlia-ment, requiring its approval to take office, having to report back to it and subject to motions of censure from it.

The Council of the European Union (also called the "Council" and some-times referred to as the "Council of Ministers") forms the other half of the EU's legislature. It consists

of a government minister from each member state and meets in different compositions depending on the pol-icy area being addressed. Notwithstanding its different configurations, it is considered to be one single body.

Competences
EU member states retain all powers not explicitly handed to the Europe-an Union. In some areas the EU enjoys exclusive competence. These are areas in which member states have renounced any capacity to enact legislation.

Areas of exclusive EU competences:
- customs union
- the establishing of the competition rules necessary for the functioning of the internal market
- monetary policy for the member states whose currency is the euro
- conservation of marine biological resources under the common fisheries policy
- common commercial policy
- concluding international agreements
    - when their conclusion is required by a legislative act of the EU
    - when their conclusion is necessary to enable the EU to exercise its internal competence in so far as their conclusion may affect common rules or alter their scope.

In other areas the EU and its member states share the competence to legislate. While both can legislate, member states can only legislate to the extent to which the EU has not.

It involves the following areas:
- internal market
- social policy, limited to the aspects defined in the TFEU
- economic, social and territorial cohesion
- agriculture andfisheries, excluding the conservation of marine biological resources
- environment
- consumer protection
- transport
- trans-European networks
- energy
- area of freedom, security and justice
- common safety concerns in public health matters, limited to the aspects defined in the TFEU
- research, technological development and space
- development cooperation and humanitarian aid

In other policy areas the EU can only co-ordinate, support and supple-ment member state action but cannot enact legislation with the aim of harmonising national laws.
- protection and improvement of human health
- industry

- culture
- tourism
- education, vocational training, youth andsport
- civil protection
- administrative cooperation

Finally there is competence to provide arrangements within which EU member states must coordinate policy. This involves the following areas:

- economic policy
- employment
- social policies

National parliaments of the European Union

The national parliaments of the European Union are those legislatures responsible for each member state of the European Union (EU). They have a certain degree of institutionalised influence which was expanded under the Treaty of Lisbon to include greater ability to scrutinise pro-posed European Union law.

In the early days of the European Parliament, its membership was com-posed of members of national parliaments (MP's) who doubled as Mem-bers of the European Parliament (MEP's). In 1979 the first direct elec-tions were held, however many national MP's held on to their "dual man-date". As the workload of MEP's increased, the number of MEP's who were also national MP's decreased and since 2009 this form of double work has been banned in all member states.

In 1989 MPs from national parliaments and the European Parliament es-tablished the Conference of European Community Affairs Committees (COSAC) to maintain contact between national parliaments and the MEPs. COSAC continues to meet every six months and has now gained the right to submit contributions and examine proposals on EU law relat-ing to Justice and Home Affairs. The EP seeks to keep national parlia-ment's fully informed of the EPs activities and some EP committees regu-larly invites national MPs to discuss proposals.

MP's and MEP's also jointly discuss specific themes at the level of so called Interparliamentary Committee Meetings. In addition, the Confer-ence of Speakers of EU Parliaments also functions as a platform for co-ordinating relations between the EP and national parliaments.

Because the Maastricht Treaty of 1993 expanded the EU's competencies into areas of justice and home affairs, the treaty outlined the importance of exchanges between the European parliament and its national counter-parts in a declaration attached to the treaty. This declaration asked na-tional governments to ensure proposals for EU law were passed on to national parliaments with sufficient time for them to be scrutinised by MP and that contacts between these MPs and MEPs, began with COSAC, be stepped up.

This was strengthened under the Treaty of Amsterdam in a protocol stat-ing all European Commission consultation documents be promptly for-warded to national parliaments. They then have a six-week period to discuss legislative proposals, starting from the publication of the proposal to it appearing on the agenda of the Council of the European Union.

National parliaments in the EU: from information to scrutiny
The Treaty of Lisbon, in force from 1 December 2009, expanded the role of national parliaments. It sets out a right to information (Treaty of the European Union, Article 12, Treaty on the Functioning of the European Union, Articles 70 and 352 and Protocol 1), monitoring of subsidiarity – see below – (TFEU Article 69), scrutinising policy in freedom, justice and security with the ability for a national parliament to veto a proposal (TFEU Articles 81, 85 and 88), taking part in treaty amendment (TEU Ar-ticle 48) (including blocking a change of voting system to ordinary legis-lative procedure under the passerelle clause), being involved with en-largement and generally being involved in dialogue with EU institutions (TEU Article 12).

On 1 December 2009, the Treaty of Lisbon entered into force. This Trea-ty was a follow-up of the Constitutional Treaty that was rejected in 2005. The painful 'no's' in the referenda in France and the Netherlands demon-strated that the gap between Europe and many citizens had grown too wide. Many national parliaments, also the parliament in the Netherlands, saw it as their duty to bring the citizens closer to Europe again by a stronger involvement in European legislation. It is very important that the Treaty of Lisbon formalised the role of national parliaments in the EU. It introduced a procedure known as the 'early warning system'. Its aim is to prevent the EU from legislating in areas that are beyond its competence and remain within the competence of the Member States. Any national parliament may submit a reasoned opinion stating the rea-sons it considers that the Commission proposal in question falls under the competence of Member States. After publication by the Commission, parliaments have eight weeks to submit a reasoned opinion. A sufficient number of reasoned opinions can lead to a so called 'yellow card' (which means that the Commission needs to motivate why it intends to maintain the proposal) or an 'orange card' (which means that the Commission needs to reconsider it) . These yellow and orange card procedures were first proposed by the Dutch Parliament.

• Notably in May 2012, parliaments for the first time reached the re-quired threshold for a ‘yellow card’ on the ‘Monti II’. This was a draft proposal governing the right to strike. Amid a furore from trade unions and EU lawmakers in Parliament, the European Commission withdrew the proposed legislation.

• An example of a situation in which the Dutch parliament tried to initiate a yellow card-procedure, was when the European Commission drafted a proposal that forced companies to reserve at least 40 per cent of their non-executive director board seats for women by 2020 or face fines and other sanctions. In a joint letter from the Senate and the House of Rep-resentatives, they stated that this is not an issue that should be regulated at the EU-level. While one of the strongest proponents of women's rights, the Netherlands expressed the opinion that European action would only work to the

contrary. In this particular case, there weren't enough rea-soned opinions to initiate a yellow card.

There certainly is room for improvement of the subsidiarity tools. Pro-posals have been made and deserve further discussion. In the Nether-lands Clingendael, the Netherlands Institute of International Relations, published a report on deepening the practical application of the principle of subsidiarity. Some of the practical ideas to strengthen subsidiarity at national level and/or to improve focus are the following:

- Introduce the 'right' for national parliaments to request clarification from Commissioners regarding a proposal, communication or reaction to a reasoned opinion. Ensure better cooperation between national parlia-ments and the European Commission, especially in the yellow card procedure.

- Ask the European Commission to respond to reasoned opinions from national parliaments in the yellow card procedure within eight weeks of submission.

- Increase the effectiveness of the yellow card procedure, by extending the grounds for reasoned opinions, and allowing proportionality argu-ments next to subsidiarity objections.

- Extend the time-frame in the yellow card procedure to give national parliaments more time to submit reasoned opinions and coordinate among themselves.

- Lower the threshold in the yellow card procedure from one-third to one-quarter of all parliamentary chambers of the member states.

- Follow the example of the Danish scrutiny model and introduce a man-dating system for national parliaments in ex ante control, making nation-al parliaments policy-shapers in the EU legislative procedure.

- Organise an annual subsidiarity debate in national parliaments to con-sider current and proposed EU legislation.

- Request all member states to make a list on subsidiarity concerns and perceived overburdensome regulations. The commission should collect all the input and process it.

- Mobilise and educate national parliaments to improve their involvement in existing EU procedures.

- Increase investment in the monitoring of impact assessments at the national level.

- Encourage better cooperation and coordination between national par-liaments and governments. Governments could better explain their posi-tion in the Council, so as to trigger a reaction from the national parliament.

- Exchange best practices on the approach to subsidiarity and the use of the subsidiarity check by national parliaments. COSAC could be the right platform for such an information exchange.

- Introduce an informal ‘red card’ for national parliaments, by proposing the political agreement that the Commission will use its discretion to withdraw legislation if one-third of national parliaments raise subsidiarity objections.

- Introduce a ‘late card’, giving national parliaments the opportunity to voice their concerns at a later stage of the ordinary legislative procedure.

- Introduce a ‘green card’ for national parliaments, which would give them the option to table a joint legislative proposal if a substantial num-ber of member states’ parliaments support it.

Proposals like these could be discussed not only at formal interparlia-mentary meetings, but also in informal settings, like meetings of Secre-tary Generals of EU parliaments.

A more democratic European Union

The Lisbon Treaty, at the time, was celebrated for making the EU more democratically accountable as the European Parliament was given more powers. Today, national parliaments seem to have become fashionable again in the discourse about the EU. The formalised role of the national parliaments in the EU legislative process now perhaps is seen as the major breakthrough of the Treaty of Lisbon. Many see the EU develop to-wards a political union with increasing concern and believe that democratic oversight belongs at the national level. The European Parliament is now often is no longer seen as the sole body that gives democratic legit-imacy to the European Union. European governments are conspicuously discussing ways to enhance the involvement of national parliaments with EU decision making. National parliaments are more and more hailed as the champions of democratic legitimacy in the EU.

Division of competences

If national parliaments have to play a role next to the European parlia-ment, how can duplication be avoided? The obvious answer lies in a clear division of tasks. Yet the Lisbon Treaty didn't make the division of com-petences easier. On the one hand it vastly increased the role of the Eu-ropean Parliament across a wide range of issues, sometimes at the ex-pense of national parliaments. For example, as in the area of Justice and Home Affairs decision making by unanimity was replaced by qualified majority voting, it has become much more difficult for parliaments to scrutinise their governments' role in the Council. At the same time, na-tional parliaments have been given a role in the EU legislative process. Through the subsidiarity mechanism and the political dialogue, national parliaments now have a formalised, direct relationship with the European Commission. It is my personal observation that it has taken the European Parliament some time to get used to this role of national parliaments. MEP's have long considered it their exclusive prerogative to deal with the Commission.

The bigger picture

While the question of duplication gets a lot of attention, there is a far more important question: how can we avoid 'gaps' in democratic scrutiny? Are there any areas of EU decision making that neither national parliaments nor the European parliament have effective control over? And what can be done about it? Let me explain my point and say a few words about the European Semester.

The European Semester has introduced a yearly cycle of economic poli-cy coordination within the European Union. The first half of the year, the 'European semester', involves various reporting requirements for Mem-ber States, as they submit budgetary- and reform plans for the following year to the European Commission. The Commission, in turn, issues coun-try-specific policy recommendations that are to be implemented in the second half of the year (the 'national semester') and monitors compli-ance.

With the introduction of the European Semester, an existing framework benchmarking economic performance in the EU has been strengthened. In the wake of the European sovereign debt crisis, its governments have invigorated the significance of the Semester and the enforcement of the Stability and Growth Pact, and created the post of a strong budget com-missioner, a post currently fulfilled by Olli Rehn. It is now much more dif-ficult for member states to have the Commission's recommendations overturned by the Council.

At the level of governments, budgetary coordination has been given teeth. But to what extent has this been matched by parliamentary over-sight? As each national parliament is focused on the recommendations for its own country, who keeps track of the bigger picture?

While national parliaments are best placed to scrutinise the recommen-dations directed at their own country, they may find it more difficult to oversee the wider process across the different member states. One could argue that here the European Parliament has a role to play. For example, MEP's are in a better position to evaluate how the budget commissioner's recommendations to one country compare to recom-mendations made to other countries.

What I would like to stress is that it is in the interest of democratic legit-imacy to look beyond competences and to find actual ways for national parliaments and the European Parliament to cooperate.

The importance of interparliamentary cooperation

Interparliamentary cooperation can make an important contribution in this regard. By exchanging information and best practices not only be-tween national parliaments but also between MP's and MEP's, we can en-sure full democratic scrutiny. Interparliamentary conferences are a valu-able instrument as they allow for an open exchange of views between delegations. The Interparliamentary Conference on Economic and Finan-cial Governance of the European Union and COSAC are good examples. Both Houses of the Dutch Parliament have made it a point of using these

meetings as effective as possible by focusing on an exchange of infor-mation and best practices rather than acting as quasi-political body pour-ing out political statements.

In the Netherlands we have used bilateral contacts among parliamentari-ans in recent months to discuss the role of the parliaments in the Euro-pean Semester. This is a matter that has not yet crystallized. Gradually the European dimension of decision-making on the national budget will take shape. Each national parliament has its own responsibility, but we can learn a lot from informing each other and sharing best practices.

The role of the Secretaries General

It goes without saying that the Secretaries General of the national par-liaments of the EU Member States have a special role to play. They are responsible for a good administrative functioning of their parliaments. In the last five years the European dimension of the work of the national parliaments has tremendously gained impact. Led by a few pioneers in our midst the Secretaries General created the website IPEX as the core information source on how national parliaments are dealing with Europe-an dossiers. At our annual EU Secretaries General meeting in Vilnius in January 2014 for the first time there was an intensive discussion on best practices in coordination of European Union affairs in parliamentary ad-ministration. I can imagine that the more informal setting of the ASGP meetings would give room to informally discuss questions on how EU Secretary Generals organize European affairs in our national parliaments, including questions like administrative capacities involved in parliamen-tary scrutiny in EU affairs and staff involvement in EU affairs. Such a meeting could be organized prior to or after the general meetings of the ASGP. Perhaps it would be an idea to once a year reserve half a day of our ASGP meetings for regional meetings of ASGP members. With great success we have been experimenting with smaller scale discussions based on language groups. Perhaps time is ripe to consider formulas for half day regional programs during our conferences. Like all ASGP ses-sions 'regional sessions' could in my view be open to all colleagues inter-ested in the agenda of the particular session.

Mr Marc BOSC, President, thanked Mr HAMILTON for his contribution and opened the floor to questions.

Mr Andrew KENNON (United Kingdom) remarked that the creation of a Committee tasked with examining European matters enabled all other committees to ignore European issues. This was changing with the introduction of rapporteurs to other Committees. He asked whether it was a good idea to have a European Affairs Committee or not.

Mr Baye Niass CISSÉ (Senegal) asked for a further explanation of the principle of subsidiarity.

Mr Damir DAVIDOVIC (Montenegro) commented that Montenegro had recently changed its rules to insist that all committees dealt with European issues, rather than delegating this task to a single committee.

Mr HAMILTON explained that the subsidiarity principle held that, within the EU, action at European level should only be taken if it was widely felt within the EU that it should be taken at European level. It was more practical to legislate at a national level and matters were best left there. Frequently now the question was asked whether European legislation was really necessary. Recently there had been a proposal in Europe to force companies to reserve 40% of places on the board for women. The Dutch Parliament was in favour of promoting the role of women but did not believe that this was a matter in which the European Union should intervene. A good comparator was the tension between national and provincial legislatures in other parts of the world.

On the issue of European committees, in the Netherlands there had been committees on European affairs since the early 1970s. They had sole right to discuss European matters. Since the Lisbon treaty, the role of these committees had changed substantially: frequently the European Committee took on a coordinating role, but substantive issues tended to go to the committees with responsibility for the relevant subject area.

Mr. Amjed Pervez MALIK (Pakistan) referred to the comparison made between national and provincial legislatures and asked about the role of political parties.

Mr HAMILTON noted that there were political parties at a European level which tended to be a combination of groups seen at a national level. Very often parties at a national level could not be translated directly to the European level. Members had to be elected by constituents from their own country, which meant that they tended to emphasise the identity of their national, rather than their European, affiliation. This made the role of parties very complex.

It was quite difficult to enthuse national citizens to vote in European elections. In some countries, turnout was as low as 20-30%.

Dr Athanassios PAPAIOANNOU (Greece) said that in the coming elections there may be an increase in turnout, but that it was likely that any increase would be attributable to people who did not like the European Union.

On the issue of the European Affairs Committee, in Greece, the more that European integration took hold, the greater the role became for committees other than the European Affairs Committee.

Mr HAMILTON agreed with Mr PAPAIOANNOU that there was likely to be an increased mandate for Eurosceptic candidates. In most countries, however, the economic value of the EU was acknowledged, as was its contribution to peace.

Once the economic crisis had passed, the role of the EU would begin to settle down. European countries had ceded powers to Europe to scrutinise their national budgets. There was some concern that these powers were at the expense of national parliaments.

Mr CISSÉ returned to the subsidiarity issue. In the case of a conflict between the European Parliament and a national parliament, he asked what structure there was to decide in favour of one or the other.

Mr HAMILTON said that if a few national parliaments had objections it did not mean that the European Commission would automatically fail in its endeavour to legislate. The objection had to be overwhelming for that to happen.

Mr Marc BOSC, President, thanked Mr HAMILTON for his contribution. He also introduced Mr Abdelgadir ABDALLA KHALAFALLA, Secretary General of the National Assembly of Sudan, who had not been present at the introduction of new members at the morning session, and invited him to make himself known to the Association.

3. Communication by Mr JI Sung-Bae, Deputy Secretary General of the National Assembly of the Republic of Korea: "2014 World E-Parliament Conference"

Mr JI Sung-Bae (Republic of Korea), presented his communication, as follows:

Introduction
Honorable delegates,

I am Ji Sung-bae, Deputy Secretary General for Administrative Affairs at the National Assembly Secretariat of the Republic of Korea.

First, I would like to extend my heartfelt appreciation to Mr. Marc Bosc, President of the ASGP and related staff for the excellent preparations in hosting this meeting. I would also like to thank the secretary generals, deputy secretary generals, and secretariat employees from parliaments around the world for your participation today.

It is a great pleasure for me to be granted this opportunity to address the chiefs responsible for operating parliaments worldwide, who have gathered here to ponder on a way to construct a more democratic and efficient parliamentary system and forge mutual close cooperation, and inform you of the upcoming World e-Parliament Conference 2014, which will be hosted at the Korean National Assembly.

World e-Parliament Conference 2014
The World e-Parliament Conference is an international seminar co-organized by the IPU and host parliament and sponsored by the Global Centre for ICT in Parliament (ICTP). It is attended by speakers and members of parliament, parliamentary chief operators, and ICT experts. For three days, conference participants meet together to discuss various issues related to e-parliament, share best practices in parliamentary ICT technology, exchange information and engage in in-depth discussions. The first World e-Parliament Conference was held in Geneva in 2007 and we will be hosting the 6th Conference in Seoul, Korea.

Background

As a constant participant in previous conferences, the Korean National Assembly contributed actively to discussions on building e-parliament. During the session on "Tools and technologies for meeting mobility requirements" on the developments of mobile services and cloud computing technologies of parliaments in the World e-Parliament Conference held in Rome, Italy in 2012, we presented the Korean experience and case, which was well-received by participants representing different parliaments around the world interested in building e-parliament.

Considering that many countries acknowledge the Korean parliament's ICT and mobile technology as a best practice case, the chief operators of the Korean National Assembly, including the Speaker and Secretary General, decided to host the World e-Parliament Conference after negotiating with IPU.

Meaning of the World e-Parliament Conference in Seoul

In the biennial UN e-Government Survey conducted on 193 countries worldwide, Korea was evaluated as the No. 1 in e-Government for the second time in 2012, following its initial recognition in 2010. We believe this adds great value to the hosting of this conference in Korea. Furthermore, the 2014 ITU Plenipotentiary Conference hosted by the International Telecommunication Union, UN's specialized agency on ICT, will be held in Busan, the second largest city in Korea, later this year in October. It will provide a venue to discuss pending issues in global ICT and future policy directions. The fact that such a conference will be hosted in Korea is very symbolic.

As you are well aware, Korea's capital, Seoul has abundant experience in hosting major international events and conferences, most notably the Seoul Conference on Cyberspace 2013, the 2012 Nuclear Security Summit, and the Seoul Summit in 2010.

In addition, Seoul has acted as the heart of the Korean Peninsula throughout its 5,000 year history and is home to many historical sites as Korea's capital city since the Chosun Dynasty. Amidst a forest of cutting-edge high-rise buildings and IT industrial complexes, historical tradition still breathes on in our royal palaces, including Gyeongbokgung and Deoksugung Palaces, and Namdaemun, the South Gate to the city. It is indeed a city where nature and people, and tradition and modernity coexist. This is why I believe your participation in the World e-Parliament Conference will provide an optimal opportunity for you to experience not only Korean tradition and culture, but also her dynamic economic development and reformation.

Overview of the Conference

The World e-Parliament Conference 2014 will be hosted in the National Assembly Main Building located in Seoul for three days from May 8 through 10. H.E. Kang Chang-hee, Speaker of the National Assembly is greatly interested in ICT and building and advancing e-parliament. He has promised to offer his full support in creating an excellent opportunity for parliamentarians and IT experts from world parliaments to share best practices in ICT and build mutual human networks and partnerships.

As a result, we are undertaking preparations so that we can utilize all of the facilities within the parliament premises, including the Main Building and Members' Office Building, instead of utilizing a site outside the parliament. Not only the Speaker, but members of both ruling and opposition parties are also greatly interested in this conference, and the Secretary General and secretariat staff are fully committed to making this conference a huge success.

In light of the interest and full support of the Speaker of the Korean National Assembly and commitment of our members of parliament and staff, we would like to ask for the interest and efforts of speakers and members of parliaments around the world to actively participate in this Conference.

To be held under the theme "Lessons learned and future horizons", the Conference will be comprised of the Plenary and Policy and Technology Sessions.

In the Plenary, we will reflect on the progress achieved in e-parliament since the inception of the Conference in 2007, and discuss on the role and accomplishments of ICT in improving the openness, accessibility, accountability and effectiveness of parliaments. In addition, we will be providing an opportunity to discuss how to respond to new methods of citizen participation in parliamentary legislative processes using ICT and the future horizons of e-parliament after 2020.

The Policy Sessions will focus on establishing strategies on parliamentary open data and communication, together with Technology Sessions where diverse views will be put forward on effective mobile and cloud service technologies.

In addition to these sessions, we will offer an overview and demonstration of the e-parliament system in our Digital Plenary Chamber at the Korean National Assembly. Constructed as the world's first e-parliament in 2005, we are proud to say that, ten years' hence; the Digital Chamber is still one of the most advanced systems in the world which many parliaments wish to benchmark. We hope that by sharing our accumulated experiences and know-how in e-parliament based on state-of-the-art ICT will significantly contribute to the promotion of global e-parliament and facilitate cooperation among parliaments.

We anticipate more than 300 delegates representing different parliaments around the world will be participating in the Conference. We would like to emphasize, once more, the importance of your interest and efforts to enable participants with broad experiences and responsibilities, including speakers, members of parliament interested in ICT policies and legislations, secretary generals and deputy secretary generals, heads and staffs of ICT departments within parliaments, ICT experts and representatives of international organizations, civil society and academia, to share and exchange their views and know-how and cooperate for the advancement of e-parliament.

Closing

Honorable delegates,

Considering how the level of e-parliament around the world is continuously undergoing great improvement, participating in the World e-Parliament Conference is a great opportunity to move towards a more advanced parliament in step with current trends in global ICT.

If we can gather efforts to develop new information systems and advance e-parliament technology based on the experience gained by participating in this Conference, I believe that, in the near future, a convergence service can be developed between parliaments and thereby contribute significantly to the development of parliamentary democracy around the world.

Looking forward to the great interest and active participation of ASGP members at the upcoming World e-Parliament Conference 2014, I hope to welcome you in Seoul, Korea in May.

Thank you for your attention.

Mr Marc BOSC, President, thanked Mr JI for his contribution and opened the floor to the debate.

Mr Somsak MANUNPICHU (Thailand) remarked that Thailand was attempting to use less paper and to move to the electronic transmission of information. In Thailand there were two houses but one single chamber, which belonged to the Royal household. There was now a plan to build a new Parliament with two houses, and there were many issues that needed to be resolved, including information technology. Thailand was considering sending officers to the e-Parliament conference to learn from the Republic of Korea's experience.

Mr JI thanked Mr Manunpichu for his comment and said that the Republic of Korea would be delighted to provide its assistance to Thailand.

Mr Marc BOSC, President, thanked Mr JI for his presentation and announced a short break in proceedings.

4. General debate: "Co-ordination of assistance and support to other Parliaments"

[Dr Ulrich Schöler took the chair]

Dr Ulrich SCHÖLER, Vice-President, opened the debate, as follows:

Ladies and gentlemen,
Colleagues,

The topic for our debate this afternoon is one I hope will meet with a great deal of interest from all of us here today. After all, I suspect that, at some point in our working lives, most of us have known what it is like to both receive, and give, support and advice. There are definitely greater contrasts between the roles played by our parliaments in this regard: Some frequently organise support and advice programmes. Others are – still – heavily reliant on the benefits they take from assistance of this kind.

In general, however, it is certainly possible to note that there has been an enormous increase in these kinds of support activities over the last couple of decades. International organisations such as the IPU, the UNDP and the European Union have noticeably expanded their provision in this sector, and offer numerous programmes aimed at individual states, parliaments and even regions. Most of these programmes have considerable amounts of money allocated to them. Furthermore, there are well established institutions such as USAID and the Westminster Foundation that have been working in the field for decades. Depending on how their national political systems are structured, parliaments like the French Assemblée nationale organise the delivery of their extensive advisory activities by their own staff or – like the German Bundestag – in mixed forms, that is to say with support from various partners, including the foundations that are linked to Germany's main political parties.

The provision of advice and support to parliamentary administrations – this is something that has to be stated quite plainly today – has increasingly become a market in recent years. Private providers – some of them based in Germany – have been set up using a variety of legal forms (as NGOs or openly commercial firms). They offer advice and support, seeking to earn money with their services. It goes without saying that this trend has also been accompanied by competition for influence and financial resources. Of course, these private providers attempt to make use of our parliamentary institutions' expertise and integrate it into their activities. In and of itself, none of this is any reason for concern. However, it should give cause for us to get together and think about what role we ourselves have in this sector, and whether there may after all be common interests on which we could or would have to reach agreement.

I was prompted to propose a general debate on this topic within the ASGP by an aside during our conference a year ago at Quito. In the account of the IPU's activities he gave on that occasion, Martin Chungong thanked the ASGP for its assistance in coordinating the provision of support to the parliament of Myanmar. Since delegations from Myanmar had previously asked the German Bundestag for support as well, I was naturally interested in learning about this in greater detail and, if possible, harmonising and coordinating our activities. The fact we know so little about each other's work is, on the one hand, evidence that, in this respect, we were and still are right at the beginning of a lengthy process. On the other hand, a number of steps forward have been taken since then in the last year that I would like very much to report on briefly by way of introduction to this afternoon's debate.

In September 2013, I led an international workshop held by the German Bundestag on international advice and support for parliamentary administrations that was attended by representatives from the IPU, the UNDP and the European Parliament, colleagues from

Poland and France, and experts from national associations and foundations. We attempted to take stock of the situation and elaborate norms that would enable us to determine where and how we could improve our work in the future. This event generated a large number of proposals that I can really only cover here by very briefly mentioning five points on which consensus was reached:

1. Although we are inevitably having to accept a degree of competition – what we need first and foremost is greater transparency in this area of work.

2. One possible tool that could be used to foster this transparency is the Agora Internet platform administered by the UNDP.

3. We need to arrive at an understanding about how we can uphold sustainability as a criterion for the provision of advice and support.

4. We should discuss how we can ensure our work delivers greater functionality.

5. If possible, we should agree on democratic minimum standards that we would have to make preconditions for the commencement of support measures.

A month later, following our last autumn meeting in Geneva, the IPU also held a 'meeting of parliamentary development practitioners', at which I was able to set out the initial results from our workshop. A far greater range of donor institutions and recipient parliaments were represented on that occasion. The conclusions of this meeting certainly pointed in a direction similar to that outlined at our workshop. It should be highlighted that this event saw the establishment of a working group dedicated to drawing up what we could take as point

6. Common principles for actors involved in parliamentary development work. These principles are – if possible – to be presented to the IPU Executive Committee for it to decide on during our conference this week.

Finally, allow me to explain a little more about the six points I have mentioned: six points I hope will guide our discussion today as well.

Transparency

It would be a massive step forward if we merely knew what other actors were doing. This can be shown with an example: It has now become apparent, for instance, that enormous sums have been spent by different donor institutions to support the parliaments of Myanmar and Tunisia. But would it not be more sensible if we did not encounter USAID, the Westminster Foundation and possibly the Swedish or French parliament for the first time when we arrived on the ground, but knew all about the various actors' plans and activities in advance? This could even result in some resources being diverted to other places where they were needed just as much or even more.

Agora

The UNDP's Agora Internet platform was originally conceived as a kind of information and communication portal for those interested in exchanges of this kind. However, the mapping function designed for this purpose has now been removed again for cost reasons and because it was not being used as had been intended. It would be important for me to hear from you today about your experience of Agora. I am interested in your opinions on whether we need a platform of this sort, and whether Agora could be a suitable tool with which to realise it.

Sustainability

My own experience of providing advice and support to parliamentary administrations on various continents has taught me that certain basic standards have to be satisfied if such activities are to be meaningful and sustainable in the best sense of the word. I would like to illustrate this with another example: If the turnover among prominent office-holders at a parliament (such as committee chairs, presidium members, etcetera) is too rapid or they are rotated regularly, and their administrative staff also come and go with the politicians, there is little point in providing advice and support. In this case, it is necessary to start by working to change these structures.

Functionality

As far as this keyword is concerned, the question is whether the things an actor providing advice and support has to offer are actually meaningful for, and compatible with, the recipient's political system. Again, this can be explained with an example: It is unlikely to prove very fruitful if the parliament of a country whose political and constitutional structure is strongly presidential is advised by a partner like the German Bundestag, which works under the conditions of a federal system. Unless the recipients are looking for ways of making the transition from an old political and constitutional structure to a new system. In other words: Our various constitutions and parliamentary traditions are so diverse that they cannot easily be transplanted alongside each other. In Europe alone, we have structures as different as the presidential French system, the federal German system and the Westminster system based on first-past-the-post voting.

Minimum democratic standards

I would like to illustrate this point too by making just a few brief remarks: The German Bundestag was absolutely determined to help the new Egyptian parliament build its capacities, and had already made firm arrangements to provide relevant assistance. We withdrew and suspended this promise of support on the day when employees of German political foundations that had been doing civic education work for decades in Egypt received custodial sentences simply for going about their jobs. I am therefore glad that a discussion of '100 indicators for democratic parliaments' has begun under the aegis of the IPU, and I can well imagine we might use it to pursue appropriate democratic standards. However, it would probably be helpful in this respect if there were rather fewer than 100 essential indicators on the table.

Common principles for parliamentary development organisations

I know that members of this IPU working group who are not members of the ASGP are following our deliberations today with interest. And – as long as you are in agreement –

I would like to propose that, in the course of our discussion, we ask a representative from the working group to tell us a little about the progress of its deliberations and the decisions that have been taken. To give you some idea of what has been dealt with by this working group, I would just like to refer generally to the following suggestions: In line with the ideas put forward by the working group, parliamentary development projects should be informed by the concrete needs of the recipient countries, the political environments within which their parliaments operate and what can feasibly be implemented; the goals, the methods and the conduct of the projects should be made transparent and developed jointly by both sides. I think these are suggestions that deserve our support as well.

With that, I have covered all the issues I wanted to present to you as an introduction to our general debate, and I am now looking forward to what I am sure will be a very stimulating exchange of views!

He opened the floor to the debate.

Mr Brendan Keith (United Kingdom), noted that in the summer of 2012, he had spent two weeks in Myanmar in conjunction with UNDP. He observed that his team of four people had met many other teams of four people. He was concerned that the recipients of the advice may become “victims of advice fatigue”. His team made the recommendation that assistance be better coordinated. He had not been aware, previously, that steps were underway to achieve that coordination.

He noted that sometimes international aid organisations competed to offer aid. He did not wish to see a similar thing happen with advice. Coordination would make work more valuable and sustainable.

Dr Athanassios PAPAIOANNOU (Greece) stated that he had been happily surprised to learn about the coordination effort. He had been involved in the provision of advice both as a member of the Executive and as a Parliamentarian. He was concerned that turning from duplication to a multinational programme based in a single country may be to move from one hell to another hell. At some point the recipient country would need to make a choice.

Dr Winantuningtyas Titi SWASANANY (Indonesia) noted that the Indonesian House of Representatives had received assistance from international organisations and individual countries. The assistance provided by UNDP had been more efficient and transparent. As a beneficiary she felt that international organisations had more of a focus on the recipient country than on themselves. She agreed with the six principles outlined by Dr Schöler.

Mr Hugo HONDEQUIN (Belgium) reacted to the comments by Mr PAPAIOANNOU, saying that there were ways to avoid confusion and duplication when coordinating effort. Assistance often tried to ensure greater transparency in the recipient country.

Mr Baye Niass CISSÉ (Senegal) talked about the Senegalise experience. Senegal had participated in many projects and a great deal of money had been spent to very little effect. Because the turnover of MPs was so high, since 2012 at 90%, it was frequently necessary to start again from scratch.

The solution was to return to two strategies: the first was the coordination of all those seeking to intervene; and the second was to utilise the expertise of parliamentary staff during each five year term.

Mrs Corinne LUQUIENS (France) observed that in a number of cases development aid was given on a bilateral basis in response to direct requests made one country to another. France had received direct requests for assistance and in such cases, for political reasons, it was impossible to turn them down even in order to avoid duplication.

Language was an issue. English colleagues often worked in the Commonwealth area and similarly France frequently worked in French-speaking countries, where the political system was frequently modelled on the French system as well.

In France the level of resources that had to be committed to multilateral efforts had been questioned. Despite this, France participated in such efforts for political reasons.

Coordination between international players should be improved to avoid the scattering of efforts and the consequent waste of energy and funds, perhaps by the publication of a list of all actions taken.

Mr Modibedi Eric PHINDELA (South Africa) said that if a Parliament wanted assistance, it ought to formulate a plan of its requirements, and also to assess the effectiveness of the assistance provided.

Dr György SUCH (Hungary) said that, as a former Eastern Block country, Hungary had fresh experience of the difficulties being described. The Hungarian Parliament was one of the European countries which had provided the greatest number of training programmes. This was all done transparently under financial scrutiny.

His opinion was that international organisations should coordinate the planning stages of their projects better.

Mr Geert Jan A. HAMILTON (Netherlands) asked from whom improved transparency was expected. If several countries had found themselves to be one amongst many in Myanmar, he wanted to know whether it was the international organisations involved or the independent countries themselves that were to blame.

Every Parliament had to consider for itself where it should go and what value it could add instead of relying on and blaming international organisations. The Netherlands did not work with commercial organisations to lobby the European Union.

Flexibility was needed because there were occasions when bilateral assistance would be more effective.

Mrs LUQUIENS said that France had never partnered with private companies to tender for work. Indeed, France had competed with businesses for tenders.

Mr HAMILTON said that the question remained about who should be responsible for the transparency required.

Mr José Manuel ARAÚJO (Portugal) drew the attention of the Association to his written contribution, as follows:

This theme deals with the coordination of assistance, within the scope of a bilateral or multilateral approach, when assistance is extended to other parliaments.

Bilateral cooperation
In bilateral cooperation special focus is given to Portuguese-speaking countries — subject that we tackled on the ASGP Meeting in Quito — the cooperation being structured in 3 or 4-year programmes, which include the development of actions that meet the needs of those Parliaments.

Multilateral cooperation
We have several types of multilateral cooperation, which we all know, either as a training country, or as a beneficiary country.

Therefore, we can talk about multilateral cooperation with international organizations such as UNDP, IPU and the EU, namely:

- The coordination of technical assistance programmes between international organizations and national parliaments – in the recent past, the Portuguese Parliament has worked in partnership with IPU, for instance in Bangladesh, Myanmar and Palestine

- a recognition of our knowledge in areas such as ICT, Petitions, or Library, Research and Information Services.

In addition, and apart from the work to the IPU Assemblies, the Portuguese Parliament has provided important support to other IPU thematic work, including to gender partnership programmes on violence against women (VAW). Portugal has also worked with OECD (for example in Libya) and, more frequently, with UNDP in the implementation of specific actions of support to other national parliaments – examples of which are Guinea-Bissau and Timor-Leste.

This type of coordination between national parliaments and international organizations is an added value and has direct benefits to both parties: national parliaments tend to have already a particular relationship with the target parliament (for example, Portuguese-speaking countries) and an international organization provides a broader

field experience and know-how, as well as financial support. The third party — the receiving country/parliament — benefits from an application of coordinated support among donors, therefore avoiding duplication of efforts, resources and measures.

The coordination of the assistance to parliaments, in an EU context, which is best exemplified by twinning projects. Twinning is a European Commission initiative that was originally designed to help candidate countries acquire the necessary skills and experience to adopt, implement and enforce EU legislation. Since 2003, twinning has been available to some of the Newly Independent States of Eastern Europe and to countries of the Mediterranean region. Twinning projects must yield concrete operational results for the beneficiary country under the terms of the Association Agreement between that country and the EU. The Portuguese Parliament has contributed to EU twinning projects in Kosovo, Albania and Bosnia Herzegovina leaded by other countries. However, we are now seeking to step up to a level of a more managing and executive role.

The main distinct feature of a twinning project is its direct exchange of specific national experience in the implementation of EU legislation. For all counterparts the mutual benefits of twinning are the following:

- Exchange of experiences and knowledge based on equal-level communication between twinning partners (civil servant to civil servant);

- Implementation of best practices of the public administration of EU Member States (MS);

- Long-term and structural working-relationships, professional networking, and, therefore, an influencing attitude towards a beneficiary country in the EU;

- Training and improving professional capacity;

- Development and implementation of adapted legislation which is necessary for the fulfilment of the obligations on joint agreements and action plans, and the integration into the European markets;

- Changes in organizational practices and culture, improvements in managerial styles, better communication and coordination between and within beneficiary administrations (BA) are valuable by-products of the process of MS civil servants working closely alongside BA counterparts.

One can also refer other sources of possible coordination of assistance providers to parliaments, but these tend to have a more political connotation, such as USAID (with different sub agencies, in Afghanistan and Iraq), the Swiss DCAF's Parliamentary Assistance Programme — an international foundation established in 2000 on the initiative of the Swiss Confederation — and the Geneva Centre for the Democratic Control of Armed Forces, which works in coordination programmes with PA-NATO, for instance.

Conclusion
Greater support actions coordination reduces costs and increases the possibility of achieving the mutual goals of support providers and recipient parliaments. Moreover, mutual accountability may also be enhanced by coordination – as there is crosscheck among all parties – and the efficiency levels are undoubtedly higher, with fewer costs and without duplication of efforts and resources. Therefore, when real coordination takes place when assistance and support are extended to other parliaments, it is a win-win situation for all parties involved.

In addition to his written remarks he commented that Portugal had considerable experience of bilateral projects. There was competition amongst international parliamentary organisations to provide assistance. It would be better to have a new international platform to assist coordination than to have a platform at IPU level.

Sustainability was a significant issue in terms of the need for a permanent staff, trainined to participate in such work in the long term.

Dr İrfan NEZİROĞLU (Turkey) said that he had participated in such programmes and believed that the format should be changed. Study visits tended to be within a limited time period, during which presentations were made. However, presenters needed to have a better idea of the systems in place in the recipient country when making the presentations. Medium-term internships with fewer participants would allow for improved understanding.

Mr Johannes JACOBS (Namibia) agreed with Mr PHINDELA that recipient countries had to take some responsibility for the assistance that they were given. Namibia had taken the approach of itself coordinating the assistance that had been offered to it.

Mr Austin ZVOMA (Zimbabwe) felt that there was too great an emphasis on consultancy instead of on allowing the recipient Parliament to decide on the best way to proceed. The recipient Parliament needed to take ownership in order to ensure the sustainability of the assistance provided.

Zimbabwe had used a system of attachments that allowed a proper understanding of another system to develop. Local expertise also needed to be engaged to assist in the sustainability of any help provided.

Mr Amjed Pervez MALIK (Pakistan) felt that a distinction should be drawn between bilaterial and multilateral assistance. He did not think that there were many complaints about the provision of bilateral assistance, which had been very beneficial in Pakistan's experience.

In his view it was the implementers who caused problems. In Pakistan's experience they had a limited understanding of the Parliamentary context, despite their claims to the contrary. They usually wanted to create change overnight and provided "soft" advice which had very limited impact because it bore no relation to the context.

Charles Chauvel (UNDP) noted that UNDP had been delighted to work with the IPU on the coordination of assistance provided to Parliaments. Assistance was about trying to ensure that Parliaments being offered assistance were not inundated with offers and that they had the capacity to absorb the assistance offered.

In respect of Parliamentary assistance there ought to be a local coordinating committee controlled by the recipients themselves so that they could control the implementation of the assistance received.

UNDP shared the concerns about the quality of assistance provided when large organisations called for commercial input. He felt that further thought could be given to this.

UNDP saw the need for better coordination according to a set of clear and agreed principles. It was hoped that the IPU working group would be able to consult the Association on its work very soon.

Julia Keutgen (UNDP) talked about AGORA and the reasons why it had failed, which included the difficulty of keeping information up to date and financial considerations. The information provided to the platform was the responsibility of the participant Parliaments.

Norah Babic (IPU) was encouraged to hear many of the working group's concerns reflected in the debate within the Association. The working group was established in November 2013 and comprised officials from the EP, UNDP, the French Parliament, the IPU and the United Democtatic Institute. The group was working on a set of twelve principles which it would be able to share in future.

It was hoped that a final draft of the principles would be available next November, and that they would be opened up to wider consultation, including of the ASGP. It was also hoped that the ASGP would be able to endorse the principles.

In the context of coordination of the assistance provided to Myanmar, Myanmar had been overwhelmed by visits and had been kind and polite at a time when they had considerable work to do. Sometimes organisations and countries wanted to be seen to provide assistance and it would be hard to deter them from doing so. The IPU was already cooperating and sharing information to try to limit the extent to which this happened. About eight to ten Parliaments now provided more targeted assistance to Myanmar and there was a better flow of information.

Dr Ulrich SCHÖLER, Vice-President, responded to Mr HAMILTON's question about who was to blame for lack of transparency. He felt that there was no question of blame. He himself had organised, nine years ago, a workshop on this topic in his own Parliament. Germany had been asked by France to be a partner in a project directed at Kosovo. He learnt that there had been five consortia in the final round, three of which came from Germany. They had not cooperated with each other at all.

The system had not improved since then and had indeed become even more complicated.

A great deal had been said about knowing more about what partners in the provision of assistance were doing. This would be an improvement in itself. This was not about coordination, which was a long way off, but about transparency. If a provider of assistance did not know about other providers, they were wasting their money. Parliamentarians talked about a reduction in the level of international assistance provided and there was a risk that, if duplication persisted, there would be pressure to cease assistance altogether.

Money was frequently offered on a very short term basis, for example for two years, which led to sustainability issues.

He suggested that the list of activities suggested by Corinne LUQUIENS was not that different from the Agora project, which had failed. It was for those who were in receipt of assistance to state what they wanted and needed and to turn away assistance that they did not want or need.

Delegations sent representatives to Berlin to be trained and he was not sure that this was a good approach. He felt that it would be better to provide on-site assistance.

He called for the Association not simply to leave the debate behind, but to focus on the work being done within the IPU, and to look at practical ideas for improvement.

The sitting rose at 5.25 pm.

THIRD SITTING
Tuesday 18 March 2014 (Afternoon)

Mr Marc BOSC, President, in the Chair

The sitting was opened at 3.00 pm

1. Introductory Remarks

Mr Marc BOSC, President, reminded members that the deadline for the receipt of nominations for two ordinary members of the Executive Committee would be at 4pm that day.

2. Communication by Mrs Corinne LUQUIENS, Secretary General of the National Assembly and of the Presidency, France: "Guidelines for ethics at the National Assembly"

Mr Marc BOSC, President, invited Mrs Corinne LUQUIENS, Secretary General of the National Assembly and of the Presidency, France, to present her communication.

Mrs Corinne LUQUIENS (France), spoke, as follows:

The background and origins

a) The avoidance of the conflict of interests through the implementation of rules concerning the incompatibility of positions

The issue of the avoidance of the conflict of interests has been an important question in French law for some time: it has indeed been a fundamental notion in a long legal tradition which led to the creation, regarding the status of MPs, of the idea of incompatibility prohibiting Members of Parliament from carrying out any other function which might interfere with their independence or, above and beyond, might hinder the free expression of the general will. The idea behind the rules on the incompatibility of functions, which were set up from the beginning of the 19th century, was to ensure that an elected official would not favour his private interests over the general interest. It therefore, in this particular context, is not surprising that the range of such incompatibilities has continued to be enlarged throughout the history of Parliament as various scandals and financial wrong-doing have been revealed in the press.

It is indeed this context which also explains why the French rules governing the incompatibility of functions have no strictly defined guidelines and are in fact characterized by the juxtaposition of bans and restrictions. However it has appeared in recent years that the broadening of this set of rules concerning bans has now reached

its limit: thus in 1977, the French Constitutional Court laid down that “all bills enacting legislation dealing with incompatibility adversely affect the exercise of elected office”. In later rulings, the Court considered on several occasions that bills concerning the incompatibility of functions needed to be strictly interpreted. In a follow-up to these decisions last October, the Court censured the new ban on parliamentarians taking on a professional position during their term of office or carrying out consultancy activities. It felt that such bans “clearly went beyond the necessary limits in the protection of the freedom of choice of the voter, of the independence of the elected representative and in the avoidance of the risks of confusion or of conflict of interests” .

By means of these various rulings the Constitutional Court has made it very clear that the extension of the rules concerning the incompatibility of functions could not be continued ad infinitum. Indeed it seems to suggest that the critical point has been reached in this area.

Thus the road leading to the avoidance of conflicts of interest no longer appears to pass by the traditional position of creating bans. This assertion becomes even clearer when one considers that in the complex world faced by today’s parliamentarians, it is not certain that imposing incompatibilities of functions is the best way to avoid conflict of interests. Indeed, looking at the issue of conflict of interests purely and simply in terms of the authorization or the prohibition of external professional activities seems much too restrictive.

b) The parliamentarian at the centre of multiple interest links

It would be wrong, even dangerous for democracy, to require a parliamentarian to be without a past and without ties: he/she is, like every single human being, at the centre of various interests whether they be with groups from a family, professional, university or friendship background. He/she is also a member of a political family, represents an electoral constituency and has perhaps had a background as an activist. It is indeed all of these links which together constitute the diversity of our political representation and the wealth of our Parliament.

The parliamentarian is thus, by definition, at the centre of a network of connections and the implementation of the avoidance of conflicts of interest leads to the close examination of all such links which he/she has created before his/her election and during his/her term of office. The question of whether a parliamentarian should maintain external activities during his/her term of office must still be asked but it is not the only issue to be dealt with. The recent scandals which have undermined the public opinion of political life have demonstrated that conflicts of interest are most likely to be engendered by family or friendship ties which lead political personalities to relegate the notion of general interest to the second division. It is precisely in order to take into account the diversity of such links that the Bureau of the French National Assembly carried out a study on the implementation of a code of conduct which would deal with ethical issues in their entirety and not only from the point of view of professional activities.

c) The decision of the Bureau of the French National Assembly, April 6, 2011

The rules implemented by the Bureau in 2011 provided the French National Assembly with an overall mechanism to deal with the ethical dimension of the exercise of office. This mechanism did not deal with the notion of bans in the context of the rules concerning incompatibilities but concentrated on the idea of accountability. In this context, the decision of the Bureau fitted perfectly with a general movement in favour of the introduction of more “flexible rules” which would concern ethical standards in all professional areas be they public or private.

The instrument, which was passed by the Bureau on April 6, 2011, consists of a code of conduct which revolves around six general principles: the primacy of the general interest, independence, objectivity, accountability to citizens, honesty and exemplarity. In addition, so as to ensure the respect of such principles, it compels MPs to make new obligatory declarations as well as creating a new authority in the French National Assembly: the Commissioner for Ethical Standards. The latter is an independent person who is appointed by at least three-fifths of the Bureau of the French National Assembly with the agreement of at least one chair of an opposition political group.

Ms Noëlle Lenoir, was appointed on October 10, 2012 upon a proposal of Claude Bartolone, President of the French National Assembly with the agreement of all the chairs of political groups. Her first task was to collect the 577 declarations of interest of all MPs. These declarations concerned, the activities carried out by the MPs during the five previous years, financial investments of over 15,000 Euros which they possess, as well as the areas of professional activities of their entourage and family. In addition, in accordance with article 4 of the decision taken by the Bureau on April 6, 2011, the Commissioner for Ethical Standards also has the task of collecting the declarations by MPs concerning travel upon the invitation of a third party as well as any gift or benefit in kind of more than 150 Euros received by Members.

Report on the first year of the Commissioner for Ethical Standards at the French National Assembly

Last November 20, the Commissioner for Ethical Standards presented her report to the Bureau. This was above all else, a report upon the first year of the implementation of the new rules concerning ethical standards at the French National Assembly.

The Commissioner for Ethical Standards first of all drew up a picture of the 577 declarations she had received. Of these, 139, i.e. 24.1% declare having no interest, with the exception of the activities carried out by family members and 27 are completely blank (4.7%); 98 MPs declare having an activity in addition to their office. Of these, 21 declared having a teaching or research activity which often only amount to a few hours per week, or have written a book.

In addition, the Commissioner for Ethical Standards received 70 declarations dealing with trips upon the invitation of a third party; many of the invitations emanated from

foreign states (37%) and these were followed by invitations from companies (29%) which mainly issued invitations to visit their production sites or foreign affiliations. 17% of the invitations were from associations.

In the case of declarations of gifts of more than €150, fifteen declarations were received between October 2012 and January 2014. Eight of them concerned objects which had been received and the others dealt with invitations to meals or to sporting or cultural events.

However, the job of the Commissioner for Ethical Standards is not limited to receiving the declarations of MPs concerning external activities, trips and gifts. She is also regularly consulted by MPs who seek her advice on various practices and who wish for clarification from an ethical point of view.

On average per week, the Commissioner for Ethical Standards has received three letters or requests for meetings for advice which have been made spontaneously by MPs seeking her opinion. Recent news coverage has certainly encouraged MPs to seek the advice of the Commissioner for Ethical Standards but it is also clear that the whole idea of creating ethical standards based on the notion of asking questions concerning such issues, is becoming more and more incorporated into life at the Palais Bourbon, the seat of the French National Assembly. This is clearly in line with what happens in other assemblies.

There is a wide variety of subjects on which MPs seek advice: the use of the parliamentary allowance for expenses linked to the carrying-out of office, the special parliamentary reserve budget (i.e. funds placed at the disposal of MPs by the Finance Act in order to subsidize associations as well as construction and other investments in their constituencies), the acceptance of requests to sponsors colloquia, requests from lobbies, proposals to carry out private activities etc.

The Commissioner for Ethical Standards must also follow parliamentary debates, in order to ensure the respect of article 5 of the code of conduct which states that: “MPs are obliged to make known any personal interest which might interfere with their public action and they must take all necessary measures to resolve such a conflict of interests to the advantage of the general interest alone”. In order to fully understand the impact of this article, it was decided that the parliamentary path of several bills to be examined by the French National Assembly which could be considered sensitive as regards the potential interests concerned, should be closely observed. The reason for this is to make MPs aware of the precautions to be taken if they have a role, in particular, as rapporteurs or as the initiators of amendments, in the context of areas or issues which directly concern their private or family interests. Nonetheless, it became clear that the declarations made by MPs in plenary sitting to inform the National Assembly of their interests, were, at times, misunderstood. This situation was largely due to the fact that MPs, as well as ministers, are relatively badly informed regarding this procedure. As a consequence, the Commissioner for Ethical Standards, in her report, suggested that such declarations should be presented in a more formal manner and that, for example, they should be read aloud, at the beginning of the sitting, by the chair.

In addition, the Commissioner for Ethical Standards was entrusted, by the Bureau of the National Assembly with other specific tasks concerning issues dealing with ethical questions: the use of the parliamentary allowance for expenses linked to the carrying-out of office, the code of conduct for parliamentary assistants etc.

The avoidance of the conflict of interests is now recognized by law

a) The laws of October 1, 2013 concerning transparency in political life

In 2013, in the aftermath of the debate concerning the resignation from the Government of the Minister for the Budget, Mr. Jérôme Cahuzac, on account of tax evasion issues, the President of the Republic announced that he would put forward an overall reform which would aim at reestablishing the trust of public opinion in its representatives by means of the strengthening of the notion of obligatory declarations.

In the wake of this statement, an institutional bill and an “ordinary” bill concerning transparency in public life were tabled before Parliament. These bills proposed for parliamentarians, the strengthening of the rules concerning the incompatibility of functions, as well as the implementation of new obligations concerning the avoidance of the conflict of interests.

For the first time, the law put forward a legal definition of the notion of conflict of interests. This was set out in the following manner: “any situation which entails interference between the public interest and public or private interest which might influence or appear to influence the independent, impartial or objective character of the office”.

The idea of ‘giving the appearance’ is of extreme importance: what is at stake in such circumstances is not only the reputation of the MP but of the institution itself to which he/she belongs. If he/she appears to confuse and mix his/her personal interests with the general interest which he/she is supposed to stand for as an elected representative of the nation, then the image of the National Assembly and of the whole political class which is tarnished.

In order to have such a mechanism respected, the laws concerning transparency in political life make provision for the implementation of new obligatory declarations. They also set up a new independent administrative authority, the High Authority for Transparency in Public Life, which will ensure the monitoring of declarations. This authority will also be provided with extensive powers to deal with infringements.

The passing of these laws gave rise to a certain reticence amongst some parliamentarians, including within the ranks of the governing majority. The current President of the French National Assembly, Mr. Claude Bartolone, thus warned about the excesses of “paparazzi democracy”, cautioning in particular as regards the idea of rendering the “declarations of estate” public. The implementation of obligatory declarations, along with broadened powers extended to an independent authority, was accepted by the Constitutional Court which underlined the notions of general interest

which accompany the fight against the conflict of interests. It stated: “the aim of the obligation to state for Members of Parliament, before an independent administrative authority, the declaration of interest and of activities, as well as the declaration of personal estate, is to strengthen the guarantees of honesty and of integrity regarding such people. Its aim is also to avoid the notion of conflict of interest and to fight against the latter: it is thus justifiable in that it acts in the general interest.

In this framework, the institutional law concerning public life brings together the declarations of professional activities, which were previously submitted to the Bureau of the French National Assembly, and the declarations of interest, which were up to now, addressed directly to the Commissioner for Ethical Standards in compliance with the decision of the Bureau of April 6, 2011, in a single Declaration of Interests and Activities, which is destined jointly for the High Authority and for the Bureau of the French National Assembly before being made public. In addition, the institutional law provides for a distinct declaration of estate which is submitted to the High Authority alone and which is only made public in the case of ministers. The declaration of parliamentarians may only be consulted in the ‘prefectures’ upon the request of any voter.

The elements which make up the new declaration of interest and activities are similar to those of the declaration of interests which was previously drawn up by the Bureau of the National Assembly. However, the Constitutional Court censured the section dealing with the idea of collating, in addition to family and professional connections, all other links “which might be construed as leading to a conflict of interests”. The Court considered that such a clause contravenes the principle of the legality of offences and penalties, given that there is no definition of the interests in question. The Court also censured the article dealing with the activities of children and of parents. It considered that such an article was disproportionate concerning the violation of the right to the respect of privacy.

The most innovative aspect of this new declaration, aside from the fact that it is made public, is that it includes the obligation of declaring the names of parliamentary assistants as well as the amount of earnings gained through external activities and holdings.

The Bill which was definitively passed by the National Assembly provided for the fact that the High Authority would have the power of injunction. That particular text stated that once the High Authority had asked the MP in question for an explanation of his/her actions, the High Authority could then issue him/her with an injunction requiring him/her to complete the declaration or to provide the necessary explanations. However, the Constitutional Court restricted this notion by means of a substantial caveat on its interpretation. It stated that such provisions “ could not, without infringing the principle of the separation of powers, allow the High Authority to issue an injunction to an MP or to a Senator whose disregard is criminally punishable, concerning his/her interests or activities or concerning the declaration which leads to with” .

Consequently, the High Authority, no longer appears to hold a real power of injunction regarding MPs and can no longer force MPs to complete their declaration of interests. It also, no longer, appears to have the possibility of carrying out proceedings in order to terminate a situation in which a conflict of interest exists.

The scope of the High Authority is therefore limited, when it considers that an MP has broken the rules laid down by the Institutional Law, to the possibility of making a referral to the Public Prosecutor's office and/or to the Bureau of the National Assembly.

However the consequences of a deficient or incorrect declaration are greater within the framework of the new procedure than they were with the previous rules.

Thus, whilst the decision of the Bureau, dating from April 6, 2011, made provision only for the fact that any failure to declare on the part of an MP could be rendered public, the Institutional Law now lays down that omission of a substantial amount of "interest" is subject to three years imprisonment and a fine of €45,000 possibly accompanied by a supplementary penalty incurring the loss of civic rights and the right to exercise public office.

b) A new relationship to be found between the High Authority for Transparency in Public Life and the Commissioner for Ethical Standards at the National Assembly

Whether or not to keep, at the National Assembly, a body/person in charge of ethical standards, is certainly a legitimate question, especially considering that a High Authority with a specific remit in the field of transparency has been set up. However this question seems to have found its answer in the very action of parliamentarians themselves, in that a provision, introduced by the Institutional Law concerning the transparency of public life, states that "the Bureau of each assembly shall, after consulting with the body in charge of parliamentary ethics, set down the rules in the field of the avoidance of the conflict of interest and how such matters shall be dealt with". The fact that the law actually mentions "the body in charge of parliamentary ethics" gives it an official status and bolsters its existence.

Thus the existence of an internal body/person in charge of ethical issues is legally required but it is also called for on the grounds of the appropriateness of the situation. Indeed, since the creation of the position of a Commissioner for Ethical Standards, in October 2012, experience has demonstrated the need for such a body/person to be maintained. This is particularly the case given the necessity to have someone in this position who is close to those on the ground and who understands the particularities and the specificities of parliamentary life and of the role of MPs. Certainly the Institutional Law recognized the role that the High Authority has to play as regards providing advice and opinion concerning the respect of the rules of confidentiality for all those persons who must make obligatory declarations. Nonetheless, it is difficult to imagine that this High Authority could, bearing in mind that 9,000 people are subject to such declarations and thus liable to seek its advice, deal in such a precise and detailed way as the Commissioner for Ethical Standards at the National Assembly itself.

The most important element in the new role given to the Commissioner for Ethical Standards lies in the fact of continuing to have access to the declarations made by MPs, which will now be made public. This information will be necessary for the Commissioner in his/her role of advising parliamentarians and for him/her to follow legislative activity by, for example, pinpointing and discussing with, if necessary, MPs who may have certain interests regarding a bill being considered. However, it must be underlined that the assessment of declarations will no longer be carried out by the Commissioner for Ethical Standards at the National Assembly but by the High Authority.

However, the laws concerning the transparency of public life do not cover all the obligatory declarations which were set out by the decision of the Bureau of the National Assembly, dating from April 6, 2011. These concerned the obligation to declare, on the one hand, all gifts or benefits in kind of a value over €150 and, on the other hand, every trip carried out and paid for totally or partially by any natural or legal person. Experience has proved that such declarations concerning trips or gifts provide a key opportunity to remind parliamentarians of the need to avoid conflicts of interest. Thus, far from playing the simple role of the person who records such declarations, the Commissioner for Ethical Standards can use such an occasion to make MPs aware of the precautions to be taken in the case of a trip which could create repercussions.

The abolition of the obligatory declarations concerning trips or gifts would represent a step backwards and would certainly not be understood by public opinion and would be unclear for those parliamentarians who have already followed such obligations.

The fact remains that, in the upcoming situation, both bodies should, in practice, find the mechanisms necessary for cooperation so as to set down a common modus operandi. Indeed nothing could be more counterproductive than adopting different approaches to the resolution of the idea of conflict of interest. Thus, it is already clear, that in the field of issues which require confidential and conflicting opinions, boundaries should be drawn up as regards the scope of the respective bodies. The best solution would be that the Commissioner for Ethical Standards should direct MPs towards the High Authority regarding any topic concerning the declaration of interest and of activity whilst the latter would refer MPs to the Commissioner for Ethical Standards if they had questions regarding the internal working of the National Assembly and issues dealing with ethical matters.

A code of ethics at the National Assembly and the great number of actors involved

It would be hasty to limit the issues of ethics to parliamentarians alone: even if such a question is primordial for the representatives of the nation, the fact remains that ethical matters are also important for a whole series of actors who, directly or indirectly, are involved in the drawing-up of public decision-making.

It is for this reason, that any study concerning ethical behavior at the National Assembly must take into account both parliamentary assistants and parliamentary civil servants, as well as, even more importantly, all of those seeking to have access to MPs. The latter are referred to, at the National Assembly, as the “representatives of

interest groups" or as the more commonly used term might define them, even though it has a negative connotation in France – lobbyists.

a) Parliamentary assistants

Parliamentary assistants face the same ethical questions as their employers; the most obvious of these are issues concerning their relationships with lobbyists. This is the case because they are often consulted, either on a personal basis or as representatives of the MP for whom they work, in order to transmit messages and/or to promote specific topics.

In order to provide assistants with support regarding such solicitations, the Commissioner for Ethical Standards, in her report dating from November 2013, proposed that she might be the competent authority able to provide advice concerning the rules governing confidentiality. This possibility of having a contact who could answer any question regarding the notion of the conflict of interests garnered, according to an internal opinion poll, massive agreement from parliamentary assistants (over 90% positive replies). Even though the Bureau agreed to the principle, this proposal has not yet received formal approval as such. Nonetheless, in practice, several assistants have already contacted the Commissioner for Ethical Standards in order to set down a line of conduct as regards a situation involving the combination of activities, requests from interest groups or the allocation of the parliamentary reserve budget.

This idea of making parliamentary assistants aware of the issues involved in the notion of ethics in Parliament was also discussed at length during the parliamentary debates on the bills concerning transparency in public life. It became apparent that the most contentious issue, from an ethical point of view, was the combination of activities of a parliamentary assistant with another position which could be in the field of consulting or lobbying. Wearing such a "double hat" happens quite frequently although there are no detailed figures in this field. Such a situation certainly brings up the question of trust on the part of the parliamentarian as well as a clear risk of confusion for all those who come into contact with the assistant. In order to increase the notion of transparency on such issues, the Institutional Law on transparency in public life, now obliges the parliamentarian to disclose all the external activities of his assistants, when he is aware of them. This heading appears in the MP's declaration of interests and activities and is made public.

In addition and following this same line of thought concerning the combination of activities on the part of assistants, the Bureau has decided to regulate one of the most potentially difficult situations: that which concerns an MP's "voluntary assistants".

Until very recently, "voluntary assistants" were defined as all those people who were declared as assistants by an MP but who were not paid from the overall "Parliamentary Staff Allowance" provided to each MP. The idea was to provide them with permanent access to the premises of the National Assembly. It appeared that this procedure was

used by a certain number of lobbyists to obtain an ID card allowing them to enter the National Assembly.

This situation is even more harmful in that their interlocutors could be mistaken by the term “parliamentary assistant” when in fact they are merely there to defend private interests. In addition they can freely access the Palais Bourbon, the seat of the National Assembly and this practice reflects badly upon the real parliamentary assistants who could thus be wrongly deemed lobbyists.

Consequently, the Bureau decided that the number of holders of permanent ID cards granting access to the premises of the National Assembly would be limited to two per MP and that such ID cards could only be provided to people having a link with the MP’s position outside or who are members of his family.

In addition, in order, symbolically, to put an end to the harmful confusion for real parliamentary assistants, the term of “voluntary assistant” was abolished and removed from all the procedures to be replaced by “permanent ID holder”.

b) Parliamentary civil servants

As for all those who participate in the work of Parliament, parliamentary civil servants may find themselves in situations involving the conflict of interests. So as to reduce the possibility of such situations occurring, the internal rules of procedure of the French National Assembly provide guarantees and obligations for the civil servants of the assembly who indeed enjoy an autonomous status. Generally speaking, parliamentary civil servants take very few autonomous decisions in that they are supposed to act or to write on behalf of MPs. They can nonetheless find themselves in a number of situations which might be liable to create a conflict of interest.

So as to avoid the occurrence of potentially delicate situations, the Commissioner for Ethical Standards, in her report, proposed the drawing-up of a code of conduct which would take into account the particularities of the position of parliamentary civil servant. It would represent a first set of guidelines which would be easily accessible and would gather together the most important obligations of all civil servants working at the National Assembly. It would also have the advantage of being accessible to third parties and in particular to the representatives of interest groups. Thus civil servants could refer to it, for example, if they needed to justify a negative answer in a particular case.

In addition, as for parliamentary assistants, the Bureau is considering the idea of the Commissioner for Ethical Standards to allow parliamentary civil servants to make a referral to the body in charge of ethical standards, once they have consulted with their administrative hierarchy. The Commissioner for Ethical Standards also recommends extending the obligatory declarations to civil servants and basing them on the model followed by MPs in the case of trips and gifts of a value of over €150.

c) The representatives of interest groups

Lobbyists, or the representatives of interest groups are a means for a lawmaker to gain precise information on how the law is applied and on ways to improve it. Such information is, by definition, biased, since it aims at defending a particular goal. Nonetheless, it is up to the parliamentarian to draw a distinction between the information he is given and to discuss it with others in order to ensure its truthfulness and coherence. The activity of the representatives of interest groups is also useful in that it allows the public decision-maker to better understand the expectations of civil society.

Whilst recognizing the advantages such representatives of interest groups may bring in the drawing-up of public decisions, the Bureau of the French National Assembly regulates their presence at the assembly by imposing three main principles: the obligation of transparency (which must lead the representatives of interest groups to declare whom they represent and for whom they act); the obligation of making public their activities (this allows the general public to know, from the outside, in which conditions contacts are made between their elected representatives and the representatives of interest groups); and the obligation of a code of ethics, i.e. the notion of having the activities of the representatives of interest groups subject to a series of rights and duties.

These new rules adopted by the Bureau thus make provision for the right to be enrolled on a list for all representatives of interest groups who accept to play the game of transparency. They must fill out a detailed form which is made public on the internet site of the National Assembly. By filling out this form the representative of an interest group signs up to a code of good conduct which implies rights and duties: this enrollment binds the representative of an interest group and indicates that he/she accepts to fully apply the ethical principles set down by the Bureau.

Enrollment on the list is not obligatory; it, in no way, represents a prerequisite in order to access the National Assembly or to meet an MP. However it provides the MP who meets with the representative of an interest group with the guarantee that the latter is committed to respecting the code of good conduct. The MP can thus be assured that the information garnered from the representative of the interest group has been provided in all good faith and on the basis of reliable and objective data.

In addition, enrollment on the list, provides the MP and the general public in a detailed way with information concerning the interests being defended, the means given over to lobbying as well as the action carried out the previous year as regards Parliament. The invitation to enroll on the list is extended to all organizations, companies or legal entities which need to have access to the elected representatives of the nation.

When he/she enrolls on the list, the representative of an interest group receives a specific card from the National Assembly which, without providing direct access to the National Assembly, facilitates his/her entrance and exit from the premises. Enrollment

allows provides the possibility of being specifically mentioned as a representative of an interest group having signed up to the rules on transparency, in the parliamentary reports for which he/she has been interviewed. It also provides the advantage of being alerted by mail and of receiving specific parliamentary fact-finding documents. In addition, the representative who has enrolled on the list has the possibility of placing on-line contributions which can be published on the internet site of the National Assembly concerning all events dealing with the tabling of a parliamentary document.

The new rules were passed in February 2013 and were enforced as of January 1, 2014. At present, the list has around 80 organizations and companies which have signed up.

With the setting-up of the position of Commissioner for Ethical Standards, followed by the passing of laws concerning transparency in public life, France appears to have caught up on lost time relative to other great western democracies in the field of ethics and accountability in public life. The notion of transparency is certainly gaining ground, behavior is changing and the idea of ethical standards is no longer seen as an unbearable calling into question of the sovereignty of the lawmaker. Nonetheless the situation is still delicate: although MPs are happy to comply with the new rules, it is in the perspective of recreating a link of trust with their voters. All of this takes place at a time when anti-parliamentarianism is strong and this creates of course an adverse atmosphere.

Mr Marc BOSC, President, thanked Mrs Corinne LUQUIENS for her communication and invited members present to put questions to her.

Mr Manuel CAVERO GOMEZ (Spain) asked what role the Ethics Commissioner played and whether, once she had made a decision, the matter could be taken to court.

Mrs LUQUIENS said that France had new rules and, at present, the only weapon of the Commissioner was that of publicity. The Commissioner was seen more as an adviser to MPs to prevent problems from occurring in the first place. The main difficulty was in relation to invitations to visit places such as Qatar. The Ethics Commissioner could provide a source of early advice on such matters. A further example was the information, now in the public domain, about the investments made by MPs.

Mrs Doris Katai Katebe MWINGA (Zambia) noted that in Zambia there was a Parliamentary and Ministerial Code of Conduct, but that complaints went to the Chief Justice, who set up a tribunal. There had been a very unusual case of an MP who was studying for his PhD. He had raised several questions that were related to the topic of his thesis. This proved to be a personal rather than a pecuniary interest. She asked how often the declarations had to be made in France.

Mr Pranab CHAKRABORTY (Bangladesh) said that in Bangladesh the administrators were bound by a Code of Conduct because they were employees of the Speaker. The same did not apply to politicians.

Mr Geert Jan A. HAMILTON (Netherlands) said that in the Netherlands, the Senators worked part time, which meant that they were employed elsewhere, leading to many potential conflicts of interest. Everything that Senators did outside the Senate was recorded so that potential conflicts of interest in things that they said was well known. He asked what the sanctions for breaches of ethics were in the French Parliament. He also asked if someone who had broken the rules could be removed. In the Netherlands this was not possible because it would be considered as an additional sanction.

Mr Brendan KEITH (United Kingdom) noted that the House of Lords had had a Code of Conduct since 2001, but that it was very different from the French system. The reason for this was that Lords were unsalaried and consequently were expected to have external financial interests. The basis for the system was transparency. In the UK, lobbying was not seen entirely negatively, as could be seen by its recent interaction with Greco.

Mr Marc VAN DER HULST (Belgium) asked why the French National Assembly had chosen to have a single Commissioner rather than a group of people charged with enforcing the principles. Like the UK, Belgium had also had a recent visit from Greco. Belgium's ethical code did not provide for lobbying and this was not felt to be a problem in Belgium. There would be a workshop on ethics and parliamentarians that would take place and he encouraged members to participate.

Dr Hafnaoui AMRANI (Algeria) said that in Algeria a new law had recently been passed and members had been asked to make a declaration of interests. This requirement had not, however, been respected and he was not sure how it could be enforced. He asked what the French Commissioner could do when parliamentarians did not respect the decisions taken.

Mrs LUQUIENS said that declarations were made at the beginning of each term but could be amended with each new development. In relation to parliamentary assistants, these people could consult the Commissioner but the question did not arise because they worked for the MPs and, in the end, it was the MP who had to take the decisions and the responsibility.

She noted that there were no sanctions. The principle adopted at the outset was that any breach could be made public. Without a fully blown case of corruption there was no crime. Unless it could be proved that an MP had received payment for saying or doing something, wrongdoing could not be established.

In the case of incompatibility, if an MP was exercising a profession that he was not allowed to exercise, he could be asked to resign, but only by the Constituional Court.

Lobbying was indeed a delicate subject. She asked whether trade unions should be considered as lobbying organisations. Rapporteurs had to detail the meetings that they had in the course of the production of a report. Thus lobbying did not need to be banned but there needed to be transparency.

She said that France had decided to have a Commissioner rather than a Commission because of the requirement for discretion. The Commissioner was not a parliamentarian because this would be impossible in France. MPs would not be comfortable discussing their private interests with a colleague.

The French Code of Ethics was modelled on existing codes.

Mr Marc BOSC, President, thanked Mrs LUQUIENS for her presentation.

3. Communication by Mr Claes MÅRTENSSON, Deputy Secretary General of the Riksdag, Sweden: "A Code of Conduct for MPs – what, why and how"

Mr Marc BOSC, President, invited Mr Claes MÅRTENSSON, Deputy Secretary General of the Riksdag, Sweden, to present his communication.

Mr Claes MÅRTENSSON (Sweden) spoke as follows:

Introduction
Mr Chairman, dear colleagues.

Today I will talk about a phenomena which is currently being discussed in mine and a number of other European parliaments, namely Codes of Conduct. Indeed, it appears that Codes of Conducts is something of a current trend. There are today eleven European countries that have already adopted Codes of Conduct along with Canada, the US and the European parliament. Furthermore, a handful of other European countries are in the process of adopting codes. The Swedish Riksdag is now drafting its own Code of Conduct, in part as a reaction to a report from a Council of Europe-institution called Group of states against corruption or Greco. Their conclusion from having reviewed the Swedish political system is that we should adopt our own Code of Conduct.

The issue of having a Code of Conduct has occasionally been brought up in the Riksdag, but until recently we have concluded that a code would not be necessary for Sweden. The reason is that public trust in the Riksdag is high and public perception of corruption is amongst the lowest in the world. Even if media has featured a few scandals involving Members of Parliament (MPs), such events are rare in Swedish politics. In short, the Riksdag and its members enjoy high levels of legitimacy and we have therefore, right or wrong, not felt the need for a code. But as I mentioned, we are now nevertheless drafting our own code. I will explain why in a moment, but first just a few words on what a Code of Conduct is.

What is a Code of Conduct?
There is no a fixed definition of what a Code of Conduct is, but it typically consists of a few pages that define and describe the rules that are most relevant to MPs. In Sweden,

as in other countries, there are of course laws and regulations that apply to MPs in the same fashion as to other citizens, but there are also specific rules that apply only to MPs. Codes of Conducts focus on those more specific laws and regulations. When we have studied other parliamentary codes we have found that they have certain subjects in common. Codes of Conduct typically include articles stressing the importance of working for the common good and not using one's position as an MP for furthering private interests. Also, provisions on declaring financial or other assets are normally included. The idea behind such declarations is that it should be possible for the public to judge whether members can be suspected of being biased or not. Codes of Conduct commonly also stress the importance of avoiding bribes and accepting expensive gifts.

Many also comment on the importance of being modest and careful when it comes to spending public money. Finally, codes typically also contain provisions on how to uphold the code and what happens if MPs break the code. In other words, there is often a system for sanctions, most commonly according to the "name and shame"- principle, but there are also more extreme punishments such as forfeiting daily subsistence allowances or even the loss of an elected parliamentary role (e.g., chair of a committee).

This was a short description of what a Code of Conduct is. Now I will turn to the question of what the pros and cons of a Code of Conduct are, and why we in Sweden have opted to draft a code of our own.

Is a Code of Conduct a good idea?

Given Sweden's relatively good track record with low corruption and other misconduct among MPs, one could argue that some of the stronger reasons for having a code are less relevant in our context. As I have mentioned, our political system seems to work quite well with little corruption and few scandals. But even though we do not have severe problems in Sweden I still think there remain some arguments for having a Code of Conduct, both for MPs, voters and parliaments. One is that a Code of Conduct gathers the most relevant regulations that are specific to MPs in one visible place. This makes it easier for both MPs and voters to understand what rules apply to MPs and how they apply. A code is a voluntary commitment on the part of all MPs and is similar to a gentleman's agreement. It makes it easier for voters to hold their MPs accountable should they deviate from the agreement. Typically, codes also contain provisions on openness when it comes to personal interests, assets and gifts. Even though some of these provisions are already in place in Sweden, they become more visible to voters when they are expressed in one single document.

A Code of Conduct typically sets higher standards for MPs than for other people. This can be criticized. Shouldn't the universal laws adopted by parliaments apply to MPs in the same ways as to other citizens? How can we justify demanding more of MPs than following the law?

I think the answer to these questions is that in real life voters actually do expect more from their parliamentarians than they do from their fellow citizens. Parliamentarians are expected to follow not only the law, but also to avoid such behaviour that would look

bad in the newspaper. This is a challenge for MPs and parliaments and a Code of Conduct is perhaps a way to face the challenge. A Code of Conduct is a document that helps the individual MP to understand what is expected from him or her. It lends support to the moral and ethical judgements that MPs are faced with. The code helps define what is morally undesirable, but not necessarily illegal, and can thus fill a middle ground between the legal and illegal. I am of course approaching this subject from a Swedish point of view. Many of the arguments would be of different relevance in other contexts. In countries where corruption is more of a problem, I think a Code of Conduct might be even more useful.

To finish off my presentation I will share my thoughts on how to draft a Code of Conduct.

How should a Code of Conduct be drafted?
Let me first say that we in Sweden are no experts on this subject since we are in the beginning of our own work, but our experience this far, and from studying others, is that it is important that the drafting of a Code of Conduct is driven by the MPs themselves. There is otherwise a risk that a Code of Conduct is perceived as a moralizing document pointing fingers at MPs and infringing on their democratic liberties. I therefore think it is important that MPs feel that they are voluntarily adopting their own Code of Conduct. In our case we have appointed a working group with one member from all of the eight parties in the Riksdag. The group is led by our First Deputy Speaker, signaling the importance of its work.

I think Codes of Conduct should be seen as the starting point of two processes. First, to avoid that the code ends up being just another paper in a drawer, a code should initiate a discussion on ethics and I think a Code of Conduct can serve as a good starting point for discussing various ethical dilemmas facing MPs.

Second, work on a code should strive to clarify how different types of regulations apply to the everyday situations facing MPs. Typically codes of conduct describe values such as openness, objectivity and integrity. The danger is that such concepts are not filled with content and remain just nice but empty words. The challenge is therefore to define what these values mean in practice. One example is integrity when it comes to receiving gifts – what is an MP allowed to receive and what is he or she not allowed to receive?

In our work we have been inspired by other countries and institutions such as Greco and OSSE in drafting a Code of Conduct. Even though the situation in Sweden regarding for example corruption is probably better than in some other countries, it is my belief that a Code of Conduct, if used wisely, can be one way to preserve the confidence in the Riksdag. It is not a magical, or perhaps not even a powerful tool. But on the other hand it does not cost much to have a code and there are after all not that many instruments available in the tool box. As the highest institution of the state, parliaments should be sovereign and regulate themselves. From this follows that parliaments have to set and work with their own standards, legal as well as moral. For this work I think a Code of Conduct can be a useful tool.

Thank you so much for your attention.

Mr Marc BOSC, President, thanked Mr Claes MÅRTENSSON for his communication and invited members present to put questions to him.

Mr Brendan KEITH (United Kingdom) had drafted the UK House of Lord's first Code of Conduct in 2001. It was only three pages long and intended to be self-explanatory and self-sufficient. In the ensuing ten years there had been a number of major scandals and consequently guidelines were produced to accompany the code. The guidelines were ten times the length of the Code. Even this had not been enough because the interests and ingenuity of Members had been found to be boundless. Not everything could be forseen.

Mr Pranab CHAKRABORTY (Bangladesh) said that in Bangladesh it was assumed that the newspapers would act as watchdog. He asked what administration would be put in place to support the implementation of the Code.

Mr Marc BOSC, President, suggested that a prerequisite for any administrator of a Code of Ethics was an understanding of parliamentary life. Without this, the conclusions reached would have only limited relevance.

Dr Thorsteinn MAGNUSSON (Iceland) said that he agreed with his Swedish colleague about the importance of involving MPs in the drafting. The involvement of MPs in Iceland had been helpful and had assisted in the acceptance by MPs of the final version.

Mr Modibedi Eric PHINDELA (South Africa) asked whether it was intended that the Code of Conduct should be enforceable and, if so, how it would be enforced. In South Africa there was a Code of Conduct of MPs, who declared their interests. There was a Register, part of which was open to the public, part of which was not. There was also an Ethics Committee.

Dr Athanassios PAPAIOANNOU (Greece) said that in Greece a few months ago a Committee had been formed to draft a Code of Conduct. Initially two pages had been produced in response to a request by the Speaker for flexibility. At present, the draft Code ran to about 60 pages.

He felt that it was a bad sign for democracy that there was a need for a Code of Conduct. He identified three problems: the rules themselves; the question of who interpreted the rules, whether an individual or a Committee; and what the sanctions should be. He suggested that the Association should try to gather some statistics on the existing Codes of Conduct, and some information about the form that they took.

Mr Baye Niass CISSÉ (Senegal) said that in Senegal the issue of a Code of Conduct had not yet been tackled, but that there was a bill before the National Assembly which would mean that all MPs would have to declare their assets at the beginning and end of

their terms. The intention was to avoid corruption scandals and other forms of misconduct leading to the acquisition of undue wealth by MPs. He hoped that there would be a Code of Conduct in future.

Mr Geert Jan A. HAMILTON (Netherlands) said that everyone who had been visited by Greco should prepare a reaction to the report that they were given. In the Netherlands, it was felt that the Greco report aspired to an increased volume of regulation, which ran contrary to the national principle not to regulate unless a need for regulation had been identified. No real problems had been identified.

Mr Amjed Pervez MALIK (Pakistan) said that the media did not understand the parliamentary context, which made justice difficult to achieve.

Mr MÅRTENSSON said that Sweden was at the beginning of the process and that consequently he had no idea of the outcome. However, it was forseen that there would be a need for some guidelines, but he hoped that there would be no need for 60 to 70 pages because this may render the guidelines unusable.

For Sweden the Code was akin to a Gentleman's Agreement. In Sweden regulations on ethics covered every Swedish citizen. One of the problems with guidelines was that there was a risk of straying into the interpretation of matters that were properly the province of the law.

The best instrument for a working Code of Conduct was the media, which would act as a watchdog. He did not see the need for any sanctions other than transparency and publicity and felt that sanctions were properly the province of the court.

He was attracted by the proposal from Iceland to involve the MPs in the process of drafting a Code of Conduct.

4. Elections

Mr Marc BOSC, President, announced that three candidacies for the election of two ordinary members of the Executive Committee had been received.

He reminded members that only members, honourary members or official substitutes for members and honourary members had the right to vote and that all these people needed to be present in order to do so.

He wished all the candidates luck.

5. Communication by Mrs Doris Katai Katebe MWINGA, Clerk of the National Assembly of Zambia: "The process of removing the immunity of a former President by the National Assembly- the Zambian experience"

Mr Marc BOSC, President, invited Mrs Doris Katai Katebe MWINGA, Clerk of the National Assembly of Zambia, to present her communication.

Mrs Doris Katai Katebe MWINGA (Zambia) spoke as follows:

Introduction

Immunity of the President refers to a bar on the commencement or continuation of civil or criminal proceedings against the person holding the office of President. The purpose of presidential immunity is to ensure that the Head of State is not distracted from official duties by being subjected to unnecessary court processes and also to allow the President sufficient freedom to perform the functions of President without fear of any legal repercussions.

Whereas in most jurisdictions the immunity of a Head of State is tied to the Presidency and, therefore, ceases upon the Head of State leaving office, in Zambia, a former President continues to enjoy immunity from prosecution for criminal matters he or she committed while President. However, the Constitution of Zambia, Chapter 1 of the Laws of Zambia, does empower the National Assembly to remove this immunity where the Assembly feels that it would not be contrary to the interests of the State.

The question that one may ask is: why grant immunity to a former President in the first place? It is a notorious fact that a President comes across an immense amount of information about the State during his or her time in office. In this regard, the rationale of granting a former President immunity is to prevent the disclosure of information that may be harmful to the interests of the State. It is for this reason that the National Assembly can only remove a former President's immunity if it is satisfied that the interests of the State will not be adversely affected.

In the history of Zambia, the National Assembly has on two occasions invoked this constitutional provision. The first time was in 2002, when the immunity of the Second Republican President, now deceased, Dr Frederick Jacob Titus Chiluba, was removed. The second occasion occurred in March 2013, when the immunity of the Fourth Republican President, Mr Rupiah Bwezani Banda, was removed.

This paper will explore the procedures that are followed in the removal of the immunity of a former President and the National Assembly of Zambia's experiences in removing the immunity of the two former Presidents.

Immunity of a former President

Presidential immunity is provided for under Article 43 of the Constitution of Zambia. Articles 43(1) and (2) grant a sitting President immunity from civil and criminal proceedings while Article 43(3) extends the immunity relating to criminal proceedings to a former President.

Article 43(3) provides as follows:

> "43(3) A person who has held, but no longer holds, the office of President shall not be charged with a criminal offence or be amenable to the criminal jurisdiction of any court, in respect of any act done or omitted to be done by him in his personal capacity while he held office of President, unless the National Assembly has, by resolution, determined that such proceedings would not be contrary to the interests of the State."

The import of the foregoing provision is that a former President in Zambia has immunity from criminal proceedings for criminal offences he or she committed in his or her personal capacity while in office until and unless that immunity is removed by a resolution of the National Assembly.

Procedure for the removal of immunity of a former President

It may be observed that while Article 43(3) vests the power to remove the immunity of a former President in the National Assembly, it does not prescribe the procedure to be followed. It merely states that this shall be done by a resolution of the House.

Due to the absence of a clearly set out procedure, in the Constitution, for effecting the removal of the immunity of a former President, the National Assembly employs the procedures in the Standing Orders relating to the passing of resolutions in the House as follows:

(i) Motion

For a resolution to be made in the House, a motion has to be moved by a Member of Parliament.

The moving of motions is regulated by Standing Orders 36 and 37 of the Standing Orders, which provide as follows:

> "36(1) Every member, in giving notice of a motion, shall deliver to the office of the Clerk a copy of such notice fairly written, subscribed with his / her name and signature and, in the case of a member other than a Minister, signed by a seconder of the motion and including the date proposed for bringing on such motion.
>
> (2) The day proposed shall not be less than three days ahead, and where notice is given on a Friday, not less than four days ahead:

Provided that –

(a) the Speaker, may, by leave of the House, exempt other motions from this provision; and
(b) the Speaker may, by leave of the House, exempt motions for select, standing and sessional committees from this provision.

(3) Subject to the Assembly being in session on that date, and further subject to the provisions of standing order twenty-six, the motion shall be set down on the order paper for that day unless it has been previously withdrawn.

(4) The motions shall be governed by the rules of admissibility.

37. Notwithstanding the provisions of standing order thirty-six, notices of motion may be handed in by Ministers at any time during any sitting of the House and the Minister shall specify any subsequent day as the day on which such motion shall be debated."

The above Standing Orders give both the Executive and back-benchers liberty to introduce a motion for the removal of the immunity of a former President.

However, whereas backbenchers need to give three (3) days' notice, Members of the Executive only need to give one (1) day. In addition, a Member of the back bench needs to have someone second his or her motion while a Member of the Executive does not.

From the foregoing provisions it is clear that the process of the removal of the immunity of a former President commences with the mover of the motion issuing a Notice of Motion. The Notice of Motion needs to indicate when the motion will be debated. If the motion is going to be moved by a member of the Executive, then it is sufficient for the notice to be circulated a day before the motion is debated.

(ii) Resolution of the National Assembly

For the immunity of a former President to be removed, the House must pass a resolution. There has been a lot of debate regarding the threshold required to pass this resolution with some quarters arguing that it should be by two-thirds majority.

Article 84(1) of the Constitution is instructive in this regard. It states:

"84. (1) Except as otherwise provided in this Constitution, all questions at any sitting of the National Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or the person acting as Speaker as the case may be."

It is evident from the foregoing Article that all resolutions of the National Assembly shall be by simple majority unless the Article providing for the resolution states otherwise. For example, Article 37(2), which provides for the impeachment of the

President, clearly stipulates that the motion requires the support of at least two-thirds of all Members of the National Assembly to be passed.

Article 43(3), however, merely states that the removal of the immunity of a former President shall be by a resolution of the National Assembly without stipulating the requisite threshold for the resolution. This means that the resolution is by simple majority.

(iii) Quorum Required

For any business to be transacted in the Zambian Parliament the constitution stipulates that one-third of the Members of Parliament should be present. Article 84(4) thus states as follows:

> "84(4) The quorum for a meeting of the National Assembly shall be one third of the total number of members of the National Assembly and if at any time during a meeting of the National Assembly objection is taken by any member present that there is no quorum, it shall be the duty of the Speaker or the person acting as such, either to adjourn the National Assembly or, as he may think fit, to suspend the meeting until there is a quorum."

The current composition of the National Assembly is one hundred and fifty-eight (158) Members of Parliament plus the Speaker giving a total of one hundred and fifty-nine (159) Members. This means that a quorum is fifty-three (53) Members. In this regard, a motion for the removal of the immunity of a former President can be proceeded upon as long as at least fifty-three (53) Members are present in the House.

Precedents

As stated earlier, the National Assembly has, in the last two decades, removed the immunity of two former Presidents. I now wish to give a detailed account of these cases.

(i) MR FREDERICK TITUS JACOB CHILUBA, SECOND PRESIDENT OF THE REPUBLIC OF ZAMBIA (FREDERICK JACOB TITUS CHILUBA VS THE ATTORNEY-GENERAL (2003) ZR 153)

The process of the removal of the immunity of the Second Republican President, Dr Frederick Jacob Titus Chiluba, commenced on the 11th July, 2002, when the then President of the Republic of Zambia, the late Dr Levy Patrick Mwanawasa, SC, made a special address to the National Assembly in which he levelled several allegations of corruption against his predecessor and urged the National Assembly to remove his immunity.

Subsequently, on the 16th July, 2002, the then Vice-President of the Republic of Zambia, Mr Enock Kavindele, moved a motion in the House for the removal of Dr Frederick Chiluba's immunity. After an extensive and heated debate, and in exercise of its powers under Article 43(3) of the Constitution, the National Assembly passed the following resolution removing the former President's immunity:

> "That in terms of Article 43(3) of the Constitution of Zambia, this House do resolve that Mr F J T Chiluba who has held, but no longer holds, the office of President may be charged with any criminal offence or be amenable to the jurisdiction of any court, in respect of any act done or omitted to be done by him in his personal capacity while he held office of the President and that such proceedings would not be contrary to the interests of the State, and further that the immunity available to him be removed."

The former President, dissatisfied with the manner in which his immunity had been removed, took the matter up to the Supreme Court. He alleged, among other things, that the procedure employed to remove his immunity had been irregular and that he had not been given an opportunity to be heard before his immunity was removed.

On the issue of procedural impropriety, the Supreme Court held that Article 86(1) of the Constitution empowered the National Assembly to determine its own procedures and that these procedures had been followed in the removal of the former President's immunity.

In addressing the issue whether the former President should have been heard before the removal of his immunity, the Supreme Court had this to say:

> "After looking at the provisions of Article 43(3), we find nothing in these provisions which suggest to us that before lifting the immunity of a former President, the National Assembly should give a former President the opportunity to be heard."

This position of the Court confirmed the position that during proceedings for the removal of the immunity of a former President, the National Assembly does not need to call upon the former President to give evidence to rebut the allegations against him or her.

As regards whether there was need for specific charges to have been levelled against the former President before his immunity was removed, the Court held that the lifting of the immunity did not have to be based on any specific charges being levelled against the former Head of State.

The Court further pronounced that the purpose of the removal of the immunity of a former President by the National Assembly was in order to facilitate his or her prosecution and not for purposes of conducting investigations. This means that investigations can be instituted against a former President even under the cloak of immunity.

It may be noted that former President Chiluba proceeded to be prosecuted and was eventually acquitted on all the charges by the magistrate's court. Following his acquittal, a further question arose whether his immunity could be restored. Some argued that his immunity was automatically restored when he was acquitted so that if he

had to be prosecuted for any other criminal matter, Parliament would have to remove his immunity again. Yet others argued that once immunity was removed, it was lost forever. Unfortunately, Chiluba died before these theories could be tested in the courts of law. However, the issue of the restoration of a former President's immunity once they have been acquitted remains a subject of debate even today.

(ii) MR RUPIAH BWEZANI BANDA, FOURTH PRESIDENT OF THE REPUBLIC OF ZAMBIA (RUPIAH BWEZANI BANDA VS ATTORNEY GENERAL 2013/HP/0347)
On the 15th March, 2013, the National Assembly of Zambia again had occasion to invoke Article 43(3) of the Constitution.

The process commenced on the 13th March, 2013, when the Hon Minister of Justice, Hon Wynter Kabimba, SC, MP, in accordance with Standing Order 37, issued a notice of motion to remove the immunity of the Fourth Republican President, Mr Rupiah Bwezani Banda. The Notice of Motion indicated that the debate would take place on the 15th March, 2013. On the 14th March, 2013, Mr Banda filed an action in court to try and stop the process from proceeding.

On the 15th March, 2013, the House proceeded with motion and one of the Members of Parliament raised a point of order alleging that it was sub judice to proceed when the matter was before the High Court. The Hon Member then proceeded to lay the court process on the Table of the House. The court process laid on the Table was an application by Mr Banda for an injunction to restrain the National Assembly from proceeding to debate and pass the Motion for the removal of his immunity.

In ruling on the point of order, the Speaker, Hon Dr Justice Patrick Matibini, SC, MP, guided the House that under the doctrine of separation of powers, the House had a very unique freedom to determine and deal with its internal proceedings. He further stated that the internal proceedings and procedures of the House were not amenable to the jurisdiction of the court. He emphasised that one could not use court process to stop the internal processes of the National Assembly.

On the basis of the aforesaid ruling, the House proceeded to debate and vote on the motion for the removal of Mr Rupiah Bwezani Banda's immunity. Eighty (80) Members of Parliament voted for Mr Banda's immunity to be removed, three (3) voted against the removal of the immunity and four (4) abstained. The Fourth Republican President, Mr Rupiah Bwezani Banda's, immunity was accordingly removed.

Mr Banda decided to challenge the decision to remove his immunity in the High Court. He, therefore, applied for leave to seek judicial review of the decision alleging that the removal of his immunity had been flawed for the following reasons:

(i) the House had proceeded with the motion to remove his immunity when the matter was before the courts and therefore sub judice;

(ii) he had not been given an opportunity to be heard before his immunity was removed;

(iii) the National Assembly had not inquired into whether the acts for which his immunity was being removed had been done in his personal capacity as required by Article 43(3); and

(iv) the motion had been passed by a simple majority and not the two-thirds required.

In deciding on the application, the High Court stated that the issues regarding a former President being given an opportunity to be heard and the need for the National Assembly to conduct an inquiry before removing the immunity of a former President had been well settled in the Chiluba case where the Supreme Court of Zambia had clearly stated that Article 43(3) did not provide for this. The court emphasised that it was bound by the Supreme Court's decision.

Curiously, the High Court did not make any pronouncement on Mr Banda's contention that the resolution required more than a simple majority to be passed.

The High Court then proceeded to grant Mr Banda leave for judicial review stating that by tabling and debating the motion for the removal of Mr Banda's immunity when there was a petition pending adjudication before the High Court, the National Assembly had departed from its previous practice and custom not to debate matters that were before the courts of law. The court, however, pronounced that the leave would not operate as stay of the decision of the National Assembly to remove Mr Banda's immunity. Thus, Mr Banda continues to face prosecution in the Zambian courts on various corruption charges to date.

It may be observed that the decision of the High Court to grant Mr Banda leave for judicial review on the basis that the National Assembly had proceeded to debate a matter that was before the courts of law and therefore sub judice, raises the question of separation of powers and the National Assembly's freedom to determine its internal matters. This freedom of the House to regulate its own affairs is what has been termed "exclusive cognisance".

This notion of "exclusive cognisance," is, in fact, provided for by section 34 of the National Assembly (Powers and Privileges) Act, Cap 12 of the Laws of Zambia, which provides that:

> "Neither the Assembly, the Speaker nor any officer shall be subject to the jurisdiction of any Court in respect of the exercise of any power conferred on or vested in the Assembly, the Speaker, or such officer by or under the Constitution, the Standing Orders and this Act."

As earlier stated, the motion to remove the Fourth Republican President, Mr Rupiah Bwezani Banda's, immunity was laid on the table of the House on the 13th March, 2013. The proceedings, which were the subject of the claim of sub judice, were only filed in the High Court on the 14th March, 2013. In this regard, allowing a claim of sub judice on the basis of an action that was commenced after the laying of the motion on the

table of the House amounts to the grant of an injunction restraining the National Assembly from proceeding with its internal processes, which the courts do not have the power to do.

The National Assembly has, therefore, challenged the High Court decision in the Supreme Court on the premise that the National Assembly has exclusive cognizance over its internal proceedings and not even a court process can be used to stop it from transacting its business. We await the pronouncement of the Supreme Court on the matter.

Conclusion

The Zambian Constitution grants a former President immunity from prosecution for criminal acts committed in his or her personal capacity. However, recognising the dangers of unchecked immunity, it has gone further to vest the power to remove this immunity in the National Assembly. This acts as a safeguard to ensure that those entrusted with the power of the Presidency do not abuse it. Hence, on two occasions the Zambian Parliament has removed the immunity of former Presidents.

As earlier stated, the Constitution does not set out the procedure for the removal of the immunity, thus, the National Assembly relies on the procedures set out in its standing Orders. This has resulted in the National Assembly's decision being challenged in court. These challenges have been helpful in that they have clarified some of the issues relating to the removal of Presidential immunity. In the Chiluba case, for instance, the Supreme Court firmly established that a former President does not have a right to be heard by the National Assembly before his or her immunity is removed. It further established that the National Assembly does not have to make any inquiry before removing the immunity. The Court also pronounced that the immunity was from prosecution and not investigation so that a former President could be investigated even if his or her immunity had not been removed.

In the Banda case, one of the interesting questions on which we await the pronouncement of the Court is whether a court process can be used to prevent the National Assembly from proceeding with a motion to remove the immunity of a former President. This pronouncement will have far-reaching implications on not only the removal of the immunity of a former President, but also on the powers of the National Assembly to regulate its internal affairs.

Mr Marc BOSC, President, thanked Mrs Doris Katai Katebe MWINGA for her communication and invited members present to put questions to her.

Mr Austin ZVOMA (Zimbabwe) said that there had been a similar case in Zimbabwe, where the *sub judice* rule had voluntarily been included in Standing Orders by Parliament. However, the Constitution gave the courts the final say in interpreting the law. In that case, the issue was whether the matter concerned the administration of Parliament or not. In his opinion the immunity of a Vice-President was not a matter that should concern the administration of Parliament. In Zimbabwe the ruling had been that

Parliament could not assert its own rules. In a battle between Parliament and the courts, Parliament would always lose.

Ms Panduleni SHIMUTWIKENI (Namibia) asked how the National Assembly could reach its decision on whether the interests of the State had been adversely affected.

Mr Modibedi Eric PHINDELA (South Africa) indicated that no similar provision existed in South Africa so the matter would not arise there. However, the courts in South Africa had clearly stated that the proceedings of Parliament could not been indicted by the courts. He agreed that the matter probably did not fall within the jurisdiction of Parliament but instead concerned the rights of an individual.

Mr Andrew KENNON (United Kingdom) said that he planned to torture young clerks with the questions posed by the presenter. The problems in the House of Commons had been the other way round and had concerned the abuse of parliamentary privilege. The UK might consider legislating to enforce privilege.

Mr Jeremiah M. NYEGENYE (Kenya) said that in Kenya the courts had sought to intervene in matters that were live before the Parliament. For example, a Governor had sought to prevent a Parliamentary sitting from occurring. He wanted to know how such issues would be dealt with in other countries.

Mrs MWINGA thanked her colleagues for their contributions. Parliament had decided whether or not the interests of the State would be adversely affected by including the matter within the text of the motion.

The Zambian courts said that it was not necessary for the former President to be heard by Parliament because Parliament was not a court. The problem was whether, once the matter had been taken to court, the motion should fall because the issues in both were the same.

She thought that the case in Kenya was similar to that in Zambia. Zambia had a case of impeachment which had failed because insufficient numbers could be gathered by the parties to impeach the President.

In the current case matters had been complicated by the fact that the President had gone to court to try to stop the procedure of a motion that had already been tabled. The Zambian Standing Orders did not contain a *sub judice* rule because, on the authority of Erskine May, the Parliament considered the rule to be at the discretion of the Speaker.

6. Communication by Mr David BYAZA-SANDA LUTALA, Secretary General of the Senate of the Democratic Republic of Congo: "The procedure for reviving the mandate of a parliamentarian following the exercise of an executive function by him or her – the case of DRC Parliament"

Mr Marc BOSC, President, invited Mr David BYAZA-SANDA LUTALA, Secretary General of the Senate of the Democratic Republic of Congo, to present his communication.

Mr David BYAZA-SANDA LUTALA (Democratic Republic of Congo) spoke as follows:

The procedure for the reinstatement of the parliamentary mandate following the exercise of an incompatible political function is a new procedure that the constitutional revision of 25 January 2011 introduced in the Democratic Republic of Congo. However, the interpretation and the application of this procedure do not go smoothly and even seem to cause number of misunderstandings. And unfortunately, the first dichotomous cases all come in particular from the Upper House of the Parliament of the Democratic Republic of Congo. This is the case of the reintegration of Senators Jacques Djoli and Justin Kiluba. In addition, instead for certain casesfor validation to be limited in the respective legislatures, some candidates seek the Supreme Court'sinterpretation of the Law that until now also acts as the "Constitutional Court."

The present subject is for the sharing with you of our experiences and compares them with what happens in countries with the same provisions of the Law similar to ours. In other words, our discussion will mainly focus on whether it would be possible for the provisions relating to the reinstatement of the parliamentary mandate to be rationally and smoothly applied.

Before addressing the few cases that have until now occurred, it would be first preferable to examine:

- the conditions of the incompatibility of the parliamentary exercise and,
- the reasons for the revision of Articles 110 and 192 of the Constitution of 18 February 2006.

Our presentation will center around the following points:

1. The incompatibility of the parliamentary mandate with any other political function;
2. The absence of procedures for the reinstatement of the parliamentary mandate before the constitutional revision of 25 January 2011
3. The reasons of the relative initiative of the reinstatement procedure of the parliamentary mandate
4. The constitutional provisions relating to the reinstatement of the parliamentary mandate after a different political function;
5. The case of reinstatement of the parliamentary mandate uniquely validated in

Parliament.

6. cases of parliamentary reinstatements that have been validated by the Supreme Court of Justice;
7. Of our reading through it

The incompatibility of the parliamentary mandate with any other political function

The provisions of Article 108 of the Constitution of 18 February 2006 as revised on January 20, 2011 and of the Article 8 of Law No. 008/ 012 of 31 July 2009 laying down fundamental principles relating to the free administration of provinces state that a parliamentary mandate is incompatible with any exercise of a political political office.

With regard to political offices, we can name:

- A Member of the Central or Provincial Government;
- A member of an institution that works in support democracy;
- member of the Armed Forces, National Police and other security services;
- Magistrates
- Civil servants at all level: national , provincial or local;
- Politico- administrative agents the local authorities, with the exception of leaders of community, villages and units;
- Members of Civil service Posts;
- Member in the Cabinets of the President of the Republic, the Prime Minister, the Speaker of the National Assembly, the President of the Senate, members of the Government , and usually a political or administrative authority of the state or province , employee in a public company or a mixed company ;
- Any other elective office;
- Agent or any executives paid by a foreign state or an international organization.

The absence of procedures for the reinstatement of the parliamentary mandate before the constitutional revision of 25 January

It should be noted that prior to the constitutional revision of 20 January 2011, the Constitution of 18 February 2006 from the Democratic Republic of Congo did not include the reinstatement of a parliamentary mandate after holding another political office.

The sole question was to know whether a member of the parliament or a Senator who had lost his mandate in favour of a position that is incompatible with such a mandate could , after leaving the function concerned, reinstated back to the National or provincial assembly or Senate. For example, could a National Deputy or a Senator, appointed to a governmental post be reinstated to his parliamentary position once he leaves the government?

The reasons of the relative initiative of the reinstatement procedure of the parliamentary mandate

The author of the initiative of the reinstatement procedure of the parliamentary mandate gave two reasons, namelyreasons of intrinsic and those extrinsic order peculiar to the reality of our country. On the intrinsic level, he argues that in our political system, where the identity of apolitical party is not yet a popular culture, whoever is elected by

the people is most often selected a real and heroic political context with many dangers along the way. Whoever, in most cases, the first suppliant is often relatively less known to the members of the public. Thus, whoever is elected is really the one who holds the political mandate given directly to him by the people. Thus the people who elect him completely trust him and most often the trust is accorging to his personal qualities. If such a member of parliament or senate joins the governement of any other public office, he continues to exercise the same political mandate but in another form, and if he leaves the government, it is normal and politically correct for him to recover his parliamentary mandate and continue to stay in touch with his electors and defend their interests.

And the extrinsic level, the author resorted to comparison with the law as used in the Kingdom of Belgium. Indeed, Article 50 of the Constitution of 17 February 1994 of the Kingdom of Belgium provides:

> "A member of either House , appointed by the King as a minister and who accepts it ceases to sit and resumes his mandate when the King terminates it in his quality as a minister. The law provides for the terms of his replacement in the House concerned"

The constitutional proviSIOns relating to the reinstatement of the parliamentary mandate after a different political function;

This initiative of the revision was discussed, adopted by the Parliament and promulgated by the President of the Republic. Under Article 110 paragraphs 2 and 3 of the Constitution of 18 February 2006 amended by section 1 of Act No. 11 /002 of 20 January 2011 amending some articles of the Constitution of the Democratic Republic of Congo it is stated that when a particular national Deputy or a Senator is appointed to a political office incompatible with the exercise of his parliamentary mandate, the latter is suspended. He reinstates his parliamentary mandate after the termination of his incompatible political function. Article 197 of the Constitution also offers the same provisions of the Law for members provincial assemblies in the same situation.

The case of Senator Jacques Djoli ESENG'EKELI's Reintegration of his parliamentary mandate after his term in public office

On February 10, 2011, Senator Jacques Djoli ESENG'EKELI renounced in writing to his status as Senator for incompatibility with the office he took as a senior member of the Independent National Electoral Commission and his request was accepted following the publication of the ' presidential decree no 11 /012 of 3 February 2011. He was replaced in the Senate by his first suppliant RegineMoma. Two years later, on 12 June 2013, Mr. Jacques Djoli ESENG'EKELI ceased to become a member of the Independent National Electoral Commission following the promulgation of the Presidential decree n ° 13/ 058 by which new members were appointed to lead the CENI.

With his letter dated June 25, 2013, Mr Jacques Djoli ESENG'EKEL requested his reinstatement to the upper Houseto the President of the senate according to Article 110 of the Constitution of the Republic. Under consideration of the case by the administrative and legal Political Committee, the Plenary Assembly of the Senate of

November 9, 2013 accepted the reinstatement appointment of Mr. Jacques DjoliEkeli With the return of Jacques DjoliSenate ,RegineMoma naturally lost her mandate.

Cases of parliamentary reinstatements that have been validated by the Supreme Court of Justice:

a. the example of Senator Justin Kiluba LONGO

Mr. Kiluba LONGO was for more or less 5 years during the first Parliament of the Third Republic exercised the mandate of senator In 2011, he ran as a candidate for national assembly. November 28, 2011, the Independent National Electoral Commission provisionally proclaimed results of the parliamentary elections whereby Mr. Kiluba, still a senator, was as well elected as a member of the national Parliament.

On February 28, 2012, before the Supreme Courts of Justice officially confirmed the elections, the National Assembly validated its electoral mandate. Thus, Mr. Kiluba LongoKilubahad by right two legislative mandates: both as a Senator and a MP. Faced with such ambiguity, Mr. Kiluba LONGO Justin, in his letter of 6 March 2013, opted for the mandate of a MP thus renouncing that of the senate.

The Upper House of the Assembly took notice of MrKiluba's letter and without waiting for the definitive proclamation of the parliamentary results by the Supreme Court of Justice, ceased his mandate and allowed his suppliant, Mr. Pascal kyunguKazembe, to the Senate. On April 25, 2012, against all odds, the Supreme Court by its Decree NCE 426/428/625/631- invalidated the election of Mr Justin Kiluba LONGO to the Lower House of the Assembly.

Not wanting to lose his mandate in the Upper House, Mr. Justin Kiluba LONGO requested to the Supreme Court of Justice his reinstatement as a senator and invalidation of the mandate of Senator kyunguKazembe Pascal , his former suppliant. Indeed, for MrKiluba, the invalidity of his election as MP acts ex tunc or ex nunc.

On 11 November 2013, roughly a year later after the final results and instead of two months required, the Supreme Court declared the application based declaring that the judgment NCE 426/428/625/631 of 25 April 2013 and operated ex tuncand thus the mandate of Mr. Senator Kiluba LONGO Justin remained and Ipso facto the same act invalidated kyunguKazembe' s mandate.

b. Examining other Cases in provincial Assemblies

Well before the Senate dealt with the cases of the above mentioned senators, the Provincial Assembly of the Kasai Occidental had already reinstated former its MPs who had exercised other incompatible political functions.

Following the above mentioned cases of the provincial MPS and that of the two senators, this has now led former provincial MPs from other provincial assemblies elected in 2006 to reinstated into their mandates, having relinquished them for other political functions or senior public positions. This is the case of some former MPs in the province of the Bas-Congo and the Province Orientale; those were elected in 2006 and have been part of the Government before the revision of the Constitution.

At the Provincial Assembly of the Bas-Congo, the former MPs were told that at the time their mandates were invalidated and not suspended as required by the new constitutional provisions resulting from the revision of January 20, 2011.

As for the Assembly of the Province Orientale; the Assembly of itself filed an application to the Supreme Court which ruled on the matter on November 18, 2013 ,and stated in particular that:

> " As long as a new assembly has not been installed 1 that is to say, even during the period of extension due to the legislature 1 when a MP whose parliamentary mandate was suspended because of his appointment to any incompatible function ceases to exercise his mandate; however he automatically returns to his seat in the provincial assembly at the expense of his suppliant who replaced him and also possibly at the expense of the MP who was elected following a partial election to replace him in case of default of an available substitute."

Of Our reading into it

In conclusion, we have highlighted that the procedure for the reinstatement of the parliamentary mandate after another political office was a new political experience that the revision of the Constitution of 18 February 2006 introduced in the Democratic Republic of Congo and its interpretation and application have caused number of confusions and contradictions given that until then the elections of provincial Deputies and Senators were not yet organized.

If on one hand the decision of the Senate and the Supreme Court have already begun to be cited as case law, on the other hand the Recommendation 31 of the Thematic Group "Decentralization and strengthening the authority of the State" from the national Consultations, held at the end of last year, contradictthe former whilst appealing:

> "To correct, without delay, all cases of violation of the constitution in the validation of Suppliant MPs, of those who have left their political parties and those who have lost their mandate , given that the right to be reinstated cited in the constitutional revision of January 2011 applies only to the next provincial election."

Moreover, it may be obvious that before the revision of the Constitution, the loss of parliamentary mandate following the appointment of a MP to another political office had caused a fundamental problem in anyu electoral democracy whereby personal equations significantly count beyond the impact of political organizations to which the candidates belong.

However, this reason does not seem legitimate given that the imperative mandate is void in case of the parliamentarian.

To conclude, we should ask ourselves should be the rights of the suppliants who had become members on the National and provincial assemblies or Senators but who could lose their mandates at any time under the right of reinstement of their titulars who had lost for other mandates.

Mr Marc BOSC, President, thanked Mr David BYAZA-SANDA LUTALA for his communication and invited members to put questions to him.

Mr Austin ZVOMA (Zimbabwe) said that in the case of Zimbabwe, the grounds on which an MP could lose his or her seat were clearly outlined in the Constitution. He asked whether there was any such provision in the constitution of the Democratic Republic of the Congo. He asked why there had to be recourse to the courts since the Constitution covered all the cases.

Mr Gali Massa HAROU (Chad) said that in the previous Parliamentary Session there had been two similar cases in Chad. When an MP took up an incompatible position, he was not suspended but was considered to have resigned his seat. In such cases the alternate took the vacated seat and continued to occupy it even on the return of the original MP. This applied even in cases where the MP in question had been called to assume another function, rather than opting to do so. He suggested that perhaps the reinstatmenet procedure described could be used as a model in Chad.

Mr Karamat Hussain NIAZI (Pakistan) said that the President had the power to appoint a non-Member to the position of Minister for a period of sixth months. During that period the appointee had to become elected otherwise they would need to surrender their post. In Pakistan, no MP had the right to hold a post that involved public remuneration. However, Ministers were paid and, like the Chairs of Committees, were exempted from this provision.

Mr Yambandjoï KANSONGUE (Togo) said that in Togo Ministers were appointed on a block basis and these MPs were replaced by alternates during their period of Office. Such MPs did have the opportunity to be reinstated after their term of Ministerial office had expired.

Dr Winantuningtyas Titi SWASANANY (Indonesia) asked about the percentage of MPs who had the right to run for both the Assembly and the Senate.

Mr Victor YÉNÉ OSSOMBA (Cameroon) asked what happened on the death of a Member. There was a case of an MP who had been assassinated by his alternate. He thought that this should be a matter for the voters.

Mr BYAZA-SANDA LUTALA said that the discussion had been of assistance to him. He noted that about thirty Members had lost their seats in the lower house because they were standing for election to the Senate. It was for this reason that they had gone to the court.

He said that the Constitution of the Democratic Republic of Congo was clear that for Senators and Members the parliamentary mandate had to be surrendered upon appointment to an inappropriate political function, but that it could be returned upon the expiry of the term of office.

In the case outlined in Cameroon, it was clear that alternates would sometimes stop at nothing to retain their seat.

Senators in the Democratic Republic of Congo were elected by the provincial MPs. This had given rise to the problems described. It was possible to be a Senator and an MP at the same time because of the timing of elections. It was not the case that those affected had stood for election in both Houses at the same time.

Mr Marc BOSC, President, thanked Mr BYAZA-SANDA LUTALA and suggested that discussions could consider informally after the meeting.

The sitting rose at 5.30 pm.

FOURTH SITTING
Wednesday 19 March 2014 (Morning)

Mr Marc BOSC, President, in the Chair

The sitting was opened at 10.00 am

1. Introductory Remarks

Mr Marc BOSC, President, opened the sitting, indicating that at 11.00 am elections would be held for the posts of two ordinary members of the Executive Committee..

2. New Members

Mr Marc BOSC, President, said that the secretariat had received a request for membership which had been put before the Executive Committee and agreed to. This was:

NEW MEMBER	POSITION
Mr. Victorino Nka OBIANG MAHE	Secretary General of the Senate of the Republic of Equatorial Guinea

The new member was *agreed* to.

3. Communication by Mr Damir DAVIDOVIC, Secretary General of the Parliament of Montenegro: "Involving civil society in the legislative and scrutiny process"

Mr Marc BOSC, President, invited Mr Damir DAVIDOVIC, Secretary General of the Parliament of Montenegro, to present his communication.

Mr Damir DAVIDOVIC (Montenegro) spoke as follows:

Ladies and gentlemen, colleagues and friends.

At the beginning of my communication on Involving civil society in the legislative and scrutiny process, I'll briefly present the legislative framework in Montenegro and the involvement of civil society in the part of legislative procedure at the Government level.

Legislative framework (CSOs)
The Constitution of Montenegro stipulates that the right to propose laws and other acts shall be granted to the Government and the Member of the Parliament. The right to propose laws shall also be granted to six thousand voters, through the Member of the Parliament they authorized (Article 93).

According to the Law on Public Administration, in preparing laws that shall regulate rights, obligations and legal interests of citizens, a minister shall have the draft law published through media and invite all stakeholders to present their comments, proposals and suggestions. A minister may as well decide to implement the procedure of public debate when preparing other laws (Article 97).

The Rules of Procedures of the Government of Montenegro states that the proposer of a law is obliged to submit a report on conducted public debate with the proposal for a law, in accordance with the Government's regulations (Article 35).

Decree on the procedure and the manner of conducting public debate in the process of law preparation
The Decree on the procedure and the manner of conducting public debate in the process of law preparation prescribes that the ppublic debate is required in the preparation of laws governing the rights, obligations and legal interests of citizens.
Public debate is not conducted in the preparation of legislation:

- regulating the issues of defense and security, and the annual budget;

- during emergency, urgent or unforeseen circumstances;

- when the law does not significantly different regulate an issue.

All data in regard with the public debate are available to civil society and citizens. A Ministry, on its website and e-government portal, within five days of the adoption of the annual work program, is obliged to publish the list of laws to conduct a public debate on, a brief explanation of the need for their adoption and other information relevant to the preparation of legislation. The public debate procedure begins with a public call announcement on the ministry's website and e-government portal. The ministry refers an invitation to participate in consultations to authorities, organizations, associations and individuals who may be interested in matters governed by the law and keeps records of it. The Public invitation contains the name of the law for which preparation the consultation is conducted, duration of consultation, the name of the person responsible for coordinating consultation, place and address for delivery of initiatives, proposals, suggestions and comments.

Deadline for submission of initiatives, proposals, suggestions and comments in written and electronic form cannot be shorter than 20 days from the public call announcement. Debate on the text of the law is implemented through organizing roundtables, panel discussions, presentations, etc, and through submission of proposals, suggestions and comments in written and electronic form.

Upon the end of debate, the ministry prepares a report on public debate. The report shall include in particular the following information:

- ☐ time and place of the debate;
- ☐ data on authorized representatives of the ministry involved in the debate;
- ☐ number and structure of the participants in the debate;
- ☐ number and structure of the submitted proposals, suggestions and comments;
- ☐ proposals and suggestions that have been accepted and the proposals and suggestions that are not accepted, explaining the reasons.

An integral part of the report is a report on consultations with interested parties and report on intra-departmental consultations, if carried out during the debate.

The Ministry is obliged to publish the report on the public debate on its website and e-government portal, within 10 days after the end of debate.

Parliamentary phase

According to the Rules of Procedure of the Parliament of Montenegro, Article 67, representatives of the proposer of an act and submitters of amendments to the proposal act considered in the sitting shall take part in the work of the Committee. Otherwise, the consideration of the proposal act shall be postponed. Representatives of the Government, representatives of scientific and professional institutions, other legal entities and non-governmental organizations, as well as individual professional and scientific workers shall take part in the work of the committee, if invited, having no right to decide.

Cooperation between the Parliament of Montenegro and the civil sector is constantly being promoted and strengthened, which is especially confirmed by the increased participation of representatives of the civil sector at the meetings of the working bodies. In 2013, 280 attendances or participations have been registered, from 70 CSOs and other non-governmental bodies, at committees' meetings.

Article 73 of the Rules of Procedure stipulates that for the purpose of performing tasks under its competence (consideration of proposal acts, preparing proposal acts or study of specific issues) and obtaining required information and professional opinions, particularly on proposal solutions and other issues of special interest for citizens and the public, a Committee may, if needed or for a specific period, engage scientific and professional workers for specific areas (hereinafter referred to as scientific and professional consultants), representatives of state authorities and non-governmental organizations, having no right to decide (consultative hearing).

The decision on engagement of scientific and professional consultants shall be adopted by the Committee. For the purpose of executing tasks under its scope of work, a Committee may establish special working groups and engage scientific and professional consultants as their members.

For the purpose of preparing Members of the Parliament to decide in respect of motions for election of individual officials, the Committee responsible for the area for which election is carried out may summon the authorized mover as well as nominated candidates to consultative hearing.

During 2013 there were 15 control and 28 consultative hearings, out of which two were organized at the initiative of an NGO and with its participation. Civil society representatives that monitor parliamentary work were present at almost all hearings organized by committees.

Transparency of the Parliament

According to the Rules of Procedure of the Parliament of Montenegro, the work of the Parliament and its Committees shall be public. The sitting of the Parliament and meeting of the Committee shall be closed for the public in case of considering an act or material designated as a "state secret". The Parliament may decide, without debate, to close the sitting or a part of the sitting for the public upon a reasoned proposal by the Government or 10 MPs.

For the purpose of ensuring comprehensive information to the public on the work of the Parliament, the Parliament has its web site for posting data and information on the work of the Parliament and its Committees. All parliamentary acts, topics discussed and decisions made are available at the website. This includes all acts derived throughout legislative procedure for each law, starting from the proposal of a law, through amendments, to the final text of adopted law. Television and other electronic media are entitled to direct broadcasting of the sittings of the Parliament and its Committees. The Parliament provides conditions for the television and other electronic media to broadcast sittings of the Parliament.

Sittings of the Parliament and meetings of Committees of the Parliament shall be covered by reporters accredited by the competent authority.

Materials considered at the sitting of the Parliament or the meeting of the Committee shall be at disposal of reporters, unless otherwise determined in the general act on the manner of handling the material in the Parliament that is considered a state secret or confidential. The Parliament shall ensure the reporters to be provided with conditions required for covering the sittings of the Parliament and meetings of the Committees.

Official statements for the media may be made or press conferences held for the purpose of comprehensive and accurate informing of the public on the work of the Parliament and its Committees. The wording of official statements for the Parliament or Committee shall be drawn up by relevant service of the Parliament, and approved by

the President of the Parliament or the Chair of the Committee or authorised person. Press conference in the Parliament may be held by an MP Group or an individual MP.

Memorandum of cooperation between the Parliament of Montenegro and the Network of Civil Society Organizations for Democracy and Human Rights

In terms of achieving better communication and relations with civil society an important contribution represents the signing Memorandum on Cooperation between the Parliament of Montenegro and Network of Civil Society Organization for Democracy and Human Rights, on 30 March 2011. Simultaneously with the signing of the Memorandum, at the website of the Parliament a form was uploaded, which can be filled out by the representatives of the civil sector, including individuals, and in such a manner they can submit their opinions, proposals and suggestions to the Parliament, which are later forwarded to a working body of the organizational unit to which the content of the filled out form refers. What is also important is that the principles of cooperation between the Parliament and other interested NGOs are defined in the Memorandum. Civil society organizations may also address directly to the working bodies.

Cooperation between the Parliament and local CSOs

- Project “Democracy Workshops” - NGO “Forum Youth and Informal Education”
- Internship Programme - NGO Centre for Democratic Transition
- Monthly bulletin Open Parliament - NGO CDT
- Children’s Parliament - NGO Centre for Children’s Rights
- Project “National Convention on European Integration of Montenegro” - NGO European Movement in Montenegro
- Project “Parliament for Europe” - NGO European Movement in Montenegro

Project “Democracy Workshop”

Preparations for the ”Democracy Workshops“ project began in 2011. The project is for primary school children, and it is carried out in cooperation with ERSTE Foundation and the Austrian Parliament, and Montenegrin NGO Forum of Youth and Informal Education. The project “Democracy Workshops” of the Parliament of Montenegro is intended to promote interest in politics and democratic processes among the youth population. The project is designed as a civic education program for primary school students and provides knowledge on parliamentary democracy, functioning of a parliament, adoption and application of laws as well as the role of media in the pluralist society. Democratic workshops are organized under the Parliament’s "Open Parliament" program with the aim of its further expanding and enriching and focus on strengthening the link between the Parliament and the youth, particularly the primary school population. Through an interactive program and in a manner suitable to their age, with the help of selected and trained teachers/trainers, children from eight to fifteen years of age learn through play how democracy functions. The children write about their obtained knowledge and

experience in journalistic essay or present it in the form of a radio broadcast, which is later published on the democracy workshops website (www.demokratskeradionice.me). In addition to learning the basic principles of democracy and parliamentary processes, the program aims to explain the other two conditions for political participation, media competence and willingness to express an opinion.

During 2013, 224 workshops were implemented, 5184 students and 300 teachers from 60 elementary schools participated in the project Democracy Workshops, including one school from Czech Republic with 15 students and three teachers. There were 174 workshops on the topic "Democracy and Parliament", and 50 workshops on the topic "European Union", a total of 175 children's newspapers and 49 radio segments have been created. A total of 13 Members of the Parliament of Montenegro from parliamentary majority and parliamentary opposition participated as guests in democracy workshops. Guests of democracy workshops also included the President and a Vice President of the Parliament of Montenegro, as well as the President of the Parliament of Austria, Secretary General of the Council of Europe, a member of the European Parliament, Secretary General of Hellenic Parliament, and others. Due to a large interest of schools, the number of workshops has been increased from eight to nine workshops per week as of September, and as of June, the workshops on the topic "European Union" have started. Since the begging of the project in October 2012 until 31 December 2013, 6519 students participated.

Internship Programme

The Parliament of Montenegro is implementing the Internship Programme since 2003. It started in cooperation with NGO Center for Democratic Transition, aimed for final year students to gain practical knowledge and experience in state institution. Internship program was implemented in cooperation with universities and university units in Montenegro. The main objective of the Internship Program is to provide the opportunity for young educated people to complement their theoretical knowledge. One of the most important results of the Internship Program is a significant number of interns who were employed after the completion of the program.

"Open Parliament"

Newsletter "Open Parliament" is a monthly electronic publication on work of the Parliament of Montenegro, which provides information on legislative and oversight activities of the Parliament and its working bodies, as well as news on other events from the previous month. In addition, the newsletter contains extracts from laws and other legal acts adopted in Montenegro by 1918, information on artistic paintings which are part of the Parliament's gallery, as well as definitions of political science and parliamentary terms. The newsletter is a part of the "Open Parliament" programme, which is aimed at increasing transparency of work of the Parliament of Montenegro and citizen participation in the parliamentary activities. The publishing of the newsletter started in January 2011, in cooperation of the Service of Parliament of Montenegro and the NGO Centre for Democratic Transition. Starting from March 2012, the Service of the Parliament has completely taken over editing, translation, paging and publishing of the newsletter. The newsletter is published on the webpage of the Parliament of Montenegro in Montenegrin and English language and e-mailed to a great number of

domestic and foreign addresses, among which are e-mail addresses of foreign embassies in Montenegro and members of the European Parliament.

Children's Parliament

Children Parliament is organized by the Parliament of Montenegro in cooperation with the Children's Right Center of Montenegro, with the support of UNICEF Office and Save the Children, on the occasion of 20th November, the Day of the adoption of the UN Convention on the Rights of the Child. The project is dedicated to promotion of children's rights to participate and advocate, as significant social needs and values. Members of the Parliament, ministers in the Government of Montenegro, mayors of Podgorica and Cetinje and representatives of UNICEF answer the questions of students of primary and secondary schools. The project objective is to make it easier for younger population to understand democratic values of society. In 2013 the Fifth Children's Parliament was held.

National Convention on European Integration of Montenegro

On 5 April 2011, the Parliament of Montenegro held the First Conference of the National Convention of the European Integration of Montenegro. The project "National Convention of the European Integration of Montenegro" is organised in cooperation with the NGO European Movement in Montenegro, Slovak Foreign Policy Association, and Government of Montenegro, with the support of the Ministry of Foreign Affairs of the Republic of Slovakia and SLOVAKAID. The purpose of the project is to establish a continuous, coherent and stable framework for structured thematic debate forum which is focused on the relations of the European Union and Montenegro. One of the goals of the project is to institutionalize a public debate between civil and public sectors on topics in the field of European integration. Within the project, the Parliament of Montenegro, held three conferences of the National Convention on European integration of Montenegro.

Cooperation with foreign civic organizations

The Parliament of Montenegro has a well established and efficient cooperation with foreign civil society organizations, and, as particularly good examples, here I should mention Westminster Foundation for Democracy (WFD), Friedrich Ebert Foundation, Konrad Adenauer Foundation, etc. Projects with these organizations have been oriented to strengthen legislative and oversight role of the Parliament, as well as its administrative capacity, through trainings, workshops, conferences, study visits, etc.

Free Access to Information

The Parliament of Montenegro pays a special attention to publicity and openness of its work. Free access to information is an important segment of the principle of transparency. The Constitution of Montenegro, under its Article 51 stipulates that everyone shall have the right of free access to information, in possession of both the state administration authorities and the organizations exercising public functions. The right of access to information may be restricted if it is in the interest of the protection of life, public health, ethics and privacy, the conduct of criminal proceedings, the security and defense of Montenegro, external, monetary and economic policy. This right shall be

exercised by submitting a request that shall be responded in accordance with the Law on Free Access to Information.

The Parliament of Montenegro receives a significant number of requests for free access to information, timely corresponds to it, and there is no submitted complaint so far to independent oversight organ competent for protection of personal data and access to information - Agency for Personal Data Protection and Free Access to Information. The access to information on financial management such as copies of payrolls of MPs and employees, copies of acts containing information on amount spent from the Budget of the Parliament for paying costs of transportation, accommodation, data on travel allowance for MPS' travels in Montenegro and abroad, information on public procurement, etc. are mostly required by requests. The vast of majority of requests for access to information were submitted by NGOs - 95%. Data on requests for free access to information are published in annual reports on the work of the Parliament, and all submitted requests as well as responses to those are available to the web page of this body.

In 2013, there were 60 requests, out of which more than a half from NGO MANS.

[Mrs Doris Katei-Katebe MWINGA, Vice-President, took the chair.]

Mrs Doris Katei-Katebe MWINGA, Vice-President, thanked the Mr DAVIDOVIC and opened the floor to questions.

Mr Geert Jan A. HAMILTON (Netherlands) noted that, whilst committees were working on a text, they could engage the services of consultant. In his Parliament, only members of civil society could be heard. He asked whether there was a contract and remuneration for consultants. He also asked whether there was not a potential conflict of interest in the role of Secretary General. In the Dutch Parliament, no body could engage outside experts without first advising the Secretary General. The only exception would involve very specialist advice, but normally all advice had to be offered for free.

Dr Ulrich SCHÖLER (Germany) thanked Mr DAVIDOVIC for exposing the measures needed to open Parliament up to NGOs and civil society, including the young. He said that his Parliament worked in a different spirit. In Germany, committees wanted to maintain the privacy of their deliberations. Only plenary sessions were held in public.

Dr Athanassios PAPAIOANNOU (Greece) said that he had participated in a workshop on democracy in Montenegro. He asked a question on the involvement of NGOs on the issue of the transparency of Parliament (internal affairs, administration and expenditure). Elsewhere, as soon as NGOs joined the debate, the results were the same. He asked whether this was the case in Montenegro.

Mr Manuel CAVERO GOMEZ (Spain) notes that NGOs had a big role in the work of Parliament in Montenegro. He asked what political parties did to counteract these external influences even within the heart of committtees.

Mr DAVIDOVIC responded to the issue of the engagement of experts by indicating that this was covered by internal regulation. Practically speaking, the committee concerned first decided on a subject, then consulted the *collegium* to decide whether or not the use of consultants was justified. When arppoved, it was up to the Secretary General to find the right person. In five years, only five experts had been engaged. Often, the prestigious nature of the work meant that services were offered for free.

He responded to the question posed by Dr SCHÖLER on the openness of debates and noted that private sittings were a separate matter. According to internal regulations, all committees had to meet in public. The Defence Committee sometimes received classified documents: in such cases the default was open session, and the Committee had to take an active decision to sit in private. It was the same for the Committee on Integration into the European Union, which sometimes sat in private to discuss the state of negotiations. The author of a document had the right to impose a certain degree of confidentiality and the Minister could declare that a subject was a secret one.

He replied to Dr PAPAIOANNOU by noting that all expenditure was transparent, including flights and hotels. At the start of the year, an NGO had asked for the accounts for 2012, even though they had already been published in full on the internet. 70 NGOs worked with the Parliament and about ten were particularly present. One of them had been present at every single committee meeting.

He responded to Mr CAVERO GOMEZ by stating that the groups did not have any particular sympathy for the NGOs but they had a mutual understanding that allowed them to cohabit. The MPs did not have the impression that they were being put under surveillance: the only thing that bothered them was that they did not have the same public profile as the NGOs.

Finally, he said that Montenegro had worked on electoral law with a college of 12 members. One of the first decisions had been to invite the NGOs to participate in editing the new law.

4. Communication by Mr Thorsteinn MAGNUSSON, Assistant Secretary General of the Althingi in Iceland: “A unique seating arrangement: the case of the Icelandic Parliament”

Mr Marc BOSC, President, invited Mr Thorsteinn MAGNUSSON, Assistant Secretary General of the Althingi in Iceland, to present his communication.

Mr Thorsteinn MAGNUSSON (Iceland) spoke as follows:

Ladies and gentlemen.

It is generally taken for granted that seating in parliaments on the basis of party membership is the norm in parliamentary life, whether seats in the chamber are

arranged in the French tradition as a semi-circle or in the British tradition as a rectangle. In nearly all instances Members of parliaments are grouped together along partisan lines. In this regard seating arrangements are quite uniform among the parliaments of the world. There are, however, at least three exceptions to this norm, all in the three Nordic countries of Iceland, Norway and Sweden. In Norway and Sweden seating is determined by constituency. The Icelandic case, however, is very different. For nearly one hundred years seats in the chamber of the Icelandic parliament have been allocated randomly; in effect, they are decided by lottery. To the best of my knowledge the Icelandic parliament is the only national parliament in the world where we find randomized seating arrangements. In the hope that the unusual arrangement in Iceland will interest you I am presenting this you with this brief account.

Let me first explain how the assignment of seats is conducted in the Icelandic parliament. Article 7 of the Standing Orders of Althingi says that „Lots shall be drawn for Members' seats at the opening sitting of each legislative session".

When the drawing of seats begins the Speaker has on his desk a list of members, alphabetically arranged by first name. Each member is also given a number, with the member at the top of the list given the number one.

Officials sit on both sides of the Speaker and they have in front of them a box of balls. Each ball is marked with a number which corresponds to a particular seat in the chamber. The Speaker starts the procedure by drawing one ball from the box on his left side. The number of that ball decides which member will be the first to approach the Speaker´s Chair and pick a ball from the box on the Speaker´s right. The Speaker then calls other members to the Chair in an alphabetical order, starting with the member whose name was first drawn. When a member has drawn a numbered ball the Speakers announces the number of the seat he has been allocated. Members take their seat accordingly. The officials record the drawing. When a member has been assigned a seat he will retain that seat for the remainder of the legislative session, which normally lasts for one year.

Drawing of seats has never applied to ministers, who sit in ministerial chairs, facing the assembly. Alternate members take the seat of the member they replace, while alternates who replace ministers have special seats. Furthermore, since 1991 the Speaker has been exempted from the drawing and has had a reserved seat. The same has applied to the chairmen of the parliamentary party groups since 2003. The groups' chairmen sit on each side of the aisles at the entrance to the chamber. However, they do draw lots among themselves for those seats.

As mentioned earlier, the unorthodox nature of seating in the Icelandic parliament has been in existence for nearly one hundred years, having been established in 1916. Prior to that time there was free seating in the chamber and members picked seats at their own choice. In connection with the revision of the Standing Orders in 1915 more and more members were of the opinion that it was time to put an end to the disorganized seating arrangement.

The committee appointed to revise the Standing Orders studied the seating arrangements in other countries, including the US Congress, the British Parliament, the French Assembly and the Scandinavian legislatures. Three main options were considered: seating by constituencies, seating by parties and random seating. According to the committee's report, seating on the basis of party membership was the dominant feature of parliaments at that time.

So why did the committee opt for drawing of seats? Surprisingly, there is no explanation in the committee report – the committee simply points out the three options already mentioned; nor was any explanation given in the plenary debate on the matter. My guess is that this silence has a very simple explanation: the task of the committee was a comprehensive revision of the Standing Orders. In that context the seating arrangement was a minor issue. There were other things that interested members more, such as the committee system. But then again, why random seating? My best guess is that this arrangement meant the least change from the existing arrangement. Members would continue to be dispersed around the chamber, irrespective of their political affiliations, but at the same time there would be some order in the house regarding the allocation of seats.

When the recommendations were debated in parliament there were many who were opposed to any change at all, but in the end the article on seating was adopted by a narrow majority.

It is interesting that the Committee does not mention in its report which parliaments were using randomized seating arrangement at that time. My research on seating arrangements in parliaments in the nineteenth century has led me to the conclusion that the Icelandic parliament basically emulated an arrangement that had existed in the US House of Representatives for nearly 70 years; that is from 1845 until 1913. The arrangement in US House was in substance very similar to what I have described for the Icelandic parliament. The main difference was that in the US House of Representatives members were permitted, in the order of the drawing, to choose any vacant seat in the chamber, which of course meant that the most desirable seats were picked first. In the Icelandic parliament, on the other hand, the drawing of numbered balls determined each member's seat, as I have already mentioned.

The fact that we basically copied the American arrangement is interesting, as Icelanders were for historical reasons more used to looking to Europe when reforming their institutions.

I would like to add here that there was in fact another parliament which had earlier emulated the American seating arrangement. This was the Philippine Assembly in 1907, where seating arrangements were random in the lower chamber from 1907. This was codified in its Standing Orders until 2010, but according to information from the Philippine House of Representative the article in question had been inactive since 1988 and was finally repealed in 2010. In the Philippine House paper slips were used instead of balls, but like their American colleagues, members were permitted to choose their own seats.

Before concluding I want to touch very briefly upon the pros and cons of randomized seating.
On the positive side is the democratic dimension: Members are on an equal footing when it comes to seating. Members cannot lay claim to specific seats, nor can the leadership use seats for patronage by favouring their chosen members with the most desirable seats.

On the negative side, this arrangement makes it rather more difficult and cumbersome for members of the same party to consult one another during plenary meetings. It is interesting to note that those members of the Swedish parliament who have advocated partisan seating have pointed out that such an arrangement would make communication among members of the same party easier at plenary meetings, which can be particularly important when votes are being taken.

I think the clearest manifestation of how entrenched the system of randomized seating has become in the Icelandic parliament is the fact that some of the parliamentary party groups have adopted the same system at their own meetings. This is currently the case in three of the six parties represented in parliament: the Independence Party, the Social Democratic Party and the Left Green Party. These three parties represent at the present time more than half of the parliament´s membership. Following the opening sitting of parliament at the first meeting of these party groups, members are assigned permanent seat randomly.

The system of randomized seating has now existed in the Icelandic parliament for nearly 100 years. Although members disagreed on its introduction there has been a broad consensus on the system for decades. This is reflected in the fact that although the Standing Orders have been revised numerous times over the past one hundred years no proposal has ever been made to change or discontinue this arrangement. I am therefore quite confident that we will be celebrating its 100th anniversary in 2016.

Thank you for your attention.

Mrs Doris Katei-Katebe MWINGA, Vice-President, thanked Mr Thorsteinn MAGNUSSON for his contribution, stated that she was intrigued by the system of randomised seating that had been described, and opened the floor to questions.

Mr Andrew KENNON (United Kingdom) said that in the Camber of Commons there was no fixed seating arrangement. In Wales, however, there had been some problems because people from different parties rubbed shoulders with one another and used the opportunity to spy on one another.

Mr Manuel CAVERO GOMEZ (Spain) asked if parliamentarians would manage to organise the system amongst themselves.

Mr Modibedi Eric PHINDELA (South Africa) said that in his country, parliamentarians were grouped by party and asked why Iceland had chosen not to use the same system.

Mr Jeremiah NYEGENYE (Kenya) noted that the Icelandic system was not unique and that, in Kenya, all seats were available to all senators with the exception of people with particular responsibilities and the disabled.

Mr Oscar G. YABES (Philippines) explained that in the Senate in the Philippines, there were only 24 Senators. They were grouped according to whether they belonged to the majority or the minority.

Dr Ulrich SCHÖLER (Germany) had been impressed by what he had heard. He believed that the majority of colleagues could only imagine how a chamber would function with such a mixed seating arrangement. He asked how the function of the Group Leader was exercised under the system and whether it was easy to control group voting.

Dr Athanassios PAPAIOANNOU (Greece) said that, in Greece, the seats were allocated to parties either on the left or the right but that, within those groupings, MPs could sit where they liked. He asked how it worked if MPs who did not speak to one another ended up sitting together. He also asked how seats were allocated in the absence of particular MPs.

Mr Benedict EFETURI (Nigeria) said that, in Nigeria, the seats were allocated by the President of the Chamber and that this allocation was done at the start of each Session. Some MPs had formed a new party, which had caused the seats to be reallocated. In the Senate, reallocation was only possible once the President had given his authority to it. However, there had been legal action to change this, demanding the drawing of lots to take place every year.

Mr Baye Niass CISSÉ (Senegal) observed that the MPs in Senegal could choose where they sat. There was no allocation of seating.

Mr MAGNUSSON replied to Mr KENNON by saying that there had never been any problem with parties spying on each other. If documents were confidential they would not be left in plain view.

To Mr CAVERO GOMEZ he said that the changing of seats by agreement was permitted and that this had frequently occurred at the outset of the Twentieth Century but that the last occurrence had been ten years ago, by mutual consent.

To Mr PHINDELA he said that, until 1916, MPs had been able to choose their own seats. Thanks to the reintroduction of the ballot, the allocation of seats was harmonious and without any element of competition for a particular seat.

To Dr SCHÖLER he said that Group Leaders existed but that their role had already been taken over by the President of parliamentary groups. They each had six seats. At the moment that votes took place, stances had already been decided in party meetings and nobody changed their opinion once the vote was underway.

He said to Dr PAPAIOANNOU that once the room was empty, the MPs did not move.

To Mr EFETURI he said that seats were reallocated at the start of each new Session.

5. Election of two ordinary members of the Executive Committtee

[Mr Marc BOSC, President, took the Chair.]

Mr Marc BOSC, President, introduced the elections and invited each candidate, as was conventional, to present their candidature to the Association and, in doing so, to outline their contribution to the work of the Association.

Dr Athanassios PAPAIOANNOU (Greece) indicated that a few months previously, some colleagues had asked him to present his candidature. He had refused because he did not like making speeches and self-promotion, but fortunately the colleagues in question were not there to see him eat his words. He indicated that he had been a lawyer, specialising in labour law, human rights and the law on terrorism. His most interesting experience had been presiding over the political Committee on Terrorism at the Council of Europe. He stated his two main concerns:

- improving the image of Parliaments with the European institutions: that image had deteriorated and parliamentarians were consequently ill at ease; and

- putting technology to good use in getting budgets into line and improving the legislative process.

He said that he believed that these concerns were shared by everyone present and it was important that the candidates were prepared to take them forward. He congratulated the other candidates. In conclusion he hoped for better publicity of parliamentary work and commended the work of the Association.

Mr Shumsher K. SHERIFF (India) said that his colleague had made a short presentation but that he personally needed a few more minutes because he represented a population of millions. The aim of the election was not to defeat the other candidates but for each candidate to express themselves.

He said that he had been a lawyer and that he had studied in Geneva and Paris and that, consequently, he had an excellent level of French. He had been a parliamentary civil servant in India for 36 years: he had served as Chief of Staff for the President and Vice-President, with a consultative role at provincial level. He had been designated Secretary General of the upper chamber of the Indian Parliament one and a half years previously and that his tenure would last a further three and a half years if the parliamentarians permitted it.

He reminded the Association that he had made a communication on the subject of public petitions to Parliament. He had visited most countries in the world thanks to his

professional life. India was well represented in the IPU. It would be good if those experiences could be exchanged and consolidated so that lessons and good practice could be drawn from them. It was essential to pursue the exchange of opinions, to publish monographs and to increase the interaction amongst members of the Association. It was important not to ignore the issue of equality and for that reason he pressed the candidature of his Indonesian colleague.

Dr Winantuningtyas Titi SWASANANY (Indonesia) indicated that she was Secretary General of the Indonesian House of Representatives and that she had participated in the ASGP for more than six sessions. It was her interest in the subjects discussed by the Association that had led her to present her candidature.

She noted that amonst the current members of the Executive Committee there was only a single woman. The IPU and the ASGP were concerned with equality, which was a priority. She thanked her colleagues who had pressed her to present her candidature. She noted that, if she was elected, one of her aims would be to add Spanish as an official language of the ASGP.

Mr Marc BOSC, President, thanked his three colleagues for presented themselves. He asked members to approach with their badge to obtain a ballot paper and then to place that ballot paper, folded once, into the urn. The process would last 15 minutes. He declared the vote open.

The sitting was resumed at 11.55 am.

Mr Marc BOSC, President, congratulated all three candidates. Members were, in their capacity as Secretaries General, people who shied away from making speeches, and promoting themselves in elections went against their characters. He congratulated Dr Winantuningtyas Titi SWASANANY and Mr Shumsher K. SHERIFF, who were both elected to the post of ordinary member of the Executive Committee.

He indicated that Dr SWASANANY and Mr SHERIFF would sit on the Executive Committee from October 2014 onwards. He congratulated Dr Athanassios PAPAIOANNOU and encouraged him to stand again.

6. General debate: Parliamentary communications and public relations

Mr Marc BOSC, President, invited Mr Somsak MANUNPICHU, Deputy Secretary of the Senate of Thailand, to introduce the debate.

Mr Somsak MANUNPICHU (Thailand) spoke, as follows:

The Secretariat of the Thai Senate has set various methods and channels to inform the public about the Senate's duties, according to the norms on good governance in the

institution. Moreover, the purposes of these methods are to build trust, promote transparency, and deliver accurate information about the Senate to members of the public.

Printed documents:
Including leaflets, pamphlets, "Chulaniti" booklet on missions and responsibilities of the Thai Senate – providing information about legislation, summary reports on the Senate's missions in 5 languages (e.g. Thai, English, French, Chinese, and Lao). Further, the Thai Senate has coordinated with professors and academics in organizing research projects for the Senate's standing committees. During the fiscal year 2013, there has been 10 projects in total.

Electronic documents:

- the Senate website www.senate.go.th is comprised of essential information about the Senate and the Secretariat of the Senate including senator's biography, sitting regulations, meetings, summary reports, other relevant standing committee activities, legal regulations, documents related to considering Bills etc.
- VDO, visual animation "Senate to ASEAN" and "Annual summary of the Senate" providing summarised annual information of the Senate's standing committees.

Social media sources:
In the age of globalisation, various social media sources have been adopted to facilitate information access for the public. These social media sources include as follows:

- Youtube; "Senate to ASEAN" voice spot and "the Thai Senate" document.
- Facebook; "Senate" journal, the Senate and public relations for ASEAN, and the Senate's Network for Democratic Leadership project.
- Providing information in forms of articles on senators' missions through QR Code.
- Mobile Application; providing fast access for smartphone owners.
- Senate Channel, including:
    - Senate News: news on the Senate, standing committees,and the Secretariat of the Senate
    - Live TV: live television broadcast of parliament sittings, including broadcasting via the Parliament Channel
    - E-Book: electronic books including the Thai Constitution, Bill drafts etc.
- Forwarding the Senate electronic books (at present information is provided through the Senate and Chulaniti journals) to 11 electronic books suppliers.

- Senator blog : to inform senators with biographies and information about senators

- Line (internal channel): to inform news about the Senate and standing committees for:
    - Parliament journalists
    - Senators
    - Executive line senior officials
    - Group directors
    - Secretariat of the Senate officials

Television media:
Recorded documentary “One week with the Senate” to inform the public about the Senate’s duties in one week, broadcasted via the Parliament Channel, every Friday from 16.00hrs to 17.00hrs.

Radio sources:
Recorded radio program “Following the Senate” broadcasted via the Parliament Radio daily Monday to Friday, from 11.00hrs to 12.00hrs.

Manual sources:
Excursions to the Senate lead by officials from the Secretariat of the Senate. During the fiscal year 2013 (October 2012 – September 2013), there has been 132 group visits to the Senate. The group visit were categorized as follows; 46 general public groups and 86 study visit groups), in total 11,730 visitors. Moreover, in the first trimester of 2014 (October 2013 – September 2014), there has been 6 group visits, categorized as 1 public group and 5 study visit groups), in total 202 visitors.

After each group visit, an evaluation on the visitors’ satisfaction, the performance of group directors, the exchange of information, the experiences of the group instructors were conducted to improve the performance for future visits.

The democratic publicity project as part of the cooperation between the Senate and the Konrad Adenauer Stiftung Foundation

The Konrad Adenauer Stiftung Foundation has been continuously supporting missions of the Senate in promoting democracy and public participation in Thailand. Sponsored projects included as follows;

- “Senators meet the Public” project; has been funded since 2003 to present. During the fiscal year 2002 to the first trimester of 2014, a total of 32 activities

have been organized in 27 provinces. Members of the public also had the opportunity to report any queries to Senate officials on duty.

- In addition, the public could also send queries via representatives or via post to the Petition Group, Bureau of the President of the Senate. The queries would then be forward to the President or Vice-Presidents of the Senate, depending on the issue. Further, certain queries may be sent to particular standing committees for consideration. Critiques and results would later on be responded to the rapporteur.

- Community preparation project on "Procedures of Participatory Democratic Leadership", which has been funded since 2003 to present. During the fiscal year 2003 – 2013, there has been 99 projects in total and 11,188 participants from 76 provinces (Bueng-karn was the only province where this project has not yet been proceeded). The Secretariat of the Senate has invited external professionals to give an introduction speech for each project session. Mr. Somsak Manunpichu, Deputy Secretary-General of the Senate, has also participated in this project.

Results of both projects as stated above were evaluated from questionnaires and satisfactory surveys collected from the project participants. Moreover, exchange of views among Senate officials on duty was also evaluated in order to improve the project procedures in the future.

- Association projects: these projects were aimed to enhance knowledge and competency on legislation procedures. Further, the exchange of opinions between senators and professional experts were also encouraged. During the fiscal year 2013, there has been 7 projects in total; 2 Upper House associates and 5 associates concerning with the drafting of Primary Bills respectively during fiscal year 2013.

Other sources:
Other public related activities of the Senate and standing committees were publicized through diverse channels as follows:

- Wire broadcasting

- Plasma screen announcement at Parliament building II

- Publication board at Parliament building II

- Senate Hotline 1102 providing information about the Senate including the composition of the Senate and the Secretariat of the Senate. Other information include information on Senate sittings, standing committee sittings, activities of the Senate, general knowledge about the functioning of the Senate, and receiving petitions related to the Senate's authorities.

Mr Marc BOSC, President, thanked Mr MANUNPICHU for having set the terms of the debate. He reminded the Association that between three and four informal discussion groups, divided by language, would be formed. A rapporteur for each group would report back at 3pm. The Spanish and Arabic speaking groups would need to appoint a rapporteur who could report back in French or English.

The sitting rose at 12.15 pm

FIFTH SITTING
Wednesday 19 March 2014 (Afternoon)

Mr Marc BOSC, President, in the Chair

The sitting was opened at 2.40 pm

1. Presentations by rapporteurs and general debate: Parliamentary communications and public relations

Mr Marc BOSC, President, invited the rapporteurs from the informal discussion groups to report back to the Association.

Mrs Jacqueline SAMPSON-MEIGUEL (Trinidad and Tobago) was the rapporteur for the Anglophone group. She said that her group had been composed of 17 members who had shared their experiences. The group had decided that it was important for parliamentary institutions to play a role in communications and public relations in order to transmit information in a rapid and precise manner. Four elements had been drawn out:

- The importance of involving young people, particularly 16-18 year-olds, in order to make sure that they understood the significance of Parliament. For example, in Greece, the cost for young people of visiting Parliament was met by Parliament itself.

- The importance of the media. Many countries had non-partisan parliamentary television channels which diffused information about parliamentary procedure. It was difficult for parliamentary staff to engage with this because of the burden of work. The role of Secretaries General was to advise and not to dictate the behaviour of parliamentarians.

- The administrative staff could help to train parliamentarians. In Trinidad, training was available for the media to help them to understand parliamentary procedure and the legislative process.

- Managing communications allowed a balance to be struck between the media and MPs. Sweden had developed a source of parliamentary information that was freely available to the public.

The group had agreed that it was up to parliamentary staff to take responsibility for the diffusion of fair and impartial information.

Mr Modrikpe Patrice MADJUBOLE (Democratic Republic of Congo) was the rapporteur for the Francophone group. He said that they had reached the following conclusions:

- There was a communications department in each Parliament. Sometimes it was managed by the administration, and other times it was the responsibility of the political staff. The existence of these communicatioin channels was essential to ensuring the visibility of parliamentary work.

- Means of communication included open house days, visits, collections, activity reports, publications, interpreting, the radio, the television, the internet.

- In certain countries there had been difficulties in communicating effectively about parliamentary work.

- Some countries had made plans in response to the need for increased transparency and democracy. Other countries were already very advanced in this area, but this posed a question of cost.

The group asked the Executive Committee to include in the Agenda for the next Session an item on the utility of a parliamentary television channel.

Mr José Manuel ARAÚJO (Portulgal) was the rapporteur for the Spanish and Portugese speaking group. He indicated that they had discussed numerous problems, in particular the way in which parliamentary information made its way into the public domain. It had identified the existing communication tools and their common denominator.

The internet was a good means of communication: it contained basic information, daily updates and links to the activities of the Chamber. The recommendation of the group was that all Parliaments should publish information in both English and French.

Parliamentary television channels were expensive but very useful to the public. The radio was also used, as well as news programmes.

A study had been made into the use of social media: certain Parliaments had eschewed social media. It was difficult to communicate effectively with a limited number of characters and the number of users was therefore in decline.

Many Parliaments had organised visits guided by MPs or civil servants. Youth Parliaments played a role in this work.

Not every Parliament had a communications service, but the centralisation of this work was important.

Mr Marc BOSC, President, opened the debate.

Mr Najib EL KHADI (Morrocco) underlined the importance of the debate. He said that Parliaments had experienced global change on an unprecedented scale. He suggested the publication of a guide to good practice in matters of communication and a discussion of shared problems in this area in a future debate.

Mr Marc BOSC, President, spoke of the situation in Canada, where the debate had focussed on social media, particularly on the degree to which Parliament should engage in providing, for example, responses to comments made about its work.

Mr Geert Jan A. HAMILTON (Netherlands) said that this was a broad subject encompassing many different means of communication. Certain Parliaments had recently put in place communications plans. He invited colleagues to send these plans to the secretariat.

Mrs SAMPSON-MEIGUEL said that Trinidad and Tobago had recently put into place a communication plan. She said that there was always scope to do more. There was, for example, a television game show diffused by the parliamentary television channel with the goal of encouraging public participation. There was a dedicated team to deal with social media. Comments were distributed to MPs so that they were aware of reactions to them.

Dr Athanassios PAPAIOANNOU (Greece) said that they had discussed the image of Parliaments. Social media had not adapted particularly well to parliamentary activities. On another subject, political parties had their own means of communication. Privately-owned television channels were not happy that Parliament had its own channel.

Mr Yousif A. ALROWAIE (Bahrein) described the numerous changes to which Parliaments needed to react. The promotion of links between Parliaments and citizens had become an urgent necessity and a prerequisite for the evolution of democracy. It was necessary to reinforce trust in Parliament and the expression in full of the needs of society.

In the Kingdom of Bahrein, there was a will to improve public trust and to make the public more aware of parliamentary activities. In 2012 a strategic plan had been launched with the aim of creating a management of Parliament that was based on excellence and good leadership. A new interactive and accessible website had been launched: it allowed people to play back the speeches of MPs and to leave comments and suggestions. Visits had been promoted. The Parliament in Bahrein was open to sharing experiences with others.

Mr Manuel CAVERO GOMEZ (Spain) wanted to share his experience of the Spanish parliamentary website. Four years ago the site had been upgraded, taking inspiration from the websites of other large democratic countries and in conformity with the directives set down by the IPU. The Senate had been transparent about the expenditure of 400,000 Euros. The only concern of the media had been cost, despite the fact that 3.5 million documents had been made accessible via the site. It had sometimes been difficult to reconcile the demands of the public and the media *vis-à-vis* the website. He asked himself whether transparency was always a good thing.

Mr ARAÚJO noted that a further problem was that websites contained too much information, making it difficult for citizens to find what they needed. The UK had a

relevant experience: it required a hacker to get all the information needed out of the website.

Mr Marc BOSC, President, thanked the rapporteurs for their excellent worked and said that he had noted one possible subject for future discussion.

2. General debate: Restoring public trust in Parliament

Mr Marc BOSC, President, invited Dr Winantuningtyas Titi SWASANANY, Secretary General of the House of Representatives of Indonesia, to open the debate.

Dr Winantuningtyas Titi SWASANANY (Indonesia) spoke as follows:

Introduction

The word 'democracy' originates from demos, which means 'people' and kratos or cratein, which means 'to rule'. Democracy can be defined as a government of the people, from the people, and for the people, connoting that people are the center of a government. With respect to the definition, we may also say that legitimacy of power of a Parliament as an institution that represents the people to formulate laws, oversee governance, and allocating state's budget derives from the trust that the people hold toward Members of the Parliament that they elect through a general election.

Public trust is therefore a vital element for Parliament to preserve and promote the values of democracy, and to garner public support for legislations and other processes in the parliament. It grows from people's confidence that Members of the Parliament are aptly competent and capable to perform their duties as representation of the people (representative function), and that confidence manifests in people's willingness to entrust the Parliament with their aspirations.

The House of Representatives (Dewan Perwakilan Rakyat/DPR) of Indonesia, through its legislative, budgeting, and oversight functions, has a highly strategic role, and harbors the people's hope for the advancement of civic life. However, according to a survey, the level of public trust on DPR in the period of 2009-2014 shows a negative trend. In early 2009, the level of trust reached 24%. It declined to 22.9% in 2012, and even further downward to 15.9% in 2013.

The inadequacy of Members of the Parliament to build public trust through concrete actions is presumed to be behind the decline. High expectation of the people is not met by the Members' level of performance. Significant absence of DPR members from important meetings, and the multitude of corruption cases involving the members only add to people's negative sentiment toward the work performance of the Parliament. The media is another addition to the situation, among others driving negative public opinion through excessive publications of criticisms from NGOs, while the public itself are not familiar with the working processes of the parliament.

From the beginning of the reform era, nearly all mass media would publish news on the DPR as an institution as well as on the individual Members of the Parliament. Yet, the news is often fuse/generalization of the members' personal image and the DPR's image as an institution. It is unfortunate that this approach seems to be the trend among mass media and affect the DPR's image negatively.

Thus, the perception of the mass media, the absence of DPR's systematic information flow, and the disintegrated use of information access, have led to disinformation and public opinion that result in the negative image of the DPR.

In 2014, Indonesia is preparing for its biggest democracy event held every five years, the General Election. The 2014 Election would be the third direct election in Indonesia and will be participated by 10 National Political Parties and 3 Local Parties representing Aceh Province. These 10 parties will compete for 560 seats in the DPR.

Low public trust on political institution will influence the level of abstention in the upcoming election. This is potentially harmful, as the elect Members of the Parliament will not be supported with sufficient legitimacy from the people as consequence of the low participation from voters. It is an important task for DPR to regain public trust and to assure the constituents that the Parliament will put its best efforts for the interests of the people.

To measure the level of public trust, we may examine various results of survey measuring the elements that influence the public trust towards DPR.

The conventional believe is that the public in general has lost confidence in the capacity of parliament regardless of political stripe, to manage their affairs efficiently, prudently and effectively- and to act in the public interest

Indonesia is not alone, similar concern also expressed in other countries, whether a parliamentary system or presidential system.

Indonesia Network Election Survey (INES) conducted a survey using sampling frame approach, selecting Indonesian citizens who are eligible to vote in the 2014 Election. The survey involved 8,280 respondents in 33 provinces, 390 sub-districts, 92 municipalities, 600 villages, and 425 administrative villages, with 1.1% margin of error with confidence level 95%. Data gathering method used face-to-face interview, with questionnaire as the primary instrument to collect information, listing a combination of open ended questions and close ended questions.

Based on the survey conducted from 16 August 2013 to 30 August 2013, 89.3% respondents stated that members of DPR today are liars and dishonest. Further, 87.3% stated that members of DPR are involved in corruption, collusion, and nepotism (Korupsi, Kolusi, Nepotisme – KKN), while 78.6% stated that the members of DPR are indolent in attending plenary meeting. There are only 20.4% of the respondents who stated that members of DPR are polite and well mannered.

Why need to restore the public trust

Parliament is the symbol of democracy, as the IPU states that there is no democracy without a functioning parliament, therefore we need to restore the trust of the people to parliament.

Trust or confidence of the people to parliament, as a democratic institution is important since in a democratic political system like Indonesia the loss of confidence of the people means "the fall of legitimacy of the institution". In the system that highly stressed legitimacy that comes from the voice of the people, a democratic institution suffers from losing its existence when it loses its legitimacy.

Strategic Measure: the Role of Political Parties, Government, the Parliament, and the Secretary General

The loss of public trust toward DPR as a state institution is certainly uncalled for. It may lead to the downtrend of public's political participation, which potentially impairs the effectiveness and legitimacy of the legislations. To restore the public trust, strategic measures need to be taken collectively by the stakeholders – the political parties, the government, DPR, and Secretariat General of DPR as the supporting system of the parliament.

Political parties play pivotal role with their function to render political education to the public and raise political awareness of the people. Political parties need to be encouraged to be more selective when proposing candidates as member of the legislative body through election, to ensure that anyone securing the parliamentary seats have adequate competence.

The government, as the organizer of the election, must review the election system on an on-going basis to identify the most effective system for Indonesia. There are concerns that the proportional representation system implemented today might prompt high cost politics and as consequence the elect members of DPR would try to recover their expended costs during the election.

In fact, the existing Election Law does not govern the use of campaign funds, even though the candidates are competing openly and thus strong financing would be involved. Hence, with an open proportional system, a comprehensive restriction on the financing of campaign and utilization of campaign funds is prerequisite.

As the main actor in restoring public trust, DPR has a very important task in its hand. To that end, DPR has shown strong political and has set in motion various efforts such as enhancing and enforcing the Code of Conduct for its Members, applying transparency in the budgeting process, and establishing a Public Account Committee. The duties of the PAC among others are to evaluate findings of Supreme Audit Agency audit submitted to DPR.

In the end, despite being widely discussed for its shortcomings, the Parliament remains the vital institution that bridges the state and its people. The Parliament also plays

critical role in carrying out good governance in order to reinstate the confidence that state institutions are responsible, open, and transparent in its decision-making process. DPR is willing to cooperate with Anti Corruption Commission, if the Commission wishes to oversee budgetary meetings. A number of DPR members have also affirmed their commitments in supporting corruption eradication efforts by establishing Anti-Corruption Taskforce. The Taskforce aims to build coalition between members of the parliament and to encourage the members to combat corruption. Anti-corruption agenda has been formulated, which includes introduction of legislation and increase of oversight function.

As the support system for DPR, DPR Secretariat General carries out continuous improvement efforts. Among the initiatives of the Secretariat are: bureaucracy reform, capacity building, system and standard operating procedure upgrade, and information technology development. Information technology would bring members of DPR closer to Indonesian people. Not only the public may increase the robustness of their oversight on DPR's performance, the people may also understand better the working process in the parliament.

Recognizing the important role of the media in formulating opinion, DPR Secretariat General carries out media evaluation to monitor the public opinion toward DPR's performance. DPR uses the result of this evaluation to improve its work going forward. In addition, the Secretariat General also increases activities of press conference, publication of media release, and agenda setting. The expected outputs of these programs are more objective and fact-based news coverage.

With solid synergy between the multiple stakeholders, public trust on the parliament will be restored, and in turn better civic life will be realized.

Mr Marc BOSC, President, thanked Dr SWASANANY for her contribution and opened the floor to the debate.

Mr Andrew KENNON (United Kingdom) said that there was a tendency towards pessimism on the subject. In the UK, an independent body had been chaged with auditing contact between Parliament and the public after a loss of confidence linked to recent scandals, but the most recent results had been surprisingly positive. The percentage of people who believed that Parliament played an important role in the control over Government had increased from 38% to 47%. Committees were perceived to be extremely effective. It was necessary not to lose heart.

Mr Emmanuel ANYIMADU (Ghana) said that there was also a loss of confidence in Ghana. The Leader of the majority party had given a presentation at a workshop and had been forced to comment on corruption. One of the participants had been a journalist and had succeded in publishing this information. There was no right of reply with the media. The solution was to give committees adequate funds to allow them to do their jobs properly. As far as the behaviour of MPs was concerned, sometimes they stood up to speak but could not express themselves adequately in English, and this was something that needed to be addressed.

Mr Najib EL KHADI (Morrocco) said that there had always been conflict between citizens and politicians: Secretaries General needed to be aware of their limits because they had always to work with the result of an election. The conflict had three aspects in Morrocco:

- Ambiguity about the relative competences of Parliament and community councils, linked to speeches made by candidates;

- The perception of Parliament held by the citizen: campaign speeches also created ambiguity here; and

- Morality: scandals had affected the image of parliamentarins: political nomadism was now forbitted, immunity was curtailed and an ethical code had been adopted.

Mrs Doris Katai Katebe MWINGA (Zambia) asked if Dr Swasanany had encountered any cases where the secretariat had tried to give a positive impression of Parliament but where the MPs themselves were diffusing a negative impression. This was a sort of sabotage of the work of Secretaries General.

Dr Athanassios PAPAIOANNOU (Greece) asked if she thought that public opinion gave a boost to the confidence of everyone involved in parliamentary work.

Mr Marc BOSC, President, added that in Canada there had been a great deal of aggression between political parties. They lacked a respect for their adversaries and this did not convey a good impression of Parliament.

Mrs Vassiliki ANASTASSIADOU (Cyprus) said that one reason for the loss of confidence was the financial crisis. In Cyprus's case, there was a separation of powers: the Executive had needed to negotiate measures with the Troika and it was Parliament that had the role of imposing unpopular measures, which gave it a negative public image.

Mr Jiři UKLEIN (Turkey) indicated that he shared the perspective of Dr Swasanany. Medias gave the impression that official visits were a form of holiday, or diplomatic tourism. Secretaries General had a role to play in countering that impression.

Mr Damir DAVIDOVIC (Montenegro) said that Parliaments had the power to do things but that they needed to take responsibility and hold those responsible to account. If Parliament exercised its scrutiny function correctly the public would better understand what it was trying to achieve.

Dr SWASANANY referred back to the Indonesian experience to note that, in a move to restore confidence, the Indonesian Parliament had held a programme of visits for young people and had gone to university campuses. It was essential to demonstrate the virtues of Parliament and its constitutional functions. The link with universities was very important.

She thanked speakers for their contributions and indicated that it was necessary to emphasise the integration of resources and the role of political parties. It was important to involve MPs in the work. Finally she recommended that the public was made aware of the legislative process.

Mr Marc BOSC, President, indicated a change in the agenda for the afternoon as his colleague from Estonia could no longer be there to present her communication.

3. Communication from Mrs Saithip CHAOWALITTAWIL, Deputy Secretary of the House of Representatives of Thailand: "Engaging the public in the new Thai Parliament"

Mr Marc BOSC, President, invited Mrs Saithip CHAOWALITTAWIL, Deputy Secretary of the House of Representatives of Thailand, to present her communication.

Mrs Saithip CHAOWALITTAWIL (Thailand), spoke as follows:

Introduction
Given the belief that public engagement is beneficial to public support of institutions, law - making bodies have increasingly sought to expand the range and scope of public interaction with political institutions. The Thai Parliament has placed a great amount of importance to public participation as a means of strengthening representative democracy. Direct political participation by the people is stipulated in the Constitution of the Kingdom of Thailand, B.E.2550 (2007) which complements the principle of participatory democracy, which enhances the opportunity for the people to take part in decision making process and overseeing the political system.

Public Engagement Framework
In ensuring that adequate avenues are provided for the people to participate in the business of the legislative, the Thai Parliament attempted to implement various activities to draw attention and participation from a wide array of stakeholders. The primary target and the most important stakeholder is the public. Avenues to participate include parliamentary committees, which are increasingly holding the public hearings on bills before Parliament and fora or seminars that aimed to deepen democracy. The aim of involving the public involves the Parliament, civil society organizations, as well as academics.

Recently, Thailand has established the provincial parliamentary offices in 6 pilot provinces covering every part of the country in order to ease and expedite communication between the Parliament and the public, and building trust between both sides.

Other activities that were carried out to reach people are also such as the parliamentary youth program on democracy, the women parliamentary club and the roadshow aimed at imparting the cooperation of regional grouping, the ASEAN Inter -

Parliamentary Assembly in major cities of the country. The project of the new Parliament is one of which to integrate public inputs, from the very beginning of the process to achieve a more meaningful and broader public participation.

The Parliament for the People

The new parliament project has been carried out with an aim of building new complex and premises, which will serve as the official legislative institution, and encourages trust from the people.

The idea of the relocation of the Thai Parliament was tabled since 1992 under the supervision of the President of the National Assembly since the increase of the Thai population. This gave rise to the growing numbers of MPs, which led to the need for more effective facilities to serve the increasing and more complex parliamentary operations. Many attempts were made to relocate the Parliament to a new place which in the hopes to fulfill people's aspiration of a "House of the Nation", a new national landmark, symbolizing unique Thai elegance as well as to become an icon of modern democratic values.

With the policy given by the President of the National Assembly that all steps of the process for the new Parliament must be transparent, numbers of public hearings were conducted to elicit feedbacks and public approval. A forum was also organized in order to publicly impart information regarding the construction project. For many years, the project to relocate the Parliament complex has not been close to realization due to criticisms and mixed public reaction to the choices of potential locations during the feasibility study. This was the case until the Committee on the Construction of the new Parliament finally agreed to choose a piece of State property land on the Bank of Chao Phraya River as the location for the new Parliament.

In order to give an opportunity for the public to take part in the design of the new Parliament, criteria were set to allow exclusive architectural design teams of Thai Nationals to submit their proposals for bidding. Apart from the master plan for landscape project, such criteria also covered a concept of uniqueness and a technical specification in accordance with Environmental Health Impact Assessment (EHIA). There is also a consideration of the accessibility of all citizens and the physical security and safety of the venue. A total of 131 designs from 99 entries reflected not only the attention from the public but empowered them to take advantage of this opportunity to comment publicly.

The New Image of Parliamentary Service

It is essential for the parliamentary service to play its role and business under the strategic plan, which is a key element designed to achieve its goals and vision. Particularly, it intensified the public's political awareness that pushes the need to increasingly promote public engagement. One of the major initiatives that have been synchronized in the foundation for the new era of parliamentary framework to bridge the gap between the public and the Parliament is the establishing of Parliament - public participatory center. It provides activities for the people and disseminates the development of drafted legislations for the public to raise their voice and sentiments

over the issues. The Parliament absolutely serves as the center of these initiatives including the project to have provincial parliamentary offices at all regions of the country.

The project for a new Parliament has been strategically designed, with consideration to the complexity of factors and issues including increased clamor from Members of the Parliament, the emerging improvements in information and communications technology, the new standard of management requiring the resources potential, the new architecture of regional and international cooperation requiring higher inter - parliamentary service standards, the appropriate working environment with security and safety concerns and in particular the intensification of political awareness among the public that pushing the need to promote public engagement in political process. Considering all these issues, the engagement in the policy discourse will also be improved, which is in line with the Parliament's vision and is primary to any democratic institutions.

Mr Marc BOSC, President, thanked Mrs CHAOWALITTAWIL for her communication and opened the floor to the debate.

Mr Brendan KEITH (United Kingdom) said that the new Thai Parliament was breathtaking. He remarked that public projects in the UK were rarely delivered on time and to budget. He asked how the project was going.

Mrs CHAOWALITTAWIL said that it was possible that the project might have to be modified.

Mr Marc BOSC, President, said that he thought that the timescale was quite ambitious.

Mrs CHAOWALITTAWIL said that the video showed the size of the area of the construction. Some of that land was occupied, and the need to move people out may cause delays.

Mr Marc BOSC, President, thanked Mrs CHAOWALITTAWIL and wished the Thai Parliament well in its construction project.

The sitting rose at 5.10 pm

SIXTH SITTING
Thursday 20 March 2014 (Morning)

Mr Marc BOSC, President, in the Chair

The sitting was opened at 10.00 am

1. New Members

Mr Marc BOSC, President, said that the secretariat had received three requests for membership which had been put before the Executive Committee and agreed to. These were:

NEW MEMBERS	POSITION
Ms. Emma ZOBILMA MANTORO	Secretary General of the National Assembly of Burkina Faso (replacing Mr. Alphonse Nombré)
Mr. Ibrahim KRISHI	Sectary General of the Palestinian Legislative Council
Mr. Vela KONIVARO	Clerk of the Parliament of Papua New Guinea (replacing Mr. Don Pandan)

The new members were agreed to.

2. Presentation by Laurence MARZAL, Programme Officer, Technical Cooperation, on recent developments in the Inter-Parliamentary Union

Mrs Laurence MARZAL (IPU) introduced herself and said that she was in charge of technical cooperation at the IPU. The IPU had a number of development programmes around the world. It only stepped in if asked to do so and often worked with other organisations, such as the UN. The IPU was working with about 20 countries with a limited number of staff. It had organised a practitioners' network in order to establish an efficient system that avoided both overlap and oversight.

The IPU also assisted Parliaments via its secretariats because its approach was to view each Parliament as a whole, not just through its Members. The IPU conducted organisational audits.

The IPU's approach in Myanmar, which had been successful, was to arrive very quickly on site, to understand what the local priorities were, then to begin to communicate with partners. The IPU would also use the approach of starting small and developing the programme of assistance little by little in Egypt.

In Egypt, the Upper House no longer existed under the new Constitution. 750 new employees had been recruited, many of whom had no Parliamentary knowledge or experience; some had knowledge only of the Upper House. The IPU had been asked to work on a staff development programme and to open a staff training centre. The centre would cover past and current staff but would also provide capacity development work.

The IPU was now working with other Parliaments to strengthen the capacity of the Egyptian Parliament. She called for volunteers from the Association to help.

The IPU had received requests from the South African National Transition Council and from Tunisia and the Ivory Coast. The activities that the IPU had carried out in the Democratic Republic of the Congo had lasted for five years and had been successful to the extent that the IPU had been asked to continue. The IPU had begun with an organisational audit. Similarly, the IPU had been asked to go back to Equatorial Guinea to help with staff training and the drafting of Standing Order.

Last year, the IPU had a major project in Libya. In the present situation, the assistance had come to a standstill. Most recently, the IPU had worked in Oman. Work had focused on helping the MPs to improve their oversight of the Executive following the granting by the Sultan of further Parliamentary powers. The IPU was helping with the drafting of procedural roles.

Laurence MARZAL asked members of the Association to fill in a questionnaire about the autonomy of budgets in relation to Parliamentary staff. The information would be collated and used for a new survey being worked on by the IPU.

On behalf of the outgoing President of the IPU, she had been asked to say goodbye to the Association.

Mr Marc BOSC, President, thanked Laurence MARZAL for her presentation and opened the floor to questions.

Mr Austin ZVOMA (Zimbabwe) said that he did not have a question but a small correction. The emergency item referred to related to Southern Africa, not South Africa.

Mrs Corinne LUQUIENS (France) also had a comment. In the current Session the Association had discussed the coordination of assistance to Parliaments. The presentation had demonstrated just how acute this problem was. The organisational audit in the Ivory Coast that had been referred to was one of many that had taken place. She did not think that development work should continue to be disorderly and piecemeal because it was a waste of time and money.

Laurence MARZAC had called for help with projects, but such requests should be more institutionalised, and not announced informally.

Mr Najib EL KHADI (Morocco) had a question about the assistance and cooperation programmes in African and Arab countries. He believed that there should be an exchange of good practice amongst countries in these regions.

Mr Marc BOSC, President, thanked Laurence MARZAL for her presentation.

3. Communication by Mr Peter BRANGER, Director of the Information Unit: "Innovative practices in the Dutch Parliament: a new corrections website and the system for reporting plenary and committee meetings"

Mr Marc BOSC, President, announced that unfortunately Mrs Jacqueline BIESHEUVEL-VERMEIJDEN was absent for personal reasons, so Mr Peter BRANGER would present the communication by himself. He welcomed Mr BRANGER to the platform.

Introduction
VLOS is the Reporting Support System used by the Parliamentary Reporting Office of the House of Representatives and Senate of The Netherlands to prepare the minutes of both Plenary and Committee meetings.

History
The first version of VLOS was brought into use in October 2011. A redesign aimed at upgrading the technology was implemented at a later date. This resulted in the second version, which was released in the House of Representatives on 25 June 2013. Its introduction in the Senate followed on 4 March 2014. In October 2013 the Revision Website was introduced. This website is already being used by the members of the House of Representatives and members of the Cabinet who participate in the debates in this House. Starting from the first half of 2014 this website will also be used by members of the Senate and members of the Cabinet who participate in the debates in that House.

Information flow
VLOS receives information from various external IT systems. The information fed into VLOS mainly consists of preparatory details relating to meetings, such as the Agenda and Speakers, as well as detailed information of all the scheduled activities such as motions and amendments. The information is uploaded to VLOS in either MS Word or XML.

The key system for the importing of data into the VLOS system is the Parliamentary Information System (PARLIS)

Producing the report
VLOS facilitates the reporting procedures during and after the meeting. Below you will find a short description of the main steps in the reporting process.

Logging
Stenographers take five-minute turns during which they mark everything that happens during the meeting. All their markings are stored in a central database and made available immediately after they return to their desk.

Making up the draft report
Based on the markings in the database, the reporter makes up his or her five-minute section of the report. The first step consists in re-arranging the markings, if necessary. Then, on the basis of the dedicated audio file, the spoken words are added to the markings, using MS Word in a protected template. Please note that MS Word is only used to insert text, and the text itself is stored not in a document but in a database. The concept component of the report is then revised twice: firstly with an eye to grammatical and other linguistic matters, and secondly with regard to procedural matters. Once finished, the draft report is published as a HTML-document on intranet and the Internet, so that Members and the General public can follow what is being discussed in the plenary meeting.

The average duration from the time of logging to publication is about two hours.

Database and XML-code
By drawing up the report in the way described above, the reporters are in fact filling in a database in which each item has its own specific place. The hierarchy of the database is determined in the first stages of building the VLOS application. To this end, a vast number of plenary meetings were studied by the application developer together with a subject specialist of the Parliamentary Reporting Office. The starting point of this study was the assumption that, although parliamentary meetings may seem to be chaotic sometimes at first glance, there is a strong structure underlying the whole process. In the Dutch Parliament, this structure is anchored within the Rules of Order of the House of Representatives.

Based on this structure, the Report is stored in a database as a collection of Metadata and Content, embedded in XML-code.

Revision website
All speakers receive an invitation by email to visit a specially designed revision website, where they can put forward proposals for revision of their spoken text. This email contains a unique URL to open the Revision Website. By clicking on this link, the user is directed automatically to the sections of the website containing their own texts. Each speaker is only allowed to put forward proposals for revision of their own texts. These text blocks are marked yellow. White text blocks containing texts of other participants in the debates are presented as context. The revision process is entirely digital (paperless) and can be carried out on a PC, tablet or smartphone. A special app

designed to replace the invitation email for the Revision Website is currently being developed.

Publications
Publication of the minutes of meeting occurs in two stages. During the meeting a growing version of the draft report is published on the intranet site of the House of Representatives and the Internet site of the House, www.tweedekamer.nl.

After the closure of the revision website (24 hrs. – max 72 hrs.) and processing of the proposals for revision, the corrected report is published on the official publishing website, www.overheid.nl.

Based on the VLOS-DML, the report is published on websites in HTML. Its output in the form of either XML, MS Word or PDF. The output is used to add time markings to audio/video, generate subtitles or publish reports as downloadable MS Word/PDF files from websites, or presented as HTML webpages.

Video-on-demand and VLOS
The VLOS metadata and content of the report are also used to make video-on-demand accessible. For this purpose the rich XML-report is stripped of its content. The metadata are then linked to the video stream, on the basis of time stamps. This makes it possible to search within videos.

It has been demonstrated in a test setting that, based on the time stamps and by making use of speech recognition techniques, it is also possible to couple the content of the XML-report to the video stream, producing a form of subtitles. In this way on-demand video streams can easily be made accessible to viewers with hearing disorders.

Third-party use
Traditionally the minutes of meetings were presented as printed documents, but the electronic XML file has now replaced the paper document. The XML is converted into a HTML webpage or MS Word/PDF document, the look and feel of which is determined by the style sheet which is used. In fact, the XML can be used by third parties to present a portion of the minutes of a meeting in a wide variety of ways. It is no longer necessary to report per meeting, but instead snapshots can be taken from a range of meetings, to create statistical charts for example.

VLOS Technology
VLOS was developed using Microsoft technology and specifically the Windows Presentation Foundation (WPF). Information is stored in a MS SQL Server database cluster. The application is developed using the dot.NET programming language within a MS Sharepoint application framework. Using XML SOAP web services, data is exchanged via a MS BizTalk server. Because of the high performance requirements of the marking module used by the stenographers in the meeting halls, VLOS downloads all the necessary information onto the Marking PCs beforehand. The marking screen is presented within a browser, but in fact it is a XBAP-compiled application that runs

locally on the PC and saves information asynchronously onto the server after each five-minute turn. This means that the usual web page delays do not occur.

Technical lay out of the VLOS system:
From left to right:
- Revision website;
- VLOS core with the individual modules preparing, logging, reporting, publication, revision and final publication;
- CC-Connect, a bizz talk platform which connects several applications
- Parlis application for document input
- Websites House of Representatives and Senate for draft publications
- Missed debate application for video on demand
- Offical publications

Mr Marc BOSC, President, thanked Mr BRANGER for his presentation and opened the floor to questions.

Mr Andrew KENNON (UK) asked whether processes had to be changed or whether existing processes would simply be digitised. He also asked whether the audiovisual record or the printed word would be the final record of what had happened.

Mr Peter BRANGER (Netherlands) said that such developments had to proceed step by step, particularly any change to processes that had been existence for hundreds of years. So, at a basic level, what had been done in the Netherlands was the digitisation of existing processes. For example, there were now email processes for handling questions, which would have been inconceivable even five or six years ago. He expected that one day the agenda may be constructed by the politicians themselves, instead of by staff.

Since 2012, the Netherlands had made audiovisual material available live. The archival association had decided that such material needed to be archived and searchable. This had been very challenging and was the subject of some experimentation. There was an attempt to combine the minutes with the audiovisual material, but this was still at a very early stage.

Mr Manuel CAVERO GOMEZ (Spain) asked about whether that which politicians typed went straight to the archives. He also asked whether politicians were allowed to correct their speeches afterwards, given that there was now a publicly-available audiovisual record.

Dr Ulrich SCHÖLER (Germany) noted that this was problem faced by every Parliament. He said that in the twentieth century the ideal was for there to be some papers available and that politicians would have had sufficient time to read them. In the twenty first century the ideal was the use of electronic resources to enhance the quality of MPs work. The reality was that many politicians used electronic resources for social networking and other things that were a distraction from the work in hand. He asked

whether this was the subject of any discussion in the Netherlands. Administrators could offer electronic facilities but could not police their use.

Mrs Corinne LUQUIENS (France) noted that France had had the same debate as Germany about the inappropriate use of electronic resources. However, nothing had really changed, because previously politicians had simply read newspapers or wrote letters instead of looking at Facebook.

In France, there had been some digitisation, for example in the tabling of questions. Some things were at an advanced stage. However, some parliamentarians were relatively elderly and there had been some concern about the ability of these parliamentarians to keep up with technology. She asked whether this was a problem in the Netherlands.

Dr Geert Jan A. HAMILTON (Netherlands) said that the Dutch Parliament was bicameral and that, where logical, the two services shared their services. The House of Representatives had tested the digital innovations, and the Senate had benefited from them at a later stage. The Senators had been very impressed, and the press had found it useful. The rule in the Dutch Parliament was that everybody had to bring their iPad to all meetings, because all papers were on the machines. It could be described as the "cold turkey" method. Acceptance levels were very high. Sometimes paper was useful but digital came first. For the Senate the volume of paper required was below that which had been expected. He had not noticed the Senators being distracted by technology.

Dr Athanassios PAPAIOANNOU (Greece) noted that in Greece the parliamentary press had been more reluctant to accept digitisation than the Parliamentarians.

Mr Brendan KEITH (United Kingdom) said that at any tourist spot worldwide there were tourists taking photographs so busily that they did not see the view in front of them. He believed that this was analogous to the case in hand. He asked whether there was a danger that parliamentarians would be so preoccupied by the technology that they lost sight of its purpose.

Mr BRANGER said that the stenographers in the Netherlands continued to type, but far less than used to be the case because of the standardisation of formats. The Parliament was experimenting with speech recognition. Twenty years ago, Parliamentarians had been able to edit speeches quite significantly, and in any case stenographers had already improved upon what had been said. Nowadays the scope for corrections was far less. In fifteen years perhaps hand-written minutes would be redundant.

In respect of the more philosophical questions, he had driven his daughter to her school and she had looked at her iPhone and commented that the weather was good. He had simply looked out the window to ascertain this.

As an IT professional, he simply brought his tools to Parliamentatians and gave them the opportunity to use them as they saw fit.

Many of the things being accomplished by IT related to increased transparency. By simply downloading an app every citizen could see what was going on in the Parliament.

The Dutch Senate had an older age profile but this had not been a hindrance when it came to the uptake of technology.

Journalists were happy with developments because they no longer needed to report the publicly-available information but could focus on the more interesting areas that were not covered by publicly available information.

Mr Marc BOSC, President, thanked Mr BRANGER for his presentation.

4. Financial and administrative matters

Mr Marc BOSC, President, noted that Mrs Sylvie PIARD, who had been in charge of the accounts and the journal of the Association for 23 years, had retired. He thanked her, on behalf of all members, for the work she had done for the ASGP. Mrs Joelle BLOT would replace her.

He drew the attention of members to a conference organised by IFLA, which represented library professions. Its annual conference would be held in August in Paris in partnership with the French National Assembly. It would hold its Congress in Lyon. This information would be available on the Association's website.

He indicated that the secretariat would give a short presentation on the ASGP's new website.

Mrs Emily COMMANDER, Joint Secretary, presented the Association's new website, indicating that the images shown were just at a draft stage. The new logo was more modern without being too commercial. The colours had been updated from brown to blue to bring them in line with the new colours adopted by the IPU. The website headings had been simplified to make searching easier. At the bottom of the page, information had been separated by clocks of colour to make it easier for users on their tablets and telephones.

Each member would have, if they wished, their own photo and short biographical text on the site. A new contact function would make it easier for people to contact the Association. Photos of the secretariat would also be added. In the future, members would all have access to documents, communications and the journal via the website. These documents would be fully downloadable.

There was still time for members to have input into the new website and they should contact the secretariat if they wanted to make a contribution.

Mr Marc BOSC, President, added that email addresses for members and details of parliamentary websites would also be available. He thanked the Joint Secretaries and Secretaries for their work in this area.

5. Agenda for the next session

Mr Marc BOSC, President noted that the current draft agenda had three items from a single country. One or more of these would be removed. He encouraged members to think of subjects that they could present and to notify the staff.

Matters put forward for inclusion in the Draft Agenda for the October 2014 meeting in Geneva

Possible subjects for general debate

1. Why have a parliamentary television channel?

2. Co-ordination of assistance and support to Parliaments (with informal discussion groups)

Moderator: Mr Ulrich SCHÖLER, Deputy Secretary General of the Bundestag of Germany

Communications

1 Communication by Ms Maria ALAJÕE, Secretary General of the Riigikogu of Estonia: “Public access to records of committee meetings – a case study from Estonia”

2 Communication by Ms. Penelope Nolizo TYAWA, Deputy Secretary to the Parliament of South Africa: “Designing and implementing a Strategic Plan for Parliament”

3 Communication by Mr. Masibulele XASO, Secretary to the National Assembly of South Africa: “A public participation model for Parliament”

4 Communication by Dr. Athanassios PAPAIOANNOU, Secretary General of the Hellenic Parliament: "The reaction of the media to parliamentary transparency""

5. Communication by Mr Eric PHINDELA, Secretary to the National Council of Provinces of South Africa: “Declaring Parliamentary rules unconstitutional – the South-african experience”

Other business

1. Presentation on recent developments in the Inter-Parliamentary Union

2. Administrative and financial questions

3. Draft agenda for the next meeting in Hanoi (Mars 2015)

The draft agenda was agreed to.

6. Closure of the Session

Mr Marc BOSC, President, thanked the interpreters, the Association staff, the staff of the IPU in charge of the organisation of the conference and the members of the Executive Committee.

The next Session would begin on 12 October 2014 and would also be held in Geneva.

The sitting rose at 11.10 am.