



Provisional edition

Procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament

Resolution 1601 (2008)¹

1. “Democracy is founded on the right of everyone to take part in the management of public affairs; it therefore requires the existence of representative institutions at all levels and, in particular, a parliament in which all components of society are represented and which has the requisite powers and means to express the will of people by legislating and overseeing government action” (Universal Declaration on Democracy, Inter-Parliamentary Union, 1997). A politically representative parliament shall embody society in the diversity of its composition and shall work with due respect for the plurality of opinions.²

2. The promotion and consolidation of pluralist democracy is one of the main objectives of the Council of Europe and its Parliamentary Assembly. The member states of the Organisation shall endeavour to develop common standards and practices aimed at promoting a free and pluralist parliamentary democracy and the means for their implementation in national parliaments. The democratic quality of a parliament is measured by the means available to the opposition or the parliamentary minority to accomplish its tasks.

3. A political opposition in and outside parliament is an essential component of a well-functioning democracy. One of the main functions of the opposition is to offer a reliable political alternative to the majority in power in providing other policy options for public consideration. By overseeing and criticising the work of the ruling government, continuously evaluating government action, and holding the government to account, the opposition works to ensure transparency of public decision and efficiency in the management of public affairs, thereby ensuring the defence of the public interest and preventing misuse and dysfunction.

4. The Parliamentary Assembly considers that an effective follow-up should be ensured at the national parliaments’ level to its Resolution 1547 (2007) on the state of human rights and democracy in Europe in particular when it recalls that the right to form a political opposition shall be considered as a key element of a genuine democracy. It then recalls its Resolution 1154 (1998) on the democratic functioning of national parliaments in which it calls on national parliaments, inter alia, to “give the opposition a status enabling it to play a responsible and constructive role (...)”.

5. Granting the parliamentary opposition a status according to which it is entitled to rights contributes to the effectiveness of a representative democracy and respect for political pluralism, and thereby to the citizens' support for and confidence in well-functioning institutions. Establishing a fair legal and procedural framework and material conditions enabling the parliamentary minority to fulfil its functions is a prerequisite for the good functioning of representative democracy. Opposition members should be able to exercise their mandate in full and under at least the same conditions as those members of parliament who support the government; they shall participate in an active and effective manner in the activities of the parliament and shall enjoy the same rights. Equal treatment of members of parliament has to be ensured in all their activities and privileges.

6. The Assembly recalls that in Resolution 1547 (2007) it calls on opposition parties and their members not to ask for rights and means purely and simply, but also to show responsibility and willingness to use them and make their best efforts to enhance the efficiency of the parliament as a whole. They should not restrict themselves to only carrying out their perhaps insufficient role of criticism.

7. The Assembly welcomes the fact that procedural rights of the opposition are currently of political relevance in several national parliaments. It recalls in this context the conclusions reached during the last meeting of the Council of Europe Forum for the Future of Democracy held in Stockholm/Sigtuna on 13-15 June 2007 regarding the role and responsibilities of the opposition. It considers that an appropriate follow-up should be given to them at national parliaments' level.

8. Differences exist in the degree of institutionalisation of the opposition in the parliaments of Council of Europe member states, ranging from informal recognition in the parliamentary Rules of Procedure when granting rights to the parliamentary minority to formal recognition of the opposition in the constitution of the state. However, beyond diversity of parliamentary systems in Europe, all parliaments of the member states grant rights to the parliamentary minority, whether organised around political groups or not. The Assembly notes that the notion of parliamentary opposition has undergone changes in conjunction to the modernisation of political debate. Several innovative good practices have been developed in a number of states which merit the attention of a wider audience. Therefore the Assembly welcomes the current tendency in some parliaments to achieve full parity between the majority and the opposition concerning some rights, irrespective of their strengths in parliament.

9. Consequently, the Assembly invites the parliaments of the member states to reform or update their rules on the rights of the opposition or parliamentary minority and encourages them to draw up a charter on the rights of the opposition, or to define the status of the opposition in parliament, taking inspiration of the guidelines below.

10. While bearing in mind the variety of parliamentary democratic institutions in Europe, the Assembly encourages the member states of the Council of Europe to start as soon as possible a genuine and thorough reflection on the modernisation of their democratic institutions and the adaptation of their parliamentary institution to the needs of a modern society. To this end, member states should take into account the guidelines set below, as well as good practices established in the most innovative parliaments.

11. The Assembly also invites the European Commission for Democracy through Law (Venice Commission) to undertake a study on the role of opposition in a modern democratic society.

Guidelines on the rights and responsibilities of the opposition in a democratic parliament:

1. Parliamentarians must exercise their mandate independently. They shall not be bound by any instruction or receive a binding mandate. One cannot blame a member of Parliament to defend ideas that go against the government's official policy or that are not well received by a majority of the population.

2. National parliaments of the Council of Europe member states shall acknowledge the following rights in relation to the opposition or parliamentary minority:

2.1 freedom of expression and freedom of opinion; members of the opposition shall enjoy freedom of speech; they must be able to express their ideas freely;

2.2. the opposition shall participate in the supervision, scrutiny and control of the action and policy of the government:

2.2.1. opposition members have the right to information; opposition members and members of the majority are entitled to receive the same information from the government;

2.2.2. opposition members have the right to ask written and oral questions, and to receive replies to these questions;

2.2.3. opposition members shall be privileged during question time with the government (in particular they shall have the right to open question time and to ask more questions to the government than members of the majority);

2.2.4. opposition members have the right to interpellation (oral question with debate) and right to move a motion of no confidence;

2.2.5. opposition members have the right to request the convening of a plenary sitting of the parliament/chamber, which should be granted if a quorum of one quarter of members is reached;

2.2.6. opposition members have the right, at regular intervals, to set the agenda of plenary sittings, and to choose subjects for debate, including bills tabled by opposition members, control of government actions and evaluation of public policies and spending; matters selected on those days shall have precedence over government business;

2.2.7. opposition members have the right to ask for the holding of debates, including urgent or current affairs debates, which should be granted if a quorum of one quarter of members is reached;

2.2.8. opposition members have the right to request the setting-up of a committee of inquiry or a parliamentary mission of information and to become a member of it; this should be obtained if a quorum of one quarter of members is reached; a member of the opposition shall be appointed either chairperson or rapporteur of every committee of inquiry or mission of information successfully requested by opposition members or political group;

2.2.9. speaking time in plenary sittings shall be allotted at least according to the respective weight of political groups; allocation of an equal speaking time between majority and opposition, irrespective of their strength, should be privileged under certain circumstances;

2.3. the opposition shall participate in the organisation of legislative work:

2.3.1. opposition members have the right to participate in the management of parliamentary business; they shall have access to posts of vice-president and other positions of responsibility in parliament; the composition of governing bodies of parliament shall respect the principle of proportional representation and reflect the political composition of the parliament / chamber;

2.3.2. opposition members have the right to request the holding of an extraordinary session, which should be granted if a quorum of one quarter of members is reached;

2.4. the opposition shall participate in the legislative procedure:

2.4.1. opposition members have the right to table bills and motions on legislative matters;

2.4.2. opposition members have the right to speak and to vote in all debates;

2.4.3. opposition members have the right to table amendments;

2.4.4. opposition members have the right to present procedural motions (change in the proposed agenda or the adopted agenda, request to ascertain a quorum; request to refer a report back to a committee, etc.);

2.5. the opposition shall participate in parliamentary committees' work:

2.5.1. the presidency of standing/permanent committees shall be allocated among parliamentary groups on the basis of proportional representation; at least one permanent committee shall be chaired by a member of the opposition; the chairmanship of committees responsible for monitoring government action, such as the committee on budget and finance, the committee on audit, or the committee supervising security and intelligence services, should be granted to a member of the opposition;

2.5.2. any committee, permanent or not, shall be composed on the basis of proportional representation;

2.5.3. in committees, opposition members shall enjoy speaking and voting rights, the right to table amendments and to move a procedural motion; they shall have the possibility to append a dissenting opinion to a report adopted in committee or to present a minority report;

2.5.4. opposition members have the right to request the organisation of committee hearings; it should be granted if a quorum of one quarter of members is reached;

2.5.5. opposition members have the right to be appointed committee rapporteurs; in any case, rapporteurships in committees are allocated on the basis of proportional representation;

2.6. the opposition shall participate in political decision; the opposition or parliamentary minority shall be consulted prior to any decision to dissolve parliament;

2.7. the opposition shall participate in the constitutional review of laws:

2.7.1. opposition members have the right to apply to the Constitutional Court or the appropriate legal body and to request a constitutional review of adopted laws;

2.7.2. opposition members have the right to request examination of constitutionality of draft laws or parliamentary acts by the Constitutional Court or the appropriate legal body prior to their adoption;

2.7.3. opposition members have the right to apply to the Court of Audit and to request its opinion on budgetary and finance matters.

3. National parliaments shall provide political groups or individual members of the opposition with the appropriate financial, material and technical resources and means so that they can properly perform their functions and duties. Opposition members shall have fair access to state funds and allowances; they shall have free and fair access to media, including public radio and TV channels, and sources of information.

4. The provisions of the rules of procedure concerning the rights of members of parliament and particularly of the minority should not be altered after each parliamentary election in order to adapt them to the election results.

5. The political opposition in parliament shall show political maturity and should exercise responsible and constructive opposition, by showing mutual respect, using its rights with a view to enhance the efficiency of parliament as a whole.

¹ Assembly debate on 23 January 2008 (6th Sitting) (see Doc.11465 rev., report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Mr Van Overmeire). Text adopted by the Assembly on 23 January 2008 (6th Sitting).