



Italian delegation to the PACE
Italian Chamber of Deputies



Parliamentary Assembly of the Council of Europe
Committee on Rules of Procedure, Immunities and Institutional Affairs

Final Report of the Seminar on “Codes of conduct for parliamentarians and the prevention of corruption”

Rome, Italy
1 July 2014

A PACE PLATFORM

Parliamentarians
against corruption



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The one day seminar was held to bring together Italian parliamentarians, as well as parliamentarians from various Council of Europe member States and partners from democracy, to discuss how to prevent and address corruption within their own ranks by adopting a code of conduct.

1. Summary of proceedings

1.1. Opening session

The Vice-President of the Italian Chamber of Deputies, **Ms Marina Sereni**, welcomed the participants and briefly introduced the issue of codes of conduct for parliamentarians. In particular she focused on the feasibility for the Italian Parliament to adopt such a code, given the numerous norms which already exist including, for example, constitutional principles and laws on obligation of transparency. These rules, however, are not comprehensive and lack of an exhaustive mechanism safeguarding their application. She called for immediate serious discussions on the forms and contents of a code. Bearing in mind that under article 54 par. 2 of the Italian Constitution, public functions shall be fulfilled with discipline and honour, an internal debate on the regulation of public institutions will help to strengthen the relation with the public opinion and the voters.

Ms Chiora Taktakishvili, member of the Committee on Rules of Procedure, Immunities, and Institutional Affairs of the Parliamentary Assembly of the Council of Europe, reported her experience in fighting corruption in Georgia underlining the primary role of parliamentarians in promoting transparency and honesty in public life. She also mentioned the work of the Parliamentary Assembly of the Council of Europe in strengthening the rule of law, which gained more visibility with the recent creation of the “PACE anti-corruption platform”. Under this new forum for dialogue and co-operation parliamentarians from different European countries have in fact the possibility to benefit from the experiences and best practices of other states and experts, as well from the work of the Group of States against Corruption of the council of Europe, the GRECO. Concerning the codes of conduct, she reminded that the PACE itself adopted a Code for members of the Parliamentary Assembly setting up general principles and a clearly-defined set of rules without restricting the ability of members to carry out their responsibilities.

Mr Michele Nicoletti, member of the Italian delegation and Vice-President of the Parliamentary Assembly of the Council of Europe, pointed that the seminar on the adoption of a parliamentary code of conduct and on the fight against corruption, one of the major Italian challenges, took place the first day of the Italian presidency of the Council of the European Union. This positive sign of hope strengthens the path of change started in 2012 with the adoption of the decree n. 235 mandating ineligibility for individuals convicted for intentional crimes. This is only one example of the willingness to improve the situation. The need for a radical change has recently been claimed by

the GRECO in its compliance report on “transparency of party funding”. While acknowledging some progresses, the report highlights in fact serious weaknesses in the Italian system. The GRECO’s Fourth Evaluation round, launched in 2012, focuses on the prevention of corruption within national parliaments. As a GRECO visit is not foreseen before 2016, Italy has the possibility to be more prepared by taking advantage of this seminar and adopting a code of conduct in the near future.

1.2. Exchange of views on existing approaches in Europe

Mr Thomas Vennen, head of the Democratization Department of the OSCE/ODIHR, presented the ODIHR’s background study on “Professional and Ethical Standards for Parliamentarians”. On the basis of the information collected in the OSCE area, the ODIHR has been able to set six pillars that should be addressed by comprehensive codes of conduct, namely: conflict of interests (I), asset declaration (II), expenses and allowances (III), relations with lobbyists (IV), post-parliamentary employment (V), and gender component (VI). Concerning monitoring and enforcing rules, ODIHR distinguished three different types of systems: self-regulated, where the parliament monitors the application of the code, reviews allegations of misconduct and recommends sanctions; co-regulated, an hybrid system where the parliament retains some benefits of self-regulation while introducing some elements of external regulations; and external regulated, where an external actor monitors the application of the code, reviews allegations and recommends appropriate sanctions. Two more aspects need also to be taken in consideration while elaborating a code: MPs private life, as it needs to be respected, and immunity, which should be limited to the risk of interfering with parliamentary work and not been considered as impunity. The importance of codes of conduct has grown recently as parliaments in the OSCE region are more and more perceived among the most corrupt public institutions. This perception has worsened in recent years: according to the Euro barometer, trust in national parliaments fell from 57% in 2007 to 31% in 2012.

The Scottish Commissioner for Ethical Standards in Public Life, **Mr Bill Thomson**, presented his country’s experience. The Scottish Parliament’s institutional structures and working practices were influenced by the work of a Consultative Steering Group (the CSG), set up to bring together views on and consider the operational needs and working methods of the Scottish Parliament. This body, composed, among others, of the representatives of political parties and civic groups of interests, established a sub-group to advise on the preparation of a code of conduct. The Code was formally adopted by the Parliament in 1999, and has since been revised on a number of occasions. Rules cover the following areas: I. registration and declarations of interests, which must be registered within 30 days; II. paid advocacy: no member may advocate or initiate any cause on behalf of any person in exchange for any payment or benefit; III. lobbying, an area currently under review; IV. cross party groups, which ensures that access to members and use of parliamentary facilities is done openly and on a cross-party basis; V. general conduct, including treating members with courtesy and respect and making a proper use of the expenses available; VI. engagement and liaison with constituents, requiring members to take on a case when approached by a constituent. Concerning the enforcement, complaints about possible breaches of the Code are referred directly to his office. When he receives a complaint he has to inform the member and consider the admissibility in terms of procedural rules. Stage two involves detailed investigation, which is conducted in private. Once the investigation is complete, a report is sent to the Parliament’s Standards Committee which decides whether to conduct further investigations, to hold a hearing, or to dismiss the complaint without any further procedure. The Committee can also conclude that the member has breached the Code and that she or he should be sanctioned. Sanctions vary according to the specific section of the Code which has been breached, and some may be prosecuted as criminal offences.

Mr Frank Raue, Deputy Head of Division in the German Bundestag and Member of the GRECO, presented the Code of Conduct for Members of the Bundestag. The Code is part of the Procedural

Rules of the Bundestag and is it often referred to as “transparency rules”, as its main tool is disclosure of facts which may give rise to conflicts of interests. The Code deals in fact with two main topics: ancillary activities of the members, and pecuniary benefit offered by third parties. With regard to side activities, the basic principle is that they are permitted. There are only few exceptions: as an example, the rights and duties of civil servants, judges and members of armed forces who are elected to the Bundestag are suspended for the duration of their membership. Remunerated activities must be disclosed to the President of the Bundestag and the same applies to the membership of boards of enterprises and corporations, and similar institutions. If an MP receives remuneration and if it exceeds 1000 euro per month or 10000 euro per year, the amount must be reported to the President. MPs must also give notification of interests held in a company or partnership if their voting rights exceed 25 per cent. All these and other facts have to be declared within three months of the beginning of the electoral term or within three months after a relevant change has occurred. The President is obliged to publish this information on the website and in the Official Handbook of the Bundestag. The Code provides for sanctions if members do not fulfil their obligations. Concerning the second topic of the Code, the general principle is that members must not accept any benefit from third parties for the exercise of their mandate. In particular, it is inadmissible to accept benefits which are only granted in the expectation that the interests of the payer will be represented and asserted in the Bundestag. MPs are however permitted protocol gifts, but if their value exceeds 200 Euro they must be declared and handed to the President. Parliamentarians are also allowed to accept donations and similar benefits aimed at supporting their political activities, but they must be declared if their value exceeds the amount of 5000 euro per year and donor.

1.3. Introducing a code of conduct for parliamentarians in Italy

Mr Bernardo Mattarella, Professor of Administrative Law, gave an overview of the existing legal framework. Parliamentary conduct has historically been ignored by the Italian legal system and the status of parliamentarians is still governed by laws adopted in the 50s and not updated ever since. Most important, parliamentarians are the only officials in Italy for whom there are no rules on conflict of interests. To make up for this defect some political parties have adopted internal codes of conduct, but they are not completely effective. Rules governing the behaviour of members of the parliament should in fact reflect the fundamental principles of the constitution, including representing all citizens of the nation with dignity, carrying out duties with honesty, regulating the conflict of interests and administrative transparency. He cited as an example that in the United States the register of visitors to the White House is made public. Regarding the form of codes of conduct, he recommended that control and monitoring bodies should not be composed by parliamentarians only, and commented that sanction are not always essential; an alternative deterrent is public accusation. Codes of conduct are important, but do not exhaust the issue of public ethics of parliamentarians, as they normally regulate the period of their mandate only. Further regulations should therefore deal with the phase before (equal access opportunities, dignity of the persons who stand for election) and the period after (post-electoral employment).

Ms Donatella Ferranti, Chairperson of the Committee on Justice of the Italian Chamber of Deputies, made some general remarks on the fight against corruption, noting that in Italy this phenomenon is often linked with the organised crime. Parliamentary institutions have the duty and the responsibility to engage in two directions: putting in place control and containment systems, and immunizing themselves from the cancer of corruption. The latter action reflects the urgent obligation to enhance moral values in politics. In Italy there is a growing commitment to this goal, as testified by recent improvements such as the adoption of the anti-corruption reform. The legal framework needs however to be improved as it focuses more on repression rather than prevention. From this point of view she stressed the obligation to accelerate the adoption of a code for MPs in Italy and by doing so referring also to the virtuous models already existing in Europe and beyond.

Salient points of this text should include: obligation of honesty and transparency, detailed definition of conflict of interests, rules on participation to events sponsored by third parties, gifts, donations, relations with lobbyists and immunities. These and other issues should be complemented by strongly monitoring the application of the code and the implementation of sanctions. She invited all parliamentarians to examine these issues, in particular parliamentary immunity, which was an area already partly addressed by the seminar organised by the PACE and the Serbian parliament in December 2013.

2. Conclusions by the Italian Minister of Justice

The Italian Minister of Justice, **Andrea Orlando**, firmly called for a cultural battle against corruption in the country. He mentioned the incidence of corruption in terms of good performance of the public administration and the social penetration of this scourge as important factors of deterioration of the rule of law and as evidence of the need for a more comprehensive strategy. The Government, from its part, has launched a set of actions supporting the already mentioned anti-corruption law of 2012, and it will now engage in making this law more effective and in introducing legislative changes that will work on both the prevention of corruption and on sanctions. The adoption of a code of conduct for parliamentarians is a useful complement to these efforts and other existing provisions and he encouraged MPs to start discussions as soon as possible. He finally affirmed that a code defining the limits and orienting the profile of those who have the responsibility to represent the people in the parliament cannot be limited to the principle of transparency, but should also consider accountability. This will strongly restore credibility of public institutions.

Programme of the Parliamentary seminar “Codes of conduct for parliamentarians and the prevention of corruption”, Rome, 1 July 2014

co-organised by the Italian Chamber of Deputies and the Parliamentary Assembly of the Council of Europe under the umbrella of the PACE anti-corruption platform.

[From 9.30am – 10.00am]

Opening session

Marina Sereni, Vice-President of the Italian Chamber of Deputies

Chiora Taktakishvili, Member of the Committee on Rules of Procedure, Immunities and Institutional Affairs of the Parliamentary Assembly of the Council of Europe

Michele Nicoletti, Member of the Italian delegation and Vice-President of the Parliamentary Assembly of the Council of Europe

[From 10.00am – 11.30am]

Introduction to codes of conduct and exchange of views on existing approaches in Europe

Thomas Vennen, Head of Democratization Department (OSCE/ODIHR)

Bill Thomson, Commissioner for Ethical Standards in Public Life (Scotland)

Dr. Frank Raue, Deputy Head of Division, Remuneration of Parliamentarians – Bundestag (Germany)

[From 11.45am – 12.45pm]

Introducing a code of conduct for parliamentarians in Italy: current situation, opportunities and challenges

Bernardo Mattarella, Professor of Administrative Law

Donatella Ferranti, Chairperson of the Committee on Justice, Italian Chamber of Deputies

Statements of Italian parliamentarians proposing the adoption of a code of conduct for MPs:

Paola Binetti, Member of the Committee on Social Affairs, Italian Chamber of Deputies

Giuseppe Galati, Member of the Italian delegation to the Parliamentary Assembly of the Council of Europe

Maurizio Bucciarelli, President of the Five Star Movement group at the Italian Senate

[From 12.45pm – 1pm]

Concluding remarks

Andrea Orlando, Italian Minister of Justice