

II. The status of parliamentary groups

1. Introductory Note by Mr Luis Madureira, January 1994

Analysis of the practical reality of parliamentary life in different countries shows the existence of loose groupings of Members, arising from people's natural tendency to gather together according to different kinds of affinities, from the regional to the ideological.

Such groupings of Members, although they can be considered as an embryonic form of actual party groups, nevertheless do not have the characteristics of such groups - above all because of the absence of links with political parties.

They do not have a solid internal organisation and play no particular role in parliamentary life.

Before the nineteenth century, references to parliamentary groups were rare. It is only in the current century that they have little by little consolidated their position within parliaments and have helped to change profoundly political life both within and outside parliament.

Besides the natural tendency of people to group together mentioned above, other factors have played an equal role in the formation of groups, the most important being ideological discussion and the physical arrangement of Members within the Chamber (based on the British or French traditions¹), as well as the developments in the functions and independence of Members.

A decisive factor, however, was change in the electoral system, notably universal suffrage and the adoption in many countries of a proportional system which allowed a more accurate representation of the electorate. Such changes led to the appearance of what is currently described as a party system, which in its turn further reinforced parliamentary groups.

The appearance of political parties is so closely linked to the appearance of parliamentary groups that it has been much discussed - and is still discussed -

¹The physical placing of members was so important that during the period of the French Convention, as noted in the Waline Report cited by Nicolás Pérez-Serrano Jauregui, Members of Parliament were required to change place periodically, using a system of monthly drawing of lots, in order to combat the tendency to constitute groups.

which appeared first. But either way it is undeniable that each has had a decisive effect on the advent of the other. Although groups have generally preceded political parties, it is the latter which have often been the first to be recognised in law.

The delayed recognition of parliamentary groups has been in part due to dogma, in respect of the idea that unity should characterise all sovereign law-making bodies (since laws are by their nature general and abstract) as opposed to the idea of a group which implies an idea of the defence of partial interests.

At the same time the concept of "mandate" then in force sat ill with the existence of intermediate structures which constrained individual liberty.

Meanwhile, groups gained their place in the usages and customs of parliament until they were recognised first in the parliamentary rules, and, only later, in some constitutions.²

Recognition of groups implies the establishment of certain conditions of constitution.

These requirements, although they may vary, have general features in common. Many rules fix a minimum number or a given percentage of Members and allow where necessary the establishment of mixed groups of those who cannot constitute a group by themselves. The required number is very variable ranging from one Member to thirty.

Amongst the common conditions there is one which merits special mention, namely that of belonging to a party or coalition of parties standing for election, although many countries allow the existence of parliamentary groups involving several parties. Other rules require a declaration of ideology for the establishment and membership of a political group.

Some rules require a declaration of recognition, to be made before the Assembly or before its President.

The requirement of conditions for the formation of groups is associated with the extent to which their formation is obligatory. Thus in many parliaments the participation of members in a group is obligatory. In others, despite the absence of a mandatory requirement of this nature the rights of members who are not in such groups are so restricted that certain devices (e.g. quasi membership) have been created to facilitate the work of such Members.

²By way of observation it might be noted that the Constitution of the Portuguese Republic is cited in a study by Manuel Ramirez "Teoría y Práctica del Grupo Parlamentario" as being the one which recognises political groups most comprehensively.

Amongst different parliaments a variety of scenarios can be seen.

In most parliamentary regimes the number of groups is fixed at the beginning of each legislature. Change is forbidden, although this is not to say that the existing groups cannot be changed.

Political life has its own continuously changing dynamic and such changes, besides the repercussions they create within parliament, can have repercussions at the level of the constitution of groups. From such developments comes the danger of divisions or individual or mass defections.

Let us examine the effect of these changes within parliament.

What will happen to dissident Members? The solutions offered by the different parliamentary regimes are diverse, but a fundamental element must not be forgotten relating to the underlying purpose of the legislative arrangements of any electoral system, namely its ultimate objective, which is and always remains that of reflecting the electoral results and offering a stable political system.

But, as we have already recognised, changes are inevitable and there are moments where the compulsory mandate itself, and voting discipline, are no longer respected.

In such moments solutions to the problem can be identified only on a case by case basis, although we can point out certain typical cases:

- the dissident Members, in resigning from their party, resign their position and are replaced;
- they continue as Members exercising their mandate, until the end of the legislature, as independents;
- they join a mixed group, which becomes for them a sort of transitional stage before subsequently joining a parliamentary group adapted to their ideology;
- they move directly to a different parliamentary group; or
- they are able to constitute a new parliamentary group.

This last solution is certainly the most radical and the one which involves the greatest consequences both within parliament and outside. From such a moment a new political player comes on the scene and this new player has the right to speak, to initiate legislation, to take part in the Conference of Presidents, and to benefit from broadcasting rights. The political space available to other actors is accordingly reduced.

The new parliamentary group plays, in the same way as all the others, a fundamental role in the life of parliament.

The groups assume two kinds of function: indirect functions and direct functions. The first consists of taking legislative initiatives and taking part in political control of the Executive. These are the characteristic powers of the legislative body which is the Parliament.

Other such functions include notably the appointment of their Members to special committees, so that the composition of the Plenary Assembly is properly represented there, as well as the election and nomination of Members to national bodies which depend directly or indirectly on the Assembly.

An equally important role is that played in the nomination of national representatives to international bodies.

Finally, to political groups falls the important role of informing public opinion, through their access to broadcasting rights in the public service radio and television.

As for the direct functions, the most important is the work done in the Conference of Presidents.³

This is a function which parliamentary groups develop by an intermediate process which does not arise at the parliamentary level until after the recognition of groups.

The Conference of Presidents is, with the Presidency and the Bureau, one of the managing organs of each parliament. It has the task in modern parliamentary regimes of setting out the agenda of parliamentary business.⁴

It is also the centre of a conflict of interests in which each parliamentary group will try to give effect to its own viewpoint.

Hence it is necessary to observe certain rules of internal operation:

- to preserve the rights of all parliamentary actors;
- to allow the government the opportunity to include in the parliamentary agenda those matters it considers to have priority for the accomplishment of its programme;

³ The Conference of Presidents comprises the parliamentary leaders, the President/Speaker of the Assembly and sometimes certain members of the Government.

⁴ As Cotteret said, cited by Nicolás P.S. Jaugerui "the philosopher will regard the agenda of business of Members of Parliament as a temporal notion; the sociologist will be concerned with identifying a rule capable of describing the organisation of the life of a group; while the first priority of a lawyer would be to analyse the mandatory nature of the decision".

- to provide for fixing quotas for initiatives presented by the minority so as to avoid a timetable which risks restricting such initiatives;
- to seek unanimity in the taking of decisions.

By this method, parliamentary groups can lay out the timetable for debates in the Chamber and, with the matters being discussed being linked to the most urgent questions in terms of national interest and political opportunity, intervene in a decisive way in the unfolding of political parliamentary life.

The Conference of Presidents thus becomes more than a technical body for organising parliamentary life and becomes a political organism indirectly charged with setting out the pattern of political life.

The character of parliamentary groups in recent times, arising out of their legal sanctioning and the fact that their field of activity lies almost entirely within the operation of parliamentary assemblies, as well from the different characteristics they assume in different parliaments (and within these parliaments in different Chambers), has contributed to a certain indecision as to their theoretical nature, already reflected in some judicial decisions.

Without wishing to take sides in this dispute, the fact is that parliamentary groups have, to date, been considered as organs of political parties, as organs of parliament, as private associations or as public bodies. Meanwhile, unconcerned with this doctrinal dispute, they continue to evolve and acquire a major importance within parliament, and even outside it.

In current times, there is a certain coincidence in many rules between the functions and competences allotted to parliament and those exercised by the parliamentary groups.

Powers formerly exercised by Members have gradually been allotted to parliamentary groups and thus very often the activities of such groups squeeze out the continued exercise of powers by the Members themselves.

Additionally, there are powers which Members cannot exercise on an individual basis or whose exercise is futile if done individually.⁵

History does not repeat itself. Although there is no prospect of return to the era when an individual Deputy had all the power, the way forward is not entirely

⁵ Certain rules provide for the individual exercise of a mandate, but only on rare occasions giving them the right to speak, which is dependent on a process of prior inscription in the Orders of the Day in which individual Members do not participate. Furthermore, even when such a power is exercised it is often denuded of all efficacy.

in the direction of reinforcing the system of the parliamentary groups as the protagonists.

The compulsory mandate and voting discipline, measures developed by parliamentary groups to protect their internal cohesion, have led voters and some Members to re-examine their true role.

This has led, in certain situations involving matters of conscience (death penalty, abortion), where the options divide the whole of political and civil society horizontally, to freedom of voting. But such kinds of questions will be raised more and more often (nuclear energy, environmental problems).

The status of Members can frequently involve a threat to individual freedom of conscience and, without putting in question the principle of voting discipline, can lead to the establishment of a somewhat flexible system of interpretation of mandates.

It can allow, for example, the suspension and immediate replacement of a Member by another Member from the same list so that in such matters he is not required to vote against his conscience and so as to avoid manifestations of dissent within the parliamentary group.

As Vital Moreira e Gomes Canotilho said "Members of Parliament are so to speak absorbable; Members of Parliament come and go and the parliamentary groups remain".

It is necessary to continue to search for the point of balance between the effectiveness of a disciplined and coherent group and the expression of a free and individual parliamentary mandate, something which holds equally true for legislation on electoral systems.

Without changing the forms of, and reasons for the constitution of, parliamentary groups, and without putting obstacles in the way of improving the conditions under which they are created or in the way of solutions adopted by different parliaments for dealing with "dissident" members during a legislature, attention must be paid to the choice (progress) which the coming years offer us between, on the one hand, the need to constitute party groups as the best guarantee of effectiveness in parliamentary life, and, on the other hand, the need to preserve the electoral results.

In the near future, what forms will democracy have, in respect of regimes which institutionalise the participation of the people in the organisation and exercise of political power and which are capable of keeping a proper balance in the renewal of the ruling political class?

Max Weber, who describes democracy as a minimisation of power, insists at the same time that it must guard against the development of a closed body of

political state officials, by maintaining universal accessibility to power and by reducing the authority of the corps of public officials by the development of the influence of public opinion.

The liberal philosophico-legal conception of power envisages its accumulation, with reservations, into the hands of the State, whose activity it seeks to limit by separating and restraining its political functions.

To discuss the subject of the status of parliamentary political groups within parliament involves also analysing the type of historical mistrust vis-à-vis all forms of organisation which can lead, through a non-open way of proceeding, to the conservation of power.

It is certain that, from the democracy of the Greek city states (polis) to our own day, substantial progress can be recorded in the *institutionalisation* of the participation of citizens in the organisation of political power. But it is also certain that the progress is essentially of a structural, institutional and ideological nature.

Political parties, like their parliamentary groups, are essentially the instrument for facilitating the participation of all citizens in government. They play a role which would be difficult to replace. However, their role in presenting electoral lists, as well as the voting discipline to which they are subject in parliament, are factors which reduce the degree of identification of the electors with the elected, something which calls naturally for adjustment in the future.

ANNEX:

In Portugal parliamentary groups have been recognised constitutionally since 1976.

Article 183 of the Constitution of Portuguese Republic provides that Members of Parliament elected for each party or coalition can constitute a parliamentary group.

Legislation covers the rules of their establishment and their financing. Internal organisation is a matter for each parliamentary group, each having own rules.

Articles 7ff. of the Rules of the Assembly of the Republic (RAR No. 4/93 of 2 March) govern the constitution and powers of parliamentary groups.

The constitution and any amendment thereto of a parliamentary group is communicated to the President of the Assembly. If a party has been elected with

only one representative, the establishment of a parliamentary group is impossible, but its rights of intervention in plenary sessions are not to that extent limited.

The possibility remains open to Members of not forming a parliamentary group, and of exercising their mandate as independent Members.

Portuguese parliamentary law does not lay down any configuration for parliamentary groups and no new group can be created during a legislature.

However, for the whole of recent parliamentary history the configuration of party groups has been fixed.

There have even been cases where dissident Members have exercised the rest of their term of office as independent Members within parliamentary groups, except in respect of motions of censure against the Government.

Currently this is no longer possible and if a Member of Parliament abandons the parliamentary group to which he belongs he retains his seat as an independent. If he resigns his seat he is immediately replaced by another Member from the same party.

Members of political groups have the right among other things to take part in committees according to the proportion of their members; to be heard in respect of the fixing of the Orders of the Day; to request debates on matters of general policy in respect of the control of government; to exercise powers of legislative initiative; to propose motions of censure against the government.

They also have the right to places of work within the buildings of the Assembly and to recruit technical and administrative staff of their own choosing.

The current (July 1993) political breakdown of the Portuguese Parliament is as follows:

Group PSD	(Social Democratic Party)	135 Members
Group PS	(Socialist Party)	72 Members
Group PCP	(Portuguese Communist Party)	13 Members
Group CDS	(Democratic Social Party)	4 Members
Group PEV	(Ecologist Party/Greens)	2 Members
Group PSN	(National Solidarity Party)	1 Member
Independent Members		3 Members

2. Report prepared by Mr Luis Madureira, former Secretary General of the Assembly of the Republic, and Mrs Adelina de Sá Carvalho, Secretary General of the Assembly of the Republic of Portugal (adopted at the Istanbul session, April 1996)

Introduction

1. Parliamentary Groups, although an institutional reality and a fundamental part of any democratic political regime, have been unjustly neglected in works and studies on constitutional and, in particular, parliamentary law.

Unjustly, since an elementary survey and analysis of the functions and roles of parliamentary groups within a parliamentary institution shows that such groups are essential cogs in larger and more complex mechanisms – namely, political and constitutional regimes. They constitute the vital forces in the exercise of political power and, more particularly, of democratic power.

Their role is the more marked the more a regime is based on the parliamentary model, given that this last is, in essence, the constitutional organisation of the conflict between political parties for control of power, the parties being themselves parts of a public power.

It is in this context that parties function and, in their turn, their related parliamentary groups. This function, particular to themselves and not capable of delegation derives from the definition of Parliament itself, a physical and above all intellectual meeting place, and often a place for confrontation, for all public powers.

It is incontrovertible that political parties are the archetypal public powers of the contemporary state, responsible, in their own special way, for a considerable share of constitutional and political tasks. As an extension and product of these, parliamentary groups, drawing from the role of parties, have established themselves today as the main agents of power and show very clearly the way in which Members, and through them the institutions, operate in the legislature.

It is thus clear that the neglect to which parliamentary groups have been subject is inversely proportional to their growing importance as political and party protagonists within the structure of Parliament. In fact, it is above all the history and the actual development of the groups, with their recent formalisation and subjection to regulations, which constitutes the only plausible justifica-

tion for the rarity of juridical work and scarcity of legal treatment to which they have been subject.

In recent times, this situation seems to have been redressed slightly, thanks to more detailed regulation of the main elements of their formation and functioning through norms which, more or less generic, have conformed and adapted to the legal and political structure, including constitutional and parliamentary law and the laws and legal authorities which govern parliaments.

In those countries where law is derived mostly from precedent, the role of groups is governed by custom and patterns of behaviour, and the underlying principles and procedures are more flexible. In other cases, where there is a legal background based more on positive regulation, there is a greater rigidity and a higher degree of specific provision.

This adaptation and conformity to the legal and political background reflects the specific parliamentary experience of each country so closely that the result is an absence of uniformity in the provision in each system in force. This is so even for the constitutional arrangements among European countries alone.

Indeed the heterogeneity in the regulation of groups reveals some significant contrasts. The differences are such that in some countries neither the setting up of groups or their activities are regulated by law or by the Constitution, despite the fact that they are considered, in practical terms, as a legitimate force in parliamentary life.

This is not to say that, where there are no formal rules regulating the establishment and activities of groups, legislators have thereby intended to exclude them or to relegate their role to only secondary importance or even to minimise their contribution within parliamentary life.

Parliamentary groups, which represent the different ideological forces which occupy the political stage, are currently acquiring a fresh and strong following within the institution of parliament, with modern parliaments appearing nowadays to be more a gathering of parliamentary groups than a collective body composed of individual members.

This situation will undoubtedly be reinforced further by the groups' dynamism and by the way in which the groups operate, as the major forces in parliamentary life, in political developments, political initiatives and in the monitoring and control of the executive and of public administration in general.

2. The questionnaire which generated the replies received and on which this report is based, was heavily limited in its relevance by factors specific to each parliament, in particular those which result from the parliamentary and consti-

tutional regimes in place in each country. Such factors have limited the extent to which the questionnaire is applicable, in some cases so far as to make it capable of answer only in part and, in others, so far as to render it entirely non-applicable.

Thus, in the UNITED KINGDOM, the questionnaire is not applicable to the organisation of the House of Commons, whose structure rests on a government/opposition bi-polarity and does not allow for the existence of groups in the sense used in this questionnaire. It is applicable, however to the House of Lords.

In GERMANY the questionnaire is not applicable to the federal chamber (Bundesrat), because its composition is based on the unequal representation of the Länder and not on the formation of groups or ideological blocs.

In SUDAN there is no multi-party system, so the questionnaire is not applicable.

The PHILIPPINES, SOUTH AFRICA and ZAMBIA replied to the questionnaire by reference to political parties. Since however the study is about a different issue, it has not been possible to take account of the replies sent from these countries.

There exist moreover countries which have a bicameral constitutional system and which by consequence have replied separately to the questions posed, according to the organisation, structure, and practices of each Chamber: these are FRANCE (Senate and National Assembly), BELGIUM (Senate and Chamber of Representatives), SPAIN (Senate and Congress of Deputies), ITALY (Senate and Chamber of Deputies), POLAND (Senate and Sejm) and CANADA (Senate and House of Commons). Unfortunately certain parliaments were unable to send substantive replies in time, which has greatly complicated the task of preparing a study, given the number of questions involved, and has led to only the clearest parts of the responses being used.

One last point concerns HUNGARY, only recently democratised and which is in a phase in which its parliamentary institutions are still taking shape, as well as being in the process of developing links to the European Community. The late reply and the complexity of the specific situation in that country requires a more concrete analysis, which has unfortunately been impossible to realise. At the same time, by using the clearest parts of the response and the extracts from the regulations submitted, it has been possible to make some reference.

Finally it is worth underlining that the richness of the arguments, the value of the documents, the detail and exactness shown in the material received has

involved delay in the time required to prepare this report and has entailed closer consideration and more detailed comparative analysis of the material included in the replies. The contents of some of the replies would merit, should they wish to do it, further complementary research by specialists or other interested experts.

It is to the regret of the Rapporteur that the work of preparing a report necessitates selection, from the replies, of the points most directly linked to the questions under study and does not permit reproduction of the responses in their totality.

The replies from different parliaments have been considered in the order of their arrival and, whenever they are discussed individually, they are listed by French alphabetical order of country. In some cases several replies have been grouped together because of the similarity of the situations described, or because of their brevity or, for others, because they show a positive or negative response.

Replies have been received from parliaments of the following countries: AUSTRALIA (House of Representatives), BELGIUM (Chamber of Representatives and Senate), BRAZIL (Senate), CANADA (House of Commons and Senate), DENMARK (Folketing), FINLAND (Eduskunta), FYR of MACEDONIA (Assembly of the Republic), FRANCE (National Assembly and Senate), GERMANY (Bundesrat and Bundestag), GREECE (Chamber of Deputies), HUNGARY (National Assembly), ICELAND (Althingi), INDIA (Lok Sabha and Rajya Sabha), IRELAND (Dáil), ISRAEL (Knesset), ITALY (Chamber of Deputies and Senate), JAPAN (House of Councillors), LUXEMBOURG (Chamber of Deputies), MALI (National Assembly), NETHERLANDS (First Chamber), NEW ZEALAND (House of Representatives), NIGERIA (National Assembly), NORWAY (Stortinget), PHILIPPINES (Senate), POLAND (Senate and Sejm), PORTUGAL (Assembly of the Republic), SENEGAL (National Assembly), SLOVENIA (National Assembly), SOUTH AFRICA (Parliament), SPAIN (Congress of Deputies and Senate), SUDAN (Transitional National Assembly), SWITZERLAND (Federal Assembly), UNITED KINGDOM (House of Lords and House of Commons) and ZAMBIA (National Assembly).

Replies to the questionnaire

I. Definition of Parliamentary Groups

1. The first question was what was the most appropriate way of describing parliamentary groups, according to each parliament, under the legal and parliamentary regime governing them in each country: as an organ of a political party, as an organ of the party and of the state, as an organ of parliament, or as an organ of the party and of the parliament?

It appears that the description of parliamentary groups is currently an issue of some doubt and controversy and that accordingly not all countries gave an unequivocal answer free of ambiguities. Some felt obliged to add explanations and to describe the different factors involved; the following draws on the most important elements in each case to determine their classification.

In GERMANY they are parliamentary bodies and although juridically they are not recognised as organs of parliament, they have legal capacity.

In SPAIN, while in the Congress of Deputies groups cannot be classified under any of the definitions indicated, in the Senate they are recognised as political entities in respect of the receipt of public money.

In POLAND the Sejm recognises them as an organ of the party and of parliament and the Senate defines them as an organisation of members resting on political affinities.

In PORTUGAL parliamentary groups are not organs of parliament but rather representatives of parties. The functions attributed to them by the constitution and by law make them entities of parliament and institutional guarantees of the democratic functioning of the representative assembly.

In LUXEMBOURG, SLOVENIA, SWITZERLAND, NORWAY, FINLAND, CANADA, ICELAND and GREECE the groups are organs of parliament and of the party.

In FYR of MACEDONIA, MALI, BELGIUM (Chamber of Representatives), BRAZIL, FRANCE, ITALY, NETHERLANDS and SENEGAL they are organs of parliament.

In the UNITED KINGDOM, AUSTRALIA, NEW ZEALAND, DENMARK, IRELAND, INDIA and ISRAEL they are organs of the political party. In BELGIUM (Senate) also they are arms of the parties acting at the parliamentary level, but it is only in respect of these links that they can be classified as party organs.

2. Having posed the question of the legal nature of parliamentary groups, it is worth comparing their structure as a group of members, and, since they take the form of an association, to examine whether they are an association with legal status and if they constitute an association subject to public or private law.

In GERMANY (Bundestag) parliamentary groups are public bodies possessing legal (Art. 46 of the Law on the legal status of Members) and judicial capacity.

In BELGIUM (Chamber of Representatives) to the extent that their origins lie in the Rules of the Assembly, which are themselves given legal force by the Constitution (Art. 60), they may be considered as bodies under public law without legal personality. But only the Senate accords them legal personality.

In DENMARK groups have no legal basis, but only a political one. Should a particular group be involved in a legal process, its status would be equivalent to an association under private law.

In SPAIN (Senate) the position is not very clear. While contracts made by a parliamentary group are subject to private law, the funds made available to them are subject to the rules of public law (Section 2.1.b of the organic law 3/1987 on financing of political parties).

In FINLAND they do not fall into any of these categories of association.

In FRANCE parliamentary groups can consist of associations under private law for certain activities but they do not have legal personality, being associations *sui generis, de facto* bodies possessing certain operational aims.

In INDIA political parties are organised under the ordinary public law of the land. Parties and groups are the same under the law; the difference is only in regard to their parliamentary strength.

In ICELAND they are public associations, but subject to private law in business and employment matters.

In ITALY the Senate regards them as *de facto* associations, represented at law by their President/Chairman, and in the Chamber of Deputies in their relations with third parties they are equivalent to associations under private law.

In PORTUGAL the parliamentary groups constitute groups of deputies, for whom legal personality is reserved to the Assembly itself, and they are accorded a limited legal capacity for the exercise of powers and rights related to legislative and political activity, as defined in the Constitution and the Rules of the Assembly.

In SLOVENIA groups are formed on the basis of the Constitution and the Rules of the Assembly. They are accordingly bodies recognised by the law.

In SPAIN (Congress of Deputies), SWITZERLAND, POLAND, CANADA, SENEGAL and GREECE parliamentary groups are associations under public law.

In FYR of MACEDONIA, MALI, NETHERLANDS and NEW ZEALAND they are associations under private law.

In BRAZIL and the UNITED KINGDOM they possess no legal personality.

3. As for the level to which groups are subject to rules in each country, the issue is to what extent parliamentary groups are regulated and on what they are based, particularly in respect of their establishment, their functioning and their activities. In some cases their acts are subject to informal rules or custom. In others they are comprehensively regulated.

In GERMANY Chapter IV of the Rules of Procedure lays down the principal conditions for their establishment and hierarchy and for the distribution of seats on the Council of Elders (Altestenrat) and in committees, and other provisions govern the rights and duties of parliamentary groups.

In AUSTRALIA (House of Representatives) the Rules cover only the internal affairs of parties, such as their representation and that of independents on committees.

In BELGIUM (Chamber of Representatives) the Rules govern groups in general (Art. 10); other specific provisions make reference to them (appointments, representation on the Conference of Presidents, selection of speakers, speaking time). In the Senate they are regulated in the same way with separate provisions relating to the Bureau, speaking time and composition of committees.

In CANADA the Standing Orders of the House of Commons do not refer to parliamentary groups, distinguishing only between those Members belonging to the government group and to opposition groups. The Rules of the Senate set out the prerogatives of the leader of the majority, the leader of the opposition and their representatives.

In SPAIN a chapter (Chap II, Title 2, sections 27-34) of the Rules of the Senate is devoted to them, as well as various other titles and articles.

In FRANCE (National Assembly) the legal regime governing parliamentary groups is laid down by Chapter V of the Rules entitled "Groups" (Arts. 19-23). Other provisions refer to the representation of parliamentary groups in the organs of the Assembly and to their powers. In the Senate, Chapter II of the

Rules has two articles (Arts. 5 and 6) devoted to groups, and there are other separate provisions in other chapters on their powers.

In LUXEMBOURG the Rules of the Chamber of Deputies devote an entire chapter to groups, as well as other provisions, governing speaking time and representation on the *Commission de Travail*.

In INDIA the Chairman/President of the Rajya Sabha has issued instructions on the conditions required for the recognition of parties and of parliamentary groups for the functioning of the House. The same is true in the Lok Sabha, where rules/conventions concerning parliamentary groups can also be found at various points in the Rules of Procedure and in the Directions of the Speaker.

In ICELAND the Constitution governs only the distribution of the seating amongst the parties which took part in the elections. There is a chapter and a number of other provisions in the Rules of the Althingi governing debates and speaking time for parties.

In ITALY (Chamber of Deputies) Chapter III of the Rules is devoted to the establishment of groups and to the sharing out of logistical and financial resources. Other rules govern the functions and powers of the leaders or representatives of the groups. In the Senate, Chapter IV and other provisions of the Rules cover parliamentary groups.

In JAPAN the Rules of Parliament contain no chapter specifically devoted to parliamentary groups. However, rules which presuppose the establishment of such groups exist in the Diet Law (page 3, Art. 42; Art. 46; page 2 and 3 of Art. 54-III) as well as the establishment of general committees and committees of inquiry. Rules on parliamentary groups exist in the Law on the financing of parties, the Law on payment for offices of the legislative and in the Rules of the Council on political ethics in the House of Representatives and in the Law on Members.

In NORWAY the regulations on parliamentary groups are scattered throughout the Rules.

In POLAND the norms on parliamentary groups are found in the Rules of the Sejm and of the Senate (Art. 16) and in the Law on Members (Art. 18).

In PORTUGAL legislative provisions regulate the rights of groups in general, in the Constitution (Art. 183) (providing for proportional sharing of the chairmanships of committees) (no. 6 Art. 181). The Rules (Arts. 7-12) govern the setting up, organisation, powers and duties of the group. The organic law of the Assembly (Chap VII; Arts. 62-63) regulates the setting up of a group, fixes the levels of salary for staff and lays down the sums made available annually on behalf of Deputies.

In SENEGAL, Chapter 6 of the Rules of the National Assembly are devoted to parliamentary groups.

In SWITZERLAND the Law on relations between the Chambers devotes a chapter to parliamentary groups (Chapter 8) which provides for the composition of committees to be proportional to the size of each group. Groups are also mentioned in various articles of the Rules of the National Council: Art. 9 (Bureau), Art. 13/1 (appointments to committees), Art. 13/5 (representation of small groups), Art. 18/3 (equality of members of groups in the composition of committees), Art. 47/2 (group meetings), and Art. 68 (speaking time for groups in debates).

In MALI Chapter V of the organic law is devoted entirely to groups.

The Rules of parliament in BRAZIL, NEW ZEALAND, SLOVENIA, FRANCE, FYR of MACEDONIA, NETHERLANDS, GREECE and HUNGARY govern the setting up of groups.

The Rules of the parliaments of DENMARK, UNITED KINGDOM, ISRAEL, FINLAND and IRELAND make no reference to parliamentary groups.

II. The establishment of a party group

1. It is necessary to define the conditions which each parliament lays down for the setting up of a parliamentary group, to indicate whether it is permissive or compulsory and to note the legal basis for this.

In GERMANY it is permissive, with the Rules of Procedure of the Bundestag laying down the conditions for their formation, but the right of Members to form a parliamentary group follows from their status as members of parliament, this being laid down by the Basic Law.

In AUSTRALIA the establishment of groups is voluntary but it is not regulated by law. It is standard in practice because from the moment of their election Members of Parliament are already affiliated to a party, and independents are rare in either House.

In BELGIUM the establishment of groups is permissive in both chambers (Art. 10 of the Rules of the Chamber of Representatives and Art. 18 of the Rules of the Senate). Following the most recent constitutional reforms, the existence of groups is provided for in the electoral law (Art. 211-222).

In FRANCE the establishment of party groups is permissive. In the Senate there are several different degrees of adherence to a group: full membership where there is complete ideological agreement; semi-membership, where a

member is not subject to party discipline; and partial, a form of administrative affiliation for purely practical purposes. In the National Assembly, although the legal provisions do not mention the establishment of groups, Art. 19 of Rules provides for their formation on a basis of political affinity. Institutional practice leads inevitably to their formation, above all because of the powers which are accorded only to groups. While they are not mentioned in the Constitution, the Rules of the Assembly refer to them expressly.

In ITALY, it is the Constitution itself which assumes their existence in the structure and organisation of each House. It lays down (Art. 72(3)) that bills shall be submitted to committees whose composition shall reflect the strength of each group and also lays down (Art. 82(2)) that parliamentary committees of inquiry shall be constituted in proportion to the strength of groups. It is thus the parliamentary rules which, in application of the constitutional norms, lead to the adherence of each Member to a group. In the Senate, the constitution of parliamentary groups is obligatory (Art. 14(1) of the Rules).

In POLAND both in the Senate and in the Sejm their formation is permissive, and follows from the law which lays down the obligations and duties of Members, as well as the Rules themselves.

In PORTUGAL the establishment of party groups is a power expressly laid down in the Rules of the Assembly. It is a power and not an obligation. However, all activity in the Assembly presupposes their existence and it is the only form of association within parliament available to groups to exercise the totality of the rights and duties with which they are invested and which are at the heart of all parliamentary life.

In FYR of MACEDONIA the creation of parliamentary groups is not governed by law and the six current groups were formed at the beginning of the Assembly in an accord agreed between the President/Speaker and the Members.

In BELGIUM, IRELAND, DENMARK, UNITED KINGDOM, NETHERLANDS, FINLAND, CANADA, SWITZERLAND, INDIA, HUNGARY and JAPAN the setting up of parliamentary groups is permissive.

In SWITZERLAND the establishment of groups is provided for in the law on relations between the Councils (Art. 8). In SENEGAL also the constitution of parliamentary groups is permissive under the provisions of Art. 18(1) of the internal Rules of the Assembly.

In MALI also the establishment of groups is permissive and not obligatory (Art. 21 of the Rules of the Assembly). In NEW ZEALAND it is permissive and is based on the standing orders. In LUXEMBOURG also it is permissive.

Articles 13 and 14 of the Rules of the Chamber of Deputies lay down the main rules for the setting up of groups and the appointment of coordinators, spokesmen for the groups on administrative matters and for those representing them on the *Commission de Travail*.

It is also obligatory in SPAIN (Congress of Deputies and Senate) under the Rules of each House. It is the same in GREECE and NORWAY under provisions in the Rules and in the internal rules of the parties themselves. In BRAZIL their establishment is automatic according to party and permissive if the group includes more than one party ("blocs"). The unattached and independent members do not formally comprise a parliamentary group.

In SLOVENIA and in the NETHERLANDS establishment of parliamentary groups is a right and not an obligation. However, since it is the only form of association allowed for members their formation is inevitable. In ICELAND formation of groups is not obligatory but their role is so significant in the operation of parliament that their existence can be regarded as implicit. In ISRAEL also they lie at the heart of the organisation and functioning of the Knesset.

1.1. As for the existence of conditions laying down a precise minimum number or percentage of members required to form a parliamentary group, the response was not uniform among the different parliaments. Nevertheless the governing rules generally stipulate that only those groups possessing a specified number shall have access to certain facilities and advantages. The limits established are however very varied. The responses are listed here in order of the number of members required.

There is no minimum number in the UNITED KINGDOM, NETHERLANDS, NORWAY, IRELAND, NEW ZEALAND, DENMARK, ISRAEL, and FINLAND.

In PORTUGAL the organic law of Parliament requires at least two deputies for the formation of a parliamentary group. This follows from the rules laid down for the formation of *cabinets* and for the provision of administrative and technical support for members, the Rules laying down the number of staff for groups according to size for between two and thirty members.

ICELAND, BELGIUM (Senate) and JAPAN require at least two members.

SLOVENIA requires three members.

FYR of MACEDONIA, BELGIUM (Chamber of Representatives), LUXEMBOURG, BRAZIL, and SWITZERLAND require a minimum of five members. MALI requires a minimum of seven members.

GERMANY and SENEGAL require a minimum percentage, respectively 5% or 10% of all members.

On the other hand CANADA (House of Commons) lays down in its Standing Orders (Section 62) that only those groups containing twelve members are entitled to a supplementary grant for their leaders and spokesmen. Only such groups have access to the supplementary funding available for the constitution of *cabinets* (Rule 302, point 52.5). By contrast the allocation of places and use of a particular title in the official publications of the House require no fixed number of members and depend on the President/Speaker. The Rules of the Senate make no mention of these matters.

The ITALIAN Senate requires ten members for the formation of the group except for the "mixed" groups. The President's Council can authorise the establishment of groups fewer than ten members so long as five of them are Senators. In ISRAEL and in GREECE the required number is ten, but it can be reduced to five in GREECE if the party concerned put up candidates in two thirds of constituencies at the last elections and obtained three per cent of the votes.

In SPAIN the Congress of Deputies requires at least fifteen members, though five are sufficient if they belong to a party or coalition of parties which obtained fifteen per cent of the votes in the districts where they put up candidates. The Senate requires a minimum of ten members (Section 27.1 of the Rules). HUNGARY also requires fifteen members for the formation of a parliamentary group.

AUSTRALIA makes extra public funding available to parties and their leaders which have more than ten members in the Chamber of Representatives and five in the Senate.

FRANCE (Senate) and INDIA (Rajya Sabha) require a minimum of fifteen members.

In POLAND the Sejm requires fifteen members for the formation of a "club" and a minimum of three for the formation of a group. The Senate does not lay down a minimum number of members for the constitution of a parliamentary group but only those groups containing at least seven Senators are represented on the Council of Elders. Smaller groups may nevertheless appoint a joint representative to the Council if they comprise more than this number between them.

The National Assembly of FRANCE and the Chamber of Deputies of ITALY require a minimum of twenty members.

The highest required number for the establishment of a parliamentary group is thirty, required in INDIA (Lok Sabha). However, the Speaker/President may designate a smaller number as a group, without giving it formal recognition.

1.2. As to the question of whether the composition of the group is required to be homogeneous or heterogeneous, the comparison shows that the former is more common, with some exceptions.

In GERMANY, the Rules of Procedure allow a parliamentary group to include members from one party or several, which, on account of similar political aims, do not compete with each other at either Land or Federal level. If the group contains members belonging to several parties recognition of its status as a group requires the assent of the Bundestag.

In theory BELGIUM (Chamber of Representatives) does not allow groups to contain members of more than one party, and does not recognise "technical" groups; however it allows members of two parties with common ideologies to form a single group. This is currently the situation with the "Ecology Group" which contains members of the Flemish Ecology Party "Agalev" and the French speaking Ecology Party "Ecolo". In the Senate, Senators cannot join the group of their choice. Senators are elected directly by the electoral body and organise into groups according to the lists on which they are elected. As for community and co-opted Senators, they may only belong to the group which was responsible for their election. The electoral law and the Rules allow no freedom to individual Senators in this. There is an exception for the the Senator chosen by the Council of the German-speaking community who, since he is chosen by the Council and not by a specific group, is free to join any of the existing groups. Technical or mixed groups are not allowed.

In BRAZIL, they are established automatically, by party or by coalition of parties. Independents cannot organise themselves into a parliamentary group.

CANADA (House of Commons) has coalitions only very occasionally. It sometimes happens that a number of independent Members ask the House for permission to use a particular name. A group generally includes members of only one party.

In DENMARK the normal arrangement is for each party group to contain only members of one party. Permanent coalitions or joint meetings are difficult to imagine within the political framework of the country, even in very unusual circumstances. However, nothing prevents a group from accepting non-affiliated Members, such as those elected from the Greenland or Faroes constituencies, or Members elected to the Folketing as independents, or Members who

have left another party. Members can move from one party to another or leave their party without joining another one. It is not necessary for members of a group to belong to the party in question.

The SPANISH Congress allows participation in a group of Members from several parties and of "Associated" Members. The Senate does not permit the formation of more than one group comprising members of the same party; groups must comprise Members who were not on opposing lists at the elections; those Members who are not included in a parliamentary group form the "mixed" Group (Sections 27-30 of the Rules).

In FRANCE (National Assembly) in practice most parliamentary groups comprise Members from the same party, under the same name as the party, though this is not compulsory. For example, the *Union pour la Démocratie et du Centre* Group includes members of the Republican Party, the Radical Party, the Centre for Social Democracy and some independents either as full members or in alliance. In 1993 the *République et Liberté* Group was set up by independent Deputies. In the Senate, a parliamentary group may comprise Members from different parties or independents. For many years the independents formed an Independents' Group and they even put forward formally a declaration of principles (under Art. 5(2) of the Rules). It is only for numerical reasons – they are now fewer than 15 in number – that they no longer constitute a group, but under Art. 6(4) they may form an "administrative group" to elect a delegate to represent their interests and to exercise certain rights, such as taking their share of seats on committees or in the Bureau.

In IRELAND also Members of Dáil Éireann are free to choose a group. Standing Order 89 provides for the formation of groups, but it does not require them. There is a "Technical Group" comprising Members who belong to no party and Members of various parties who have come together in order to exercise certain parliamentary rights.

In ICELAND the definition of a group under Art. 71 of the Rules does not rule out the possibility of a parliamentary group including Members from more than one party or independents, but this has never yet occurred.

In ISRAEL the Rules of the Knesset provide for the formation of groups comprising members of the same party or belonging to coalitions and with Members elected from different electoral lists, with the authorisation of the House Committee.

In ITALY the Senate allows the formation of heterogeneous parliamentary groups and in the Chamber of Deputies, while in principle each parliamentary group is to be composed of Deputies from the same party, it is possible to form a "mixed group".

In LUXEMBOURG (under Art. 13 of the Rules) Members who do not belong to a political party can join a group of their choice.

MALI allows the formation of groups on the basis of Members' individual affinities, without prohibiting participation by members of more than one party.

NORWAY has no rules on the formation of groups. It is the groups themselves who define the grounds for formation on the basis of common views and there has so far been no exception to this basic principle.

In NEW ZEALAND a coalition between two or more parties may be recognised on being notified to the Speaker. But each party to the coalition remains a separate party for the purposes of the rules of procedure.

In PORTUGAL the Rules lay down that each party or coalition of parties forms a parliamentary group, presupposing that they include only members of the same party or independents who stood in that capacity at the last elections.

In the House of Lords of the UNITED KINGDOM there are three parliamentary groups corresponding to the Conservative, Labour and Liberal Democrat parties. The "Crossbenchers", the peers who are independents, come together essentially for administrative purposes. As Members of the House are unelected, they are not required to belong to any party or group.

In SLOVENIA, the Rules lay down that Members elected from one list form a single parliamentary group. Representatives of the Italian and Hungarian communities and those elected from a non-party list form a group. Deputies who have left or been expelled from a party may form a parliamentary group if they do not join an existing group. Only one such group can be established in any one legislature (Art. 119).

SWITZERLAND, POLAND, SENEGAL and JAPAN allow a parliamentary group to comprise Members from more than one party and independents. The FYR of MACEDONIA provides for a parliamentary group to include Members from more than one party where there is a coalition. GREECE requires a group to include members of the same party and independents. AUSTRALIA allows coalitions of parties and of groups respectively, as is currently the case with the main conservative parties.

In FINLAND each Member belongs to the party group which represents his party, although the group can include independents. HUNGARY provides for the establishment of parliamentary groups with Members from one party only, but allows the inclusion of independents.

By contrast, in the NETHERLANDS, the PHILIPPINES and INDIA parliamentary groups comprise only Members of the same political party.

2. As for the date set down at which groups may be constituted, the general pattern is for this to be from the beginning of each legislature.

The Parliaments of PORTUGAL, ITALY, NETHERLANDS, SENEGAL, HUNGARY and GERMANY presume that groups are formed at the commencement of the legislature.

In FRANCE, GREECE, ICELAND, NORWAY, POLAND, SWITZERLAND, LUXEMBOURG, BRAZIL, DENMARK, and BELGIUM there is no precise moment, strictly speaking, for the formation of parliamentary groups. They can form at any time, but they usually form at the beginning of a legislature, immediately after elections.

In CANADA (House of Commons) groups can be formed during the course of a legislature, so long as the electoral law is respected. The Rules of the Senate contain nothing to prevent groups being formed other than at the normal times.

In SPAIN (Senate) groups are presumed to form immediately after the elections, since the Rules provide for the distribution of places to be arranged in the five days following the first sitting (Section 28.1). It is the same at the Congress.

In the UNITED KINGDOM House of Lords the Members are not elected, so there is no reason to re-form parliamentary groups after elections have been held.

SLOVENIA provides in its Rules that groups are established eight days after the National Assembly is constituted.

The FYR of MACEDONIA, FINLAND, MALL, AUSTRALIA, NEW ZEALAND, INDIA, IRELAND, ISRAEL and JAPAN fix no exact time for the establishment of parliamentary groups.

2.1. In those parliaments where parliamentary groups may be formed during the course of a legislature – usually because of the vicissitudes of events within groups, particularly the merging or splitting of existing parties – the conditions set down for the formation of new groups are the same as for the formation at the normal time.

In BELGIUM (Chamber of Representatives) there has recently been a formation of a new group, following a reform in the name and rules of an existing party. The conditions for its establishment were the same as for the formation of parliamentary groups at the beginning of a legislature, namely a formal notification to the President/Speaker.

In BRAZIL a new group may be formed during the course of a legislature where some change has taken place in the current parties. In 1988 part of the

PMDB party broke away and formed a new party, the PSDB, which was recognised as a new group.

In CANADA (House of Commons) formation of new parliamentary groups can take place during a legislature in the cases of: departure of Members from one or more parties; a union of independents; the election of Members from new parties at by-elections; or a combination of these possibilities. Where a group is formed other than at the usual time, there are no special rules for their formation, so long as legal obligations are followed. In the Senate likewise, they can be formed at any time so long as the electoral law is adhered to.

In FRANCE (Senate) a group may be constituted at any time on two conditions (under an article in the Rules): it must have at least 15 members, and it must submit a statement of the objectives and policies of the group which is signed by all members.

In the National Assembly, groups are formed by the submission to the President of the Assembly of a political declaration signed by their members – of whom there must be no fewer than 20 – accompanied by a list of the members and the name of the president of the group; these documents are published in the *Journal officiel*.

In INDIA a new group can be formed as a result of divisions within an already constituted group, the merging of existing parties, or the entry of new parties following the biennial elections for the Rajya Sabha.

In IRELAND a group can be set up at any time. Recent changes have taken place in the Dáil in which some Members switched from one party to another or left one party in order to establish a new party group.

In ICELAND also new groups can arise following splits or rebellions. This did happen during one legislature: two Members left the parliamentary group to which they belonged and founded their own political party and group under a new name. It also happens that Members leave their parliamentary groups and become independents, but in such cases they cannot form their own group.

In ITALY the Rules allow the formation of a parliamentary group at any time under the same conditions as required for the initial constitution of a group. The most usual cause is a split in the party which the group represents. Sometimes Members from different parliamentary groups come together to form a new political force, with their own programme and hence their own group.

In NEW ZEALAND it is usually dissidents which give rise to the formation of very small groups and independents (as in 1989 with New Labour, 1991 with the NZ Liberals, in 1993 with First New Zealand and an Independent Party, and in 1994 with the Centre-Right Party and the NZ Future Party.)

In the NETHERLANDS groups can be set up at any time if several Members leave their previous party.

In POLAND (Senate) changes in the relationships between parties can lead to the appearance of new groups during a legislature, particularly following the departure of a number of Members from one group followed by the creation of a new parliamentary group. In the Sejm, the formation of new groups during a legislature is subject to the same conditions to those required for the formation of a group at the beginning of a legislature.

In PORTUGAL neither the organic law of the Assembly nor the Rules provide for the formation of new parliamentary groups during a legislature, given that the composition of groups depends on the election results obtained by the parties at the general elections and takes place immediately after the elections. However, a Member can resign as a member of his party and remain as an independent. If a Member joins another party then he loses his seat.

In the UNITED KINGDOM if a new party is created and a number of existing Members of Parliament wish to join it then the new group may be formed during the course of the legislature.

In SLOVENIA the composition of groups can be changed during the course of a legislature. A new group is formed if there is a merger or a split between groups or if a coalition dissolves.

In SWITZERLAND formation of a new group can take place at any time, usually as a result of political events, or the splitting or dissolution of a group.

In MALI, DENMARK, SPAIN (Congress of Deputies), GERMANY, JAPAN, FINLAND, SENEGAL and GREECE formation of a new group can take place at any time and can result from political alliances, mergers or splits between parties.

2.2. The consequences within the institution of parliament of the creation of a new group vary according to the the significance of the role played by groups within parliament.

In GERMANY new groups can enjoy all the rights and duties attaching to a group as laid down in the Rules of Procedure and in the Law on the legal status of Members of the Bundestag.

In AUSTRALIA, given the basic stability of the party structure, the creation of new groups is not common. Should they occur, the effect would depend on the circumstances, the size of the group and its forecast level of electoral support at the next elections.

In BELGIUM (Senate) it would be difficult, on a strict reading of the Rules, for the political composition of the Senate to be altered, except where a Senator leaves his group to sit as an independent. In the Chamber of Representatives the effects are purely internal in that all the Rules governing groups would apply to the new group, such as participation in the Conference of Presidents and the allocation of financial resources.

In BRAZIL there are the following consequences: at the political level, consequences for the Government in respect of the majority-opposition relationships; at the legislative level, in the choice of leaders (spokesmen and chairmen), in the composition of committees (in application of the rule on proportionality), in the control of speaking time and the right to table bills; and at the administrative level, in respect of the distribution of services and material.

In CANADA (House of Commons) the creation of a new group has consequences both internal and external to parliament. Outside parliament, it might lead to the development of a political impasse, leading to a change of government or the dissolution of parliament and the calling of early elections. It can also turn the spotlight on to changes in the political landscape and favour regional interests or groups. Within parliament, it can give rise to conflicts, drag out debates, hold up administrative processes, delay or paralyse business through delaying tactics, and lead to reductions in the financial support given to group leaders for research staff if a need for a new share-out of such funds arises. In the Senate, the creation of a new group would only have a relatively minor impact because the Senate is not elected.

In SPAIN (Senate) the creation of a new group leads to an increase in parliamentary initiatives and in the complexity of political life in general. It also entails the appointment of new members of the Conference of Presidents and changes in the membership of committees and of the *Commission Permanente*. The new parliamentary group has the same rights to financial support as other groups.

In FRANCE (Senate) the establishment of a new parliamentary group has a direct effect on the political composition of committees (proportional), the Bureau (since the list of Secretaries is agreed by the leaders of parliamentary groups), and other bodies; it also allows the leader and other members of the new group to exercise a number of legal powers. In the National Assembly the establishment of a new group - given that a group is the key element in the legislative process and in the life of parliament, with new groups holding the same rights as other groups - leads to a wide-scale administrative reorganisation of places in the Chamber, composition of the Bureau and committees, and speaking time.

In GREECE the new group has the right to participate in the Conference of Presidents, to have an administrative secretariat and to use the available facilities and other material. Its formation leads to a redistribution of places in the Chamber.

In INDIA the new groups enjoy the same assistance as is given to other groups, i.e. a rearrangement of seating, and in membership of committees and other bodies, in the proportionate representation of groups, and in the sharing of facilities, equipment and documentation.

In IRELAND the creation of a new party (group) in the Dáil alters not only the numerical balance of power between the government and the opposition, but also the parliamentary rights of the parties, including the amounts paid to party leaders. In 1992 an opposition party divided and, from having seven members initially, reduced to only one, with the other six breaking away to form a new party. But since none of the new parties formed a "group" under Standing Order 89 the result was that they lost the rights they had previously held.

In ICELAND the creation of a new group leads to adjustment of the amounts of financial assistance and in the organisation of committees, the directing bodies and the public institutions.

In ITALY (Senate) it involves: a redistribution of seats on committees; joint committees, the Conference of Presidents and the President's Council. In the Chamber of Deputies it has the following direct consequences: changes in the composition of internal bodies and committees; revision to the business of the Chamber since its Leader sits on the Conference of Presidents, which agrees the business; reorganisation in the exercise of the rights held by parliamentary groups; and reallocation of the offices, equipment, and financial assistance to groups since the initial allocation will need adjustment because of the new group.

In JAPAN the members and chairmanships of committees, including committees of inquiry, are proportionate to the strength of each parliamentary group. Thus the formation of a new group leads to an administrative reorganisation.

In LUXEMBOURG it involves on the one hand a change in the internal arrangement of parliament, in speaking time, in the number of questions allowed in debates, and in the composition of committees and of the Bureau. On the other hand, it leads to an increase in expenditure because it receives the same assistance as is given to the other groups.

In MALI the principal effect is the widening of democratic debate.

In NEW ZEALAND the formation of a parliamentary group involves a rearrangement of seats in the hemicycle and a redistribution of functions. It can

also lead to a reassessment of the assistance for research and the activity of other Members can be affected.

In POLAND (Senate) there are both legal and political consequences. The legal consequences are an increase in the membership of the Council of Elders and the obligation to notify the Praesidium of the creation and membership of the new group. The political consequences are the change it indicates in the relationship between the parties in general and in the development of new political divisions.

In PORTUGAL the establishment of a new parliamentary group entitles the new group automatically to assume their rights, in proportion to the number of votes obtained by their party, in respect of participation in proceedings and speaking time, composition of committees, and representation on the Conference of Presidents; in respect of logistical support, to a reallocation of facilities, material and equipment; in respect of financial support, to a redistribution of the available budget; and at the political level through the change that takes place in the political balance through the increase in the number of political forces and the widening of democratic debate.

In SLOVENIA the establishment of new groups has already provoked a parliamentary crisis: after the 1992 elections, some groups became estranged from the parties they represented to the extent that it became unclear as to who had the right to represent the party elected. Following the adoption of rules in June 1993, situations of this kind are now regulated and other complementary issues became subject to regulation at the same time.

In SWITZERLAND changes involve alterations in the membership of committees and in speaking time allocated to parliamentary groups in debates in the National Council and in the support allocated to the groups.

In GREECE the new group has the right to participate in the Conference of Presidents, to have an administrative secretariat and to use the relevant facilities and material. It also involves a redistribution of seats within the hemicycle.

In DENMARK the formation of new groups has no legal effects; in FINLAND also there are no major consequences.

3. In respect of the conditions to be fulfilled for the creation of new groups, some countries sent supplementary information enabling the regimes and constitutional systems in force in each to be better understood.

SPAIN (Congress of Deputies) does not allow the creation of more than one parliamentary group comprising members of one and the same party, nor one

comprising Members who at the relevant elections belonged to opposing parties or coalitions of parties.

In ITALY the Rules of the Chamber of Deputies lay down the requirements for the creation of groups. Within two days of the first sitting, each Deputy must notify the Secretary General of the group to which he belongs, failing which he will be allocated to the mixed Group. Within four days of the first sitting the President/Speaker convenes a meeting of each group at which all the Members indicate that they wish to belong to that group. During this first meeting, each group appoints a leader, one or more vice-chairmen and a governing committee. For the mixed Group these appointments can reflect the political differences within the group.

In JAPAN there are no specific rules governing the formation of new parliamentary groups.

In LUXEMBOURG independent Deputies can join a parliamentary group, with the consent of the group, or form a *technical group* which nominates a coordinator to resolve administrative problems and to represent the group on the *Commission de Travail*, at which his position is identical to those of the other group leaders.

3.1. The constituting of a parliamentary group is usually notified to one of the governing bodies of a parliament. In some this notification is of a simple and informal character, while in others it is more formal.

In PORTUGAL, SPAIN, FYR of MACEDONIA, AUSTRALIA, LUXEMBOURG, SLOVENIA, GREECE, BELGIUM, BRAZIL, ITALY, POLAND, DENMARK, INDIA, ISRAEL, NETHERLANDS, ICELAND, HUNGARY, SWITZERLAND, SENEGAL, JAPAN, MALI, FINLAND, FRANCE, NEW ZEALAND and GERMANY the formation of a parliamentary group is notified to the President/Speaker, to one of the governing bodies of the parliament or to the Bureau, with a list of the names of the members of the group and the names of the chairman and vice-chairmen. In MALI it is the custom for a public political statement to be added; in FRANCE, this is not a matter of custom, but is required by the Rules of each House. In NORWAY, the UNITED KINGDOM and CANADA there is no special rule requiring the parliamentary group to notify the governing body of the parliament, but practice and accepted rules of courtesy mean that this happens anyway.

3.2. Notification to the governing bodies of the parliament has a constitutive or declaratory character according to the effects in each case. It is constitutive in PORTUGAL, BRAZIL, the Chamber of Deputies of BELGIUM, FRANCE, the

Senate of ITALY, FINLAND, NETHERLANDS, SENEGAL, INDIA, JAPAN, ICELAND, and GREECE. It is declaratory in SPAIN, LUXEMBOURG, BELGIUM (Senate), FRANCE (Senate), ITALY (Chamber of Deputies), POLAND, AUSTRALIA, ISRAEL, UNITED KINGDOM, CANADA, DENMARK, SLOVENIA, and GERMANY.

4.

4.1. All parliaments indicated that it was possible to amend the initial composition of a group, at any time and in any degree, in respect of the members or leadership of the group.

4.2. Changes in the constitution of the group, at whatever level and whoever is responsible for the change, are notified to the highest body in parliament in PORTUGAL, SPAIN, FYR of MACEDONIA, LUXEMBOURG, BELGIUM, SLOVENIA, FRANCE, ITALY, SWITZERLAND, POLAND, NORWAY, AUSTRALIA, INDIA, FINLAND, IRELAND, NETHERLANDS, GERMANY, SENEGAL, ICELAND, GREECE, JAPAN, and NEW ZEALAND.

In the UNITED KINGDOM and CANADA there is no need for such notification.

4.3. Changes in the composition of a group must in certain cases be published.

In GERMANY they are published in the *Notification for Members*.

In AUSTRALIA they are published in the official journal, the *Commonwealth of Australia Gazette*.

In BELGIUM (Chamber of Representatives) internal publicity is given to changes by means of an announcement by the President/Speaker in plenary session; they are published also in the summary report (CRA) and in the Minutes of that sitting.

In CANADA, although there is no official publication, new Members are included in an official list of the names of Members of the House which is published in an appendix to the *House of Commons Debates (Hansard)*.

In the SPANISH Congress of Deputies they are published in the Official Journal of Parliament, and in the Senate in the *Boletín das Cortes Gerais*.

In FRANCE changes in the parliamentary groups in the Senate and in the National Assembly are published in the *Journal Officiel des Lois et Décrets*.

In ICELAND changes are not announced unless specially requested during a plenary sitting. This is generally what happens when Members leave a group to form a new party, or if Members resign or are replaced.

In LUXEMBOURG they are published in the *Journal des Séances Publiques*.

In MALI they are published in the *Journal Officiel de la République*.

In the NETHERLANDS they are included in the Government Official Journal.

In PORTUGAL they are published in the *Diário da Assembleia da República*.

In SENEGAL they are published in the *Journal Officiel de la République*.

In ITALY, SWITZERLAND, DENMARK, INDIA, BRAZIL, and JAPAN they are published in the official journal or gazette of Parliament.

There is no publication or announcement, internal or external, in SLOVENIA, POLAND, NORWAY, NEW ZEALAND, FINLAND, or the UNITED KINGDOM.

In GREECE and IRELAND and in the Chamber of Deputies of ITALY they are included in the minutes of parliament.

5. As for the causes of changes to the initial membership of a group during a legislature, the most frequent are divergences of position between Member and group as a result of the policies adopted and directions taken by the party.

This has been the biggest cause of recent change in PORTUGAL, SPAIN, LUXEMBOURG, GERMANY, GREECE, NORWAY, AUSTRALIA, NEW ZEALAND and FINLAND.

In BELGIUM (Senate) changes in the membership of a group arise from the decision of a Member to leave his party. In the Chamber of Representatives, they have been due to expulsions, resignations and switches of party by Members, or their switch to independent status. Changes in party leadership are generally due to their appointment to a ministerial post incompatible with membership of parliament.

In CANADA (House of Commons) political and ideological differences are currently the main reason for change. A Member can leave his parliamentary group and remain as an independent or join another group following a disagreement over the line taken by his party in a given matter. In the Senate changes are rare and occur for personal reasons.

In DENMARK changes can occur as a result of disagreements on the policy of the party. This has happened where a Member has disagreed with the decision of his party to ally with the government, following which he joined another group.

In the Senate of FRANCE a change can reflect a change in the political orientation of the Senator relative to the group to which he initially belonged. In the National Assembly there are a variety of possible causes. In general, just as joining a group reflects closeness to the ideological tendencies of that group, so leaving it reflects the opposite development. The departure from the group might be voluntary or the Member might be expelled, perhaps as a result of a failure to vote as required by his party, or perhaps it might happen gradually (as with joining a group) going through an intermediate stage of semi-membership (*apparentement*) of the group.

In ICELAND changes can take place for several reasons: by decision of the individual Member to leave his party and to become an independent or to join another party; by decision of the party if, where the Member is harming the interests of the party because of his position on certain matters, he is expelled. This has happened only three times since 1920 (in 1933, 1979 and 1995).

In ITALY (Senate) changes arise only for political reasons. In the Chamber of Deputies, changes arise from divergences of view between the Member and the group or the main party in the group. Changes in the leadership of the group can arise, other than from political motives, from the need to replace one or other Member following his appointment to some other post within the party or to some government post or other public position.

In JAPAN changes arise principally from a need to replace Members.

In POLAND also, in the Senate, changes are due to changes within the party itself or to the appointment of a leader of a group to some other post or other public function. In the Sejm it is usually political reasons which give rise to change.

In the UNITED KINGDOM a departure follows the decision by a Member to leave his party.

In SLOVENIA the political landscape has not yet settled down and the different parties are still searching for their identity. It might be expected that in the future some of the smaller parties will merge and more representative parties will be formed. Personal motives lead to a Member leaving one party for another: political promotion or a closer identification with the ideology of another parliamentary group.

In the NETHERLANDS and AUSTRALIA departure from a group follows from divergences of view within the group or from personal circumstances.

In INDIA changes follow from either splits or mergers between parties. In MALI also splits within a party are the main cause of changes.

In IRELAND and SENEGAL changes arise from political causes.

In BRAZIL they are caused by political factors such as the establishment or dissolution of parties. In SWITZERLAND also it is political events which lead to changes, such as elections or the resignation of Members.

III. The internal organisation and workings of groups

1. In order to assess the autonomy of a group relative to the party which it represents, its capacity to organise and regulate its own operations and acts must be examined. It is useful also to consider whether their internal rules have any extrinsic validity beyond the group and whether they are recognised within the legal and regulatory regimes in which the parliament operates. In fact, nearly all countries recognise autonomy of management, organisation and operations of groups, despite the fact that in general the internal rules of the groups are not recognised in the Rules of parliament.

In GERMANY, Art. 48 of the Law on the legal status of Members allows groups freely to establish their own rules. Their organisation and work is based on the principles of parliamentary democracy.

BRAZIL recognises neither legal personality nor any autonomy for groups.

The Parliament Act of CANADA refers only to the provision of funding for certain kinds of expenditure. Regulation of a group's activities is a matter within a group's autonomy. The Rules omit all reference to the internal affairs of groups and contain provisions only for making additional speaking time available to certain members of a group. The Rules of the Senate distinguish between two types of group: those which support the government and those which oppose it. Senators belong for the most part to parties whose coming together as party groups is subject to internal rules having no formal character.

In DENMARK also groups basically have no rules of internal conduct, properly so-called, and, even in so far as there are such rules, they have no recognition in the Rules of the Folketing.

In SPAIN the Congress of Deputies leaves the groups autonomous and allows them to have their own rules, though the Rules give them no recognition and they have no exterior force. The Rules of the Senate (section 27.5) also give them autonomy and power to create their own rules. In practice, groups general-

ly do have a set of rules, even though they are not given any force by the Rules of the Senate.

In FRANCE Art. 5(3) and 5(4) of the Rules of the Senate allows groups freely to establish their own *cabinets* and administrative secretariat, and to establish their own rules, so long as they conform to the Constitution, to the law and to the Rules of the Senate. Equally, the National Assembly in its Rules (Art. 20) provides for groups freely to appoint their own administrative secretariat, whose recruitment and method of remuneration is fixed by the group and, also, for them to have their own internal rules.

In ICELAND the autonomy of groups is recognised and groups have their own rules, whether written or oral, albeit with no reference being made to this in the Rules of the Althingi.

In ITALY parliamentary practice of both the Congress of Deputies and the Senate recognises the autonomy of organisation of groups but no express reference is made to this in either of the Rules of the two houses. Each group adopts its own rules.

The Rules of the House of Councillors of JAPAN includes no general provisions on this matter.

There are no formal internal rules for parliamentary groups in the NETHERLANDS, only party rules. Even where such rules exist they are not recognised by the Rules of the Chamber.

In POLAND (Senate) each *club* has autonomy and its own rules, which are recognised by the Senate's Rules. This autonomy is recognised in the same way in the Sejm.

In PORTUGAL, each party is autonomous in its organisation and activities, including such matters as recruitment of personnel (Art. 11 of the Rules, Art. 62 of the organic law, and Art. 183 of the Constitution). Each one has the power to adopt its own statutes and it is these which govern their internal arrangements. Nevertheless, no special reference is made to them in the procedures or Rules of the Assembly.

In SLOVENIA, the organisation of each group is autonomous, so long as it respects the limits set down in the Rules of the National Assembly, in particular those governing the organisation of their functioning and organisation. However, this Rule only requires a group to have a set of internal regulations.

In NORWAY, LUXEMBOURG, BELGIUM, IRELAND, AUSTRALIA, ISRAEL, FINLAND, INDIA, MALI, SWITZERLAND and NEW ZEALAND also parliamentary groups are autonomous and regulate their own affairs,

although in certain cases the Rules of the chamber make no reference to the subject.

In the UNITED KINGDOM there are no formal rules relating to the organisation of groups, though their autonomy is assumed. In SENEGAL, despite the omission from the Rules of all reference to autonomy of organisation for parliamentary groups, nothing stands in the way of such autonomy from the legal point of view. GREECE recognises autonomy for groups, but the Rules do not specifically provide for a right to have their own rules.

2. After having established the existence of organisational autonomy, it is important to assess how far groups in each case possess autonomy of management.

Parliaments in most countries recognise each group's capacity to manage its own affairs and activity within the context of the autonomy discussed above, i.e. autonomy of organisation.

As has already been indicated, BRAZIL recognises no autonomy for parliamentary groups.

By contrast GREECE recognises their autonomy in organisation but not in financial management.

3. As for the assistance accorded to groups by parliaments, the forms this takes and the means by which it is given, it is clear that such assistance is given principally in the areas of logistical support, administration and finance.

GERMANY provides, under the Law on Members of the Bundestag (Art. 50), funds and benefits for parliamentary groups to help them undertake their functions, charged to the federal budget on the basis of the Law on the state budget and the Law on the legal status of Members.

BELGIUM (Senate) provides financial assistance, with grants for running costs. It provides offices and helps with telephone costs. In the Chamber of Representatives financial help is also made available through a grant fixed by the Chamber.

CANADA (House of Commons) provides funds to parliamentary groups to help them with administrative costs and research, as provided for under the Parliament of Canada Act. Each group receives furniture, IT equipment, telecommunications, printers and photocopiers, mail, a library, and transport within the area of Parliament and its environs. Each Member receives also personal assistance on an individual basis. Under the law governing parliament, the

Senate pays an annual sum to the Leader of the majority and to the Leader of the opposition and their representatives and staffers.

SPAIN (Congress of Deputies) gives them equipped offices and funding under the Congress's budget. In the Senate (section 27.5 of the Rules) they are provided with offices for work and meeting rooms.

In FRANCE parliamentary groups receive grants financed under the budget for each House.

ICELAND, under the Law on financial assistance to parliamentary groups, gives them financial support, and help with their secretariat and with other parliamentary services within certain budgetary limits. This practice has developed gradually, and a law has recently been introduced to set down minimum levels of services, such as the payment of emoluments and reimbursement of expenses to Members.

In ITALY (Chamber of Deputies) under Art. 15(3) of the Rules, the President/Speaker puts offices and equipment at the disposal of groups for their operations, and also disburses funds from the Chamber's budget according to the requirements and numerical strength of each group. Since 1993, following discussions in both houses, groups have received funds to help with their staff costs. Law No 482/1993 allows public officials and also private employees to be seconded to parliamentary groups. The groups have autonomy in the use of the funds made available. In the Senate (Art. 16 of the Rules), assistance with logistics and equipment is made available from within the Senate budget. The level of funding varies according to the numerical strength of each group.

In LUXEMBOURG Art. 15(1) requires the Bureau to make offices and the facilities necessary for their work available to political and technical groups, according to the relative size of the group.

In NEW ZEALAND the Parliamentary Service Commission, out of public funds, provides certain services and grants to parliamentary groups. These comprise: funds for staff and for running costs (research and equipment) for the Leader of the Opposition and other recognised party leaders; funding for research (for the two front benches - so-called Hunn-Lang funds) according to party strength; assistance for the work and business of the two whips' offices; and research assistance for individual backbenchers. Individually, Members receive support for electoral needs and for their secretariat, and an annual grant for information technology, and have access to the consultation and other services available from the Library. Such assistance however does not constitute aid to the group.

In POLAND the Senate gives assistance to groups on request from their leaders. Such aid can include facilities, furniture and technical equipment, and

also includes assistance with running costs, principally salaries, research work, reports, costs of official visits, telecommunications, translation, transport, typing, office equipment, and newspapers and publications. However, there is no legal obligation to provide such assistance and its provision is a matter of choice for the Senate.

The Chancellery of the Sejm gives assistance to its Members on the same basis as the Senate.

In PORTUGAL, the organic law on the Assembly makes certain kinds of assistance to Members obligatory. The Assembly's budget is responsible for providing services and office costs, according to the size and staff needs of the group. The groups have free access to the parliamentary copying services, computer network and database, documentation, library, and all means of spoken and written communication.

SENEGAL provides no financial assistance to parliamentary groups.

In SLOVENIA, the material resources provided from the state budget are proportionate to the strength of each parliamentary group. The services are provided by the National Assembly from the state budget, with the available funds covering staff costs to assist the groups. Such assistance is obligatory.

MALI and INDIA give groups assistance with logistics. GREECE gives technical assistance (offices, telephone equipment, other equipment, and administrative secretariats).

The UNITED KINGDOM and INDIA furnish infrastructural needs (material and office equipment) and ancillary services. In the NETHERLANDS the Secretary General is responsible for assistance with auxiliary services for Members (documentation, library, postage and publicity). AUSTRALIA and BRAZIL also provide them with administrative assistance and assistance for a secretariat.

SWITZERLAND, FINLAND and DENMARK give them financial, logistic and material assistance. NORWAY provides financial assistance, arising out of a decision by the Storting. This assistance is not obligatory. ISRAEL makes offices and a small monthly sum, for staff costs, available to groups. IRELAND gives a monthly grant to the leader of each qualified party. JAPAN also provides financial assistance.

4. In countries where some form of financial assistance to groups exists it is important to consider also the way in which the support, particularly the grants, are given and the timescale over which they are given, the types of assistance

and whether the funds given by parliaments to groups are regarded as part of the group's own funds.

GERMANY lays down in the Law on Members of the Bundestag (Art. 50) that the grants and assistance made available to groups for their work is charged to the federal budget. These grants include a basic sum for each group, an amount per member of the group, and a supplement for opposition groups. The Parliament fixes the amount of the monthly payments and benefits, drawing from the Law on the state budget and the Law on the legal status for Members. These payments are to serve the costs involved in running the group, as laid down in the Basic Law, the Law on parliamentary groups and the Rules, and not for political party purposes (p. 4 of Art. 50).

BELGIUM (Senate) pays operating grants to the groups, the amount depending on the size of the group; a further sum, also proportionate to the size of the group, is allocated to the leaders of each group, exclusively for the purpose of employing researchers and a secretariat. In the Chamber of Representatives the level of financial assistance is fixed by the Chamber: each parliamentary group receives an amount per member; the Member has a right to one researcher, payable by the Chamber.

CANADA (House of Commons) gives supplementary funds to parliamentary groups for administrative expenses and research under the terms of the Parliament of Canada Act. The budget is fixed in proportion to the number of staff and their work, being intended to cover the additional costs of remuneration of administrative personnel and contract research assistance. It can be used to cover other costs approved by the House's administrative body (the Board of Internal Economy). Leaders and spokesmen have their healthcare costs reimbursed by an amount set by law. Each Member also receives certain kinds of individual assistance. The Senate pays an annual grant to the leader of the majority and to the leader of the opposition, and to their representatives and staff. The Senators have a right to a budget for administrative costs and research, but there are no sums payable in respect of appointments made by the parties.

In SPAIN, in both the Congress of Deputies and the Senate (section 34 of the Rules), the amounts payable comprise one fixed sum which is the same for all groups and another which varies according to the size of the group. They are made annually and become part of the group's own resources.

In FRANCE parliamentary groups in the Senate receive a monthly payment, comprising one fixed part and a part which is proportional to the number of senators in the group. Its allocation is subject to a regulation passed by the Bureau and is financed by the Senate budget. The groups may use the funds as

they wish. The National Assembly makes them a payment to cover personnel costs, at a level proportional to the number of Members in the group and which is reconsidered annually in line with the general revision of salaries in the public sector. They may also derive income from subscriptions from Members.

IRELAND pays an annual sum to each leader of a qualified party, open to both government and opposition (a qualified party being a party which contested the last elections as an organised party and which gained at least seven seats). The present Government has plans to introduce new legislation which will provide for an allocation of funds in proportion to the electoral results.

The financial assistance accorded to parliamentary groups in ICELAND is paid annually, on the basis of rules laid down by the Praesidium of the Althingi. The assistance goes towards ends laid down by law, namely to help the individual work of Members, though in practice they cover the running costs of parliamentary groups.

JAPAN gives financial support through paying for part of the costs of groups, under the terms of the Law on the financing of political parties and in accordance with the Law on the state budget.

In LUXEMBOURG groups can be reimbursed for the costs of contracting staff on presentation of invoices and other justificatory documentation up to a ceiling fixed by the Bureau. Such payments are obligatory. An annual sum is given to groups according to their size. These funds are regarded as the groups' own money.

NORWAY sets down annually a basic level of grant for all groups, plus another annual grant which varies according to the number of Members. The staff salaries of a group are paid on a basis of one secretary per five Members. These funds become the group's own money.

In NEW ZEALAND the Parliamentary Service Commission pays certain grants from public funds to parliamentary groups against flexible annual budgets. With the exception of the Hunn-Lang money, the funds are those of the Commission.

In POLAND (Senate) the sums paid to groups are fixed by the Chancellery under specifications laid down by the Praesidium in proportion to the number of Members. They are paid in the form of a fixed grant, payable monthly in advance and transferred to the group's account. Unused resources during a legislature must be returned. In the Sejm also the assistance is arranged on an annual basis.

In PORTUGAL parliamentary groups may appoint technical and administrative staff of their choice, up to a number proportional to the electoral results

obtained by that party. Funds for this are allocated annually and are payable monthly by the relevant office of the Assembly in the required proportion. An annual grant is accorded to each parliamentary group to help Members with their work. This is paid duodecimally, with one part fixed and the other part proportional to the number of Members.

In the UNITED KINGDOM (House of Lords) parliamentary groups are supported by the party, by the Peers themselves, and by public funds. These funds are shared between the opposition parties, on the basis of the seats and votes obtained. They are paid at the beginning of the legislature and can be revised if political and economic circumstances require. The funds are under the control of the party leader.

In SLOVENIA the resources allocated to groups to pay for staff are dependent on the size of the group. The contracts are then confirmed by the Secretary General at the request of the groups. The sums are paid monthly, and any amounts not used in one month can be carried over to the following month and can be spent before the end of the year. The funds belong to the groups.

SWITZERLAND provides one fixed grant, the same for all Members, and one flexible grant per Member (under the law on parliamentary allowances). The funds are for covering the costs of a secretariat.

ITALY and FINLAND make monthly payments. In Italy, it is the President's Council which fixes the amounts at the beginning of each legislature.

DENMARK gives financial assistance to parliamentary groups in the same way as the NETHERLANDS, paying an amount proportional to the number of their members. HUNGARY pays a form of financial assistance which involves taking responsibility under the budget of parliament for the obligations and expenses of groups.

BRAZIL, SENEGAL, MALI and INDIA do not provide finance for groups. GREECE provides public funding only to political parties and not to groups.

5. As for the control exercised over the funds made available to groups, in so far as they are in fact public money - since they come from the public purse - it can be concluded that most countries do not lay down any specific controls particularly in respect of this money.

This is the case in PORTUGAL, LUXEMBOURG, ITALY, DENMARK, NORWAY, FINLAND, ISRAEL, IRELAND, SWITZERLAND and GREECE, where the legal and parliamentary regulations include no specific controls over the money given to groups.

In GERMANY (Arts. 51 and 52 of the Law on the legal status of Members) the parliamentary groups keep a record of their receipts, expenditure, and assets and submit public accounts on the source and use of funds. These accounts are examined by the Federal Court of Audit and submitted to the President of the Bundestag. The Federal Court of Audit checks that the funds have been properly utilised for appropriate purposes. The political need for the measures taken by parliamentary groups is not subject to control.

AUSTRALIA lays down in the Commonwealth Electoral Act that political parties must submit annual accounts but makes no reference to a similar presentation of accounts by parliamentary groups.

The Chamber of Representatives of BELGIUM requires controls on the use of funds provided by the Bureau, through submission of accounts. This control is delegated to the *Commission de Comptabilité*. The Senate distinguishes between the funds paid to parliamentary groups, which are given freely, and the funds paid to leaders of groups which are limited to recruitment of staff. Control of payments to staff rests with the Questure.

In CANADA (House of Commons) the Parliament of Canada Act authorises the Board of Internal Economy to supervise financial and administrative matters: funds, assets and services. It is this body which decides on the method of distribution of financial resources and services and it is this body which provides them, in accordance with the law, to cover expenditure on parliamentary purposes. The Office of the Comptroller of the House of Commons disburses the funds and the Comptroller's office prepares financial reports which detail the costs of personnel, equipment, working meetings, and health costs. Each Comptroller can prepare a report on the budget of the parliamentary group.

SPAIN (Congress of Deputies) requires parliamentary groups to submit their accounts to the Bureau. The Senate, although it does not lay down any procedure for control over these funds, gives the *Cour des Comptes* power to supervise the use of this money (Law on the financing of political parties, section 11 of organic law 3/1987).

In the Senate of FRANCE there is a special committee of ten members, and in the National Assembly of 15 members, which checks the accounts and the budget of each House, but it has no power of control over the funds of parliamentary groups (Art. 16 of the Rules of the National Assembly).

In ICELAND, groups submit their accounts annually to the President/Speaker, by means of a report explaining their expenditure. These sums are not however subject to the supervision of the Auditor General and there is no legislation providing for the official control of these funds.

In NEW ZEALAND the Parliamentary Services Commission authorises expenditure, by sector, and for parliamentary and not political purposes. They are handled by the Finance Department and extracts from the accounts of the Commission are checked by the Audit Court.

In the NETHERLANDS, control over these funds derives directly from the right of Parliament to set its own budget.

In POLAND, the accounts of the parliamentary groups are submitted to the Chancellery before the 31st January.

In the UNITED KINGDOM the use of public funds is controlled by the parliamentary groups, who sometimes appoint a committee to be responsible for the proper use of the money.

In SLOVENIA, control over these funds rests with the Audit Court.

IV. Functions and powers of parliamentary groups

1. To establish the significance of the role of groups, as active bodies within parliamentary life, it is helpful to assess to what extent the parliamentary group can exercise rights of legislative initiative on its own account. This can then be compared with the rights possessed by each Member, thus allowing an evaluation of the importance of the group in legislative procedure.

In GERMANY Rules 75(1) and 76(1) lay down that a parliamentary group or 5% of the Members of the Bundestag can table a bill or propose a Motion.

In SPAIN the Rules of the Senate and of the Congress give parliamentary groups the right to promote legislative initiatives, subject to the general rules. In the Congress of Deputies they not only possess this power, but they exercise it widely.

In FRANCE (Art. 39 of the Constitution) the power of legislative initiative is held concurrently by the Prime Minister and the Members of Parliament. Groups accordingly do not in that capacity have a right of legislative initiative. The Rules of the Senate give the leaders of groups a power to play a significant role in the different phases of the legislative procedure: at the time of the arrangement of the orders of the day, through imposing voting discipline on the matter under debate, and in submitting lists of speakers in debates and in monthly meetings on current issues. In the National Assembly the right of initiative is exercised either individually or collectively; in the latter case there is no reason why a bill or an amendment might not be tabled by all the members of a group. Group Presidents enjoy certain rights under the Assembly's procedures: they are members of the Conference of Presidents, which sets the daily

orders of the day for each week, and during sittings they can demand by right a suspension, a recorded vote, or a quorum count.

In GREECE, since a group is not recognised as possessing any identity, it is therefore a gathering of several members, acting through their leader and his representatives, in respect of the provisions laid down in the Rules.

IRELAND allows the groups to table bills. The government group can table an unlimited number of bills, while opposition groups can only present one at a time. The bill is tabled on presentation, where authorization from the Dáil is not required, or on introduction after prior permission from the Dáil in those cases where permission is necessary to present a bill.

In ICELAND, the Constitution and the Rules make no reference to the procedure for legislative initiative by Members, but Members can exercise such initiative jointly.

In ITALY (Chamber of Deputies), groups as such do not have such a right, although they can intervene during the course of a Bill's consideration: under Article 76 of the Chamber the group can table, by means of a formal declaration by its leader, a bill which has already been discussed by the group and the leader of the group can ask for a particular bill to be considered under the urgent procedure (Art. 69). In the Senate also it is the members and not the groups which enjoy the right of initiative but a reform to the rules in 1988 henceforth allowed leaders of groups to table an interpellation for a general debate in the name of his group.

LUXEMBOURG does not give this right to groups, although the groups can require the convocation of committee meetings. In such cases convocation is mandatory.

In PORTUGAL the Constitution (Art. 183) and the Rules (Art. 11) recognise parliamentary groups as having a power of legislative initiative on an equal or even stronger footing as members. They can table bills which do not involve, for the current financial year, any increase in expenditure or diminution in receipts for the state budget.

In the UNITED KINGDOM groups have no right of legislative initiative since only Members individually possess it, but a number of days are reserved on which individual parties can choose the subject for debate.

MALI, SENEGAL and SWITZERLAND give parliamentary groups a power of legislative initiative identical to those of members.

By contrast, the FYR of MACEDONIA recognises the right to present legislative initiatives to Parliament for Members individually or for groups of

Members jointly. In FINLAND, in practice, such initiatives are regarded ultimately as coming from the groups. In the POLISH Senate also, although there is no legal provision explicitly recognising for a group the right of legislative initiative, it is possible for ten Senators to unite for this purpose, and thus in practice it is possible for groups to table bills. In the Sejm although the power only rests with Members, the President of the Republic and the Council of Ministers, fifteen members may exercise the right, it not being necessary for them all to belong to the same party.

The Parliaments of BELGIUM, BRAZIL, SLOVENIA, INDIA, DENMARK, NORWAY, AUSTRALIA, NEW ZEALAND, PHILIPPINES, NETHERLANDS, CANADA, ISRAEL and JAPAN do not allow groups as such the right of legislative initiative, reserving this only to members.

2. As for involvement by the groups in procedures engaging the political responsibility of the Government, by motions of no confidence in the Government's programme or motions of censure, this power is in most countries outside the competence of Parliamentary groups.

GERMANY allows the use of procedures for control over the Executive (to table formal Questions to the Government or to require the attendance of a Minister to make a statement on a particular matter). Motions of censure against the Federal Chancellor (Art. 67 of the Basic Law and Rule 97) must be signed by at least one quarter of the Members or by a parliamentary group comprising at least that number. Exercise of this power is thus not available to smaller groups. The situation is similar as regards committees of inquiry: a committee of inquiry must be set up if a quarter of the Members of the Bundestag so demand (Art. 44).

CANADA does not provide for motions of censure, but for other forms of calling the Government to account. These are above all related to legislation and to budget proposals which constitute in practice issues of confidence in the government and which can be initiated by the opposition as well as by Members in the majority parties.

In SPAIN the Senate allows parliamentary groups to table motions and other challenges to the Government, while the Congress of Deputies gives them no such right. This right attaches to Members only, although parliamentary groups can table a different kind of motion.

In the Parliament of FINLAND although they are not formally accorded a power of this kind, it is in practice parliamentary groups which initiate such procedures.

In FRANCE, the Senate has no power to engage the political responsibility of the Government, except in respect of committees of inquiry and certain other committees. Only the National Assembly has the power to do this. A motion of censure can be tabled by one tenth of the Members of the National Assembly (Art. 49 of the Constitution). In practice, it is the parliamentary groups which table them and the leader of the group is the first signatory to the motion.

In IRELAND, the Constitution (Art. 28) lays down that the Prime Minister shall resign if he loses the support of a parliamentary majority, unless the Parliament is dissolved and a new legislature is formed in which he has attained a majority.

In ICELAND, there are no legal rules governing the presentation of such motions. Motions of censure can be initiated on the demand of nine members. Statistics indicate that in Icelandic politics such motions are generally tabled by an opposition parliamentary group or by several opposition parliamentary groups.

In ITALY, although the power to table motions of confidence is not strictly speaking accorded to groups, parliamentary practice requires that such motions are signed at the time of their tabling by the leaders of majority parliamentary groups which support the new Government. Motions of censure (Art. 94 of the Constitution) are tabled by one tenth of the Members of either House. The Senate does not give such rights to groups.

In PORTUGAL, the Constitution (Art. 183) and the Rules of the Assembly (Art. 11) give parliamentary groups the power to table motions of lack of confidence in the Government or censure motions.

SLOVENIA allows groups (ten members) to table motions of censure against the Leader of the Government or Ministers and to comment on Ministers' actions.

In SENEGAL such initiatives are neither explicitly provided for nor prohibited.

LUXEMBOURG, MALL, BRAZIL, BELGIUM, SWITZERLAND, POLAND, NORWAY, AUSTRALIA, NEW ZEALAND, INDIA, IRELAND, GREECE, DENMARK, UNITED KINGDOM and JAPAN do not provide for groups to take such initiatives of control or political censure.

3. The next question was to assess whether groups had the power to take other initiatives in the political domain, in particular, to be involved in control of constitutionality and in constitutional reform.

In GERMANY, parliamentary groups enjoy a general power of legislative initiative, including the presentation of constitutional amendments. They enjoy equally full powers of discussion on bills, both in general and in specific points, and in the voting procedures, by the tabling of motions. A challenge to the constitutionality of legal provisions can only be undertaken by one third of the members (Art. 93(1)(no.2) of the Basic Law).

In SPAIN, such powers attach only to a specified number of Members. The Constitution (Section 162.1a) gives the power to claim unconstitutionality to the Prime Minister, the Ombudsman, five Members or Senators, autonomous regional Governments and, in certain cases, regional Assemblies, but not to the groups. Extraordinary and ordinary constitutional reform can be requested by a number of specific bodies, but not by parliamentary groups.

In FRANCE, only certain specific bodies can engage the procedures for reviewing the constitutionality of a measure: the President of the Republic, the Prime Minister, the President of the Senate or of the National Assembly, or sixty Members or Senators. Political groups possess no specific power in the field of constitutional reform.

In GREECE, such powers are possessed by a specified number of Members with no power attaching directly to the group.

In IRELAND, opposition political parties may table bills but only one at any one time, which limits their powers in the field of amendment of the Constitution.

The Parliament of MALI makes no explicit reference in its Rules to such a power for the groups.

In PORTUGAL, revision of the Constitution can be undertaken by Members, by means of the tabling of a draft constitutional reform (Art. 285 of the Constitution). Amendments must be approved by a majority of two thirds of the current Members (Art. 286 of the Constitution). An extraordinary reform can require a majority of four fifths of current Members (Art. 284 of the Constitution). Evidence shows that in practice such proposals emanate from parliamentary groups.

By contrast in SENEGAL and in SWITZERLAND a parliamentary group may propose constitutional reform.

In LUXEMBOURG, BRAZIL, SLOVENIA, BELGIUM, ITALY, POLAND, DENMARK, NORWAY, NEW ZEALAND, INDIA, ISRAEL, FINLAND, UNITED KINGDOM, NETHERLANDS, CANADA and JAPAN, parliamentary groups do not, in that capacity, have such rights.

4. The questionnaire asked whether groups have power to submit nominations for appointments to high public office. The replies indicated that there is no such power in most countries.

In GERMANY, in a number of cases parliamentary groups can propose candidates for elections: if the Federal President's candidate is not elected as Federal Chancellor then the parliamentary groups comprising at least one quarter of the Members of the Bundestag can propose candidates for subsequent rounds of voting (Rule 4). It is the custom of parliament for the largest parliamentary group to propose the President of the Bundestag. The Law on the Election of Judges allows parliamentary groups to nominate candidates to judicial posts for the Highest Federal Court. They can also propose candidates for the post of Parliamentary Commissioner for the Armed Forces, a similar institution to that of "Militie-Ombudsman".

CANADA (House of Commons) gives the Leader of the Opposition and the leader of the third party a right to consultation in the appointments of the heads of the Canadian Institute for International Peace and Security and of the Security Intelligence Review Committee. The Senate has no rules on the role of parliamentary groups in respect of appointments but they are free to give their opinions.

SPAIN (Congress of Deputies) recognises no formal right for parliamentary groups in this area. But the Senate provides that they may have a role in the appointment of Members of the Constitutional Court, the Ombudsman, the General Council of the Judiciary, the *Cour des Comptes*, the Universities Social Council, the Board of Directors of RTVE and the Data Protection Council.

In FINLAND the groups are consulted on the formation of a new government or if there are significant changes in the Council of State.

In GREECE appointments to high public offices are made by a parliamentary committee comprising representatives of all the groups.

In NEW ZEALAND, there is no legal obligation for groups to be consulted but it is the normal practice to seek the opinion of the spokesman of the Opposition parties where, under the law, appointments rest with the Governor General on the advice of the House: Ombudsman, Parliamentary Commissioner for the Environment, Police Complaints Authority, Commissioner for Abortion. They play a role in the appointment of members to the Representation Board (responsible for dividing the country into electoral districts) and to the Authority for monitoring information during elections whose members are appointed by the Governor General on the advice of the House (one government member and one opposition member). The Leader of the Opposition is a Member of the Lottery Commission.

In SWITZERLAND groups can propose the names for Chancellor of the Confederation and for Federal Judges (both those in service and alternates).

In PORTUGAL, LUXEMBOURG, BRAZIL, FRANCE, ITALY, POLAND, NORWAY, UNITED KINGDOM, AUSTRALIA, DENMARK, PHILIPPINES, INDIA, IRELAND, NETHERLANDS, ICELAND and SENEGAL no rights in this area are given to groups although they may freely give their opinion on appointments to those political posts and high state bodies.

BELGIUM and JAPAN have no special legislative rules on this matter.

5. On the issue of whether groups have a right of access to the media, the replies were very similar. In a large majority of parliaments, this right is laid down in a special law on election campaigns, but always in respect of parties and political groups, and not directly in respect of parliamentary groups.

6. Participation and representation of groups in the directing bodies of Parliament is provided for in most countries.

In GERMANY the Rules have provided, relatively recently, for representation of groups on the Praesidium, by a Vice-President. The Council of Elders comprises the members of the Praesidium plus 23 other members, appointed in proportion to the relative strengths of parliamentary groups.

In AUSTRALIA, the Speaker and the Vice-Speaker of the House of Representatives and the President of the Senate are members of the Government party. The second Vice-Speaker of the House of Representatives; and the Vice-President of the Senate are members of non-Government parties.

In BELGIUM (Art. 8 of the Rules of the Senate) leaders of parliamentary groups represented in the standing committees are members of the Bureau (which also includes the President of the Senate, three Vice-Presidents and 3 Questeurs). In the Chamber of Representatives leaders of groups and one other member per group comprise the Conference of Presidents (Art. 28 of the Rules); groups of at least twelve members are represented in the Bureau (Art. 3).

In CANADA (House of Commons) it is the Board of Internal Economy which is responsible for financial and administrative issues in the House. It comprises: the Speaker, the Deputy Speaker, two members of the Queen's Privy Council appointed by the Governor in Council, and the Leader of the Opposition or his substitute and four members of the House of Commons. In the Senate, members of both the government and the opposition sit on the Committee on Internal Economy which decides on financial and administrative matters, and on organisational and working committees.

In the SPANISH Congress of Deputies groups are not represented on the Bureau but they comprise the *Junta de Porta-Vozes* which decides the agenda for plenary sittings; in the Senate the groups appoint the members of the *Députation permanente*.

In FRANCE (Senate) they are represented on the Bureau and their leaders are members of the Conference of Presidents (Art. 29(1) of the Rules). In the National Assembly, groups are represented in the Bureau, whose composition is based on proportionality, and their leaders are members by right of the Conference of Presidents.

In GREECE, groups are represented on the Bureau by two Vice-Presidents and in the Conference of Presidents by the leaders of the groups and by an independent member representing the other independent members.

In ICELAND, only four of the six current parliamentary groups are represented in the Praesidium. This comprises the President and four vice-presidents appointed by the groups. The two smallest groups do not have sufficient members to be able to sit in this body, although its President and secretary maintain contact with them (Art. 72 of the Procedure Act). The President submits to the groups for their consideration, at the beginning of each session and each week, the agenda and programme of work of the Parliament.

In ITALY (Chamber of Deputies) all the parliamentary groups recognised as such are represented in the Bureau (those which are not recognised can take part in this body if so decided). The Bureau (President, four vice-presidents, three questeurs and secretaries) deals with administrative matters, the status of Members and disciplinary matters. The leaders of groups constitute the Conference of Presidents which fixes the programme of work. Members from the different groups, appointed by the President/Speaker also take part in the committee on procedure which considers proposals for amendment for the Rules and whose composition is in proportion to the strength of the groups. In the Senate, leaders of parliamentary groups take part in the Conference of Presidents as well as the President's Council, the body which is responsible for administering the Senate.

In JAPAN, decisions on matters of administration and inquiries are handled by a regulatory committee, whose leaders are appointed in proportion to the strength of each group.

In MALI parliamentary groups are represented on the Conference of Presidents.

In NEW ZEALAND, the groups, the Leader of the House or his substitute and four other members (including 2 Opposition members appointed by the

House) are represented in the administrative services and assistance for members provided by the Parliamentary Service Commission. Party groups are represented on the Business Committee, which arranges the order of business and the length of debates in the House.

In the NETHERLANDS, parliamentary groups are represented on the Conference of Seniors, the consultative body of the Chairman of the First Chamber.

In PORTUGAL they are represented on the Conference of Representatives of Parliamentary Groups which discusses with the President the timing of plenary sittings and the orders of the day (Art. 17 and Art. 21(no.1) of the Rules).

In the UNITED KINGDOM leaders of parliamentary groups are consulted and appoint representatives to the committees of the House which are responsible for administrative matters and for matters of public policy.

In SLOVENIA the leaders of parliamentary groups take part in the presidential college of the National Assembly, which is the President's advisory body. In POLAND parliamentary groups take part in the parliamentary institutions and, if they comprise more than seven senators, they sit on the Council of Elders. In DENMARK, the President of the Folketing is elected by the members. He is a member of the Bureau together with four other members, appointed by the four largest parties.

In FINLAND, the largest parliamentary groups are represented in the working committees. In INDIA and in SENEGAL parliamentary groups are represented on the principal governing bodies.

BRAZIL, IRELAND and NORWAY do not give parliamentary groups the right of representation in their governing bodies.

7. As for other powers of parliamentary groups mentioned in the responses there are a number of such powers, of varying significance.

In GERMANY, the composition and appointment of chairmen of committees and other bodies set up by the Bundestag must be in line with the relative strengths of the parliamentary groups; parliamentary groups have the right: to call the Federal Government to account ("major" and "minor" interpellations) and by a major interpellation to demand a debate to allow consideration of the government response; to seek a parliamentary debate on current topics; to demand a count of the quorum in the Bundestag and to table procedural motions and motions for the adjournment of a debate.

In CANADA, the influence of groups in parliamentary activity stems more from politics than from the law. Members usually vote with their party and debates divide between government and opposition.

In SPAIN (Congress) parliamentary groups can propose legislative amendments, participate in the arrangement of debates, table motions and questions and request hearings. In the Senate, political groups appoint the members of the *Députation permanente*.

In the FRENCH Senate a parliamentary group can take the floor even after the closure of debate and a member of each parliamentary group can intervene to explain his vote. Representatives of parliamentary groups have the right to participate in debates on European matters.

When the Conference of Presidents has arranged a debate on a motion or a bill, each group is allotted a set speaking time comprising an element which is the same for each group and an element which is proportionate to each party's numerical strength. Group leaders may propose that a bill be remitted to a special committee, and demand by right a suspension or a recorded vote or a count of the quorum. Groups receive proportional representation on standing committees, special committees and committees of inquiry.

In INDIA (Lok Sabha) parliamentary groups participate in the business of the House and in committees, where they are represented in proportion to their parliamentary strength, with no other specific powers.

In IRELAND, Members can table questions and matters to be debated on the adjournment before the end of each day's sitting, up to a maximum of four subjects.

In ITALY, in the Senate, members take part in the planning of parliamentary work and the parliamentary groups can table proposals for this. Each week they can propose the inclusion of bills in the parliamentary programme according to their numerical strength. In the Chamber of Deputies, members influence the organisation of work, through the Conference of Presidents, and take part in all its deliberations. They can call for secret sessions, call for the use of emergency procedures in the discussion of bills or the closure of debate, they can table and consider motions; they can authorise sanctions for ministerial misdeeds and can request the establishment of working groups on any subject.

In NEW ZEALAND speaking time in debates and membership of committees is proportional to the size of each party group in the House.

In POLAND, parliamentary groups can propose to the President of the Senate matters which they consider appropriate and can request convocation of the Council of Elders (Art. 16(4) and 16(5) of the Rules).

In PORTUGAL, the constitution gives parliamentary groups the right to: participate in committees and to decide the agenda; initiate, by a question to the government, two debates in each legislative session on a matter of general or sectoral political interest; request convocation of the Assembly in the *Commission permanente*; seek the establishment of parliamentary committees of inquiry; exercise the power of legislative initiative; table motions of no confidence in the government's programme; table motions of censure against the government; and be informed of developments in current affairs. These rights are enshrined in the Rules, which also provide that parliamentary groups can request suspension of a plenary sitting, for up to 30 minutes, once a week. They can assume the chairmanship of committees, and present a political declaration once a fortnight before the orders of the day.

In the UNITED KINGDOM, the House of Lords allocates a number of days to each party for debates of their choosing. The House of Commons allocates seventeen days each session to debates initiated by the Leader of the Opposition and three days to other opposition parties. The Leader of the Opposition can table a motion of no confidence in the government and be called to put questions to the Prime Minister during Question Time. Opposition spokesmen have priority during Question Time and in debates.

In BRAZIL, party groups designate the members of committees and of the Bureau according to their numerical strength and they influence indirectly Members' exercise of their powers. In SLOVENIA, the leaders of the parliamentary groups are involved in the arrangement and coordination of the work and sittings of the Assembly.

V. The autonomy of the individual member and the group

1.1. In respect of the issue of the autonomy of parliamentary groups relative to their party, replies indicated that in general this was an internal matter for the parties and there existed no rules, strictly speaking, defining the relationship or the degree of interdependence between them.

The Rules of the Parliaments of PORTUGAL, SPAIN, SLOVENIA, SWITZERLAND, POLAND, NORWAY, AUSTRALIA, DENMARK, INDIA, CANADA, IRELAND, ISRAEL, UNITED KINGDOM, NETHERLANDS, SENEGAL, JAPAN and GREECE make no direct reference to this question.

In MALI, BRAZIL, BELGIUM and ITALY it is a matter for the internal workings of the parties and their Rules make no reference to the issue.

GERMANY recognises the legal autonomy of parliamentary groups and distinguishes them from their parties and party bodies, while accepting that in terms of participation groups and parties are interlinked. At the same time, the Basic Law guarantees a free mandate and prohibits parties from influencing, for example, a vote (Art. 38).

In FRANCE, although there is no Rule specifically dealing with this autonomy, such autonomy nevertheless is implicit in the constitutional guarantee of free votes (Art. 27).

In ICELAND, although the Rules makes no mention of groups' autonomy, there are a number of Rules which, in respect of the powers given to them, confirm the strong and independent position which they hold in the hierarchy of political parties.

NEW ZEALAND has no Rules on the matter, although members have certain privileges and the House of Representatives can punish any intimidation relating to parliamentary conduct. There are Rules within the parties which encourage members to act in accordance with their party's policy.

LUXEMBOURG also recognises the autonomy of a group and of a member in relation to its party. The POLISH Sejm also recognises the autonomy of a member relative to his party, in contrast to the Senate.

1.2. The issue of whether a parliamentary group may accept within its membership "dissidents" from the party or from another party arises in the area of groups' exercise of their power to run their own affairs.

In GERMANY, Members have no automatic right to belong to a group. It is the group which decides which members it wishes to include. The Rules allow parliamentary groups to include "guest" members, so long as they do not belong to other parties.

AUSTRALIA leaves this question to the internal rules of the parties and the degree to which dissidents are admitted varies between them. Some Members ally themselves to new parties or to already existing parties, but such cases are rare.

In the BELGIAN Senate, the Rules lay down that Members shall belong to the parliamentary group of the party list on which they have been elected and prohibits transfers from one group to another. Senators elected by the community Councils and co-opted members must belong to the parliamentary group through which they were appointed. Additionally, the Senator representing the German-speaking community also cannot move to another group if he decides to leave his chosen group, and must remain only as an independent. The

Chamber of Representatives allows groups to accept dissidents from other groups.

CANADA (House of Commons) leaves it to the party to accept dissidents or not. The main parties and their parliamentary groups tend to include a wide range of members. In the Senate, each Senator can decide individually to join a group just as he may also choose to remain independent.

In FRANCE the Rules of the Senate contain no prohibitions on this matter. The National Assembly (Art. 19) of the Rules leaves groups free to decide which members they will accept, so long as any new members subscribe to the political declaration of the party which the group represent. Such membership can take place according to the *apparentement* system.

INDIA, following the coming into force of the Tenth Schedule of the Constitution, prohibits a Member elected by one party from retaining his position if he joins another party. Resignation from one parliamentary group in order to join another is not permitted, unless there have been mergers or splits within a party.

MALI accepts such a practice, so long as the new members accept the conditions of the strongest party list within the group.

NEW ZEALAND allows a parliamentary group to include members of several parties. Each of the two main parliamentary parties have members whose opinions and personal loyalties are different; these differences can be accentuated within the mixed member proportional electoral system.

In POLAND, in the Sejm although such actions are not prohibited, they are unusual. The Senate also has no rules on the matter but parliamentary groups frequently tolerate dissidents.

ITALY, SENEGAL, SLOVENIA, GREECE and JAPAN allow such moves, and IRELAND also allows the movement of a member of an opposition parliamentary group to the government parliamentary group.

In SPAIN, NORWAY, ISRAEL and the NETHERLANDS acceptance of such moves by members arises from the organisational autonomy possessed by each parliamentary group but, in some cases and for certain practical reasons, such integration can be difficult. In PORTUGAL the integration of dissidents from other parties into a parliamentary group is not allowed during the course of a legislature.

In BRAZIL and the UNITED KINGDOM Members who belong to one party may not join a parliamentary group which represents another party.

1.3. To assess the degree of autonomy of a Member relative to his group and to his party, it is necessary to establish whether rules and mechanisms exist which guarantee such independence and freedom of vote, an issue which arises at the most extreme level in the "conscience vote".

It seems that a large number of countries recognise the existence of an independent individual vote for their members. This right is sometimes enshrined in the Constitution. There is a major role for party discipline, which although frequently the determining factor in a vote, nevertheless does not override their freedom of action, particularly in personal and religious issues.

In some parliaments, the matter is left to the rules of each parliamentary group and does not feature in the Rules; this is the case in IRELAND and JAPAN.

GERMANY regards Members as representing the people and as subject to no instructions but only to their own conscience (guaranteed free mandate – Art. 38 of the Basic Law). Furthermore, parties and parliamentary groups do not give constraining instructions to their members. Nevertheless the need to obtain a consensus and to present a united front imposes an internal solidarity within the parliamentary group and it is only rarely that members stray from the group's party line. This has happened, for example, in respect of legislation on abortion.

In the House of Representatives of AUSTRALIA, theoretically, Members vote according to their conscience. However, party discipline is quite strong which leads them to vote according to their party line and it is only occasionally that they are given freedom to vote according to conscience. Breaches of discipline can lead to sanctions.

In BELGIUM (Senate) there is no rule governing the matter given that questions of discipline and freedom to vote rest exclusively with the parliamentary groups. In the Chamber of Representatives it is accepted that voting discipline is a matter for the groups.

BRAZIL does not allow the personal vote to be restrained by an official party position, and considers that a vote must be governed by individual conscience. It accepts, however, that there is a certain relationship between dissidence and voting discipline. The debate on "party loyalty" and on voting discipline continues.

In CANADA, in the House of Commons, voting takes place by roll call and by group. Each Member can vote according to his conscience but in general parties vote together on government proposals while for private Members' business voting is not by group. The government has occasionally declared a

free vote on certain matters (financial penalties and abortion). If Members vote against their party, they must expect whatever consequences follow. In the Senate, the rules recognise dissident Senators in parliamentary groups as having the same rights of participation and initiative as independents.

The constitution of DENMARK lays down that Members shall follow their conscience. In practice, party discipline is respected but a group may allow a Member to vote according to his own convictions and, sometimes, allow a free vote to a whole group on sensitive issues.

SPAIN has a constitutional rule (Section 67(2)) which makes implicit a prohibition against parliamentary groups forcing their Members to vote in a particular way.

FRANCE follows the constitutional principal that a Member cannot be constrained and that each Member is free to vote according to his conscience. Parties' disciplinary rules are varied. If a parliamentary group has adopted a homogenous position, failure to vote in that way can be punished by exclusion. Free voting is recognised on moral questions and bio-medical ethics. The rules governing delegation of the right to vote are very restricted and limited.

In INDIA if a Member votes against the instructions of his party or abstains he is expelled. The party leader can pardon such a vote or abstention within 15 days after the vote.

In ISRAEL, it is accepted for a Member to abstain from voting on matters of conscience or religion.

In the ITALIAN Senate, secret voting is the classic instrument for the protection of a Member's independence, but the evolution of parliamentary rules has reduced the use of this mechanism. Thus, following the procedural reforms of 1988, it is now restricted to discussion on matters relating to minority languages, civil or ethical or social order, and amendments to procedures. Secret voting is not allowed for debate on matters involving an increase in expenditure or a reduction in revenues. Votes on individuals always take place in secret. Before a matter is put to a vote, each Senator can dissociate himself from the position of his parliamentary group and explain his reasons. The mixed Group includes members of a variety of political views and its members are not subject to voting discipline.

In the Chamber of Deputies in ITALY restrictions should not be placed on a vote. The 1971 reforms were intended to reinforce the safeguards for members and to give them the opportunity to explain their vote. In questions of conscience, secret voting is allowed on the request of 30 members or of one or more leaders of political groups. Secret ballots are allowed for matters such as rights

and freedoms, protection of the family or the individual, amendments to the Rules, the establishment of parliamentary committees of inquiry, laws on constitutional and regional bodies and the electoral laws.

In NEW ZEALAND, each party decides the issues on which their Members may vote according to conscience. Reform of the laws on homosexuality, abortion, sales of alcohol, and gambling were treated in this way, and in 1993, reform of the electoral law also. The rules of the New Zealand Labour Party require party candidates to undertake to vote in accordance with the decisions of party meetings. The rules of the Alliance Party contain a similar provision.

In the NETHERLANDS, Members of the First Chamber of the States General vote according to their conscience.

In POLAND, the matter is explicitly dealt with in the rules of the parliamentary group of the Polish Peasants Party (Para 19) which states that group discipline does not affect the rights and personal freedoms relating to freedom of expression. The rules of the parliamentary group of the Union for Liberty sets out the matters which are subject to group discipline. The rules of the other parties do not cover this matter.

In PORTUGAL, the constitution provides for the free and independent exercise of a Member's mandate, regarding this as the paradigm for an established democratic process. Members are not subject to disciplinary procedures for disobeying party discipline. This principle has become slightly weakened due to party disciplines fixed by the party or parliamentary group to which the member belongs. Nevertheless, this discipline is an internal matter and is a matter of choice between them both. Free votes for their members are sometimes allowed on matters relating to moral or religious issues and on discussions on bills which touch on the conscience and the education of each member.

In the UNITED KINGDOM, Members of the House of Lords cannot be forced to vote in accordance with the instructions of the parliamentary group, although the parties issue recommendations for each vote. Such a recommendation is known as the "Whip" and is addressed to all the members of a group. In the House of Commons, failure to follow the "Whip" leads to expulsion, while in the Lords – where the Members are not elected – the consequences are less serious and there are no sanctions for those who vote against the party line.

In SLOVENIA, Members are above all Deputies and only secondarily are they members of a specific group. Their membership of the group is a purely parliamentary matter. Art. 82 of the Constitution lays down that Deputies represent the people and that they are not, by law, to be required to follow party obligations or restraints on their vote, without at the same time prohibiting the existence of a certain degree of party discipline.

In SWITZERLAND, compulsory voting is not allowed and party discipline is tolerant, since it flows from the electoral system of "*panachage*" (which means that a Member is not totally dependent on his party).

In MALI freedom of voting is subject to regulation within parliamentary groups and is often subject to voting discipline. In NORWAY also, it is the group which regulates this matter.

SENEGAL regards Members as possessing a free vote, without undermining party discipline. FINLAND also lays down that Members are independent and have the right to take their own decisions. GREECE gives Members freedom of opinion and freedom to vote according to conscience (Art. 60 of the Constitution and Art. 75(p2) of the Rules).

2. A Member's link to his group is obligatory in some Parliaments and voluntary in others.

In LUXEMBOURG, MALI, BELGIUM, FRANCE, SWITZERLAND, POLAND (Sejm), DENMARK, IRELAND, UNITED KINGDOM, SENEGAL, AUSTRALIA, GERMANY, JAPAN and GREECE membership of a parliamentary group is voluntary.

In BRAZIL membership is obligatory and automatic. Those who have no party have no group and there are no groups of members who have no party or who are independent.

In CANADA the election of Members to the House of Commons is by direct uninominal voting with simple majorities. The majority of candidates represent a political party but candidates can stand as independents. Usually candidates join a parliamentary group because they share the same political ideology, but membership is voluntary. In the Senate also both a decision to join a group or to become an independent are voluntary.

Membership is automatic also in INDIA although it can happen that independents or persons applying for party membership are elected who are not included in any existing party represented in Parliament. An applicant Member can join a political party six months after he has taken his seat in Parliament, while an independent Member can be expelled if he joins a political party.

In NORWAY, membership is subject to the internal rules of parliamentary groups but the Rules of the Parliament are silent on the matter.

In the POLISH Senate the rules of the parliamentary groups of the Workers Union (*Unia Pracy*) and the Union for Liberty parties do not oblige their members to join a group. Members join by means of a written declaration.

Under the rules of the parliamentary group of the Polish Peasants Party it is obligatory for members elected on their electoral list to join the corresponding group.

In SLOVENIA joining is voluntary with the exception of Members representing the Italian and Hungarian communities who, under Art. 199 of the Rules, automatically constitute groups. Members elected on a non-party list also constitute a group, irrespective of their number. (For these, however, it is more difficult to get elected because the principle of proportional representation explicitly favours parties and their candidates.)

It is obligatory in SPAIN (Senate) and ITALY (Senate and Chamber of Deputies). There, Members who do not join a specific parliamentary group are automatically included in the mixed Group.

In NEW ZEALAND, FINLAND and the NETHERLANDS, it is not obligatory but it is implicit in the rules of the parties.

3. Where membership of a group is voluntary, it is important to assess the extent to which non-membership prejudices a Member's right to participate in political and parliamentary activity, in particularly his rights of initiative.

ITALY, LUXEMBOURG, SLOVENIA, POLAND, AUSTRALIA, FINLAND, INDIA, UNITED KINGDOM, NETHERLANDS, SENEGAL, JAPAN and GREECE give independents equal rights to those of Members in parliamentary groups. Departure of a Member from a group does not involve the loss of these rights.

In GERMANY, independents have the same rights as Members in parliamentary groups, in respect of speaking time and voting in plenary sittings, and tabling of amendments to bills on second reading, but they do not have the right to vote in committees (Rule 57(2)). They cannot table bills unless they join with other members to obtain the required number of signatories.

In BELGIUM (Senate) an independent Member enjoys in principle the same rights of political initiative as the others. He cannot, however, take part in any committee or benefit from the facilities made available to organised groups. In the Chamber of Representatives an independent has the same powers of initiative and control, but since membership of committees is in proportion to the size of each group, a member who leaves his group loses his seat on committees. He may take part in the work of committees but he loses the power to vote.

In CANADA independents have the rights laid down by the 1867 Constitution and by the Rules of the Senate. In the House of Commons also the rights of independents are completely guaranteed.

DENMARK also recognises independents' rights to table bills, but they will find it difficult to participate in parliamentary committees, unless they are welcomed by another party.

In FRANCE no distinction should be drawn between the situation of a Member who leaves his group in the two Houses. Although the situations are distinct, there is no fundamental difference between one and the other. In the National Assembly, a Member retains those rights and prerogatives deriving directly from his individual status as a Member, such as the power of initiative, the right to table bills and to propose amendments. On the other hand, he loses those prerogatives he enjoys as a member of a group, such as the opportunity to explain his vote or, in principle, to sit on the Bureau or in the Conference of Presidents.

NEW ZEALAND gives them the same rights of participation in parliamentary procedures, but since 1943 no Member has been elected as an independent.

PORTUGAL gives independent Members the right to: promote legislative and political initiatives; participate in debates and votes; seek the establishment of parliamentary committees of inquiry and to refer laws or provisions to the Constitutional Court for a declaration of unconstitutionality or illegality. These rights are more restricted in respect of participation in committees, arranging the orders of the day, tabling motions to adjourn a plenary sitting or initiating, by a Question to the Government, a general political debate.

In SPAIN and in ITALY all Members must belong to a parliamentary group without which they are automatically included in the mixed Group. In SWITZERLAND, they retain the right of initiative but not of participating in committees or delegations and their influence is reduced. In NORWAY also, they retain the right of initiative but they have less power than the others.

4. As to whether a Member must remain in the group to which he has been elected or which he has chosen to join, this is voluntary in almost all countries.

In GERMANY membership is voluntary. If a member leaves a group he does not lose his place and he stays as an independent. The parliamentary group retains its position so long as at least 5% of Members remain in the group.

In BELGIUM (Chamber of Representatives) a continued relationship is again voluntary and the consequences of a member leaving are as follows: if the group is left with fewer than five members, it is no longer recognised; if it is left with fewer than twelve members it no longer sits on the Bureau. The resignation of a member involves a reduction in the group's impact and in its allocations. Since the distribution of seats in committees is made at the beginning of a

session, changes which happen within 15 days of the definitive establishment of the Bureau are not reflected until the beginning of the following session. In the Senate, a Member can withdraw from a group when he wishes. The reduction in the size of a group can lead to a loss of one or several posts in its representation on committees or the Bureau, but this is not automatic. Rule 76(4) lays down in this connection that "when the composition of political groups undergo changes which alter their proportional strength, the Bureau may propose an amended distribution of posts". A reduction in numbers will also have consequences for the level of financial assistance the group receives from the Assembly, since their distribution is proportional.

In CANADA continued membership is voluntary. In the House of Commons, a member who leaves his group loses access to certain meetings within the House. As an independent he may find it more difficult to be selected for any of the committees. With their consent, he can attend their meetings and participate in their work but he cannot vote or take part in decisions. Participation in debates and in questions to the government is reduced both for the member and for the group. The impact of the loss of a member is very varied, and can be of greater or less significance. If the government majority is very slight the loss of a member can lead to the loss of this majority. The loss of one member for a small party can lead to the loss of its status as an officially recognised party and to a reduction in the additional funds allocated to the leader and to the parliamentary group. In the Senate, by contrast, the loss of a member has no consequences because the chamber is unelected.

FINLAND lays down the following consequences for the member and the parliamentary group: the member loses the support for the parliamentary group and the group loses some of the financial resources made available to it by the Parliament.

In FRANCE (Senate) continued membership of a parliamentary group is voluntary. If the group then finds itself with fewer than 15 Senators, it can be dissolved. In the National Assembly, any Deputy can leave his group by notifying the President of the Assembly. He will then be included among the unattached (*non-inscrits*) and loses his place on any committee. The consequences for the group are a reduction in its representation in the governing bodies of the Assembly and in speaking time in debates, general discussions and Question Time. If it retains fewer than 20 Members the group is dissolved.

GREECE replies that the consequences of the departure of a Member affect only the group, in that it involves a reduction in its strength. If there is a significant loss of members the parliamentary group risks losing certain procedural rights. There are no significant consequences for the Member.

In INDIA the principle consequences are a reduction in size and a possible loss of responsibility (Tenth Schedule) unless the change arises from a merger or a split.

In IRELAND if a recognised group retains fewer than seven members following a departure, the group loses its rights as a group. There will also be budgetary consequences since grants are only paid to parties which have this minimum number of members. The Member may join another parliamentary group or remain as an independent.

In ITALY (Senate) continued membership of a group is equally voluntary. Detachment of one Senator can lead to the dissolution of the parliamentary group if fewer than 10 members remain and to the inclusion of the remaining members in the mixed group. If fewer than five members remain, the President's Council can authorise its continued existence under certain conditions. In the Chamber of Deputies permanent membership of groups is voluntary. The most serious consequence for the group is its dissolution if fewer than 20 Deputies remain; they would then come under the category of "authorised groups".

In LUXEMBOURG continued membership is voluntary. A departure has consequences both for the parliamentary group and for the Member. For the group, the overall speaking time allocated to it in consideration of bills and in debates will change and the financial contributions for the group from the Chamber will be reduced. For the Member, if he does not join another party, he remains as an unattached Member or joins a technical group. His opportunities for speaking will be reduced and he will no longer benefit from the logistical support given to the group, although he retains the rights and privileges inherent in his status as a Member (private office and reimbursement of staff costs).

In MALI continued membership is voluntary and the consequences for a parliamentary group of a departure would be its dissolution if fewer than seven members remained.

In NEW ZEALAND continued membership is voluntary. There are no laws or rules preventing a Member from leaving his party and any Member who does so retains all the privileges which are his right. The consequences for the group are the loss of the Member's vote and for him are greater difficulties in taking part in debates.

In the NETHERLANDS a Member who abandons a parliamentary group can form a new group. Its size will dictate the proportion of rights accorded to him; participation in the committee on procedure and speaking time in plenary debates.

In POLAND (Senate) the rules of the parliamentary groups of the Union for Liberty and the Workers' Union provide that enrolment in *clubs* is voluntary and leaving a group has no consequences for either the Member or the group. By contrast in the Sejm there would be consequences of a political nature.

In PORTUGAL permanent membership is voluntary and a Member can cut his links with the parliamentary group and even with the party without losing his mandate. He then remains as an independent. This has happened recently: the single Member elected for the Party for National Solidarity left the party and became an independent.

In SWITZERLAND the consequence for the individual is exclusion from the group. For the parliamentary group it is a loss of subsidy and a revision in its representation on committees.

NORWAY regards the continued membership of a member in a parliamentary group to be voluntary. For the group, there will be repercussions in terms of speaking time in debates and a reduction in financial assistance. In AUSTRALIA also, while it is voluntary, the departure of a member can involve for him consequences such as the loss of his seat or problems with his re-election.

SLOVENIA, DENMARK, ICELAND, UNITED KINGDOM, JAPAN and SENEGAL regard continued membership in a parliamentary group to be voluntary.

VI. Expected evolution of parliamentary groups

1. No procedural changes to the status of parliamentary groups are expected in the following countries: PORTUGAL, SPAIN, MALI, NORWAY, AUSTRALIA, IRELAND, BELGIUM, DENMARK, INDIA, UNITED KINGDOM, NETHERLANDS, GREECE and JAPAN.

In GERMANY the Rules of Procedure relating to the powers of parliamentary groups have remained unaltered for several decades. In recent legislative sessions, parliamentary groups have seen their influence rise continually because of the increasing separation between the various tasks of parliament and the increasing specialisation by Members, which has given rise to suggestions for strengthening the position of the individual Member. On 11 March 1994, the Bundestag passed a Law on parliamentary groups which fixed the legal status of groups, the tasks and the financing of groups and their obligation to submit accounts and the control by the Court of Audit of the use made by the groups of the public funds put at their disposal. This law entered into force on 1st January 1995.

In BRAZIL there is continued debate on "voting loyalty", though this is more with reference to parties than to groups.

In CANADA the rules of the House of Commons have tended in the past towards demanding a more significant role for Members, individually in the legislative functions of Parliament and towards an increase in their role in the formation of public policy. Recently, greater freedom of action has been sought for Members. The Standing Committee on Procedure and House Affairs is studying ways of increasing the individual role of Members, free voting and the conduct of private Members' business. However, none of these changes affects the powers of parliamentary groups. In the Senate, it is unlikely that the two main parties will change. There is a moving away from extreme positions of party political passion in their work and their voting. There is a tendency towards a moderation in party discipline and towards seeking independence for each Member as an individual.

In FINLAND the situation of parliamentary groups where the policy of the group is expressed by a single member, in particular the right of such a member to speak on behalf of his group, is currently under discussion.

In FRANCE the role of parliamentary groups in the Senate has remained the same for some years and this role depends very much on their organisational structure. In the National Assembly, the role played by parliamentary groups has tended to be strengthened. For example, they have been given a power – not laid down in the Rules – to seek a plenary debate on a motion to establish a committee of inquiry. Equally, it is on the proposal of groups that bills or debates are included once a month in the orders of the day, and that, each week, written questions for expedited answer may be tabled.

ICELAND does not expect any changes in the status of groups but notes that it is possible that such might occur in parallel with revision of parliamentary procedures.

In LUXEMBOURG there are no current changes although there has been a tendency to strengthen the powers of parliamentary groups at the same time as those of Members.

In NEW ZEALAND the adoption of the mixed member system of proportional representation might affect parliamentary groups. The Standing Orders of the House of Representatives have been reviewed so as to recognise parties. There may be coalition governments or minority governments, accompanied by a clear increase in the importance of parties, to the detriment of individual members (at least if they are not independents).

In POLAND there are no changes currently in hand but it is possible that certain changes will be introduced following approval of the new Constitution.

It seems however that neither legal theory nor practice calls for any change in the status of parliamentary groups.

The FYR of MACEDONIA is currently preparing new Rules of Parliament after the entry into force of the 1991 Constitution of the Republic. It will enter into force after the elections which will probably take place in December.

In SLOVENIA amendments to the Rules are currently being introduced. Those which affect the rules of groups tend towards strengthening their role in the legislative procedure. The amendments proposed provide that a Member may belong to the parliamentary group of the list of the parliamentary party under which he was elected or to the group which includes the Members from that party. If he leaves the parliamentary group he can form an independents' group with a minimum of three Members. These changes are intended to eliminate certain irregularities, to ensure the stability of the groups formed by the parties elected to Parliament and to restrict the excessive numbers of switches of Members between different groups.

In SENEGAL there has been an evolution towards giving greater independence to the individual Member by comparison to the parliamentary group and it is planned that groups will lose the right to act in the name of the Member.

In SWITZERLAND there are no changes currently in hand but the tendency is towards strengthening the role of parliamentary groups.

Conclusion

While accepting that it is difficult to forecast the future character of parliamentary groups, as manifestations of factions with diverging and opposing ideologies, we can perhaps suggest that because of the role they assume this character will in future evolve in the direction dictated by the evolution of parliamentary systems and régimes themselves.

To a large extent, the strength and independence of groups depends on and draws from the strength and independence accorded to the parties themselves in political life overall, in the democratic landscape and in general debate, a setting legitimated by the ruling power of the vote.

Henceforth, since it is certain that parliaments are currently seen more and more as groupings of Members and, in the final analysis of parliamentary groups, they can work towards assuming and developing a greater position in the system than they hold currently. This position will widen in range in the legislative and political fields and in the field of control over the executive and public administration in general.