

ASSOCIATION DES SECRÉTAIRES GÉNÉRAUX DES PARLEMENTS ASSOCIATION OF SECRETARIES GENERAL OF PARLIAMENTS



CONSTITUTIONAL AND PARLIAMENTARY INFORMATION



fhe parliamentary system of Burkina Faso

Timor Lorosae - Mission to the Interim Parliament

Inter-Parliamentary Co-operation

Appropriation Procedure - An aspect of the budgetary process in a parliamentary democracy: the experience of the National Assembly of Nigeria

INTER-PARLIAMENTARY UNION

Aims

The Inter-Parliamentary Union whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of representative institutions and in the advancement of the work of international peace and co-operation, particularly by supporting the objectives of the United Nations.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

Membership of the Union (January 2001)

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, Former Yugoslav Republic of Macedonia, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakstan, Kenya, Korea (Dem. P. R. of), Korea (Rep. of), Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Liberia, Libya, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russia, Rwanda, San Marino, Sao Tome and Principe, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan Tanzania, Thailand, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Associated members: Andean Parliament, Central American Parliament, European Parliament, Latin American Parliament, Parliamentary Assembly of the Council of Europe.

New Members: Havana Session: Mr Roberto MARAFIOTI, Secretary General of the Chamber of Deputies of Argentina (replacing Mr Juan ESTRADA); Mr Boubeker ASSOUL, Secretary General of the Popular National Assembly of Algeria (replacing Mr Hamid HADDADI); Mr Kazi Rakibuddin AHMAD, Secretary General of the Bangladesh Parliament (replacing Mr Quazi Md MANZUR-I-MOWIA); Mr Madelain FILS-AIMÉ, Secretary General of the Chamber of Deputies of the Republic of Haiti; Mr Antonio MALASCHINI, Deputy Secretary General of the Senate of the Republic of Italy; Mr Yoshinori KAWAMURA, Deputy Secretary General of the Chamber of Deputies of Luxembourg (replacing Mr Yoshinori KAWAMURA, Deputy Secretary General of the Chamber of Deputies of Luxembourg (replacing Mr Pierre DILLENBURG who has become Secretary General); Mr Lutgardo B. BARBO, Secretary General of the Senate of the Philippines (replacing Mr Secretary General); Mr Constantin SAVA, Secretary General of the Senate of Romania (replacing Mr Florin COSTINIU); Mr Constantin SAVA, Secretary General of the Senate of Romania (replacing Mr Alexandru DUMTRESCU); Mr Chinda CHAREONPUN, Deputy Secretary General of the House of Representatives of Thailand; Mr Dinkpeli KANTONI, Secretary General of the National Assembly of Togo (replacing Mr Sey-Sandah LANTAM-NINSAO); Mr Vahit ERDEM, Secretary General of the National Assembly of Venezuela (replacing Mr Josi Gregorio CORTERA); Mr Vu MAO, Chairman of the Office of the National Assembly of Vietnam (This qountry is joining the ASGP for the first time); Mr Vedran HADZOVIK, Secretary General of the Parliament of Bosnia and Herzegovina (This country is joining the ASGP for the first time); Mr Raris GOICO, Secretary General of the Senate of the Dominican Republic (This country is joining the ASGP for the first time); Mr Raris GOICO, Secretary General of the Senate of the Dominican Republic (This country is joining the ASGP for the first lime); Mr Raris GOICO, Secretary General of the Senate of Chile (replacing Mr Jose" Luis Lagos LOPEZ); Mrs Stit Nurh

Structure

The organs of the Union arc:

- 1. The Inter-Parliamentary Conference which meets twice a year.
- The Inter-Parliamentary Council, composed of two members from each affiliated Group. President: Mrs Najma Hcplulla (India).
- 3. The Executive Committee, composed of twelve members elected by the Conference, as well as of the Council President acting as ex officio President.
- Secretariat of the Union, which is the international secretarial of the Organization, the headquarters being located at: Place du Petit-Saconnex, CP 438, 1211 Geneva, Switzerland.
 Secretary general: Mr. Anders Johnsson.

Official publication

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organization. Subscription can be placed with the Union's Secretarial in Geneva.

Constitutional and Parliamentary Information

Association of Secretaries General of Parliaments

No. 1821**2nd Half-year - 2001** Fifty-firstyear

Contents

I. The Parliamentary System off Burkina Faso

Presentation of the Burkinabé parliamentary system, by Mr Prosper Vokouma, Secretary General of the National Assembly of Burkina Faso (Ouagadougou session, September 2001).

II. Timor Lorosae - Mission to the Interim Parliament

Communication from Mrs Adeline Sá Carvalho, President of the ASGP, Secretary General of the Assembly of the Republic of Portugal (Ouagadougou session, September 2001).

III. Interparliamentary (Co-operation
---------------------------	--------------

Communication from Mr Everhard Voss, Germany (Oua-	
gadougou session, September 2001)	
(followed by questions on Items II and III)	. 269

IV. Appropriation Procedure - An aspect of the budgeyary process in a parliamentary democracy: the experience off the National Assembly off Nigeria

273

Communication from Mr Ibrahim Salim (presented by Mrs R.A. Ahmadu), Secretary General of the National Assembly of Nigeria (Ouagadougou session, September 2001)

I* The Parliamentary System of Burkina Faso

Presentation by Mr Prosper VOKOUMA (Burkina Faso), Ouagadougou Session (September 2001)

According to the provisions of Article 78 of the Constitution of 2 June 1991, Parliament comprises the National Assembly and the House of Representatives and Article 79 says that the members of the National Assembly called "members of parliament" and the members of the House of Representatives, "Representatives".

Pursuant Article 80, the members of parliament are elected by direct, equal, and secret universal suffrage. They exercise legislative power.

The Representatives on their part are elected by indirect suffrage. The House of Representatives plays an advisory role.

The functioning of the parliamentary system of Burkina Faso rests on two pillars the principal of which is the National Assembly; the latter performs the essential part of the parliamentary activity: voting of laws, authorising tax and control of government action. The second pillar is the House of Representatives whose mission is of importance although different from the one of the National Assembly.

Therefore, we should like to make our talk on these institutions as exhaustive as possible: their structures, functioning, missions. We begin with the National Assembly

I. The National Assembly

The National Assembly is renewed completely at the end of each parliamentary term: At the beginning of each new term, it decides on the validity of its members notwithstanding the control performed by the Constitutional Council. It establishes its rules and regulations. The number of Members of Parliament for the term that began in 1997 is 111.

The mode of election and nature of the term office of the Members of Parliament

Candidatures are presented obligatorily by organisations or political parties. All candidates must be of Burkinabe nationality of 28 years minimum on the date of the elections and enjoy all his/her civic rights. Once elected, members of parliament are vested with national term of office; although each of them is elected from a constituency, they represent the nation as a whole. They decide freely on how to perform their term of office. A member of parliament is not legally bound to a commitment since nothing is mandatory.

Apart from the regular end of term, the term of office of a member of parliament can come to an end by the resignation or physical degeneration of the regular member, death or acceptance of certain duties, especially with the government.

In the event of vacancy of seats at the National Assembly, deputies are called upon to fill them by order of their registration on the list of the substitutes. Partial elections can be organised when necessary, except during the last third of the legislative term.

Incompatibilities

The members of parliament cannot perform their term of office at the same time with another civil service, as a member of the Conseil SupeYieur de l'Information (Higher Council of Information). They are also not allowed to carry out during their parliamentary term a mission assigned to them by the government without prior authorisation of the Committee of the National Assembly; nor are they authorised to perform management duties in State enterprises and national public establishments.

Finally, there are many private activities for which the members of parliament cannot perform freely, to prevent them from taking advantage of their position. Thus, they cannot occupy positions as head of enterprises, chairing the board of directors, delegate administrators, assistant managing directors or managers in certain companies.

Measures to guarantee the performance of the term of office

A member of parliament cannot be prosecuted, tracked, arrested, detained or judged for his/her opinions or votes cast by him in the execution of activities. This freedom is used during debates in public sessions or in committees, during written questions, law proposals and the drafting of reports.

However, if the member of parliament is caught red-handed, he is subjected to the common law. Members of parliament are not actionable unless authorised by at least one-third of the members of the National Assembly during sessions or by the Assembly Committee outside sessions.

The members of parliament receive subsistence allowance for the numerous charges and fees incurred in the execution of their term of office.

1.1. Structures of the National Assembly

There are all the legislative structures that support the essential part of the parliamentary work and administrative structures that take care generally of the administration of the Assembly.

1.1.1. The legislative structures

They include:

- the committee of the National Assembly;
- the conference of presidents;
- the commissions;
- the parliamentary groups.
 - The committee of the National Assembly

Election of its members and powers:

The committee of the National Assembly is elected at the beginning of each parliamentary term immediately after the adoption of the rules and regulations and the validation of powers by an absolute majority of the members of parliament. The age-related committee is the body in charge of organising this election.

This committee is composed of the oldest member of parliament and two youngest members of parliament who act as secretary of the session until the election of the committee is completed.

For this election, the committees of the administratively composed groups must hand in the electoral list of their groups to the age-related committee for the counting of votes. These lists are subject to publication. After the publication of electoral lists, any parliamentary groups or collection of parliamentary groups may present a candidate. Even a non-administratively formed group,

with four members of parliament at least can also present a candidature. The declarations of candidature are deposited at the secretariat of the age-related committee, at least one hour before the opening of the session for the election of the speaker and posted immediately.

The speaker is elected by a vote for a single member; it is a secret vote by absolute majority in the first ballot and by simple majority in the second ballot. At the closing of votes, the session secretaries counts the ballots and the oldest member announces the result. The speaker is elected for the duration office. He is re-eligible.

The other members of the committee are elected for a one-year renewable term of office in the same conditions as the Speaker.

• Composition of the committee

The committee of the National Assembly is composed of:

- a speaker who is the president of the National Assembly;
- five vice-presidents;
- eight parliamentary secretaries;
- one First Questeur (administrative and financial officer);
- one Second Ouesteur.

In the event of vacancy of the speaker of the National Assembly due to death, resignation or any other cause, he is replaced through election 15 days following the vacancy if the Assembly is sitting. Should it be otherwise, the Assembly has all the rights to meet for the election of a new speaker.

If the vacancy is due to the resignation of all the committee members, the age-related committee ensures the interim and calls for the election of a new Assembly committee.

· Powers of the National Assembly Committee

The National Assembly Committee has all the powers to organise and manage the services of the National Assembly in the conditions defined by the regulations. It decides on the organisation and running of the services, modes of enforcement, interpretation, and execution of the regulations and represents the National Assembly in all public ceremonies. The Speaker chairs the meetings of the Committee and the Conference of chairpersons. He is the chief of the National Assembly's administration and is, therefore, the authority who gives

orders for the execution of the budget allocated to the institution. He is assisted in his duties by the vice-presidents by order of election ranking.

The parliamentary secretaries supervise the drafting of minutes. They register names of the members who ask for the floor, check the result of the voting, ascertain the votes, open the ballots and in general, assist the speaker at the rostrum. If the secretaries are absent, they are replaced by two members of parliament.

The First Questeur (Administrative and Financial Officer) and the Second Questeur under the high supervision and control of the Committee are responsible for the financial services and administrative issues involving the members of parliament.

• Conference of Chairpersons

It is composed of the Speaker of the National Assembly, the vice-presidents, the chairpersons of the general commissions, general rapporteur of the finance commission and budget, the chairpersons of the relevant special commissions and the presidents of parliamentary groups. The Government is represented by the Parliament Affairs Minister.

The Conference of presidents is convened by the Speaker on the date and time fixed by him for the review of the agenda of Assembly meetings and for making proposals concerning the rules of the agenda. The Conference fixes the agenda of the National Assembly following the order fixed by the Government: debate of popular petitions, projects submitted by the Government and proposals accepted by it.

· The committees

The National Assembly is composed of seven (7) general committees along which it can form its temporary special committees on hits own initiative or at Government's request for specific purpose. The general committees are:

- the finance and budget committee in charge of financial, budgetary and estate issues:
- the economic affairs committee is responsible for industry, cottage industry, mines, energy, economy and trade;
- the **rural development and environment committee** is in charge of environment, hunting, fishery, water, agriculture and livestock;
- the infrastructure and communications committee is responsible for public works, transport, housing, town planning and communication;

- the **foreign affairs and defence committee** generally termed as strategic because brings together traditional sectors of sovereignty of the nation: international relations, external policy, co-operation, general organisation of the defence, security, and the military;
- the **general and institutional affairs committee** is in charge of matters related to the Constitution, regulations of the Assembly, immunity of parliamentarians, justice, domestic affairs;
- the **employment, social and cultural affairs committee** is responsible for education, health, arts, customary and religious affairs, sports, etc.

The committees are the information organs of the National Assembly whose role is essentially technical and preparatory. They are responsible for helping the National Assembly in its decision-making by sending it reports accompanied by proposals.

Each committee is master of its work which it organises according to the law.

They meet during sessions at the invitation of the speaker to deliberate on affairs referred to them by the National Assembly, for immediate review or on issues included on the agenda of the said Assembly.

Govenment members can be heard by the committees following a request made by the president of the committee concerned and transmitted to the Government through the Parliament Affairs Minister. Vote in committee sittings are done by a show of hands or by ballot. The president has no casting vote.

• Parliamentary Groups

In the parliament, the groups are composed of parliamentarians with the same political opinions, in such as way as to constitute approximatively the representation of the parties within the parliamentary institution.

In Burkina Faso, the rules of the National Assembly provides that Members of Parliament can be organised into groups by political affinity.

The groups are constituted after submitting a declaration to the Speaker of the National Assembly of their membership and indicating the list of their members as well as the name of their president. A group must be composed of four members at least.

The groups form a necessary machinery of the parliamentary life, especially for the appointment of members of the various committees. They also form a network for disseminating instructions and the stance of the party on issues raised during sessions.

1.1.2. Administrative structures

The organisation and functioning of services of the National Assembly are governed by the provisions of Resolution No. 2000-001/AN/B of 9 March 2000 concerning the rules and regulations of the administration of the National Assembly.

According to these regulations, the services of the National Assembly are as follows:

- services of the chairmanship,
- services of the Questeurs,
- services of the general secretariat.

These services have one internal organisation and ensures the running the National Assembly's administration.

The entire services are put under the authority of the Speaker of the National Assembly, who defines their tasks according to the assignments.

• The administrative assignments of the Speaker of the National Assembly

As head of the administration of the Assembly, all the services are under his /her authority. He convenes and chairs meetings of the Committee of the Assembly and the Conference of presidents.

He appoints the Secretary General following the approval of the Committee, appoints and dismisses general directors and service directors of the Assembly. He does the appointments for all the other services of the Assembly. The Speaker can delegate powers for any matters related to the administrative assignments, especially to the Administrative and Financial Officers and the Secretary General.

The Speaker is in charge of ensuring the internal security of the Assembly. He appoints the palace major and fixes the number of military personnel deemed necessary for the security. This personnel are put under his/her orders.

He sees to the smooth running of the structures and services of the Assembly and takes the necessary measures for the internal control and inspection in keeping with the autonomy of the parliamentary institution.

The Speaker maintains institutional relations of the National Assembly with the Executive and Judiciary. The relationship between the ministerial departments are established by the Speaker, President of the Parliament. International relations are established and conducted by the Speaker himself assisted by the Secretary General.

• Administrative assignments of the Questeurs

They carry out the following assignments, under the authority and control of the Speaker:

- preparation of the budget to be presented before the finance and budget committee:
- follow-up of running expenditures within the framework of the budget;
- control of the finance and accounting services according to the distribution of tasks fixed by the Speaker in consultation with the Assembly Committee:
- management of the National Assembly property.

In general, all the decisions with financial incidence must bear the signature of the First Questeur or Second Questeur depending on the circumstance.

The First Questeur is the director of the administrative and financial service

• Administrative assignments of the Secretary General

The Secretary General is appointed by the Speaker in consultation with the National Assembly Committee. He runs and co-ordinates the whole services of the National Assembly; he is accountable to the Speaker for the smooth running of services and ensures their linear control.

It sees to the execution of regulation texts and the smooth functioning of procedures applicable or in use in the National Assembly.

He defines the criteria of performance of the various services and periodically informs the Speaker of the realisation of missions assigned to them.

He prepares the meetings of the National Assembly Committee and the Conference of presidents and attends them unless otherwise instructed by the Speaker of the National Assembly.

The Secretary General assists the Speaker in sittings. He disseminates the instructions of the Speaker and controls their execution. He controls the execution by the directors and heads of service of administrative decisions taken by the elected officials of the Assembly.

He organises meetings of co-ordination of directors and heads service convened to study matters related to the administration of the Assembly, or likely to have important repercussions on the running of the parliamentary institution.

He is responsible for the management of the entire staff.

He sees to the correct follow-up of relations with the administrations and bodies outside the Assembly, essentially state services.

The Secretary General is assisted in the exercise of his duties by general directors and service directors.

In the event of absence or difficulty, the Secretary General is replaced in his duties by an interim secretary general appointed by the Speaker of the Assembly. The interim shall not exceed three months.

The entire administrative services of the National Assembly are occupied by agents from a specific civil service that had to be developed in order to preserve the autonomy of the parliament from the rest of the established constitutional powers such as the Executive and the Judiciary.

• Legal status of agents of the parliamentary administration

When the National Assembly was re-installed in 1992, the first agents were state civil servants sent on secondment or put at the disposal of the institution. To build the staff and give parliament specific competence, recruitment of personnel was done progressively, the results being two types of personnel with a mixed legal scheme. For the harmony of the status of the personnel and to make its management more coherent due to the constraints of parliamentary work, it was necessary to adopt the status of the civil service of the Burkina Faso Parliament.

Through Resolution No.99-001/ANBAN/PRES of 12 May 1999, the civil service of the Burkina Faso parliament was created. According to the terms of Article 3 of this resolution: "Any persons employed for a permanent job, and appointed officially to a post in the grade of the hierarchy of the body of the National Assembly is a parliamentary civil servant of the Burkina Faso Parliament."

This personnel is put under the exclusive authority of the National Assembly Committee which can delegate all or part of its powers to the Speaker of the National Assembly. The current management of the personnel is delegated to the Secretary General by the Speaker.

The conditions for entering the parliamentary civil service of Burkina Faso include the following:

- be of Burkinabe nationality,
- enjoy civil rights and be of good morality,
- be at least 18 years old and 35 years old at the most,

- performance of military service,
- be physically and mentally fit.

Recruitment is done through competitive exams or test, and admission by qualifications is an exception. Official appointment is subject to a one-year probationary period.

The civil servants of the parliamentary administration are divided into four (4) bodies which are sub-divided into three (3) scales:1, 2, and 3.

- the body of parliamentary administrators,
- the body of parliamentary assistants
- the body of secretaries of parliamentary administration,
- the body of clerks of parliamentary administration

The parliamentary civil servant enjoys the rights and freedom attached to his identity and type of employee: the right to strike, the right to form or be a member of associations or workers unions.

The parliamentary civil servant has the following grounds for appeal to have his rights be recognised or to restore his rights: submission for an out-of-court settlement, disciplinary complaint, submission for a legal settlement.

He is compelled to respect the specificity of the parliamentary institution and devote all his professional activity to the National Assembly while respecting a certain number of obligations. These include the duty to preserve secrecy, obligation of dignity, neutrality and efficiency.

All the legal structures and instruments described herein aim at allowing the National Assembly to fulfil its constitutional attributions.

1.2. The constitutional assignments off the National Assembly

According to Article 84 of the Constitution, the National Assembly vote laws, authorises taxation, and control the action of the Government.

1.2.1. How is the law voted?

The law is voted by the National Assembly. The area of the law is limited by Article 101 of the Constitution. It is composed mainly of: public liberties, nationality, status and capacity of persons, determination of crimes and offences, tax, budget, as well as the fundamental principles of organising the national defence, administration, local governments, teaching, property system, law, labour and social security.

The other subjects concern regulations and, therefore, fall within the competence of the executive power.

1.2.2. *The legislative procedure*

> The initiative

The initiative of the law is taken concurrently by the members of parliament and the Government. The initiatives originating from the Government are called "bills" and initiatives from parliament, "private bills".

Bills and private bills are recorded at the presidency of the Assembly. With private bills, the Assembly Committee analyses them to see if they are receivable under Article 120 of the Constitution, since members of parliament are forbidden by it to take initiative that might entail the increase of expenditures or an increase of public revenues.

Similarly, the admissibility of private bills are studied from the viewpoint of Article 101 of the Constitution which determine the area of the law.

Article 98 of the Constitution gives the people power to initiate laws by petition. The petition is a proposal drafted and signed by at least fifteen thousand (15 000) persons with the right to vote as provided for by the law. The petition is deposited with the National Assembly Committee.

> Placing a question on the agenda

The agenda of the Assembly comprises firstly the discussion of popular petitions, bills and private bills, oral questions.

The agenda is examined by the Conference of presidents composed of: the Speaker, vice-presidents, presidents of general commissions, the General Rapporteur of the Finance and Budget Committee, Presidents of the interested special commissions and Presidents of the parliamentary groups.

The Conference of Presidents prepares the agenda composed primarily of discussion of bills and private bills on the agenda of priority set by the Government.

> Examination in committee

Generally, the bills or private bills are sent to one of the seven general committees or exceptionally to a special committee.

When a bill is submitted to one general committee for examination of content, one or several other general committees may equally ask to give their opinion thereof.

The committee(s) referred to designates a rapporteur who, after analysing the text containing its (their) conclusions, submits to his colleagues a draft report or opinion ,depending on the circumstance.

After deliberation, the committee adopts the report or opinion which recommends that the text, most often modified by amendments, should be adopted or rejected.

> Examination in public sitting

Discussion on a bill is done on the text proposed by the Government, discussion on a private bill is done on the text proposed by the committee.

The debate begins with hearing the Government represented by the relevant minister and sometimes by the Prime Minister and with the presentation of the report of the committee which examined the substance and, if necessary, the committee or several other committees which gave their opinion on it. This is followed by the general debate during which speakers who had previously registered are given the floor.

However, the adoption of certain motions of procedure, exception of admissibility, previous question, may cause the text to be rejected even before it gets to general debate. The adoption of a motion of sending the bill back to a committee, after discussion, is simply to adjourn the debate.

After the closing of the general discussion, the Assembly examines the text by article. The Chairman of the sitting puts the text to discussion and to vote by article, proposes amendments, then the article itself; when the different articles have been examined successively, the Chairman puts the whole bill or private bill to vote.

> Votes

Votes are normally done by show of hands and by standing or sitting when there is doubt.

Ordinary public ballot may be resorted to at the request of the chairman of the group, the committee which examined the content, the Government or on the decision of the chairman of the sitting.

The personal appointments (elections of committee members, members of the High Court of Justice, etc.) requires the use of secret ballots.

> Means of action of the government during the procedure

Government members have access to the National Assembly and the general committees and can take part in debates if they so desire. They can also make amendments just like members of parliament.

If a private bill or an amendment appears to the Government as a bill of regulatory nature and not related to law, it may question its admissibility. The Speaker of the Assembly can pronounce on its admissibility. In case of dispute, a matter is referred to the Constitutional Council is either by the Prime Minister, or the Speaker of the National Assembly. The Constitutional Council has eight days to decide.

The Government may also be opposed to any proposal, report or amendment, the provisions of Article 120 of the Constitution forbids the diminution of public resources and the creation or increase of public expenses.

If the Government desires, it can ask for the blocking of a vote, i.e. ask the Assembly to pronounce by a single vote on all or part of the bill or private bill.

In emergency, the Government can obtain from the Assembly obligation to pronounce on a bill within fifteen days; this deadline can be extended to forty days in the case of Finance Act. At the end of the period, the law is promulgated in the form of an order.

1.2.3. Competence on international issues

The National Assembly intervenes in the area of foreign policy by examining bill that authorise the ratification of a treaty or an international convention negotiated by the Government.

1.2.4. Revision of the Constitution

The initiative of the revision of the Constitution can be taken by the majority members of the National Assembly. This prerogative is shared with the Head of State and the people by petition.

All the bills are submitted to the National Assembly for appreciation after the opinion of the House of Representatives.

The National Assembly can adopt the bill of revision without resorting to a referendum, if it is approved by the qualified majority by three-quarters of the members.

1.3. Scrutiny of Government action

The scrutiny of Government action is the second part of the mission of the Assembly.

1.3.1. Questions

Under this term comes a whole lot of procedures offered to the members of parliament to ensure their control and information on the activity of Government and Administration in order to get information of all nature.

There are a range of questions:

• Oral questions with debate

The question is put to a minister. The latter responds in conformity with the time allocated to him by the Speaker. After the reply of the minister, the Speaker organises the debate according to the list of orators registered. The minister may reply and those who asked the questions can have the floor again.

• Oral questions without debates

The question is read by the Speaker. The minister replies. Then the person who asked the question gets the floor for four ten minutes. The minister may reply. No other intervention is possible.

> Written questions

Written questions posed by the members of parliament to ministers aim at obtaining replies on a specific subject or getting more information from the Government on one political point or another.

Written questions are drafted, notified, and published. The answers of the ministers must be published in the months following the publication of the questions.

^ Questions on current events

Questions on current events are deposited at the Presidency of the Assembly not later than two hours before the time set by the Conference of Presidents, depending on the character of the event and general interest.

Questions are put summarily to the Government. The latter replies.

The questions that have not been retained can be transformed into oral questions without debate on the request of their author.

1.3.2. Parliamentary investigation commissions

In addition to their intervention in the parliamentary process these commissions participate in the control of the action of the executive power.

To this effect, they can, on the request of their chairman, have recourse, using non-legislative agendas, to hearing government members and civil servants subject to authorisation from their ministers.

The scrutiny of government action is possible through investigation commissions. The work of these commissions may be on specific facts or the management of public services or national enterprises. The work of investigations commissions are temporary by nature. Their mission ends after three months of their formation whether a report has been established or not.

The mission of the investigation commission comes to an immediately when a judicial information is open on the issue under investigations.

1.3.3. Discussion and vote of the budget

The vote of the Finance Act, annual forecast Act and authorisation of resources and permanent expenses of the State is a privileged means of control of government action.

The budget discussion is prepared by the Finance and Budget Committee which is referred to on matters of content.

The rapporteur on the Finance and Budget Committee is in charge of following the entire budget issues.

The documents and data to enable the performance of budget control of ministerial departments or verification of accounts of national enterprises and semi-public companies are communicated to the general rapporteur of the Finance and Budget committee by the relevant authorities.

The settlement law which set definitely the expenditures and revenues of the past financial year is also another form of budget control.

1.3.4. Debate on the programme or declaration of the Government's general policy

Pursuant to Article 103 of the Constitution, the prime Minister presents directly to the members of parliament the situation of the Nation at the opening of first session of Assembly. The overview is followed by debate does not rise to a vote.

However, when the Prime Minister makes the Government accountable for its programme or general policy declaration a debate is organised to this effect. This debate is sanctioned by a vote for approving the programme or declaration (Article 116 line 2 of the Constitution).

If the programme or declaration are not approved, the Prime Minister must submit the resignation of his Government to the Head of State (Article 117 of the Constitution).

This resignation is ascertained by the handing over to the Speaker of the Assembly during public sitting a document entitled "Motion of censure" followed by the signatories.

The vote is done by public ballot at the rostrum. The adoption of the motion of censure must obtain the votes of the majority of the members of the Assembly. If adopted, the Prime Minister must submit his Government to the Head of State.

In case the motion is rejected, the signatories cannot table another before one year elapses.

II. The House of Representatives

The House of Representatives is the second house of the Parliament of Burkina Faso. Its composition, assignments, and functioning are governed by Articles 78, 79, and 81 of the Constitution on the basis of which the Organic Law No. 049-98/AN of 18 November 1998, related to the composition, assignments and functioning of the House of Representatives was adopted.

II.1. Composition

The members of the House of Representatives are called "Representatives". The House of Representatives is composed of Representatives of structures and/or social and professional organisations elected by indirect suffrage according to terms and conditions specific to each structure and/or organisation represented. The term of office of the Representatives is three years renewable. It is free of charge except for the members of the steering committee. However, all the members are given session allowances during sessions.

The legal measures that prevent persons from exercising as Representatives aim at persons who have not met legal prescriptions for the military service. Some are deprived of their rights to be eligible for representative duties: they are people who have been sentenced for crimes, persons with criminal records and those who do not have a good reputation.

Similarly, persons who have acquired Burkinabe nationality through marriage and naturalised foreigners cannot be Representatives before a ten-year period at least, at the end of which they become citizens. The law determines the number of Representatives to appointed by structure and/or social and professional organisation.

The protection of the term of the representative is guaranteed by parliamentary privilege.

11.2. Assignments

The House of Representatives has mainly an advisory role.

The Government, National Assembly, and steering committee of the House of Representatives itself refers to it for its opinion on a bill or private bill of national importance.

Regarding certain matters, the opinion of the House of Representatives is needed as provided for in the Constitution, such as:

- the referendum (Article 49),
- the dissolving of the National Assembly (Article 50),
- the application of exceptional powers of the Head of State (Article 59).

The House of Representatives always pronounces on the issues submitted to it for legitimate opinion.

11.3. Functioning

The House of Representatives is composed of Steering committee and work committees. The Steering committee is composed of a chairman, a vice-chairman, a general rapporteur and presidents of the general committees. The general committees of the House of Representatives correspond to those existing at the National Assembly. Each committee elects a chairman and a session secretary within the committee.

To accomplish the activities assigned to it by the Constitution and the law, the House of Representatives meets by right each year in two ordinary sessions whose duration is limited to thirty days. These two sessions are held simultaneously with the sessions of the National Assembly. It may also meet for special sessions when convened by its Speaker, upon the request of the Head of State, the Prime Minister or two-thirds of its members for a specific agenda. The special session cannot exceed fifteen days.

The Speaker of the National Assembly communicates with the House of Representatives personally or by written messages sent to the Speaker of the House of Representatives. The presidents of committees of the National Assembly have access to the House of Representatives and its committees.

At the beginning of each parliamentary session, the House of Representatives receives a copy of all the bills and private bills submitted to the National Assembly Committee for examination during the session. It can ask the National Assembly to give any comments or explanations deemed useful.

The Conference of presidents of the National Assembly draws the attention of the House of Representatives to the bill and private bills for which the National Assembly would like to have its opinion. The request is addressed to the Speaker of the House of Representatives by the Speaker of the National Assembly. When the opinions of the House of Representatives are required, they are obligatory and are subject to a report sent to the Committee of the National Assembly. Each report is allocated to the competent committee by the Conference pf presidents. Each member of parliament receives a copy.

Conclusion

Every political system is necessarily the end-product of a process. Therefore, the political system of the 4" Republic of Burkina Faso is the result of forty years efforts marked by three constitutional regimes and six unconstitutional ones. If the very stormy past of this political history has contributed to temper the passions of the actors, it should be noted that the constitutional text has also largely helped close two parliamentary terms without interruption. This is something we had never achieved in the past. We can, therefore, conclude that although there is much left to be done the legislative part of this parliamentary system, at least, is functioning well.

* *

Mrs SÁ CARVALHO, President, thanked Mr Prosper VOKOUMA and invited those in the hall to put questions. She herself wanted to have better details about the extent of the financial autonomy of Parliament. She wanted to know whether the budget of the Assembly was at its discretion or whether the government fixed the overall amount.

Mr Prosper VOKOUMA indicated that the Assembly effectively had budgetary autonomy. It adopted its own budget on the proposal of the Finance Committee. After adoption, the amount was written into the general budget of the State.

Mme Hélène PONCEAU (Senate, France) asked for details about the procedure concerning the budget report of the Assembly and how it was dealt with by the Finance Committee. She also wanted to know about the respective powers of the Speaker and the Questeurs relating to expenses. Was the first Questeur limited in power by decisions of the Speaker?

Mr Prosper VOKOUMA indicated that a budgetary committee, presided over by the first Questeur, sent an account to the Speaker. When the Bureau had read the draft, it was sent to the Finance Committee, the Government and to the Minister of Finance.

The President was responsible for the credits of the Assembly. The Questeurs were only executives.

Mr Mamadou SANTARA (Mali) noticed that the situation in Burkina Faso had a lot of similarities with other countries and parliaments including Mali. Nonetheless, in his country the system of alternates did not exist. Every vacancy gave rise to a by-election. Furthermore, Mali had a unicameral system. Nonetheless, at that time, consideration was being given to a revision of the Constitution, which would include creation of a second consultative chamber.

He wanted to put two questions. The first was about absenteeism among deputies. He referred to the high rate of absenteeism among those charged with committee work in Mali and he noticed that there was no way of dealing with this since the rules did not speak of a quorum and there were no financial sanctions which had ever been applied. He asked whether Burkina Faso had a system which was more active in this regard.

The second question was about the powers of the Speaker of Parliament and the President of the Assembly. What were the links with the House of Representatives and whether the President of Parliament could summon a joint meeting with the two chambers?

Mr Prosper VOKOUMA said that Burkina Faso had a voting system which was list-based with first candidates and alternates. He noted that some-

times some alternates put pressure on the first named to give up their place to them. This system, which had its advantages and disadvantages, placed a limit on by-elections and costly electoral campaigns.

As far as absenteeism was concerned, this was a general political problem. It had been decided to strike where it hurt so, with this in mind, a roll call was carried out at the start of each plenary sitting by the Secretary General who had an attendance list. That was sent to the President and the Questeurs for a decision. In theory, those who were absent without excuse, would see a reduction in their pay. Attendance lists were also used for committee meetings. Every deputy had to be a member of one of the committees and presence at the meetings was also obligatory.

Finally, in Parliament, only the National Assembly had a legislative power. The House of Representatives had only consultative power and the opening of the sessions was presided by the President of the Assembly. There was no system of congress as in other countries.

Mr R.C. TRIPATHI (India) said that some of the questions which he had wanted to raise had already been dealt with by the representative from Mali. Nonetheless, he wanted to have some further explanation of the concept of "good" reputation. Such a concept often differed according to the person. It was very difficult to make an objective judgement about the morality of someone.

Mr Prosper VOKOUMA said that this was a genuine difficulty but it affected everyone in the same way. The problem was effectively one of objectivity in terms of the inquiry, all the more so because the representatives were named by the organisations to which they belonged. Non-governmental organisations, women's organisations, sport organisations, the army, the police, the traditional chiefs, each one defined its own method of designation within the quotas which were set. The lists were then sent to the President of the National Assembly who then forwarded them to the President of the Republic.

Mr Pierre HONTEBEYRIE (National Assembly, France) wanted to put five questions.

What were the respective roles of the National Assembly and the House of Representatives in the validation of mandates at the start of the parliament?

Second, whether the adoption of the rules at the start of a parliament was a simple formality to confirm the pre-existing rules or did this involve a more complete revision?

Third, was there a complementary orders of the day?

Fourth, in this system involving only one deliberative chamber, where the House of Representatives intervened in certain cases to register an opinion, at what stage did a draft law become final?

Five, in what cases was it obligatory to include discussion of a public petition in the orders of the day?

Mr Prosper VOKOUMA said that adoption of the rules at the start of a parliament was based on a revision of the pre-existing rules, during which changes were introduced. This maintained the continuity. But it was part of the procedure and small revisions allowed a refinement of the practice of the House.

As far as the orders of the day were concerned, there was no system of complementary orders of the day. There were drafts, draft laws, private members' bills and public petitions.

There was no system of shuttle in the procedure relating to the examination of the text. The Speaker's conference decided to send drafts to the House of Representatives for their opinion. It was a current practice and in certain cases the conference drew the attention of the House of Representatives to the importance which the Assembly placed at receiving its advice on certain subjects. This was the case, for example, when dealing with agricultural reform or reform of land ownership. In a recent case concerning the last point, everybody recognised the quality of the proposals of the representatives. The members of the professions represented, as well as the customary chiefs, often had a fairer vision of the possibility of reform.

Another example of the usefulness and effectiveness of the work of the House of Representatives related to the struggle against sexual mutilation. This had only been able to be conquered from the moment when the House of Representatives had been involved. Their message was therefore much better passed down than those of the deputies or even of the Government. This House was therefore particularly useful for everything which related to questions of society, culture, or attitudes.

It was not made up of intellectuals in the western sense of the term but of people who were immersed in the realities of the country, the advice of whom had often shown itself to be pertinent in seeking reform of the structure of society. There was no partisan loyalty in this Chamber. Everybody tried to get a common point of view. The principal of geographical representation allowed all tribes to be represented. Therefore it was the harmonisation of habits and cultures. The House of Representatives helped to forge a harmony between the peoples and to establish the Burkinabe nation.

Once this had been explained, it was clear that there was no shuttling of bills between the two Chambers. The opinion given by the House of Representatives was sent to the Assembly Committee which was responsible for the subject, as well as to all deputies. The report in public sitting also mentioned this opinion.

As far as public petitions were concerned, this was a system which often was merely theoretical. Nonetheless, there were two petitions which were being examined at the moment. The first related to the abolition of the death penalty, and the other was on an amnesty for all crimes or political offences committed since 1996.

Mr Everhard VOSS (Bundestag, Germany) asked what the legal status was of the parliamentary administrative officials and what conditions of service they had. He also asked how many candidates competed for employment in parliament and what proportion of those were women and what the proportion was between the number of posts open for competition and the total number of candidates? How many people failed to get past their probationary period?

Mr Prosper VOKOUMA said that the last recruitment had been in January 2001. A total of 31 posts had been available in different categories: legal staff, editors, secretaries, drivers, liaison staff... . 1200 people had applied for posts in all categories together. The list of those recruited was based on merit. All posts were open without consideration of sex. Without any system of quota operating, 80% of those categories had a woman passing out top of each competition. Just as the IPU did, the Assembly indicated that all jobs were open to male and female candidates. He noted, for example, that the delegations welcomed to that conference were often driven by female drivers.

There was very little loss at the end of a recruitment. Since 1999 there had only been one person who had left and that had been someone who had been dismissed rather than had failed the probationary period.

Mr Ishmar UPADHYAY (Nepal) asked how representation of women in the Assembly was encouraged. He also asked what the obligations were in parliament relating to code of conduct, declaration of property, inheritance, etc. Was there a procedure for dissolving parliament and if so what was the practice relating to it.

Mr **Prosper** VOKOUMA said during the Parliament of 1992-97, the Assembly had seven women out of 111 members. Today there were eleven. This matter was being debated and a women's association as well as several parties were leading a campaign for increasing the quota in elections. Some were asking for stricter measures and wanted an account to be taken of the proportion of women in order to determine the level of budgetary support

allowed to each party. Parties were demanding proportions of between 15 and 25% of female candidates for the General Elections of May-June 2002.

Nonetheless, in reality it was quite different and if in large towns the question might have been solved, in the countryside it was very different and there were difficulties in finding women who wanted to stand for election.

Declarations of inheritance only related to members of the Government or the Head of State. There was a proposal which was aimed at extending this to all elected officers.

The dissolution of the Assembly was one of the prerogatives of the Head of State. Before pronouncing such a measure, he had to consult the Speaker of the Second Chamber.

Mr Lucas (Ivory Coast) said that the Inter-Parliamentary Council had just readmitted that morning the Republic of the Ivory Coast as a member of the IPU after a suspension of two years. And it gave him great satisfaction to take up his place again as a member of the Association. He indicated that a reform of the administration of the Assembly of his country was on course and that there was a problem between the respective powers of the Secretary General and the Questeurs. There was also a certain conflict relating to the powers of the Cabinet of the Speaker and the Secretary General.

Mr Prosper VOKOUMA thought that such questions frequently recurred. In Burkina Faso they had been better arranged in the course of the second Parliament than during the first. The rules were written in a more clear way, although the practice was not necessarily quite as clear. Everybody had to cooperate with good faith. All those who held power had to find some sort of compromise. As far as that was concerned there were big problems in Burkina Faso. The Questeurs had understood that they had to delegate their powers to enable them to be travel to their constituencies. Nonetheless, they were all powerful within the Assembly, but only during one parliament. That had not always been the case but the situation had largely improved.

Relations with the Speaker's Office had become much clearer since the adoption of a Statute on the Parliamentary Civil Service in 1999. The staff of the Cabinet was considered as political and was therefore not affected the Statute. Once again, it was necessary for frank collaboration. In Burkina, the Director of the Speaker's Office could take up on an acting basis the task of the Secretary General when the Secretary General was absent. All correspondence was with the Secretary General and everything that went to the President went also to his office.

The Secretary General summoned a co-ordination meeting with all directors of the services. The Director of the Speaker's Office took part as well

sometimes did the Questeurs and even the Speaker. This allowed any difficulties to be settled at an early stage.

Mrs SÁ CARVALHO, President, welcomed, in everyone's name, the colleague from the Côte d'Ivoire.

Mr Nsengu Muremyi (Rwanda) wanted further details on the conditions attached to setting a budgetary limit for Parliament. Who fixed this, what the role was of the Finance Minister in this respect and what his hours were? Because of problems of receiving money in Rwanda the entire execution of the budget had not been possible and the action of the Minister of Finance had set up certain difficulties in respect of this.

As far as the status of the Secretary General in Burkina Faso was concerned, did he have the right to belong to a political party? And was he recruited as a result of an open competition?

Mr Prosper VOKOUMA said that every year the Budgetary Committee reported to the Finance Committee. This report was put into the general budget of the State. Necessarily, this involved bargaining between the President of the Republic, the Speaker of the Assembly and the Prime Minister. The system had functioned correctly since 1992. It involved sensible links between the Finance Minister and the Assembly.

As far as the status of the Secretary General was concerned, since 1992 the first holder of the post remained for nine years and the present had been in post for 18 months, and rumour suggested that he was more political than his predecessor. There had been no competition procedure for that post. The Speaker of the Assembly had submitted the candidate to the Bureau who had approved it. The criteria for appointment was based on the legal capacity of the applicant. Until now, the Secretary General did not advertise his political loyalties and served all members equally. The majority was made up of 99 members out of the 111 in the Assembly. In fact the Secretary General was more useful to the Opposition members because the members of the Government party had other sources of support. In distinction to many countries, the Burkinabe members of parliament did not have parliamentary assistants who were attached to them specially. There were ten assistants in total who helped each of the members who asked for assistance. They were mainly used for drafting points of view. As far as the Secretary General was concerned, although nothing was written down about this, it was agreed that his personal opinions should not appear in the way in which he carried out his functions.

Mrs SÁ CARVALHO, President, reminded the plenary that Mr Prosper VOKOUMA was more than just a politician, he was also a diplomat.

Mr Prosper VOKOUMA said that he had certainly been one previously.

Mr Allaoua LAYEB (Algeria) asked what the state of a draft law was if it came about that it was rejected by the House of Representatives in a system where there was no shuttle between the two Houses. Furthermore, what happened to the Government programme if the Assembly voted against its adoption.

Mr Prosper VOKOUMA reminded the plenary that in the Constitution of Burkina Faso, the House of Representatives had only a consultative role. It could therefore only give its opinion and could not vote against a draft law. As far as the Assembly was concerned, it had already happened that it might be difficult about adopting a draft law. In that case, usually a system of bargaining was adopted. So for example, it might be thought in a particular case that a draft law had not been thought through properly or the subject properly examined. Therefore it would be sent to the competent committee. In the course of the last few years, three or four drafts had been the subject of that sort of difficulty in the National Assembly. For example, that was the case of the Charter of Political Parties, which tried to prevent "nomadism" in this area, and to set down the rules governing the passing of a member of parliament from one party to another. This draft had not been agreed to. As far as the programme of the Government was concerned, there are different mechanisms for confidence votes, censure votes or blocked votes.

Mr Albino Fonseca (Guinea-Bissau) focused on the question of budgetary autonomy of the Assembly and said that in his country there were numerous stages to cross before the budget was adopted in plenary session. Up to that time there had been no real autonomy in parliament in the budgetary sphere. On the basis of his experience of the practice in Portugal which was like that in Burkina Faso, he wanted to know what strategies had to be used to maintain this precious autonomy.

Mr Prosper VOKOUMA thought that budgetary autonomy of parliament was one of the bases for the separation of powers. The National Assembly had to have a free hand to play its role to the full while remembering that it was not disconnected to the rest of the State or society.

Mrs Marie-Josée BOUCHER-CAMARA (Senegal) suggested that the IPU and the ASGP prepared a document on the functions of a secretary general of an assembly and in particular on his relations with a speaker. She thought that there could only be a balance when each one knew his own respective roles and functions and the roles and functions of the other.

As far as the return of ministers to the Assembly at the expiry of their executive functions was concerned, she thought that a choice was taken when

one accepted such responsibilities. She wondered how it could be allowed that alternates who had even been elected had to leave the Assembly when a minister wished it.

She noted that in Senegal recently the practice had started up of naming a correspondent member of parliament in each ministry who was charged with relations with the Assembly.

Mr Prosper VOKOUMA asked Mrs SÁ CARVALHO, President, to respond to the difficult question of defining the ideal secretary general.

Return of ministers at the end of their duties to the Assembly to which they had been elected was a corollary of having a system of alternates. They were the main holders of the title and certainly this only applied in ministers who had come from the Assembly and not to those who had never been elected as members.

Even though in Burkina Faso ministers had taken note of the system in Senegal of having a parliamentary correspondent in a ministry, the Government in Burkina kept the system of having one ministry charged with relations with Parliament. As far as the latter was concerned, the authorities of the Assembly were in no way troubled by having only one interlocutor in the Executive.

Mrs SÁ CARVALHO, President, thought that the ideal secretary general was a Platonic ideal! She reminded the plenary that a report had been published in the year 2000 by the Association at the suggestion of Italian colleagues on the powers of the holder of this office. She suggested that Mrs BOUCHER-CAMARA refer to the comparative tables of that report to get a response to her question. It would probably be interesting to study the evolution of this question over the years but basically it was essentially a question of personalities.

Mr Antonio MALASCHINI (Senate, Italy) asked how the Assembly of Burkina Faso dealt with public opinion. Did the Assembly have a television or radio channel, were the sittings open to the public?

Mr Prosper VOKOUMA said that although the Assembly of Burkina Faso was trying to organise and modernise its methods of communication, it did not have a radio or television channel for reasons of cost.

Nonetheless, the Assembly did have an Office of Communication and Public Relations which was placed directly next to the Secretary General. This Office had a team and a monthly journal "La Voix du Parlement" whose director of publication was the Secretary General.

A lobby system of parliamentary journalists had been set up from the start of the year and all sittings of the Assembly was open to this lobby. The

delegation of Burkina Faso, at the conference of the IPU in Havana, had invited the President of that lobby group to join it. Furthermore, the staff of the Assembly helped in covering public sessions.

Closed sittings had only been ordered once or twice to debate internal questions. Journalists had reserved places in telephone cabins and that was perhaps only a start but nonetheless the movement towards opening up had begun.

Finally, the Parliament of Burkina Faso took part in the Francophone Parliament of Youth under the patronage of the Association of Francophone Parliaments (APF).

Mrs SÁ CARVALHO, President, thanked Mr Prosper VOKOUMA for his presentation.