

# EUROPEAN PARLIAMENT

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*Committee on Legal Affairs*

**2005/2036(REG)**

17.7.2006

## **OPINION**

of the Committee on Legal Affairs

for the Committee on Constitutional Affairs

on amendment of Rules 3 and 4 of the European Parliament's Rules of  
Procedure  
(2005/2036(REG))

Draftsman: Giuseppe Gargani

PA\_Leg

## SHORT JUSTIFICATION

Your draftsman agrees on the whole with the approach taken by the rapporteur of the committee responsible. Your draftsman considers that the European Parliament's right to verify the credentials of its own Members, as enshrined in Article 12 of the Act of 20 September 1976 (as subsequently amended) should be fully reflected in the European Parliament's Rules of Procedure, so as to ensure that Parliament is acting as a lawfully constituted body at all times.

Your draftsman is in favour of the methods suggested by the rapporteur to remedy the practical difficulties (particularly with regard to relations with national authorities) which have arisen under the existing rules.

However, your draftsman suggests certain modifications of Rule 3 of the Rules of Procedure which should be taken into consideration to ensure that the new rules on the verification of credentials are sufficiently flexible and comprehensive.

Amendment 1 seeks to draw the attention of the Member States' authorities to the need for timely notification of the names of the Members, while amendment 2 concerns the content and effects of the declaration currently required under the second subparagraph of Rule 3(2).

With regard to the latter amendment, it should be clarified, firstly, that incompatibility exists only in the cases specified in paragraphs 1 and 2 of Article 7 of the 1976 Act, and not in any additional cases specified in national law (see Article 7(3) of the 1976 Act).

Secondly, while on the one hand failure to submit the declaration in question disqualifies the Member from exercising his powers, on the other hand a deadline is provided to allow Members a period of reflection, to coincide with the first ordinary sitting after the notification of the election of the Member in question. This amendment is intended to ensure by a set deadline that Parliament's plenary is lawfully constituted.

Thirdly, if the declaration is not signed by the deadline set, or, more generally, in the event of clear incompatibility, it is proposed that a procedure be applied for officially declaring the seat vacant.

## AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following amendments in its report:

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Present text

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Amendments by Parliament

Amendment 1  
Rule 3, paragraph -1 (new)

***-1. Following the elections to Parliament, the President shall invite the competent authorities of the Member States to notify Parliament without delay of the names of the elected Members so that all Members may take their seats in Parliament with effect from the opening of the first sitting following the elections.***

***At the same time, the President shall draw the attention of those authorities to the relevant provisions of the Act of 20 September 1976 and invite them to take the necessary measures to avoid any incompatibility with the office of Member of the European Parliament.***

*(This amendment partly reproduces the wording of the current Rule 3(6), which will be deleted if this amendment is adopted.)*

Amendment 2  
Rule 3, paragraph -1 a (new)

***-1a. Every Member whose election has been notified to Parliament shall make a written declaration, before taking his seat in Parliament, that he does not hold any office incompatible with that of a Member of the European Parliament, within the meaning of Article 7(1) and (2) of the Act of 20 September 1976. Until such time as a Member's credentials have been verified or a ruling has been given on any dispute, and provided that he has previously signed the above-mentioned written declaration, the Member shall take his seat in Parliament and on its bodies and shall enjoy all the rights attaching thereto. Where no such declaration has been signed before the first ordinary sitting after the notification of the election of the Member concerned, the second subparagraph of this paragraph shall apply.***

***In the event of clear incompatibility within the meaning of Article 7(1) and (2) of the Act of 20 September 1976, the President***

***shall inform Parliament, which shall establish that a vacancy exists.***

*(This amendment partly reproduces the wording of the current Rule 3(5), which will be deleted if this amendment is adopted.)*

Amendment 3  
Rule 11, interpretation

***If*** a question relating to the verification of credentials ***is*** raised when the oldest Member is in the chair, ***he shall refer the matter*** to the committee responsible for the verification of credentials.

***The oldest Member shall exercise the powers of the President referred to in the second subparagraph of Rule 3, paragraph -1a. Any other*** question relating to the verification of credentials raised when the oldest Member is in the chair ***shall be referred*** to the committee responsible for the verification of credentials.

## PROCEDURE

<b>Title</b>	Amendment of Rules 3 and 4 of the European Parliament's Rules of Procedure	
<b>Procedure number</b>	2005/2036(REG)	
<b>Committee responsible</b>	AFCO	
<b>Opinion by</b> Date announced in plenary	JURI 28.4.2006	
<b>Enhanced cooperation – date announced in plenary</b>		
<b>Draftsman</b> Date appointed	Giuseppe Gargani 19.4.2006	
<b>Previous drafts(wo)man</b>		
<b>Discussed in committee</b>	21.2.2006	13.7.2006
<b>Date adopted</b>	13.7.2006	
<b>Result of final vote</b>	+: 20 -: 0 0: 0	
<b>Members present for the final vote</b>	Maria Berger, Carlo Casini, Monica Frassoni, Giuseppe Gargani, Piia-Noora Kauppi, Katalin Lévai, Hans-Peter Mayer, Aloyzas Sakalas, Daniel Stroj, Diana Wallis, Rainer Wieland, Tadeusz Zwiefka	
<b>Substitute(s) present for the final vote</b>	Hiltrud Breyer, Manuel Medina Ortega, Marie Panayotopoulos-Cassiotou, Michel Rocard	
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Sharon Bowles, Mieczysław Edmund Janowski, Peter Liese, Miroslav Mikolášik	
<b>Comments (available in one language only)</b>	...	