June 2025

ECPRD Seminar Proceedings

Area of interest "Parliamentary Practice and Procedure"

Parliamentary committees of inquiry in practice

Department for Parliamentary Initiative and Delegations
Comparative Law Unit

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A. FOREWORD

Founded in 1977, the European Centre for Parliamentary Research and Documentation (ECPRD)[1] brings together 63 parliamentary assemblies from 50 States, as well as the European Parliament and the Parliamentary Assembly of the Council of Europe.

The French Senate takes an active part in its work through the Comparative Law Unit of the Department for Parliamentary Initiative and Delegations, two officials of which act as the Senate's correspondents to the ECPRD.

The organisation of the ECPRD is structured around five areas: "Parliamentary Practice and Procedure," "Parliamentary Libraries, Research and Archives," "Information and Communication Technologies in Parliaments," "Economic and Budgetary Affairs," and "Exchanges related to the General Data Protection Regulation."

Each autumn, the ECPRD brings together all the correspondents of its member assemblies. In addition, the areas regularly organise thematic seminars gathering specialists identified within parliamentary services.

The topic of parliamentary committees of inquiry has, for several years, attracted sustained institutional interest. In this context, and under the aegis of the "Parliamentary Practice and Procedure" area, the French Senate hosted on 12 and 13 June 2025 a seminar devoted to this subject.

This document contains the proceedings of that seminar.

[1] "The objectives of the ECPRD are to promote the exchange of information, ideas, experience and good practice among the administrations of parliaments in Europe on subjects of common interest; to strengthen close co-operation among parliamentary services in all fields of parliamentary administration, legislation, information, research and documentation; and to collect, exchange and publicise studies produced by parliamentary service." *(article 1 of the ECPRD statutes)*

B. WELCOMING ADDRESSES

1. Mrs Sylvie VERMEILLET, Vice-president of the Senate responsible for parliamentary work and the conditions for exercising the mandate of senator

Mr Secretary General of the Senate,

Ladies and gentlemen,

Dear members of the European Centre for Parliamentary Research and Documentation (ECPRD),

In my capacity as Vice-President of the Senate and Chair of the Bureau delegation responsible for parliamentary work and the conditions under which senators carry out their duties, I would like to welcome you to the French Senate. Today, nearly 60 civil servants and employees from 30 parliaments in 29 countries, as well as from the European Parliament, have come to participate in this thematic seminar on parliamentary committees of inquiry.

I am delighted in many ways to host this event within our institution:

– firstly, it is fully in line with the Senate's efforts to promote interparliamentary cooperation. Although not yet widely known, the ECPRD network makes a vital contribution to cooperation between different parliaments in the areas of research and documentation. It enables us to exchange information more effectively, as well as ideas and experiences on topics of common interest. One example is the essential role played by the network in facilitating the rapid exchange of information on the measures implemented by parliaments during the COVID-19 pandemic or, more recently, the sharing of information on the use of artificial intelligence (AI) in parliamentary assemblies.

The Senate had not hosted a ECPRD event since the 2016 annual conference, which was co-organised with the National Assembly. With this seminar, we are confirming our full involvement in this network, which I am delighted about;

– secondly, this seminar demonstrates our institution's interest in comparative law. Since 1995, the Senate has had a Comparative Law Unit, which is part of an *ad hoc* directorate, and that also acts as a 'correspondent' for the ECPRD. This division produces numerous comparative law studies, particularly in the context of parliamentary oversight and at the request of committees of inquiry. Once adopted, these studies are all made public and widely available on the Senate's institutional website. Having this in–house expertise is invaluable in informing our work. Sometimes, legal solutions developed abroad can also be a source of inspiration for future reform proposals or even legislative initiatives.

– thirdly, the theme of this seminar – committees of inquiry – is of particular importance to the Senate. Our Upper House plays an essential role as a counterweight to the executive, and the exercise of this supervisory function often takes place through committees of inquiry. Since the inclusion of committees of inquiry in the Constitution in 2008, followed by the enshrinement in the Senate's rules of procedure of the annual "*drawing right*" (*droit de tirage*) of political groups, the Senate has set up more than 40 committees of inquiry, a historically high figure and probably unmatched in most of your parliaments. This is without counting the cases where the prerogatives of committees of inquiry have been granted to standing committees. At this very moment, five committees of inquiry are in session in the Senate and will very soon complete their work.

Committees of inquiry thus occupy a significant part of the activity of senators and the administration that supports us in our work.

For my part, without prejudice to my various responsibilities within the Bureau, my parliamentary group, the Finance Committee and the Delegation for strategic foresight, I am currently a member of the Bureau of the Committee of Inquiry into Financial Crime, created on the initiative of the Union Centriste group, to which I belong. The aim of this committee of inquiry is to elaborate further on the Senate's existing work on this subject. We felt this was necessary in view of the hold that organised crime has in France today and the scale of the financial resources linked to criminal activities.

In 2020, I was also co-rapporteur for the committee of inquiry into the government's handling of the Covid-19 health crisis. This committee of inquiry was set up at the request of the President of the Senate, Mr Gérard Larcher. Within a few months and under the difficult health conditions we all remember, we conducted 47 hearings, heard from more than 130 people, requested hundreds of documents and consulted numerous archives. This work resulted in the adoption in December 2020 of a 500-page report that meticulously analyses France's state of preparedness on the eve of the outbreak and the management of the health crisis by political and administrative leaders.

Our conclusions were clear: like many European countries, France was not prepared for such a pandemic. However, the sad episode of the mask shortage will remain a symbol of the serious consequences of a lack of preparation in the initial fight against the virus, which fuelled the confusion and even anger of healthcare workers and many of our fellow citizens. On this point in particular, the work of the committee of inquiry showed that the disappearance of the strategic stockpile of protective masks in the 2010s was the result of a deliberate decision by the administration not to replenish this stockpile. Furthermore, this shortage was deliberately concealed at the start of the epidemic.

Based on a body of evidence and well-supported arguments, our committee of inquiry was thus able to provide reliable information to our fellow citizens and had a significant impact on public opinion, as its conclusions, which were widely shared by all political groups, received remarkable media coverage.

It also opened up prospects for the future by formulating a series of recommendations on strategic stockpile management and health governance, aimed at improving coordination between the State and the regions. Almost five years after these conclusions, what is the situation? Some of the recommendations have been taken into account, but it must be said that monitoring the implementation of these recommendations – which can take a very long time – remains a challenge. I know how committed you are to monitoring these recommendations over time, and I therefore hope that your discussions will result in proposals to this effect.

The coronavirus epidemic is fortunately over, but parliamentary committees of inquiry remain at the forefront of current affairs. In France in particular, several committees of inquiry have been the subject of intense media coverage in recent months, such as the Senate committee on the practices of bottled water manufacturers and, in the National Assembly, the committee of inquiry on the prevention of violence in schools, which heard from Prime Minister François Bayrou. The days when, according to Georges Clemenceau, "*the best way to bury a scandal in politics is to set up a committee of inquiry*" are now over. This is to be welcomed.

However, criticism and even controversy are emerging: some commentators and politicians believe that there are now too many committees of inquiry, while others feign outrage in the press – with inevitable ulterior motives – about the "trap" that parliamentary committees of inquiry have become for business leaders. Furthermore, certain public figures have recently refused to appear before committees of inquiry, even though they are required by organic law to comply with the summons issued to them.

This situation is regrettable because parliamentary committees of inquiry are one of the main means of scrutinising the Government's actions. This instrument must be used to promote democratic control. I believe that the best way to put an end to these controversies is to continue, more than ever, to demonstrate seriousness and rigour in our work, in a spirit of cross-party cooperation that transcends political divisions. To cite once again my experience on the committee of inquiry into the Covid-19 pandemic, I served as rapporteur alongside two other colleagues from other political groups. This enabled us to establish shared findings and reach consensual conclusions. I believe that this is part of our 'trademark' in the Senate.

In light of these news, I would like to conclude by emphasizing the usefulness of your upcoming discussions on the legal frameworks and practices of parliamentary committees of inquiry in your respective countries.

It is true that our institutions operate within very different constitutional frameworks, but committees of inquiry are a widely used instrument of oversight. Your discussions will undoubtedly help to shed light on our own practices and identify good practices that will be useful to all and which, I hope, will inform the next 'batch' of committees of inquiry arising from the drawing rights next autumn.

Before giving the floor to the Secretary General of the Senate, I would like to thank you all for your participation and wish you an excellent seminar.

2. Mr Éric TAVERNIER, Secretary General of the Senate

Madam President,

Ladies and gentlemen,

Dear colleagues,

Thank you all for responding positively to our invitation. I would particularly like to welcome two colleagues from the Ukrainian Rada, with which the Senate enjoys an active working relationship. I would also like to thank the ECPRD secretariat and the coordinator for parliamentary procedure and practice, Mr Christoph Konrath, for their support in organising this seminar.

Madam President, you rightly emphasised the usefulness of the ECPRD network for inter-parliamentary cooperation and information sharing. I would add that this is particularly true in the field of parliamentary law and procedure, as there is little academic literature or public information with a comparative dimension in this area. The direct exchange of information between practitioners is therefore essential, and I hope that it will also enrich our exchanges with the academic community, to which I am personally and professionally very attentive and which I am committed to developing. That is the *raison d'être* of today's meeting.

Madam President, you also mentioned the current situation regarding parliamentary committees of inquiry and their importance for the Senate. In this regard, allow me to give a brief historical overview, as we celebrate the 150th anniversary of the Republican Senate this year. The Senate has contributed significantly to the development of committees of inquiry in France, particularly during the Vth Republic.

The first committees of inquiry in France can be traced back to the establishment of a parliamentary system. After the great French Revolution, followed by a Napoleonic episode, and finally after the return of the Bourbons, it was in 1832, under the July Monarchy, that the Chamber of Deputies arrogated to itself, without any textual basis, a "right of inquiry" and, in doing so, created a committee of inquiry into the deficit of the central cashier Mr Kessner. Some historians also see in the trials of the Chamber of Peers – the predecessor of the Senate – when it was constituted as a High Court, a form of parliamentary inquiry emerging, particularly during the trial of Charles X's former ministers in 1832. On the basis of this customary creation, committees of inquiry then multiplied under the IIIrd Republic: from 1876 to 1878, the Senate created a committee of inquiry into "railways and the suffering of trade" and, in 1886, another on alcohol consumption.

However, it was not until the eve of the First World War that the so-called "Rochette Law" [law of 25 March 1914] – following the financial scandal of the same name – provided a legislative basis for the investigative powers of the committees of inquiry of the Chamber of Deputies and the Senate.

The IVth Republic continued the rules and practices of the previous regime with regard to committees of inquiry. The Council of the Republic – the name given at the time to the upper house – introduced the right of inquiry into its rules of procedure in 1947 and set up committees of inquiry into the economic situation in the overseas territories (1952) and the wine scandal (1949) in order to "verify" the conclusions of the National Assembly's report on the subject.

However, the 1958 Constitution, in line with General de Gaulle's institutional concepts, marked a desire to break with the "excesses" of parliamentary committees of inquiry under previous regimes. In the early days of the Vth Republic, parliamentary committees of inquiry had strictly limited powers: those summoned were not legally obliged to appear before a committee of inquiry, hearings were secret and the report was not published (unless the assembly authorised it by a vote). The Senate, where the Gaullist party did not have a majority at the time, nevertheless launched committees of inquiry into burning issues: in 1961, on the events in Algeria, then on the "events of May 1968".

But in the absence of binding investigative powers, their results were meagre. Thus, in 1967, the Senate committee of inquiry into the French Radio and Television Office (ORTF) was refused permission to hear a whole series of directors. ORTF employees were even threatened with sanctions by their director general if they answered questions posed by members of the committee.

It was on the initiative of the Senate that a bill was passed in 1977 to extend the powers of parliamentary committees of inquiry: their maximum duration was increased from four to six months, rapporteurs were given the right to investigate documents and conduct on-site inquiries, and the principle of public disclosure of reports was affirmed. The same law also created an obligation to appear before committees of inquiry under oath, on pain of criminal prosecution. Then, in 1991, the publicity of hearings was authorised.

The 2008 constitutional reform finally enshrined the role of committees of inquiry: in order to enhance the role of Parliament, it enshrined in the Constitution the possibility of "*creating committees of inquiry within each assembly to gather information, under the conditions laid down by law*". Since then, the Senate has made full use of this "drawing right", as illustrated in particular in 2018 by the committee of inquiry into the so-called "Benalla affair" – concerning the actions of a special advisor to the President of the Republic – and the committee of inquiry into the use of consulting firms in 2022. Should this be seen, as Professor Jean-Éric Gicquel points out in his note published in the *Dictionnaire encyclopédique du Parlement*, as the consequence of the Senate's "possible misalignment" with the majority bloc?

The Senate therefore does not hesitate to defend this right of inquiry when it is undermined: on several occasions, and most recently in May 2025 concerning a Nestlé Waters executive, the Senate Bureau referred the matter to the Public Prosecutor's Office for perjury. Although these reports are often dismissed without further action, in 2018, a doctor who had concealed his links with the company Total when he was heard by the Senate committee of inquiry into the economic and financial cost of air pollution was fined €20,000 for perjury on appeal. He was in a clear conflict of interest.

It is striking to note that more than 200 years after the first committees of inquiry, investigative powers remain essentially the same. In his "Treatise on Political, Electoral and Parliamentary Law", first published in 1878, Eugène Pierre cites among the powers of "parliamentary inquiries" the right to summon witnesses, request documents and conduct hearings. However, investigation methods and techniques have been refined. Moreover, with the development of digital technologies, social networks and now artificial intelligence, will the use of these investigative powers not evolve?

One of the objectives of this seminar is precisely to stimulate reflection on the current and future development of our investigation techniques and methods. It also aims to compare our respective legal frameworks with the practical experience of committees of inquiry and to foster reflection on our procedures. Hence our decision to focus this seminar firmly on the "practice of parliamentary committees of inquiry", in the fervent hope that we will be able to improve them even further, as Chairwoman Vermeillet mentioned just now.

After today's introductory session, which will give you an overview of the different models of committees of inquiry, tomorrow's programme will be organised around the following four themes:

– the first session will deal with committees of inquiry as a tool for controlling the executive, including a discussion on the balance between the majority and the opposition and the role of the upper houses;

– the second session will focus on investigative powers, methods and techniques;

– the third session will address collaboration and conflicts between committees of inquiry and other institutions, particularly the judiciary;

– finally, the issue of the outcomes and follow-up to committees of inquiry will be the subject of discussion groups, during which you will be able to exchange views on best practices in terms of monitoring recommendations and communication.

Speakers from nine different parliamentary assemblies will take turns sharing their experience and expertise on these various topics. I would like to express my warmest thanks to them. I have no doubt that these presentations will fuel fascinating discussions, and I look forward to reading the reports with great interest.

I wish you a very successful seminar and hope that your discussions will be as rich as they are stimulating.

C. OPENING SESSION: OVERVIEW OF PARLIAMENTARY COMMITTEES OF INQUIRY (PCIS) IN ECPRD MEMBER PARLIAMENTS

During the opening session, Ms Anne-Céline Didier, Head of the Comparative Law Unit and ECPRD correspondent (*Senate* – **France**), and Mr Christoph Konrath, Coordinator of the ECPRD's Parliamentary Procedure and Practice Area (*Nationalrat* – **Austria**), presented the various models and legal frameworks for parliamentary committees of inquiry (PCIs) among the ECPRD countries (see the presentation in the annex).

Introduction

As a preliminary point, it is worth highlighting a paradox: although parliamentary committees of inquiry (PCIs) are widespread and generally recognised as one of the most powerful instruments of parliamentary control over the executive, the literature devoted to them remains relatively limited, particularly from a comparative perspective. When it does exist, this literature most often focuses on only two or three countries, without offering a broad overview. This observation calls for an attempt to define the concept of a parliamentary committee of inquiry. However, there is no single definition that applies across all parliaments.

In his book on parliamentary law, constitutionalist Jean-Éric Gicquel defines parliamentary committees of inquiry as emanations of assemblies, established to gather information on specific facts or on the management of public services, in order to enable Parliament to fully exercise its role of overseeing government action.

Conversely, from a comparative perspective, Elena Griglio, an official at the Italian Senate, proposes in her book on parliamentary oversight a broader definition of committees of inquiry, which she describes as temporary bodies set up within a legislature to investigate specific issues.

The scope covered by committees of inquiry appears to be very broad . In the sources analysed, the most frequently mentioned concept is that of a "subject of public interest". In principle, the committee must focus on a subject of general interest, but this requirement is rarely defined precisely, which contributes to significantly broadening the scope of possible investigations.

To prepare this conceptual introduction, we relied mainly on responses to questionnaires sent to the ECPRD's members. Since the 2000s, some twenty requests addressed to this network have dealt, directly or indirectly, with committees of inquiry, most often concerning specific procedural issues, such as the hearing of witnesses. Among these, only one major request —issued by the European Parliament in 2020— provided an overview of the situation, which then gave rise to a study. This request comprised nine questions and received 26 replies from 21 countries. On this basis, a few months ago we sent out a request containing twelve questions,

partly intended to update the existing data. We received 46 answers from 35 countries, plus the European Parliament. The responses from the previous study were incorporated into our analysis. From a legal perspective, only seven countries have amended their framework for committees of inquiry since 2020.

General overview and attempt at classification

In the vast majority of cases, parliamentary assemblies have the power to set up committees of inquiry. In our study, 85 % of the assemblies that responded to the questionnaire indicated that they had this prerogative, representing 33 countries, plus the European Parliament.

In some parliamentary systems, however, a distinction is made between the two chambers. In six countries – namely Austria, Belgium, the Czech Republic, Poland and Slovenia – only the lower house is empowered to establish a committee of inquiry. There are also two special cases: Slovakia and Sweden, where parliaments do not have the power to set up such committees.

There are also intermediate situations in some countries where, although the establishment of committees of inquiry is legally possible, it is not implemented in practice. Denmark and Finland are two examples of this. In its responses to requests from both the European Parliament and the French Senate, Denmark indicated that this possibility exists constitutionally, but that no parliamentary committee of inquiry has been established since 1953. In Finland, no use has been made of this possibility since 1968.

As for Sweden, although it does not formally provide for the creation of parliamentary committees of inquiry – this prerogative belongs exclusively to the Executive – its constitutional commission has extensive investigative powers, particularly with regard to access to information.. This case may therefore be subject to some nuance in the classification.

In nearly 80% of the countries that responded to our questionnaire, the power to establish committees of inquiry is based on constitutional provisions. In a smaller number of states, this power is regulated by law. Only one country, Estonia, bases it exclusively on the rules of its assembly.

Specific cases

Certain specific cases make it difficult to establish a strict typology, as institutional configurations can vary greatly.

The United Kingdom stands out for its use of *select committees*, permanent committees with a supervisory role, whose powers can be as extensive as those of committees of inquiry. In addition, the *House of Lords* has the option of setting up *special investigative committees*, which are temporary in nature and more similar to the committees of inquiry found in other countries.

Another interesting configuration is that of certain bicameral systems – notably Italy, Spain and Romania – where it is possible to create not only committees of inquiry specific to each chamber, but also committees common to both assemblies.

In Greece, two types of committees of inquiry coexist: *examination committees* and *ad hoc* commissions, which are mainly responsible for conducting preliminary investigations into politicians.

Finally, in some parliaments, it is possible to grant standing committees the same powers as committees of inquiry. This practice is becoming more common in France.

These different configurations have led us to develop a typological map distinguishing between the situations observed. Countries where parliament does not have the power to set up committees of inquiry or does not exercise this power in practice are shown in red; in yellow, the states where this prerogative is reserved for the lower house; in green, the bicameral systems allowing the creation of joint committees of inquiry for both houses; in light blue, the countries where each house – in both unicameral and bicameral systems – can set up a committee of inquiry; in dark blue, the British case.

Frequency and Duration of Parliamentary Committees of Inquiry (PCIs)

To provide a quantitative overview, we have taken 1 January 2020 as our reference date in order to avoid biases linked to the diversity of legislatures. The results show that France is clearly in the lead, with 65 committees of inquiry established since that date: 25 in the Senate and 40 in the National Assembly of Bulgaria and Ukraine follow.

Conversely, more than half of the countries established fewer than fifteen committees of inquiry during the same period, and six of them have not established any since 2020. These data confirm the wide diversity of practices between countries.

In the United Kingdom, it is difficult to produce comparable statistics, as many inquiries are conducted within the framework of *select committees*. The figure presented corresponds only to part of the House of Lords' inquiry activity and therefore does not reflect the entirety of parliamentary oversight work.

Comparing frequency of parliamentary committees of inquiry (PCIs) across countries is a complex task, given the wide variation in their duration. In some cases, inquiries are completed in a few months —three to four months in Turkey, for example— whereas in others, such as Norway, proceedings may last up to five years. On average, however, most PCIs operate over a period of one to two years.

Initiation of a Committee of inquiry

The creation of a PCI presupposes a formal initiative. In most countries, parliamentary minorities now possess the ability to initiate a PCI — a prerogative often described as a form of "minority right." The extension of this right is relatively recent, yet increasingly widespread. Many parliaments allow one-fifth, one-quarter, or up to one-third of their members to request the establishment of a PCI, with one-quarter being the most common threshold.

On the contrary, in Belgium and the Netherlands, minorities or opposition parties do not hold the right to initiate a PCI. In Austria, such a minority right was only introduced in 2015. Several specific cases stand out: in France, for instance, political groups have a "drawing right" to request a PCI; in Italy, a formal law must be passed to establish one. The actual use of this minority right varies significantly across countries —heavily relied upon in some, and rarely invoked in others.

Presidency of Committees of Inquiry

The question of who chairs a PCI is the subject of considerable debate. Should the chair remain neutral? Should they take an active role in steering the committee towards conclusions? Or might they use the position to advance their own political career?

In most countries, the prevailing rule is that the chair is elected from among the members of the political group that initiated the PCI. Estonia provides an exception: the chair must be a member of the opposition. In Germany, the issue has long been debated, reflecting its institutional sensitivity.

Austria offers a unique arrangement: the President of the Chamber serves *ex lege* as chair of any PCI. This individual is not a committee member and acts as a neutral authority. Remarkably, the President does not act alone; they are supported by a procedural judge whose role is to safeguard the rights of witnesses and third parties potentially affected by the committee's work. This configuration appears to be unique in Europe.

Managing Conflict Within or Around a PCI

Disputes may arise both within PCIs and between a PCI and other state institutions. Generally, such conflicts are resolved politically. However, judicial interventions do occur. In Slovenia and Spain, for example, courts have ruled on matters related to the right to establish a PCI or on the scope of their competences. In Germany and Austria, numerous cases have been brought before constitutional courts to address disputes either internal to the committee or between the committee and other state bodies. These typically concern the obligation to transmit documents or the classification of information. In Austria, individuals affected by the work of a PCI may apply directly to the Constitutional Court. Some of these cases will be discussed in greater detail tomorrow.

PCIs and Judicial Proceedings

PCIs are frequently likened to judicial proceedings, a comparison sometimes reinforced by how they are portrayed in the media —even the physical arrangement of seating can evoke a courtroom. Nevertheless, most parliaments maintain a strict separation between parliamentary and judicial processes, affirming that the two should not occur concurrently.

Almost ten years ago, however, the European Court of Human Rights[1] issued a landmark decision in a Polish case, finding that judicial and parliamentary proceedings follow distinct logics and can, therefore, proceed in parallel. This decision invites further reflection on how such overlaps can be managed in practice.

Germany's Bundestag has developed informal mechanisms of negotiation to manage potential conflicts. In Austria, a formal consultation procedure exists, involving both the federal Minister of Justice and the parliamentary committee. In the United Kingdom, the *sub judice* rule serves as a prototypical safeguard, designed to prevent simultaneous parliamentary and judicial proceedings on the same matter.

Powers of Committees of Inquiry

The core powers vested in PCIs are relatively consistent across jurisdictions: they include the ability to summon and hear witnesses —usually public officials— request documents, and conduct fact-finding missions.

Nevertheless, some divergences exist, particularly regarding the actual enforcement of cooperation. For example, procedures and sanctions related to witnesses refusing to testify or withhold documents differ among states. Another key area of divergence concerns the treatment of sensitive or classified information, and the extent to which PCI members may rely on such material in their reports or subsequent political actions.

Over the past years, additional concerns have emerged regarding data protection and the applicability of the General Data Protection Regulation (GDPR). A judgment of the Court of Justice of the European Union concerning Austria established that PCIs are subject to the obligation to protect personal data. This has significant implications not only for the hearings themselves, but also for the drafting of reports and the broader political use of their findings. These issues warrant careful discussion.

The role of parliamentary administration

Our survey shows that, in the vast majority of cases, parliamentary administration is closely involved in the work of parliamentary committees of inquiry. In all of the parliaments surveyed, it provides at least logistical and organisational support to the committees.

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[1] *Case of Rywin v. Poland (Applications nos. 6091/06, 4047/07 and 4070/07)* https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-161037%22]}

In more than half of the cases, the administrative services also participate in defining the precise scope of the inquiry. In two-thirds of the assemblies, they take part in analysing the documentation collected, or even conduct the analysis themselves. Their involvement can extend to drafting the final report, or even the recommendations themselves.

On the other hand, fewer responses mention the administration's contribution to the drafting of questionnaires. This may come as a surprise, particularly in view of French practice, where the drafting of questionnaires is common.

Finally, in all parliaments, the administration plays a supporting role in procedural matters. It ensures compliance with the legal framework applicable to committees of inquiry and, in most cases, acts as a point of reference for the interpretation of the constitutional or regulatory rules governing their work.

Resources and tools available to committees of inquiry

In most assemblies, committees of inquiry have their own secretariat, composed of civil servants or parliamentary staff. In 93 % of cases, a dedicated administrative structure is put in place.

Many parliaments also provide additional human resources, particularly through political groups. External legal or scientific experts are frequently called upon. These experts may be engaged on an individual basis or under contracts with research institutes or academic centres.

However, only a quarter of parliaments report using data experts to process large volumes of information, particularly digital data such as mass emails. The use of data processing tools, including artificial intelligence tools, remains marginal: only 28 % of the parliaments surveyed reported using them.

Finally, certain national configurations have notable specificities. In Austro-Germanic systems, there is formalised use of external expertise: in Austria, for example, a procedural judge assists the committee in its work; in Germany, it is possible to call on an external investigator.

D. SESSION 1 – PARLIAMENTARY COMMITTEES OF INQUIRY AS A TOOL OF SCRUTINY OF THE EXECUTIVE

1. **Parliamentary inquiries in Ireland: an overview of legal and structural challenges, Mrs Cathy EGAN** (*Houses of the Oireachtas* – **Ireland**)

The central theme of today's discussions is whether parliamentary committees of inquiry are effective tools for scrutinising the executive.

In this contribution, I will outline the historical and legal background that has shaped the current framework, present the experience of the banking inquiry as a test case under the new legislation, examine the legal and operational challenges encountered, and finally reflect on the lessons learned and the legacy of that process.

Since the foundation of the Irish state, parliamentary inquiries have been rare. Fewer than a handful were conducted prior to the 2000s. One significant turning point was the Abbeylara case[1]. It led to the establishment of a parliamentary inquiry, tasked, among other things, with examining the conduct of the *Gardaí* and assessing whether the situation could have been handled differently.

This inquiry was legally challenged by the police, who argued that any determination of wrongdoing on their part should be made by a court of law, not by a parliamentary body. In its Abbeylara judgment delivered in 2002, the Irish Supreme Court ruled that the Houses of the Oireachtas —the Irish Parliament— do not possess an inherent constitutional power to make findings that impugn the good name of individuals. According to the Court, such determinations fall exclusively within the jurisdiction of the judiciary. The Abbeylara decision effectively brought an end to parliamentary inquiries in Ireland for more than a decade.

In response, the government sought to amend the Constitution to enable the re-establishment of robust parliamentary inquiries. However, the proposed constitutional amendment was rejected by referendum in 2011, following a campaign marked by strong and vocal opposition. Prominent legal figures warned against the risks of excessive parliamentary power. The referendum failed.

[1] *This case refers to the shooting of an Irish citizen by the Irish police (Gardaí) in controversial circumstances at his home in Abbeylara in April 2000.*

As a result, the government was compelled to work within the existing constitutional parameters. These efforts culminated in the enactment of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, hereafter referred to as the Inquiries Act. This legislation established a statutory framework allowing for five distinct types of parliamentary inquiry:

1. inquiries into legislative matters —aimed at determining whether new legislation is required in a particular domain;

2. inquiries to remove officeholders —for example, to assess whether a judge should be removed;

3. inquiries into the conduct of designated officeholders —such as evaluating the performance of a Secretary General of a government department;

4. inquiries into the conduct of members of the Oireachtas —dealing with disciplinary or ethical issues involving parliamentarians;

5. general inquiries under Section 7 —the broadest and most flexible category, allowing an inquiry into any matter. These are commonly referred to as "Inquire, Record, Report" inquiries.

Of these five types, the first —legislative inquiries— is of limited practical interest and is rarely used. The others are more substantive but focus on narrowly defined individuals or circumstances. The fifth category, under Section 7 of the Act, is the only one that permits inquiries into general public interest matters. It offers the widest scope but still operates within the tightly drawn limits of the constitutional framework defined by the Abbeylara decision.

The most significant function of a parliamentary inquiry conducted under Section 7 of the Inquiries Act is the ability to issue findings that a particular matter —relating to systems, practices, procedures, policies, or the implementation of policies— ought to have been conducted differently. For instance, a finding might state that a regulator who had the legal authority to enforce limits on spending should have exercised that power.

The only inquiry conducted under the Inquiries Act to date was the Committee of Inquiry into the Banking Crisis, which served as a real-life test of the Act's provisions. It operated between late 2014 and early 2016, with a mandate to investigate the causes of Ireland's systemic banking collapse. I was part of the dedicated administrative team, composed of 57 full-time staff members, assigned to support the work of the committee over this period.

The inquiry represented a substantial institutional effort: it cost over €6.5 million, involved public hearings with 131 witnesses, and entailed the review of more than 500,000 pages of documentation.

As a Section 7 "Inquire, Record, Report" inquiry, the banking committee was tasked primarily with recording evidence and reporting on its findings. However, it had only limited authority to draw factual conclusions. Under the Act, the committee was prohibited from making any finding of fact if the evidence supporting it was contradicted by other testimony.

It is unlikely that a Section 7 inquiry would ever result in a formal finding against an individual. Nonetheless, the Act requires that all inquiries —regardless of their type or legal scope— adhere to the same stringent procedural safeguards. This includes, in particular, the obligations set out in Section 24 concerning fair procedures.

Strict rules also applied to potential perceptions of bias. Any suggestion of partiality could result in the removal of a committee member. This required us to train members to adopt a neutral and cautious approach during hearings, avoiding adversarial questioning or "gotcha" moments. Public appearances by members were also restricted throughout the inquiry's duration —an unusual constraint in a political setting.

This structural flaw, embedded in the legislation itself, imposed significant operational burdens on the inquiry from the outset. In addition to these systemic constraints, the banking inquiry faced a number of unique challenges that may not arise in future inquiries —most notably, the issue of time pressure and political risk.

As the first inquiry conducted under the Act, we were tasked with designing the entire process architecture. However, no preparatory period was allocated prior to the commencement of the inquiry. Political urgency dictated a rapid launch, and we were compelled to build procedural frameworks on an ad hoc basis while the inquiry was already underway.

The committee formally began its work in December 2014. Under the rules governing our parliamentary system, the *Dáil* (lower house) could not remain in session beyond early March 2016. However, the decision to dissolve Parliament lies with the *Taoiseach* and can be taken at any moment — typically at a time deemed politically advantageous, and not necessarily at the end of the full term.

In our final report, we included a proposed model for how future parliamentary inquiries in Ireland should be conducted. The key recommendation was a sequential and clearly delineated process, with each phase —preparation, investigation, hearings and reporting— allocated sufficient time and resources. We advocated a minimum two-year timeline to enable proper execution of these stages, rather than overlapping all elements simultaneously as we had been forced to do.

If another inquiry were to take place in future, it would at least benefit from the framework, documentation and templates we developed. While now over a decade old, they remain a valuable point of reference.

A second major challenge encountered during the banking inquiry concerned the overlap with ongoing criminal proceedings. Several key individuals were at the time facing criminal charges related to the banking crisis. The *Gardaí* and the Director of Public Prosecutions (DPP) issued warnings that the inquiry's activities, particularly the taking of certain evidence, could jeopardise these criminal trials.

Another substantial difficulty arose from the belated discovery of Section 33AK of the Central Bank Act, which prohibits the disclosure of information held by the Central Bank. This statutory provision came to light only after the inquiry had already commenced, despite the centrality of Central Bank material to the subject matter under investigation. Emergency legislation was required to amend the provision. Even after the amendment, any material obtained under the revised provision was subject to strict confidentiality obligations. The inquiry was compelled to develop complex data segregation protocols, unanticipated at the outset, to ensure compliance.

One of the key recommendations for future inquiries is the early identification and resolution of any legal barriers to the production of evidence —a step that was unfortunately overlooked in this instance.

Jurisdictional limitations presented further obstacles. While Irish citizens and residents may be compelled to give evidence, many of the principal figures in the banking crisis —including advisers and decision-makers— were foreign nationals. As such, the committee had no legal power to compel their cooperation.

Despite all these difficulties, the inquiry succeeded in publishing its final report. Volume I set out the committee's findings and the evidence supporting them; Volume II included 28 procedural recommendations for future inquiries. Chief among them was a call to amend the Inquiries Act to allow for a streamlined inquire–record–report procedure, with no authority to make findings against individuals —and accordingly, with proportionate procedural obligations. Other recommendations included a minimum two-year timeline for inquiries, comprehensive statutory auditing at the pre-inquiry stage to avoid unknown barriers (such as Section 33AK) and a clear protocol governing the relationship between the DPP and the Houses of the Oireachtas.

In conclusion, can parliamentary committees of inquiry serve as an effective instrument of scrutiny in Ireland? In theory, yes. But in practice, the current constitutional and statutory framework renders them rare, procedurally burdensome, and legally constrained —particularly when compared to ordinary committees vested with compellability powers. The recommendation for a simplified, lower-stakes form of inquiry is effectively a recommendation to return to those existing parliamentary committees.

2. Bicameral inquiry committees in the Italian experience, Mr Luigi GIANNITI (*Senato della Repubblica* – Italy)

The investigative power of the Chambers is expressly envisaged in the Italian Constitution**:** according to Article 82, "*Each House of Parliament may conduct enquiries on matters of public interest*". The second paragraph further establishes how this power is to be exercised: "*An Enquiry Committee may conduct investigations and examination with the same powers and limitations as the judiciary*".

The constitutional framework refers to inquiry committees that '*each Chamber*' may set up, therefore implying that the committees may belong to either the Chamber or to the Senate. And yet, a frequent way in which the Italian parliament conducts enquiries is through bicameral committees**.** The reason lies in a characteristic feature of Italian bicameralism: Parliament is formed by two directly elected chambers, with substantially similar electoral laws, both of which give the government a vote of confidence and participate equally in the legislative function.

Inquiry committees as a choice of the majority

Bicameral committees are generally established by law, which helps to better clarify the powers of the committees themselves. The decision to set up an inquiry committee is adopted by majority**.** While the Constitution was being drafted by the Constituent Assembly, the possibility of setting up minority inquiry committees (as per the German model) was taken into consideration. Ultimately, this was not the choice.

Throughout the first phase of republican history, the decision to proceed with parliamentary enquiries was the result of a widely shared agreement among political parties. The first inquiry committees in the 1950s dealt with major issues of Italian society: poverty, unemployment, the condition of workers, hindrance to competition in the economy.

This instrument was therefore initially used by Parliament as an attempt to provide political and legislative answers to these problems, based on President Luigi Einaudi's motto "*know in order to decide*".

Starting from the 1960s, investigations launched for legislative purposes were flanked by political enquiries into specific events. From then on, the question of the relationship between the exercise of parliamentary investigative power and the judiciary began to arise**.**

Bicameral vs unicameral committees

Tracing the history of the Italian Republic from 1968 to 1983, all inquiries were carried out by bicameral Committees: those were the years of the so-called 'centrality of Parliament'.

The use of bicameral committees established by law to conduct inquiries was also a sign of the cohesion of the party system and its parliamentary representation.

In 1971 new parliamentary regulations were approved, which introduced fact-finding investigations. These became the standard tool used by committees (both permanent and temporary) to acquire knowledge on issues within their remit in a coordinated and systematic manner.

During the 10th legislature (characterized by high political mobility and lasting the entire constitutional term of five years, from 1987 to 1992), seven committees of inquiry were set up, the highest number to date. Four were single-chamber committees: three by the Senate, one by the Chamber.

The crisis of the so-called "*Repubblica dei partiti*" came to a head during those years. Significantly, during this legislature the then President of the Republic, Francesco Cossiga, warned of the risk of "*disharmonious and therefore unproductive, if not downright harmful, activities*", in particular for inquiries concerning "*matters on which judicial proceedings are still pending, in which it would be seriously improper to interfere, even* de facto*, with encroachments or inappropriate suggestions*[1]."

More recently, starting in 1992, unicameral committees reappeared (from 1994 to 1996, there were nine inquiry committees: four bicameral and five unicameral, including three in the Senate). Since then, single-chamber committees have outnumbered bicameral ones. The Senate often has more unicameral committees than the Chamber of Deputies. In the 17th legislature (2013-2018), there were fifteen inquiry committees, and in the 18th legislature (2018-2022), there were twelve (five bicameral, three in the Senate and four in the Chamber of Deputies). The overall impression is that political fragmentation translates into a greater number of inquiries (mostly conducted by a single-chamber).

Bicameral committees currently active in the Italian Parliament

In the current legislature, since 2022, fourteen committees have been established: six bicameral, two unicameral in the Senate and six unicameral in the Chamber of Deputies. This is despite a one-third reduction in the number of parliamentarians[2].

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[1] *President Cossiga expressed these concerns in a letter sent to the Presidents of both Chambers, transmitted on the occasion of the promulgation of Law No. 397 of 1991, which extended the deadline for the completion of activities of the Committee on massacres.*

[2] *There used to be 630 deputies and today there are 400, while the number of senators elected has fallen from 315 to 200, plus five life-appointed Senators.*

There were 630 deputies and today there are 400, while the number of senators elected has fallen from 315 to 200, plus five senators for life.

Among the bicameral committees currently operating, three are continuing the work of committees established in the past and deal with general issues: fight against mafia, waste management and the issue of femicide (on the latter issue, the law has established a specific offence). As far as they are concerned, we may affirm that they are continuous parliamentary bodies which are constantly renewed at the beginning of each legislature. This element may be considered under a controversial light in terms of efficiency and opportunity since it amplifies the risks connected with permanent inquiry committees "*with the same powers and limitations of the judiciary*" (see below).

Three are new committees: two of them concern specific issues under judicial investigation that have had a major impact on public opinion (the disappearance of two girls in exceptional circumstances and a rehabilitation community for minors and disabled people), and the last one concerns the management of the health emergency caused by Covid pandemic. All were established by law.

Duration and changing responsibilities of inquiry committees

Some enquiries were limited to a single legislature. In other cases, committees entrusted with extremely arduous tasks have kept operating throughout multiple legislatures. In these cases, the instrument of the bicameral committee is always used.

One such committee is the one tasked to investigate mafia-related activities (anti-mafia committee), set up for the first time in 1962 (3rd legislature) and regularly confirmed since then, with responsibilities that have been consolidated over time.

Actual investigation activity is currently flanked with a parallel cognitive activity, even taking on policy-making and control functions. For example, Law No. 22/2023, which set up the Anti-mafia committee in the current legislature, tasked it with investigating the relationship between mafia and politics, also with regard to the formation of electoral lists. The committee may also request information from the national anti-mafia and anti-terrorism prosecutor and monitors attempts of mafia-related influence and infiltration in local authorities. This is quite evidence of the growing and relevant tasks assigned at the inquiry committees in recent times; moreover, such kind of peculiar powers and prerogatives tend to expand the tendency to become more autonomous with respect to the Chambers themselves.

Limits of political nature: parliamentary enquiries and the judiciary

One problematic aspect concerns the limits of the powers of inquiry committees. Under article 82 of the Constitution, as mentioned above, the committee "*may conduct investigations and examination with the same powers and limitations as the judiciary*".

The tools made available to this parliamentary body are therefore essentially those of the criminal investigation. In addition, more informal tools, such as hearings, can be used.

Since the 10th Legislature, i.e. since the end of the 1980s, the problem of the relationship between parliamentary inquiries and judicial proceedings has arisen on several occasions.

Inquiries were established and conducted simultaneously with ongoing judicial proceedings.

One such occurrence resulted in a case of conflict of attributions and a ruling by the Constitutional Court (Judgment No 26 of 2008).

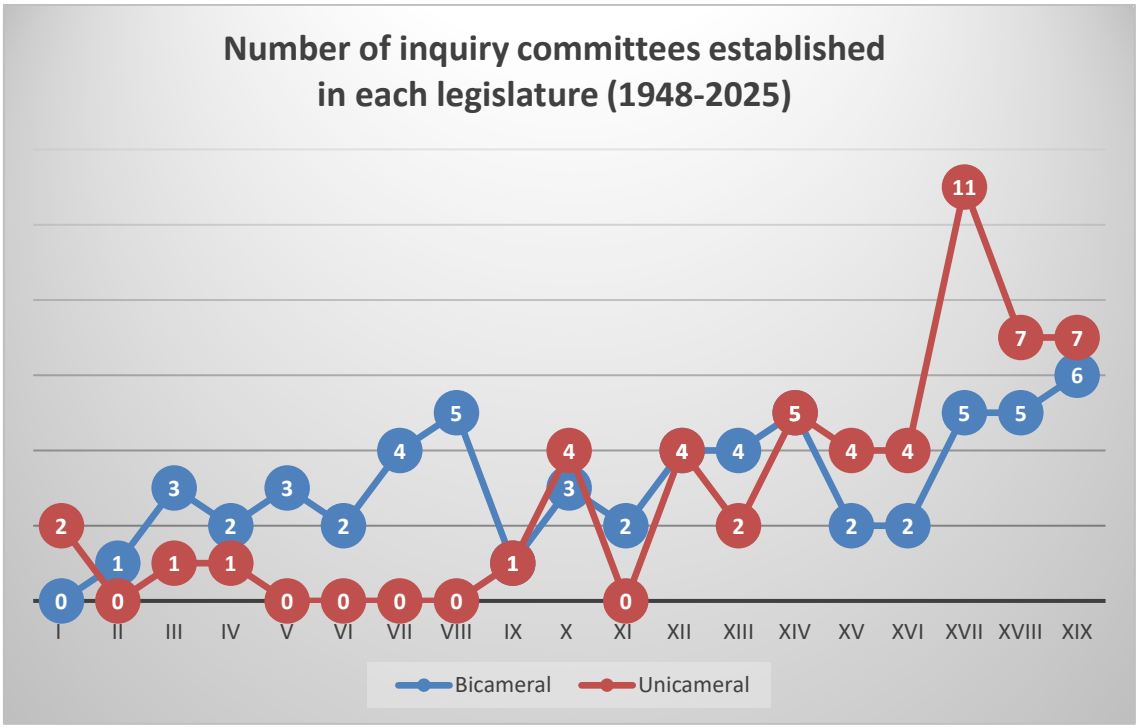
As a deterrent, many laws establishing inquiry committees precluded the adoption of "*measures concerning the freedom and secrecy of correspondence and any other form of communication, as well as personal freedom*"[1].

Another problematic issue has been the attempt by the current majority to condemn the actions of government officials of previous legislatures through the activity of inquiry committees. On several such occasions, the opposition not only voted against the draft bill establishing the inquiry committee, but even tried to slow down its activities.

Inquiry committees, just like judicial authorities, can order searches and seizures. These actions, being invasive of personal privacy, must be justified by specific investigative needs. Furthermore, they must be carried out in compliance with both the rules of the code of criminal procedure governing evidence gathering and the guarantees protecting the suspect, also at the

[1] *Presidents of the Italian Republic have spoken out on several occasions about the dangers arising from possible interference between the activities of the committees of inquiry and those of the judicial authorities. Recently, during the traditional meeting with the parliamentary press, the President of the Republic Sergio Mattarella invited the Presidents of the two Chambers to follow* "with attention the work of the Committee to ensure compliance with the limits set by the Constitution and EU law, as well as respecting differences in roles and responsibilities". *On the one hand, this is to prevent the enquiry from turning into* "a credit control", *which* "constitutes an exercise of the freedom of economic initiative recognized and guaranteed by Article 41 of the Constitution"*; on the other hand, it is to ensure that relations between parliamentary inquiries and the judicial authorities are conducted in accordance with* "the principles of non-interference and loyal cooperation". *On that occasion, President Mattarella, expressly referring to constitutional case law, observed that* "parliamentary enquiries are not precluded from investigating facts that are the subject of judicial inquiries, without prejudice to the different purposes pursued by each institution, expressed by the formula of "parallelism for different purposes". *However, the enquiry must not influence the normal course of justice, and the parliamentary body is precluded from ascertaining the manner in which the judicial function is exercised and the related responsibilities.*

constitutional level. Further limits on the use of these instruments appear to derive from the Convention for the Protection of Human Rights and Fundamental Freedoms insofar as no means or remedies appear to be in place in order to challenge the legitimacy of seizures and searches ordered by inquiry committees before an independent and impartial authority[1].



[1] *Corte EDU, prima sezione, sentenza 19 dicembre 2024 - Ricorso n. 29550/17 - Grande Oriente d'Italia c. Italia*

3. Parliamentary committees of inquiry and the "drawing right" in the French Senate, Mr Jean-Pascal PICY, Senior advisor at the Foreign Affairs and Defence Committee (*Sénat* – France)

Last year, I had the opportunity to serve as Head of Secretariat for the parliamentary committee of inquiry (PCI) on TotalEnergies, a major French electricity and gas company. This assignment was all the more interesting as the committee had been established at the initiative of the opposition. This highlights a distinctive feature of the French parliamentary system —one that notably differs from the Italian model. Since the 2008 constitutional reform, each political group belonging to the opposition is entitled to set up and lead one PCI per year in both the Senate and the National Assembly.

Today, I would like to provide an overview of how PCIs function in practice within the French Parliament. This includes a presentation of their legal framework, the practical conditions under which they operate, the methods and techniques they use, and the outcomes and follow-up mechanisms associated with their work.

Three types of legal instruments structure the legal framework governing PCIs in France. Notably, the Constitution only began to refer to PCIs relatively recently. While the current Constitution dates back to 1958, it was not until the constitutional revision of 2008 that Article 51-2 was introduced, providing that committees of inquiry may be established within each house of Parliament to gather information. Initially, the 1958 Constitution had sought to rationalise parliamentary powers and had significantly restricted the use of inquiry committees. However, legislative developments and evolving parliamentary practice have gradually expanded their use, and they now constitute an important instrument for strengthening parliamentary oversight.

Prior to the 2008 reform, only the 1958 Institutional Act regulated the establishment and functioning of PCIs. Under this framework, each chamber of Parliament may create its own PCI. Unlike in Italy, bicameral committees of inquiry are not permitted in France. The purpose of a PCI is to collect information either on clearly defined facts or on the management of public services or publicly owned companies. Not every subject proposed by a Member of Parliament qualifies as a legitimate basis for inquiry; the scope is strictly limited by law. Furthermore, PCIs cannot be established in relation to facts that are or have been the subject of judicial proceedings, in accordance with the constitutional principle of separation of powers.

The composition of each PCI reflects the political balance of the chamber to which it belongs. PCIs are temporary bodies, with a statutory duration limited to six months. However, the establishment procedure alone often takes at least one month, further reducing the effective time available for the inquiry itself. Within this limited timeframe, the committee conducts mandatory hearings. Persons summoned to testify are legally obliged to

attend. In practice, however, individuals often initially resist these summonses, citing scheduling conflicts, technical obstacles or general inconvenience. It is usually at that point that they are reminded of the possibility of police enforcement to compel their attendance —a highly effective deterrent. As a result, summoned individuals almost always comply.

Witnesses are required to testify under oath, and they are explicitly informed that both perjury and any act undermining the solemnity of the proceedings constitute criminal offences. This obligation helps to ensure that witnesses take the hearings seriously.

Since 1991, the principle of public hearings has become the norm, enabling the media to cover and report on the work of PCIs. Certain hearings, however, may be held in closed session when classified or confidential information is discussed. Another essential prerogative of PCIs is the investigative power conferred upon the rapporteur, which includes the authority to conduct on-site inspections and to access documents. The prospect of a surprise visit by senators —often accompanied by members of the press— to seize documents exerts considerable pressure on targeted entities. Consequently, the threat of legal action is usually enough to secure the cooperation of those who have been summoned or are under investigation.

There are two distinct procedures by which a parliamentary committee of inquiry may be established in France. The first is the standard procedure, which has been in place since 1958. Under this process, senators first draft a resolution to propose the creation of a PCI. This resolution is submitted to the standing committee responsible for the subject matter. Following this initial review, the Law Committee must verify that no legal proceedings are ongoing or have taken place concerning the same facts. Finally, the resolution must be adopted in plenary session by the Senate. Once adopted, the committee is officially created and its members are appointed. Each PCI may comprise up to 23 members.

The second mechanism, introduced by the 2008 constitutional reform, is the so-called drawing right (*droit de tirage*). This procedure acts as a sort of fast track, allowing each political group to establish one PCI per year. In this case, the resolution is not submitted to the relevant standing committee but is still subject to review by the Law Committee, which must confirm the absence of past or pending judicial proceedings. Unlike the standard procedure, there is no plenary vote; the President of the Senate simply acknowledges the establishment of the committee. This accelerated process grants the opposition a significant instrument of control, as the majority cannot block the creation of a PCI exercised under the drawing right.

Since 2009, PCIs established under the drawing right have often focused on sensitive or controversial issues. Typically, these committees are chaired by a member of the majority, while the rapporteur is appointed from the opposition —the political group that initiated the PCI. This configuration often results in a confrontational tone and heightened media attention. While such PCIs serve to increase public awareness of parliamentary oversight, they may also raise concerns about the politicisation of inquiries. A notable example occurred last month, when the Prime Minister, Mr François Bayrou, was heard for over five hours by the National Assembly in a PCI on violence against young people in schools, including the widely publicised Bétharram case. Some observers criticised the event as resembling a political trial rather than a neutral inquiry.

The composition of a PCI follows proportional representation. Members collectively designate both the chairperson and the rapporteur, each of whom exercises considerable authority. The chairperson is responsible for convening meetings of the committee and its bureau, signing summonses to hearings, and —where necessary— employing coercive measures to secure attendance. The chairperson also presides over hearings and may initiate proceedings in cases of false testimony. The rapporteur has precedence in questioning witnesses and bears responsibility for drafting the final report. Given the complementary yet distinct nature of their roles, the relationship between the chairperson and the rapporteur is critical to the success of the committee's work. When the chairperson belongs to the majority and the rapporteur to the opposition, as is often the case with committees established under the drawing right, collaboration may be challenging.

The bureau of the PCI includes the chairperson, the rapporteur(s), vice-presidents and secretaries —all senators— and functions as a forum for confidential deliberation. It defines the inquiry's strategic direction, settles internal disputes, and coordinates logistics. When a PCI is initiated under the drawing right, the bureau also serves as a conciliation body to facilitate cooperation between the majority and the opposition, particularly during the report drafting stage. Indeed, even though the opposition initiates the PCI, it cannot impose the final report, which must be adopted by a majority vote. This often requires the rapporteur to make concessions.

The administrative secretary – who is a member of the Parliament's civil service – operating under the joint authority of the chairperson and the rapporteur, plays a pivotal role in the organisation and execution of the committee's activities. This includes scheduling meetings, drafting questionnaires and reports, organising field visits and managing communication. The Head of Secretariat in particular acts as an intermediary between the chairperson and the rapporteur, a task that can be complex — especially when the two figures are reluctant to speak directly to one another. In such cases, the Head of Secretariat must serve as a go-between to maintain the functionality of the committee.

As for the methods and techniques employed by parliamentary committees of inquiry, hearings are naturally the most visible and widely used instrument. Most PCI hearings are held in public and are broadcast live. However, closed-door sessions may be organised when sensitive or confidential information is involved —for example, when ambassadors, judges, or the heads of independent authorities are called to testify. The decision to hold a hearing in public or in private is taken jointly by the chairperson and the bureau.

Written questionnaires constitute another essential investigative tool. These are prepared and sent by the rapporteur to individuals summoned by the committee and to relevant government departments in order to obtain precise facts and data. Particular attention must be paid to the confidentiality of certain information, which cannot be made public. Replies to these questionnaires are both legally and politically binding and must therefore be drafted with the utmost care.

In addition, the rapporteur has the authority to conduct on-site inspections and to request any document deemed useful to the inquiry. The mere possibility of such visits serves as a powerful incentive for cooperation, ensuring that written responses are accurate and that those interviewed contribute constructively to the hearings.

PCIs may also carry out field visits within France and, in some cases, abroad. These are especially relevant in inquiries relating to localised events, such as natural disasters, industrial accidents, or dysfunctions in the operation of public services. Nonetheless, the investigative powers of PCIs cannot be enforced beyond national borders.

Regarding the outcomes and follow-up of a PCI, the process culminates in the adoption of a final report. A few days before the closing session, the committee members are given access to the draft report. During the final meeting, the committee discusses possible amendments, after which a vote is held. As is always the case in parliamentary proceedings, the majority determines the outcome. When the majority has initiated the PCI, it can adopt the report unilaterally; however, even in such cases, efforts are usually made to obtain broader consensus in order to enhance the report's credibility and media impact.

A press conference is then held to present the report's findings, highlight any misconduct identified and announce the committee's recommendations. Typically, the final report includes between ten and twenty specific recommendations aimed at legislative or regulatory reform. In some cases, the report may lead to the introduction of a bill or the amendment of legislation already under discussion. Where potential criminal offences are uncovered, the PCI may refer the matter to the Ministry of Justice or directly to the public prosecutor, thereby triggering judicial proceedings.

4. Question-and-Answer session

During the question-and-answer session, participants raised questions about the investigative powers of committees of inquiry, how they interact with and differ from judicial proceedings (including rules regarding confidentiality and publicity), how judicial proceedings can be used to prevent a parliamentary inquiry from continuing its work, the personal rights of witnesses (especially when hearings are public and broadcast live), how these rights can be appealed if they are infringed, and the amount of human resources dedicated to PCIs within parliamentary administrations.

E. SESSION 2 – INVESTIGATIVE POWERS, METHODS AND TECHNIQUES

1. The resources available to parliamentary committees of inquiry and the methodology for gathering evidence, Mr Frank RAUE (*Bundestag* – Germany)

Drawing upon my experience with four parliamentary committees of inquiry, I would like to provide a brief overview of the resources available to such committees and the methodology they employ for gathering evidence.

There are three principal sources of evidence for parliamentary committees of inquiry: documents, witnesses and experts. Committees also possess the authority to carry out on-site inspections – for example, at facilities used to store nuclear waste –though such visits are not routine. In practice, the core investigative work centres on the collection and examination of documents, the questioning of witnesses, and the consultation of subject-matter experts.

Witness interviews are typically based on documents that the witness has authored, signed, or received. Accordingly, one of the very first steps taken by a newly established committee is to adopt a series of resolutions requesting the submission of documents from relevant government bodies. These resolutions are based on motions submitted by one or more parliamentary groups. Notably, if such a motion is supported by at least one-quarter of the committee's members, the committee is obliged to adopt it.

Motions to gather evidence are generally drafted by the staff of the parliamentary groups initiating the request. The committee's secretariat is rarely involved in this drafting process. Instead, the secretariat's main responsibilities at this stage are logistical: transmitting the adopted resolutions to the appropriate government departments, clarifying the preferred methods of document delivery, receiving and organising the submissions, and making the documents available to committee members.

Each government department implicated in the inquiry appoints a liaison to the committee. This person attends committee meetings and serves as the primary point of contact for the secretariat. When documents are submitted in paper format, the secretariat scans them and uploads them to the committee's digital drive, which is accessible to all members and parliamentary group staff. In recent years, however, most government submissions have been delivered electronically, typically *via* USB drives. The secretariat transfers these files to the committee's digital system. In the case of classified documents, special procedures apply. These materials are delivered to secure premises within the Bundestag, where they are copied onto designated laptops. Access to these laptops is strictly limited to those secure rooms, although they may be temporarily brought into the committee's meeting room when required for classified hearings.

Once the documents are made available, they are reviewed and analysed primarily by the parliamentary group staff. These materials often lead to the identification of new potential witnesses or the need for additional document requests. When a parliamentary group identifies a relevant witness through its analysis, it may seek a resolution to grant that person formal witness status. If the group holds at least one-quarter of the committee's seats, the resolution must be adopted. Otherwise, the group must obtain the support of other factions. Frequently, several groups identify the same key individuals, resulting in joint motions or proposals submitted by the chair on behalf of all parliamentary groups.

Through this iterative process, the committee progressively builds a comprehensive list of witnesses to be called in the course of its investigation.

However, the inclusion of a name on the list of potential witnesses does not automatically mean that the individual will be summoned. Instead, the senior staffers of the parliamentary groups meet regularly to deliberate on which witnesses should be heard and in what sequence. The outcome of these discussions is submitted to the spokespersons of the parliamentary groups, who typically endorse the proposal. It is then formally adopted at the subsequent committee meeting. Through this process, a witness hearing schedule gradually takes shape.

At the outset of the inquiry, this schedule is generally short-term in scope, covering only the upcoming one or two sessions. As the investigation advances, however, the schedule becomes more comprehensive and forward-looking. A common approach is to structure hearings by government department: witnesses from one department are questioned in sequence before moving on to another. Within each department, hearings often begin with officials at the lower levels of the hierarchy, followed by their direct superiors, then higher-ranking officials, culminating in the testimony of agency heads or cabinet members. These latter hearings are widely regarded as the inquiry's climax.

The secretariat is usually not involved in the strategic planning of witness sequencing, which remains the exclusive domain of the parliamentary groups. Once a consensus has been reached, typically conveyed by the chief staffer of the largest governing party, the secretariat is tasked with operationalising the decisions. This includes preparing the necessary meetings, organising logistics and implementing the committee's resolutions – for example, by sending formal invitations to witnesses and ensuring that the appropriate authorisations for their testimony are secured.

The weekly rhythm of these proceedings follows a well-established pattern, which is often as follows: on Tuesdays, the senior staffers of the parliamentary groups convene; on Wednesdays, the spokespersons meet; and on Thursdays, the committee itself assembles. Committee meetings are typically divided into two parts. First, a closed session is held to deliberate on

procedural matters – such as the scheduling of witness hearings or the adoption of new resolutions to gather evidence. Then follows the public (though not broadcast) session, during which witnesses are formally questioned.

A standard session involves the examination of three to four witnesses, each interviewed individually. The process begins with the witness being invited to give an uninterrupted account from their own perspective. This is followed by questions from committee members, starting with the chair. The chair may be guided by a questionnaire prepared in advance by the secretariat. These questionnaires generally begin with basic queries about the witness's professional background, the mission of their department or unit, and their specific responsibilities. Additional questions address how the witness prepared for the hearing.

It is important to note that these questionnaires are not shared with witnesses in advance; they are strictly internal tools intended to help the chair and committee members structure their inquiries. The second half of the questionnaire typically delves into substantive matters, confronting the witness with documents they authored, signed or received, or with testimony previously provided by other witnesses.

After the chair concludes their line of questioning – which may or may not follow the full structure of the prepared questionnaire – the floor is opened to other committee members, who are free to pursue their own questions. The chair retains discretion over how many topics from the questionnaire are raised and how the hearing unfolds.

Witness hearings are structured into so-called rounds of questions, each typically lasting about one hour. Within each round, time is allocated to parliamentary groups in proportion to their size. If the chair belongs to a group of the governing coalition, the first slot after the chair's initial line of questioning is granted to the largest opposition group, followed by the governing coalition's partner group, then the second-largest opposition group, and so forth. This alternating sequence between majority and opposition parties ensures a balanced dynamic throughout the questioning.

Once the first round concludes, the chair will invite members to indicate whether further questions remain. In most cases, this leads to additional rounds – a second, third, and sometimes even a fourth or fifth – until all questions are exhausted. The questions posed by members are typically prepared in advance by the staff of their respective parliamentary groups. There is usually no coordination between groups regarding the substance or sequencing of their questions, and certainly no centrally coordinated interview strategy devised by the chair or the committee's secretariat.

This decentralised and uncoordinated approach inevitably leads to some duplication, with witnesses being asked the same or similar questions multiple times. Conversely, important topics may sometimes go unaddressed. From a procedural standpoint, hearings conducted in this manner can appear

less structured and less efficient than those held before a court of law. Nevertheless, this apparent lack of coordination may occasionally yield surprising and valuable insights, arising from the spontaneous interaction of differing lines of inquiry.

Typically, there is a delay of several weeks between the formal establishment of a committee and the commencement of witness hearings. This is primarily because witness selection is contingent on the analysis of relevant documents, which must first be requested, submitted, reviewed, and interpreted. During this interim period, committees often hold one or two expert hearings. These are conducted in a manner similar to expert consultations held by legislative committees.

Parliamentary groups nominate several experts for appointment by the committee. The committee then agrees on a set of questions, and the invited experts are asked to provide written responses, which form the basis of a subsequent public hearing. Experts are not generally expected to analyse the evidentiary material gathered by the committee. Rather, they provide interpretive guidance on legal, procedural or scientific matters and help elucidate broader conceptual or academic debates relevant to the inquiry. Their statements, presented during the hearing, serve to stamp the committee's final report with an "*up-to-date expert*" validation and are often cited as authoritative reference points.

In certain cases, however, parliamentary committees of inquiry may appoint investigators instead of experts. A notable example concerns the 2020 inquiry into the collapse of the Wirecard Corporation. The committee obtained extensive documentation relating to the company's financial audits. In order to thoroughly analyse these technical materials, the committee engaged four certified public accountants. These individuals were not appointed as experts in the traditional sense, but rather designated as investigators, tasked specifically with scrutinising and interpreting complex financial data and audit records. So, what precisely is an investigator? In the German context, an investigator – or *Ermittlungsbeauftragter*, which could also be translated as "*investigating commissioner*" – is an individual appointed by a parliamentary committee of inquiry to support and prepare the committee's investigative work. This function was introduced by the 2001 Act on Committees of Inquiry, specifically under Section 10 of that Act.

Since the adoption of this legal provision, 19 parliamentary committees of inquiry have been established. Of these, eight have made use of this mechanism, collectively appointing 14 investigators. Those selected have included former members of Parliament, retired judges or prosecutors, other senior public officials, and, as mentioned earlier, certified public accountants.

The investigator's mandate typically involves reviewing documents, identifying relevant evidence, and examining individuals who may eventually be called as witnesses. Importantly, investigators are not limited to evidence

already submitted to the committee; they have the authority to request additional documents and to conduct preliminary interviews with individuals not yet formally recognised as witnesses. However, cooperation with an investigator is entirely voluntary – there is no legal obligation for individuals to comply.

Investigators report their findings back to the committee, both orally and in writing. They may recommend that the committee pursue certain lines of inquiry or interrogate specific individuals. Nevertheless, these recommendations are non-binding. The committee remains fully autonomous and may proceed independently of the investigator's conclusions, choosing whether or not to act upon the advice received.

There are multiple and often overlapping reasons for appointing investigators. They can be particularly useful when committees face time constraints, when there is a large volume of evidence to analyse, or when the number of potential witnesses is especially high. In such scenarios, investigators can offer preliminary assessments of evidence, help prioritise lines of inquiry, or propose witness lists tailored to the available timeframe.

In addition, the analysis of complex or technical material – such as financial audits or specialist reports – may require expertise that neither committee members nor their staff possess. In the Wirecard inquiry, for instance, this expertise gap was addressed through the appointment of investigators with professional accounting backgrounds.

A related issue concerns access to sensitive, often classified documents, especially those held by intelligence agencies or police authorities. Given the sensitivity of such materials, the executive branch may be tempted to interpret the scope of the committee's mandate very narrowly to avoid extensive disclosure. In these cases, the appointment of a trusted investigator – particularly a former judge or senior legal official – may serve as a compromise solution. Authorities may grant access to sensitive documents more willingly if they know that they are initially reviewed solely by the appointed investigator who, based on experience and expertise, will give an assessment of their relevance and importance to the committee. This arrangement helps avoid, or at least reduce, the risk of lengthy legal battles between the executive and the legislature.

Procedurally, an investigator must be appointed if at least one quarter of the committee members request it. A separate resolution is then required to designate the individual who will serve in this role. This resolution must be adopted by a two-thirds majority, ensuring that no investigator is appointed without broad cross-party support. Once appointed, investigators operate independently within the scope of their mandate and are entitled to receive staff support. In practice, the Bundestag's administration typically assigns two or three civil servants to assist them.

2. Legal and practical limits to investigative powers, Mrs Rita NOBRE (*Assembleia da Republica* – Portugal)

I work in the Committee Support Division of the Portuguese Parliament and have been invited to talk about legal and practical limitations to the investigative powers of Parliamentary Committees of Inquiry (PCIs). I will begin by providing a brief overview of these powers as recognised under Portuguese law, before presenting the key restrictions that apply to their exercise.

At the outset, it is important to understand why the investigative powers of PCIs can pose challenges and why they must necessarily be circumscribed: parliamentary inquiries cannot override constitutional rights or legal guarantees.

PCIs constitute a vital mechanism within the *Assembleia da República*, particularly for the exercise of political oversight. Their legal basis is found in the statute governing parliamentary inquiries, in which Article 13 plays a central role. This provision explicitly states that PCIs enjoy the same investigative powers as judicial authorities—at least insofar as such powers are not constitutionally reserved to those authorities. These powers notably include the ability to secure the cooperation of public bodies, which entails the right to be assisted by both judicial and administrative authorities, as well as by criminal police forces, under the same conditions as a court of law. PCIs may also request information and documents from government ministries, the public administration, independent regulatory authorities and private entities. Furthermore, they are empowered to summon any citizen to testify, including members of the government or representatives of public or private institutions.

Testifying before a PCI entails a strict legal duty to tell the truth. Witnesses may be held criminally liable for perjury in the same manner as if they were testifying before a court.

So where do the difficulties surrounding these powers begin? The answer lies once again in Article 13. The fact that Portuguese PCIs enjoy investigative prerogatives comparable to those of judicial authorities means that their procedures inevitably share certain features with judicial processes. However, there remains a fundamental difference in both the nature and purpose of these bodies. Courts are charged with determining legal liability– whether civil, criminal or administrative. In contrast, PCIs focus solely on political accountability and the provision of information to Parliament. They are not permitted, under any circumstance, to render binding judgments. It is this distinction that allows parliamentary inquiries and judicial investigations into the same facts to be conducted in parallel.

In practice, when a PCI is established in Portugal, the committee first requests information from the Supreme Court as to whether judicial proceedings are already under way regarding the matter at hand. If such proceedings exist, the committee may decide either to continue or to suspend its own investigation. In most cases, the two proceed in parallel.

However, a key issue arises from the drafting of Article 13 itself. Its deliberately broad formulation carries both advantages and disadvantages. On one hand, it offers valuable flexibility, enabling committees to adapt to the highly diverse nature of the subjects they investigate. On the other, it creates interpretive uncertainty and potential legal friction. The rationale behind this broad drafting rests on three main considerations:

– first, to provide the committee with operational flexibility given the heterogeneous nature of its mandates;

– second, to establish a degree of equivalence between PCIs and judicial bodies in terms of legitimacy and authority;

– third, to prevent institutional obstruction, by discouraging public or private actors from exploiting legal ambiguities to avoid cooperating with committees.

Nonetheless, this openness of Article 13 gives rise to several significant concerns. The lack of clarity may lead to divergent interpretations, especially when fundamental rights are implicated – such as the rights to privacy, data protection, or the presumption of innocence. Institutional boundaries are not always clearly defined, particularly between the competences of PCIs and the Public Prosecutor's Office. In some cases, the courts have been called upon to review PCI decisions, for instance where a request for documents was contested.

It is therefore essential to acknowledge that the powers of PCIs are not unlimited. Despite the latitude afforded by Article 13, there are well-recognised limitations that may be invoked to refuse cooperation or the submission of documents to a committee. Chief among these is the respect for constitutional rights and freedoms. PCIs must respect the right to private and family life, the protection of personal data, the right to a good reputation, the right not to self-incriminate, and the right to legal counsel. Decisions of PCIs may also be subject to judicial review.

Another significant limitation concerns legally protected confidentiality. Certain matters are subject to strict legal secrecy, which may only be lifted under narrowly defined circumstances. This includes state secrets, judicial secrecy (especially where ongoing criminal proceedings are concerned), professional secrecy for journalists, lawyers and medical professionals, as well as banking and tax confidentiality.

Perhaps the most fundamental restriction is derived from the principle of separation of powers. Under this principle, PCIs are prohibited from interfering in judicial proceedings or from compromising the independence of the judiciary, even though the Portuguese legal system does allow parliamentary inquiries to run in parallel with judicial investigations. While committees may investigate the same facts, they may not render decisions that carry the force of law or substitute themselves for the courts.

In recent years, several noteworthy controversies have emerged regarding the limits of parliamentary investigative powers. One particularly illustrative case was the most recent committee of inquiry in Portugal, which operated between April 2024 and April 2025. This committee examined the circumstances surrounding the administration of Zolgensma – a highly expensive treatment for a rare genetic disorder –to two Luso Brazilian twins. The inquiry encountered multiple legal constraints, prompting the adoption of various strategies to preserve its oversight role while remaining within the bounds of the law.

The first limitation encountered concerned professional secrecy and data protection obligations. To address this, the committee accepted the submission of redacted or anonymised documents, particularly when dealing with sensitive medical or personal information. This approach sought to strike a balance between the committee's need for access to relevant materials and strict compliance with data protection legislation.

In parallel, the committee consistently reaffirmed that its mandate was not to establish legal liability but rather to assess political accountability and promote institutional transparency. This clarification proved essential in justifying the receipt of certain information under the scope of parliamentary oversight.

A second constraint arose from the right to privacy and the protection of one's image. As a general rule, committee hearings in Portugal are public. However, the law permits exceptions, subject to the committee's approval. In this case, a closed hearing was authorised for one witness in order to respect these constitutional rights.

The third limitation concerned the refusal to transmit documents on the grounds of personal data protection, particularly medical data. In response, the committee consulted the legal services of the *Assembleia da República* for advice on how to proceed. Again, it underscored the political – not judicial – nature of its work to support its request.

Another significant issue involved the right to remain silent. The committee summoned two individuals who were defendants in ongoing criminal proceedings. Both appeared before the committee but chose to invoke their right to remain silent. The committee was obliged to respect this decision. However, members of the committee nonetheless wished to question them. In such instances, the scope of questioning was carefully limited to matters of political or administrative relevance, explicitly excluding any topics likely to interfere with ongoing judicial processes.

A further illustrative episode concerned the name of the committee itself. Given that the inquiry revolved around two small children, the informal label "*Twins Committee*" began to be used. However, the children's mother, who regularly published images of the children on social media, petitioned the Supreme Court, claiming that this designation infringed on the children's right to privacy and to their good name. Although the court's decision was ambiguous, it was generally perceived as favourable to the petitioner. In response, the committee formally adopted its full legal name and ceased using the informal designation—following instructions from the President of the *Assembleia da República*. While many committee members felt that such matters fell exclusively within the constitutional prerogatives of Parliament, they accepted the change as a gesture of institutional goodwill.

In conclusion, PCIs in Portugal possess robust investigative powers, but these powers are not without limits—particularly in cases involving parallel judicial proceedings. Article 13 of the legal regime governing PCIs, which forms the legal basis for these powers, is deliberately broad. While this allows for flexibility and adaptability, it also fosters uncertainty and interpretative confusion regarding the scope of permissible action.

The recent case concerning the Zolgensma inquiry illustrates the extent to which the boundaries of parliamentary investigation may be tested. In practice, each new committee often seeks to innovate procedurally, but in some cases this has proven ill-advised. In my view, it is essential to develop a clearer legal framework capable of reconciling the investigative functions of PCIs with their constitutional limitations. Such a framework should be informed by jurisprudence, institutional experience and the precedents established by previous inquiries. Without such clarification, we will continue to hear, as is often said in Portugal, that "*committees of inquiry are not courts – and cannot act as if they were*."

3. Parliamentary inquiries in practice in the Dutch House of Representatives, Mr Rob DE BAKKER and Mr Martijn VAN HAEFTEN (*Tweede Kamer* – The Netherlands)

Mr Rob de BAKKER

Thank you for the opportunity to share our experience with parliamentary inquiries in the Netherlands. Me and my colleague Martijn van Haeften both work in the Analysis and Research Department of the Dutch House of Representatives – that is, the lower house of Parliament, not the Senate. Over the years, we have been involved in several parliamentary inquiries and smaller-scale investigations, often serving as research coordinators or deputy coordinators.

From what we have heard from colleagues in other countries, there are many points of convergence in our respective practices, but also clear differences. In this presentation, we would like to highlight both. To begin, we looked for some documentation of our own involvement in inquiries – and we did find some: a video from the inquiry into the high-speed rail link between Amsterdam and Brussels. It shows us supporting the committee chair during a plenary debate. Admittedly, it was nearly nine years ago, so you may not recognize us.

We will explore several key aspects of our system, as outlined in the questionnaire we submitted. We will also reflect on recent challenges encountered in our latest inquiries.

Let us start with the legal basis. The right of parliamentary inquiry has existed in the Dutch Constitution since 1848. It is granted to both chambers, but in practice, it is only the House of Representatives that has exercised it. The Senate has never conducted a parliamentary inquiry. This may be due to differences in scale – the Dutch Senate is significantly smaller.

Among the specific powers granted to inquiry committees, two stand out. First, the ability to summon witnesses to testify under oath during public hearings – a legal obligation they cannot refuse. Second, the right to demand the production of documents and information, a power that exceeds what is ordinarily available to Parliament in its regular work. In addition, as has been mentioned today, committees may also conduct site visits. We heard earlier that such visits can have a major impact, so we think it might be useful to explore ways to use this tool more effectively in practice.

The formal objectives of our inquiries are truth-finding and lesson-learning. However, they often pursue additional, less explicit aims. These may include public accountability and – more ambitiously – the restoration of public trust in government. As some of our committee members have noted, "*We can contribute to restoring trust, but we cannot do it alone*." Others go even further and speak of a "*public cleansing function*" of inquiries – an effort to confront past failures and turn the page.

Because of these high expectations, inquiries in the Netherlands are seen as weighty, solemn exercises – sometimes as "*the inquiry to end all inquiries*." This explains why they tend to be time-consuming and more complex than the more rapid fact-finding exercises conducted by some other parliamentary bodies in other countries.

As you can see on the image of our designated inquiry hearing room, the inquiry committee members sit to the right of the frame. The witness being questioned is a former Minister for Infrastructure and Transport. All our hearings are broadcast live on national television. This image shows Mark Rutte, our former Prime Minister and arguably the most experienced parliamentary inquiry witness in Dutch history. Having served as Prime Minister for fourteen years, he has appeared before inquiry committees on numerous occasions. As head of the Cabinet, he ultimately bears political responsibility for many of the issues under scrutiny.

This particular hearing was held during the inquiry into the high-speed rail link. As you can see, parliamentary inquiries in the Netherlands are treated with the utmost seriousness.

In terms of quantity, we have conducted fewer inquiries than some of our colleagues – especially compared to France. However, those that have been launched typically concern large-scale failures or crises involving significant public or governmental impact. Among the inquiries I have personally been involved in are those on the high-speed train project, the fraud policy programme, and, most recently, the COVID-19 pandemic – which we began addressing slightly later than other countries.

Dutch parliamentary inquiries tend to be long-term undertakings, often lasting 18 to 24 months. In fact, they are getting longer over time. One factor contributing to this is the increasing fragmentation of our Parliament. With many political parties represented, inquiries require broad and stable majorities to function effectively. The timelines I have just mentioned reflect the net duration of the investigation phase. If we include the preparatory work carried out by a dedicated preliminary committee – which typically lasts about five months – the total duration often exceeds two years.

Election cycles present an additional challenge. In the Netherlands, elections are frequent and can occur at short intervals. Despite this, inquiries have so far always continued across electoral cycles, with sufficient support from a broad majority. That said, no future continuity is ever guaranteed.

I recall one anecdote from the high-speed rail inquiry that illustrates the logistical demands of these investigations: we had to request a structural assessment of our building's floors because the quantity of physical documents was so large. That was over a decade ago, and it marked the beginning of our transition toward digitized document collection – a transition that has since been completed and is now essential, given the ever-growing volume of information we collect.

The structure of Dutch inquiries broadly follows the model described in the previous presentations. All inquiry phases are anchored in formal majority decisions. A distinctive feature in our process is the confidential preparatory hearings, which follow the intensive document review stage. We typically conduct between 80 and 130 of these closed-door hearings on a voluntary basis. Participation is not a legal obligation, but most witnesses agree to participate. These preparatory hearings generally also involve junior officials and departmental staff. By contrast, the public hearings focus on senior figures – ministers, top civil servants and other decision-makers. The number of public hearings is much smaller, usually between 40 and 80.

In our model, public hearings mark the committee's first real public appearance. Until then, the committee operates in complete discretion, "*under the radar*." Public hearings are usually held after a year or more of confidential work and serve to test key elements of the investigation under oath, filling remaining gaps in the narrative. They also draw considerable media attention and, in some cases, become the true climax of the inquiry process – putting the final reporting phase under additional pressure.

One of the key challenges we face lies in securing majority support. As I mentioned, our political landscape is highly fragmented – at present, there are 15 parties represented in Parliament. This makes consensus-building complex. Just last week, our coalition government collapsed and the Cabinet resigned. This will inevitably lead to changes in committee composition. The ongoing inquiry will likely continue, but possibly with new members. How it unfolds remains to be seen.

Mr Martijn van HAEFTEN

I would like to begin by expressing my appreciation to all the other presenters. I have worked in this field for over ten years, but this is the first time I have had the opportunity to engage directly with colleagues from other countries who do similar work. It has been both stimulating and enriching – thank you for that.

As my colleague mentioned earlier, Dutch parliamentary inquiries tend to be lengthy, and that can sometimes be a source of frustration for politicians who favour quicker processes. In response to such concerns, the House of Representatives adopted a motion in 2015 calling for an experiment with shorter inquiries. This led to the development of a special protocol for what were termed "*parliamentary interrogations*". The idea behind this new format was to conduct condensed inquiries focused almost exclusively on public hearings. The plan was to bypass time-consuming document analysis and confidential preparatory interviews, moving rapidly to live hearings conducted by Members of Parliament already familiar with the topic under investigation.

This approach contrasted with that of traditional inquiries, which are typically carried out by MPs with no prior involvement in the subject matter – a feature designed to ensure neutrality and an open-minded perspective. The interrogations were expected to take no more than a few weeks or months. During the experimental phase, three such interrogations were conducted. Rob and I participated in one of them, focused on the childcare benefits scandal – a high-profile case that generated intense political and public pressure. The inquiry had to be completed quickly due to upcoming elections, and the final report was released just in time. It ultimately contributed to the Cabinet's resignation, although the proximity of elections meant this consequence was politically limited.

Following the third interrogation, an official evaluation of the experiment was conducted. The conclusion was that the separate regulation and protocol governing these shortened interrogations were no longer necessary. If a regular parliamentary inquiry wished to adopt a faster timeline, it had the freedom to do so without a special framework. In practice, however, the experiment was effectively discontinued and a concise inquiry has not been carried out yet. One of the reasons for this is the increasing number of political groups in Parliament. Each party brings its own questions and priorities, leading to a gradual broadening of the inquiry's scope and making it difficult to keep the process short and focused.

Moreover, the experiment demonstrated that even public hearings require a solid evidentiary foundation, including document analysis and prior preparation. Skipping these essential steps significantly reduces the quality and credibility of the hearings. In short, the promise of speed proved difficult to realise without compromising the integrity of the inquiry.

Returning now to our standard inquiries: Dutch law grants inquiry committees a broad mandate. There are hardly any formal limitations on the topics that can be investigated. However, the powers of the committee are subject to certain constraints, most notably the principle of proportionality. When the House adopts a motion to initiate an inquiry commission, it also votes on a detailed research mandate. All subsequent investigative actions must be proportionate to the terms of that mandate.

Private entities retain the right to challenge committee actions in court if they believe, for instance, that the demand for documents exceeds what is justified by the inquiry's objectives. While rare, such legal challenges are possible, and committees must remain aware of this when planning their work. Conflicts with government departments, however, cannot be settled through legal means; they must be resolved politically.

There are also recognised exceptions to the obligation to provide documents. These include reasons of national security, commercial confidentiality, personal privacy, professional secrecy and judicial secrecy. In such cases, committees may negotiate solutions such as redacting sensitive

content or organising controlled access to confidential materials. These arrangements are common and reflect a practical approach to balancing investigative needs with legitimate concerns.

As discussed in earlier sessions, there are no statutory restrictions on inquiries operating in parallel with judicial proceedings. Dutch law explicitly states that the aim of an inquiry is truth-finding, and that this objective can, in some cases, take precedence over the interests of criminal prosecution. To protect this balance, the law also provides that witness statements made before an inquiry committee cannot be used as evidence in criminal trials. This legal firewall reinforces the autonomy of the parliamentary inquiry and preserves its focus on establishing facts in the public interest.

Let me now share some practical insights regarding the functioning of our inquiry committees and their support staff. Typically, an inquiry committee consists of around five Members of Parliament – sometimes more – drawn from various political parties. Despite differing affiliations, the members must collaborate closely and usually strive to produce a consensus report.

The supporting staff are civil servants from the House of Representatives, with no involvement from the political group staff. Their responsibilities cover both procedural and research-related tasks. In larger inquiries, we often bring in temporary researchers and subject-matter experts to strengthen the team. The research staff are responsible for conducting document analysis, drafting briefing papers to inform the committee, and preparing hearing questionnaires. Most of this preparatory work is carried out by the staff, and subsequently reviewed, discussed, and possibly amended by the committee. The drafting of the final report also falls to the staff. While committee members ultimately have the last word – especially on conclusions and politically sensitive passages – much of the initial drafting originates from the research team.

There is a clear rule that all external communication during the inquiry is handled exclusively by the chairperson. Other committee members are not permitted to speak to the press while the investigation is ongoing. However, during public hearings, all members may ask questions. These are usually drawn from an agreed-upon questionnaire prepared in advance. While hearings are structured around these questions, members often deviate as needed in response to the witness's answers. Prior coordination ensures that everyone is aware of each other's areas of sensitivity and intended lines of questioning.

Turning to the follow-up of inquiry reports: once the final report is submitted to Parliament, it is followed by a written round of questions and answers. This culminates in a plenary debate between the committee and the full chamber. During this session, MPs may question the committee on its work, conclusions, and recommendations. The debate usually ends with the

tabling of a motion, often by the largest political group. This motion can vary in tone – from fully endorsing the report's conclusions and urging the Cabinet to act, to more modest expressions of appreciation or simply requesting a governmental response without a clear endorsement.

Following this, the Cabinet issues a written response to the report, which is in turn debated in Parliament. At this stage, members of the inquiry committee no longer play a prominent role; responsibility for the debate shifts to the regular parliamentary spokespersons. There is no standardised mechanism for tracking the implementation of recommendations. It is up to individual MPs to ensure continued attention to the committee's findings.

In a plenary debate involving an inquiry committee, the committee members are in the front row; directly behind them sits the staff – a rare privilege, as this section is usually reserved for ministers. For us as civil servants, participating in these debates in such a visible manner is a unique experience reserved for inquiry committees.

We are also facing some contemporary challenges. The widespread use of messaging apps has created concerns around privacy and access to relevant communications. We increasingly rely on e-discovery tools[1] to process large volumes of digital data. For example, during the COVID-19 inquiry, we received over three million documents – an immense volume that poses serious processing and analysis difficulties.

Lastly, our system traditionally relies on consensus. Inquiry committees have often been mainly composed of centrist political parties, making it easier to find common ground. However, as political fragmentation increases, this model is under pressure. Forming inquiry committees and reaching consensus is becoming more challenging.

[1] *E-discovery solutions are software used to identify, collect, preserve, process, review, analyze and produce electronically stored information.*

4. Question-and-Answer session

During the question-and-answer session, participants asked questions on various topics, including the follow-up to PCI recommendations, the political consequences of PCIs, the challenges posed by vast digital documentation and archives, and the tools used to address these challenges. Other topics included the publicity of hearings, the legal and procedural frameworks of parliamentary committees of inquiry, the verification of the submission of relevant documents by government bodies, and the use of written submissions by witnesses.

F. SESSION 3 – COLLABORATION AND CONFLICTS WITH OTHER INSTITUTIONS, INCLUDING THE JUDICIARY

1. The consultation procedure in the Austrian National Council – A mechanism to ensure due consideration to the activities of prosecuting authorities, Mr Alexander FIEBER (*Nationalrat* – Austria)

To keep the momentum of this seminar, I will be brief and to the point. In the National Council, the lower house of the Austrian Parliament, we have a unique mechanism known as the "*consultation procedure*". It is specifically designed to ensure that parliamentary committees of inquiry can fulfil their oversight mandate without interfering with ongoing criminal investigations.

Let me start with a simple question: what happens when a committee of inquiry intends to summon someone who is also under criminal investigation? Who decides whether that is permissible, and how? The consultation procedure provides a structured answer to precisely this issue.

A few words of context to begin with. Austria has a bicameral parliament, but only the National Council may establish parliamentary committees of inquiry. Until 2015, these committees could only be created by majority vote. Since a constitutional reform in 2015, however, a quarter of the members of the National Council (46 members) can initiate such a committee. Alongside this expansion of minority rights, a comprehensive set of procedural rules was introduced to govern inquiry committees. The goals were to make procedures more predictable, to establish mechanisms for conflict resolution, and to improve coordination with law enforcement and judicial authorities. This reform coincided with a case before the European Court of Human Rights involving Poland, which raised similar issues regarding the balance of powers between judicial and parliamentary institutions. That case served as an additional inspiration for Austria's regulatory framework.

The consultation procedure is now enshrined in paragraph 58 of the Rules of Procedure on Parliamentary Inquiry Committees. It stipulates that committees must respect the ongoing work of prosecuting authorities. To that end, the procedure creates a dialogue between the inquiry committee and the Federal Ministry of Justice. It is the responsibility of the committee chair to notify the Minister of Justice of any general decisions relating to the taking of evidence, additional evidence requests or statements made by witnesses.

An important institutional figure in this system is the procedural judge —a role unique to Austria's Parliament. The judge assists the chairperson with all procedural matters. He works with his own team, while we —meaning the secretariat— support the broader workflow.

Initiation of a consultation procedure is not automatic. It occurs only if the Ministry of Justice believes that a committee's planned action – for example, a request for documents, evidence or a witness summons –might interfere with an ongoing investigation. The Ministry is not required to justify such a belief. Once the request is made, the committee chair is obliged to begin the consultation process without delay. The meeting is chaired by the committee chair and is always recorded in writing. The outcome of the meeting should be a consultation agreement formulated on the basis of the minutes.

Regarding participants, the committee chair is theoretically the President of the National Council, who may be represented by the second or third president if unavailable. In practice, it is almost always the first president who attends. Other participants include the Federal Minister of Justice, the procedural judge, the chair of the inquiry committee, and representatives of the parliamentary groups involved in the committee.

That said, parliamentary practice often diverges somewhat from the official rules. Meetings are frequently chaired by someone from the committee chair's office. In addition to the procedural judge and Ministry representatives, the meetings are also attended by law enforcement officials, parliamentary group staff and the joint secretariat. This illustrates how actual practice often evolves beyond the strict wording of paragraph 58.

The consultation agreement is drafted by the Ministry of Justice on the basis of the meeting transcript. It must set out in writing how the activities of the law enforcement authorities and certain investigative measures will be taken into account through the adoption of specific procedural adjustments. The committee chairperson does not contribute to the substance of the agreement but ensures, through their office, the formal coordination and conclusion of the process. The content is jointly coordinated between the Ministry and the parliamentary groups involved.

A careful balance must be struck between the interests of law enforcement and those of parliamentary oversight. Sensitive situations include, for example, the early stages of criminal investigations or undisclosed investigative measures that should remain unknown to the individuals concerned.

The agreement outlines appropriate procedural measures, which may include adjustments to the committee's work plan, the timeline for submitting documents, the organisation of witness hearings, and the publication of the committee's findings. In practice, these agreements have also served to mitigate resource constraints in the judiciary by establishing priorities for document requests or clarifying technical matters.

Until a 2022 decision by the Austrian Constitutional Court, the conclusion of such agreements required unanimous consent from all parliamentary groups represented in the committee. Since that ruling, a simple majority decision by the committee suffices. If no agreement can be reached between the committee and the Ministry regarding either the necessity or the content of a consultation agreement, the committee may formally request the Ministry to submit a position within two weeks. The Constitutional Court must then issue a ruling within four weeks.

The 2022 judgment marked a turning point in the formalisation of the consultation procedure. In the case that triggered the ruling, a parliamentary committee sought to summon a witness who had not yet completed their questionnaire for the Central Public Prosecutor's Office for the Prosecution of Economic Crimes and Corruption. The PCI issued a formal summons, which prompted the Ministry to initiate the consultation procedure due to potential interference with ongoing investigations. Multiple meetings failed to produce a consensus among the parliamentary groups and law enforcement representatives. The Ministry ultimately referred the matter to the Constitutional Court, which did not rule on the substance of the agreement, but rather on the procedural requirements needed to conclude such agreements under the Constitution.

To conclude, I would like to briefly summarise how this procedure has functioned in practice. The ÖVP (*Österreichische Volkspartei*[1]) Corruption Investigating Committee required seven consultation meetings to finalise three agreements. The COFAG (*COVID-19 Finanzierungsagentur des Bundes GmbH*[2]) Investigating Committee completed one meeting resulting in one agreement. The "*Red–Blue Abuse of Power*" Investigating Committee[3] held four meetings and concluded three agreements.

I hope this overview has been helpful, and I thank you once again for your attention.

[1] *Austrian People's Party.*
[2] *COFAG is an Austrian company established to provide services and financial measures during the Covid-19 pandemic.*
[3] *This inquiry committee was set up to determine whether public funds were misused for inappropriate purposes by different ministers.*

2. The role of investigation committees in prosecuting Cabinet members, Mrs Konstantina - Styliani GAVATHA (*Voulí ton Ellínon* – Greece)

This has been a very insightful seminar, and I hope Greece can contribute meaningfully by sharing its experience with specialised investigation committees, particularly those empowered to propose the prosecution of members of the Cabinet.

In Greece, parliamentary committees of inquiry (PCIs) are strictly regulated by our Constitution, the Rules of Procedure of Parliament, and specific implementing laws. This strong regulatory framework is rooted in the historical trauma of the military dictatorship that preceded the adoption of our current Constitution in 1975. The lack of effective parliamentary oversight during the pre-dictatorship period led to an especially rigorous constitutional design regarding parliamentary control mechanisms, including those governing PCIs.

We have two distinct types of PCIs. The first, which I will focus on here, is the more powerful and constitutionally significant: the *ad hoc* committee for preliminary investigation, which has the exclusive competence to scrutinise criminal allegations against members of the Cabinet. Article 86 of the Hellenic Constitution provides that "*only the Parliament has the power to prosecute serving or former members of the Cabinet or Deputy Ministers for criminal offences committed in the exercise of their duties*." Furthermore, if in the course of another investigation or preliminary inquiry a judicial authority or prosecutor uncovers evidence implicating such political figures, they are constitutionally obliged to halt their proceedings and transmit the relevant file to Parliament without delay.

Once the file is transmitted, Parliament must decide in plenary session whether to initiate a preliminary investigation. If so, the *ad hoc* committee for preliminary investigation is established to handle the matter. The formation and operation of these committees are regulated by the constitutional chapter delimiting the competences between the legislative and executive branches, not the chapter concerning Parliament's internal operation. Their mandate is strictly judicial in nature: they investigate alleged criminal conduct by ministers, deputy ministers, or undersecretaries. Their work culminates in a reasoned report containing a specific legal proposal on whether or not to initiate formal criminal proceedings. This report is then submitted to the plenary, where it is voted on by secret ballot.

These committees must be clearly distinguished from a second category, known as parliamentary examination committees. These do not concern themselves with criminal investigations but rather focus on matters of general interest or public concern. Their constitutional basis lies in a separate chapter of the Constitution dealing strictly with parliamentary functions. While they share certain features with *ad hoc* preliminary

investigation committees —notably the possession of investigative powers equivalent to those of judicial authorities during the investigative phase— their aim is not to prosecute but to reinforce Parliament's oversight capacity. Their reports are not subject to a vote.

The procedure for establishing parliamentary examination committees is considerably simpler, in the sense that it is less demanding regarding formalities, more open and accessible. In 2019, the Constitution was revised to strengthen the role of the parliamentary opposition by granting it the right to establish up to two such committees per legislature, irrespective of the majority's approval. This amendment was intended to ensure that opposition groups could shine light on issues of public concern even without majority backing — something that remains impossible for the *ad hoc* preliminary investigation committees, which can only be formed with the approval of the plenary.

Now let us return to the *ad hoc* committees for preliminary investigation and the process by which they are established. It begins with the submission of a motion to Parliament, which must be signed by at least 30 members of Parliament. The motion must clearly specify the alleged criminal offences, citing the relevant provisions of the Penal Code, applicable legal texts, and the evidence that justifies initiating an investigation. While it is not necessary to produce full proof of the offence, the evidence must be sufficiently substantial to warrant further examination.

Once the motion is submitted, it must be placed on the parliamentary agenda and debated in plenary session. The relevant deadlines for scheduling this discussion are quite strict. When the motion finally comes before the plenary, a public debate is held, followed by a secret ballot. To be adopted, the motion must receive an absolute majority of the total number of MPs. If the motion is passed, the process of establishing the Committee begins.

In 2011, an optional preliminary step was added to the procedure: before forming the committee, Parliament may —again upon the initiative of at least 30 MPs and subject to approval by absolute majority— refer the matter to a three-member Judicial Council, tasked with examining the evidence and assessing its reliability. This reform was introduced in response to widespread public concern, with the aim of reducing political bias and ensuring a more legally grounded process. Paradoxically, despite being widely supported at the time, this option has never been used in practice —a fact that remains difficult to explain.

Once Parliament votes to create an *ad hoc* preliminary investigation committee, its members are appointed. The minimum number is twelve, but in practice the committee is larger to ensure proportional representation of all political groups. Once constituted, the committee assumes the powers of the public prosecutor. It can issue instructions to judicial authorities and may ask for their assistance to carry out its investigation. For the purposes of this specific preliminary inquiry, the committee and its President act as sole prosecutorial authorities.

Given the criminal nature of the procedure, strict confidentiality must be observed, and the principles of due process and the rights of defence are fully respected for all persons under investigation or interviewed. At the conclusion of its work, the committee drafts a report setting out its findings and presenting the supporting evidence. The report must include a legal analysis and a detailed, reasoned proposal as to whether formal criminal proceedings should be initiated. Where there is dissent —which is systematically the case— the minority opinion must be fully developed and presented in a separate chapter of the report. The committee's final report and accompanying documentation are then transmitted to the Speaker of the Parliament, who formally notifies the plenary. The plenary must begin its deliberations within 15 days of the formal announcement. The debate that follows is of a general nature and concerns whether or not to proceed with prosecution. At this stage, the person under investigation —whether still in office or no longer serving— may, but is not obliged to, appear before Parliament to be heard publicly.

Immediately following the plenary debate, a secret ballot is held not only on the committee's general recommendations, but also on each individual offence alleged in the motion. Each charge is submitted to a separate vote. Should Parliament be dissolved or the legislative term expire before the process is complete, the debate must resume in the new legislature. This continuity is guaranteed by the judicial nature of the proceedings, which must not be disrupted by electoral cycles.

If the committee's recommendation to prosecute is rejected, no new motion may be submitted against the same individual on the same facts. Where prosecution is authorised, Parliament is responsible for composing the Special Court and the accompanying Judicial Council. This is done through a lottery procedure, conducted in plenary session and in the presence of the Speaker of Parliament. Members of Greece's highest courts and the Public Prosecutor's Office are selected by lot to serve on the Special Court. Once selected, the Speaker formally transmits the case file, the parliamentary resolution authorising prosecution, and the list of regular and substitute judges to the Special Court, which is thereby constituted.

In practice, *ad hoc* committees for preliminary investigation rarely lead to prosecution. As a result, the Greek Special Court has convened no more than three or four times in total. The entire procedure has been widely criticised for injecting political considerations into what is, in essence, a judicial process. Members of Parliament —who are not trained in legal analysis— are expected to evaluate complex evidence and assume the role of public prosecutors during the committee's proceedings. The procedural requirements —confidential sessions, strict evidentiary standards, legal terminology, and structured legal reporting— can prove difficult for parliamentarians to navigate.

It was precisely to address these concerns that the 2011 reform introduced the optional referral to a Judicial Council before the formation of a committee. This step was designed to alleviate the burden on Parliament by allowing trained judicial authorities to assess the credibility of evidence beforehand. Though it was welcomed at the time as a tool for strengthening the rule of law, avoiding politically motivated proceedings, and safeguarding the right to a fair trial, this mechanism has —paradoxically— never been used.

Another long-debated issue concerns the extinguishing deadline that previously governed ministerial accountability. Enshrined in Article 86 of the 1975 Constitution, this provision limited legal proceedings against members of the Cabinet to the end of the second regular session of the Parliament following the alleged offence. Once this deadline had passed, neither the judiciary nor Parliament could initiate prosecution, since only Parliament was constitutionally empowered to do so —and that power had lapsed. This limitation was heavily criticised for fostering impunity. A constitutional amendment adopted in 2019 abolished the deadline, thereby enabling proceedings to continue without being constrained by procedural time bars. This reform was intended to enhance accountability, improve transparency, and address the public perception of privileged treatment for political officeholders.

Several recent cases illustrate how the *ad hoc* committees for preliminary investigation operate in practice. The most recent involves a former deputy Minister to the Prime Minister at the time of the fatal Tempi train crash in 2023. A standard parliamentary examination committee had already conducted an investigation and issued a report that was critical of his actions —although such reports carry no legal consequences. Given the gravity of the incident, Parliament proceeded to establish an *ad hoc* committee for preliminary investigation. The person under investigation requested that he not be interviewed substantively and instead proposed to have his case transferred directly to the Special Court. While the Constitution makes no provision for such a bypass, the committee ultimately drafted a report recommending immediate referral to the Special Court. This proceeding remains ongoing.

Another significant case occurred in 2021, involving a former Minister of Digital Policy accused of bribery and breach of duty in connection with the 2016 television licence tender process. Following an *ad hoc* Committee's investigation and a parliamentary vote, the case was referred to the Special Court. The minister was prosecuted, convicted of breach of duty, and sentenced to two years' imprisonment, suspended for a period of three years —meaning the sentence would not be served unless a further offence were committed during the suspension period.

The most prominent and consequential case to date took place in 2011 and concerned allegations of corruption and money laundering in relation to the procurement of type 214 submarines. An *ad hoc* committee for preliminary investigation was established by Parliament to examine the actions of the then competent Minister of Defence. Following the committee's proceedings and subsequent judicial process, the former Minister under investigation was found guilty on all charges in 2013 and sentenced to twenty years in prison. However, he was later released early on health grounds.

In conclusion, despite efforts to strengthen the institutional framework governing inquiry committees, significant challenges remain in the process of prosecuting members of the Cabinet. Members of Parliament are required to assume quasi-judicial investigative responsibilities that lie outside their usual remit. Furthermore, the Judicial Council —created in 2011 as a means of ensuring objective legal scrutiny before parliamentary inquiries are launched— has yet to be activated by Parliament.

Although the *ad hoc* committees for preliminary investigation continue to produce detailed reports, public confidence in their effectiveness remains limited. The 2019 constitutional revision, including the abolition of the extinguishing deadline, was intended to reinforce accountability and transparency. Nevertheless, many citizens continue to view parliamentary investigations with scepticism, questioning the legislature's capacity to carry out impartial and credible inquiries into the actions of its own members.

3. Parliamentary privilege of witnesses, Mrs Rhiannon WILLIAMS (*House of Lords* – United-Kingdom)

In the United Kingdom, parliamentary privilege constitutes a distinct feature of the British constitutional system. It refers to a set of rights and immunities conferred on Parliament, its members and its staff to enable each House to perform its functions without external interference. A central component of this privilege, particularly relevant to the work of Select Committees, is freedom of speech, as enshrined in Article IX of the 1689 Bill of Rights, which states: "*the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament*." This principle underpins what is commonly referred to as exclusive cognisance, meaning that parliamentary proceedings fall solely under the control of Parliament itself and are not subject to judicial review. Freedom of speech extends to all formal parliamentary proceedings – including committee sessions, chamber debates and oral questions – but it does not shield members or staff from actions occurring outside such proceedings. In other words, privilege applies to the proceedings themselves, not to individuals as such.

Parliamentary privilege remains a complex and sensitive area. Testimony provided before a Select Committee – whether oral or written – is protected: it cannot form the basis for legal action, nor may it be used in criminal prosecutions. A notable case occurred approximately two decades ago, when a civil servant was dismissed after testifying before a committee; the incident ultimately led the department in question to reverse its decision in embarrassment.

However, privilege does not extend to every possible consequence. For example, if testimony given before a committee triggers a separate criminal investigation, parliamentary privilege offers no shield. Nor does it apply if a witness repeats in public a statement first made in Parliament: once made outside Parliament, such a statement loses its protected status. Published evidence, including that made available online, benefits from absolute statutory immunity under the Parliamentary Papers Act 1840.

Evidence submitted to a Select Committee is also covered by parliamentary copyright. Written submissions cannot be published independently by witnesses; they must first be reviewed and authorised for publication by the committee. In certain cases—for instance, those involving allegations or sensitive material—committees may choose to delay publication, redact the content, or reject the evidence altogether. In the latter case, the material in question would not be covered by privilege. Committees also accept anonymised submissions in cases where personal safety may be at risk.

Witnesses may republish their own evidence, provided they first consult the committee and clearly indicate that the material was originally submitted to a Select Committee. In doing so, they may benefit from qualified privilege, but this protection may be lost if the publication is deemed malicious. Publishing evidence prior to its formal release by the committee, or releasing evidence that was rejected or redacted, could constitute a contempt of Parliament. Any conduct intended to deter witnesses from testifying – such as threats, intimidation, or reprisals – may also be treated as a contempt and should be brought to the committee's attention.

Committee staff are frequently asked by prospective witnesses about the protections afforded to them, particularly in cases involving sensitive disclosures – such as whistleblowing, allegations of misconduct, corruption or incompetence. There is no definitive answer as to what will be protected and to what extent, as much depends on the individual circumstances and the specific content of the evidence.

In practice, there is relatively little recent case law clarifying the scope of parliamentary privilege, especially in relation to Select Committees. What jurisprudence does exist largely stems from chamber proceedings. Noteworthy examples include the superinjunction cases and the matter involving Lord Hain, who named a businessman – Philip Green – in Parliament in relation to allegations reported in the press. There was also a case brought before the European Court of Human Rights by Lord Ahmed, a former Member of Parliament, in which the House of Lords ultimately prevailed. The ECHR invoked the doctrine of the margin of appreciation but made clear that it was not bound by domestic rules on parliamentary privilege, unlike British courts.

Disciplinary and penal powers form part of each House's capacity to regulate its own affairs. Obstructing the proper functioning of either House or interfering with the duties of parliamentary staff may be deemed a contempt of Parliament. Each House may institute inquiries, summon witnesses and require the production of documents. Failure to comply – by refusing to attend proceedings, answer questions or provide documents – may similarly be regarded as a contempt. This highlights another essential facet of parliamentary privilege: the power to call for persons, papers and records. Yet in contemporary practice, enforcement relies more heavily on public accountability than legal compulsion. A well-known example is the case of Dominic Cummings[1], who was held in contempt by the House of Commons after declining to appear before a Select Committee.

Both Houses of Parliament follow broadly similar procedures when addressing breaches of privilege or instances of contempt, although these mechanisms are less formalised and less frequently invoked in the House of Lords. Typically, when a potential contempt arises in connection with a Select

[1] *Former Chief Adviser to the British Prime Minister Boris Johnson in 2019-2020.*

Committee, the committee concerned will produce a report to bring the matter to the attention of the House. Alleged breaches are handled on a case-by-case basis. If a Member of Parliament wishes to raise a privilege issue, this must be done in writing to the Speaker. The matter may then be referred to either the Committee on Standards or the Committee of Privileges – a cross-party select committee tasked with investigating and reporting on the alleged contempt.

Sanctions today are relatively limited. Although Parliament once wielded judicial powers, including the ability to impose fines or imprisonment, these powers have fallen into disuse. The last recorded fine was imposed in 1666 and the last imprisonment took place in 1880, when the offender was detained in the clock tower – an option clearly considered inappropriate today. Although there have been repeated calls to establish a statutory power, no legislative action has been taken thus far. In current practice, non-members who commit contempt may be summoned before the House to receive a formal reprimand.

As regards official documents, select committee reports and other publications are deemed proceedings in Parliament and thus benefit from parliamentary privilege. Under the principle set out in Article IX of the Bill of Rights, such proceedings "*ought not to be impeached or questioned in any court*." This means courts may acknowledge the existence of parliamentary proceedings as a matter of historical fact, but cannot challenge or scrutinise their content. However, not all activities undertaken by a committee fall under the definition of proceedings in Parliament. Informal meetings, outreach events or communications *via* social media are generally excluded from this protective scope.

Concerning the *sub judice* rule, particular care must be taken when collecting oral or written evidence to avoid commenting on the substance of ongoing judicial proceedings. This rule applies to both criminal and civil cases and prohibits discussion of the merits of active cases in committee hearings or published documents. Exceptions may be granted, and the Lord Speaker has the discretion to waive the rule when appropriate. This restriction does not apply to bills, delegated legislation or matters already under consideration by ministerial inquiries. In general, Parliament should refrain from intervening in areas to which it has delegated responsibility. The Lord Speaker's decision to grant or withhold a waiver is final and may not be challenged on the floor of the House.

For those interested in further detail, the Joint Committee on Parliamentary Privilege produced a comprehensive report in 2013 which explores many of these issues in depth. One particularly delicate area concerns the reputational risks faced by committees in connection with the evidence they receive and publish. A recent inquiry on the United Kingdom's One Hundred Year Partnership agreement with Ukraine highlighted these challenges. The committee in question received a large volume of written submissions – many of which were strikingly similar in content, raising suspicions about the possibility of automated or coordinated submissions.

Once published, these statements would benefit from parliamentary privilege and could not be withdrawn or challenged in court. Despite these concerns, the committee elected to publish the evidence, which now appears on the Parliament website. This episode underlines the need for careful consideration when handling controversial evidence. Committees must remain vigilant in protecting not only the rights of witnesses and contributors, but also their own institutional integrity.

4. Question-and-Answer session

During the question-and-answer session, discussions covered various topics, including the roles of the "*Office of the Chairperson*" and the "*Procedural Judge*" in the Austrian Parliament, the concepts of the "*sub judice* rule" and "*contempt of Parliament*" in the United Kingdom, the triggering of prosecutions of government members by the Hellenic Parliament and the cooperation between parliamentary committees of inquiry and the judiciary.

G. CONCLUSIONS

1. Discussion panels – Findings and follow-up of parliamentary committees of inquiry

Participants were invited to split into three discussion groups in order to share their experiences on PCIs outcomes and follow-up as well as to discuss questions related to communication strategies and the impact of PCIs on public opinion. The purpose was to identify the three best practices for maximising the outcome of a PCI and enabling the implementation of its recommendations where relevant.

After the panel discussions, a representative from each group presented to the plenary the best practices chosen by their group and participants voted for the most convincing ones. The three best practices which gained the most votes were the following:

– conducting an *ex post* evaluation of the impact of the PCI and/or its recommendations;

– arranging ownership of the PCI follow-up, for instance through standing committees;

– proposing a limited number of recommendations and prioritising them.

2. Concluding remarks by Mr Charles WALINE, Director for Parliamentary Initiative and Delegations (*Senate* – France)

Ladies and gentlemen, dear colleagues,

As we reach the conclusion of this seminar, I would like to express my sincere gratitude to each and every one of you for your presence, your engagement, and the valuable contributions you have made throughout the seminary.

I would like to extend my special thanks to, first of all, the speakers who agreed to come and present on our committees of inquiry work in their respective assemblies. The insight and expertise displayed has been really remarkable.

I would like also to extend special thanks to our Austrian colleague and coordinator of the area of interest "parliamentary practice and procedure", Christoph Konrath, for his advice and support over the past few months.

Naturally, I shall not forget the ECPRD team, Christine Detourbet, who just left, and Barbara Pinto Leite, for their organizational support and great level of efficiency. Last but not least, I would like to make special thanks to the organizing team from the Comparative Law Unit of the French Senate, Anne-Céline Didier, Franck Tissot and Marie-Cécile Cozic.

Over the course of these past two days, we have had the opportunity to hear inspiring presentations, exchange ideas, and collectively reflect on the legal and practical challenges of operating parliamentary committees of inquiry. As mentioned in the introduction yesterday, to date there are few studies or academic publications that address committees of inquiry from a comparative law perspective. It would be a shame from my point of view not to capitalize on this seminar to advance this field of knowledge. I would therefore like the Senate to publish the proceedings of this seminar next autumn.

Once again, I thank you for your participation and wish you every success in your various work and activities.

H. OVERVIEW OF PARLIAMENTARY COMMITTEES OF INQUIRY

Outline of presentation

1. Introduction
2. A classification of PCIs
3. Practical aspects of PCIs

1. Introduction

PCIs in academic literature

A paradox:

- Parliamentary committees of inquiry are generally regarded as one of the most **powerful oversight tools** to Parliaments
- Yet there is **little academic literature** on this topic, with few comparative studies examining more than two or three countries.

1. Introduction

Definitions

Though common to parliamentary regimes, it lacks a **single, well-established definition** — especially in comparative terms.

"Committees of inquiry are bodies set up by parliamentary assemblies to gather information on specific issues or on the management of public services, enabling Parliament to fully exercise its oversight role over the Government."

(Jean Gicquel, *Droit parlementaire*, 2008)

Temporary bodies established during the course of legislative term to investigate specific issues

(Elena Griglio, *Parliamentary oversight of the executives, Tools and procedure in Europe*, 2020)

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1. Introduction

ECPRD requests on PCIs

Since 2000, approx. 20 ECPRD requests on PCIs related issues, among which 2 requests of a general nature:

2019, #4241, European Parliament	2025, #6043, French Senate
"Committee of Inquiry in National Parliaments"	"Parliamentary committees of inquiry in practice"
9 questions	12 questions
26 replies from 21 countries	46 replies from 35 countries (+ the European Parliament)

Changes since 2020: only 7 countries have made changes to their legal framework related to PCIs.

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2. A classification of PCIs

Parliament's power to establish PCIs

85 % of responding parliamentary assemblies can create PCIs

In **33 countries** (+ the EP) out of 35, PCIs can be set up.

In **6 countries**, PCIs can be set up by the **lower chamber** of Parliament only:

- Austria
- Belgium
- Czechia
- Germany
- Poland
- Slovenia

In **2 countries, the Parliament cannot create PCIs** :

- **Slovakia**
- **Sweden**

In 2 other countries, the creation of PCIS is theoretically possible but this power is not used :

- **Denmark** (since 1953)
- **Finland** (since 1968)

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2. A classification of PCIs

Legal basis

Law or Rules of Procedure	Constitution	
Armenia	Albania	Latvia
Bosnia-Herzegovina	Austria	Luxembourg
Canada	Belgium	Moldova
Estonia	Bulgaria	The Netherlands
Norway	Croatia	North Macedonia
Serbia	Czech Republic	Portugal
United Kingdom	Finland	Poland
	France	Romania
	Germany	Slovenia
	Greece	Spain
	Hungary	Switzerland
	Ireland	Türkiye
	Italy	Ukraine
Total: 7	**Total: 26**	

79%
of responding countries can establish PCIs in accordance to their Constitution

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2. A classification of PCIs

Some specific cases

The select committees model: UK

In the House of Commons:
20 departmental select committees + 3 other scrutiny committees in charge of scrutinising the executive

In the House of Lords:
Sessional investigative committees (13 out of the 36 select committees) + temporary special inquiry committees + possible follow-up inquiries by the Liaison committee

Bicameral committees of inquiry :
Italy, Spain, Romania
Joint PCIs consisting of both deputies and senators.

Different sorts of inquiry/investigative committees:
Greece (Examination committees and Ad Hoc Parliamentary Committees for Preliminary Investigation)

Granting PCI's investigative powers to standing committees:
France

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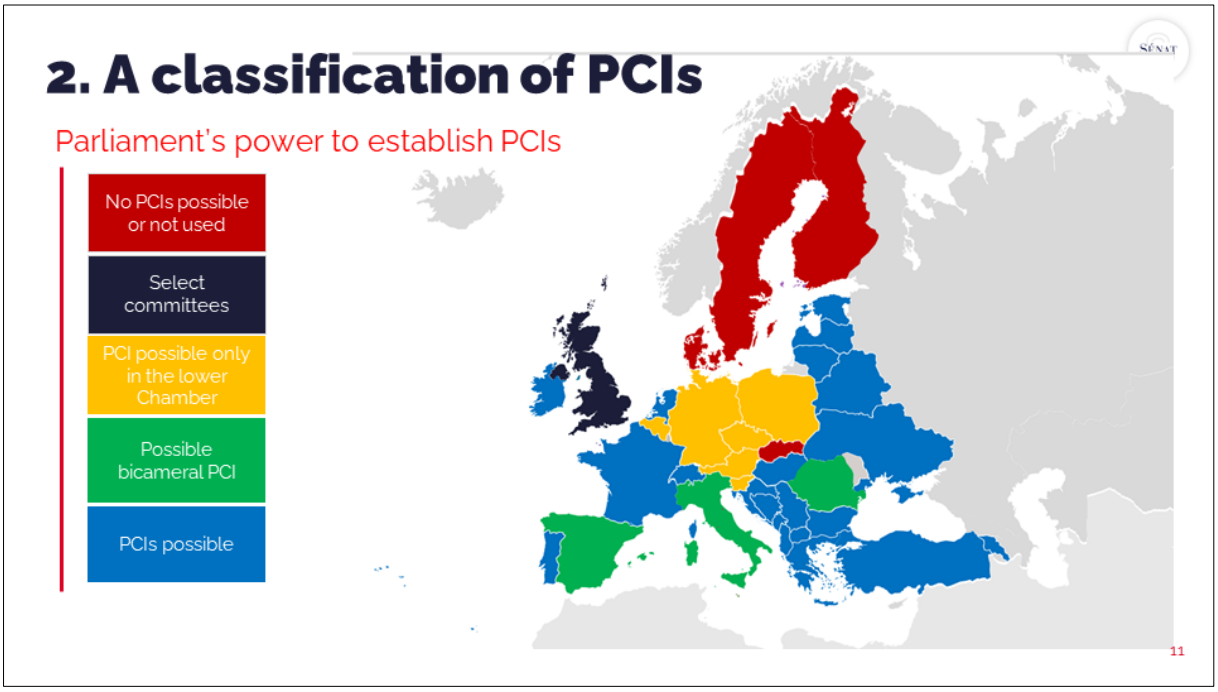
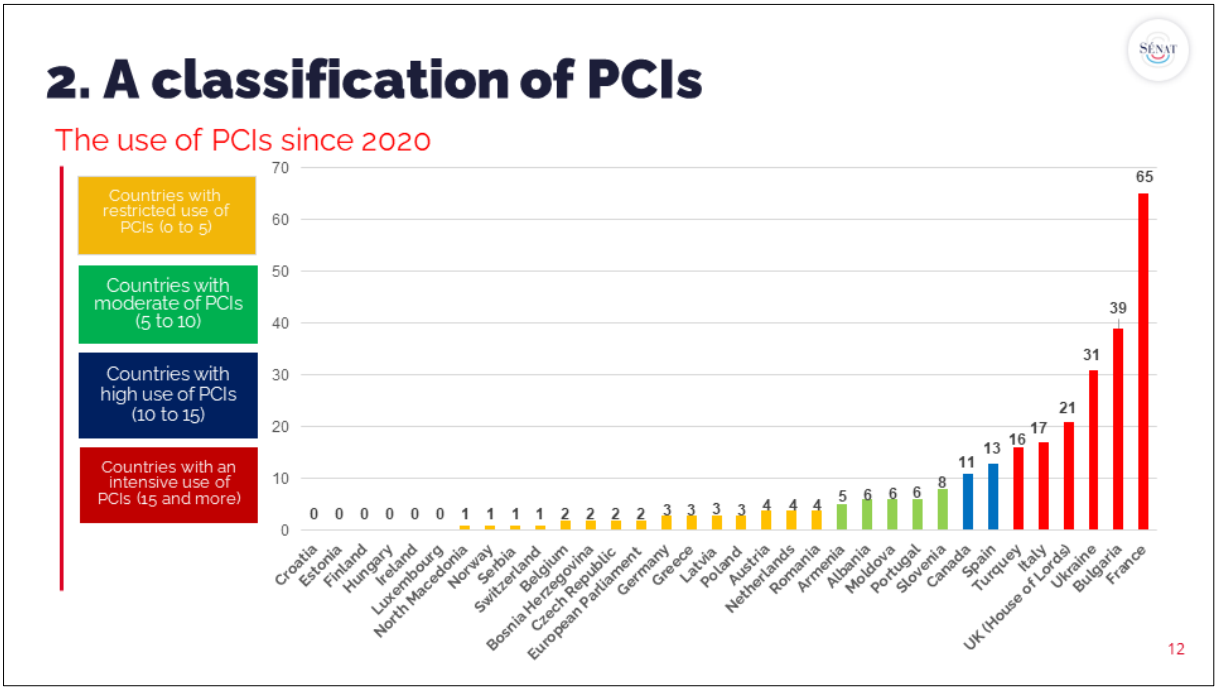

2. A classification of PCIs
Parliament's power to establish PCIs
No PCIs possible or not used
Select committees
PCI possible only in the lower Chamber
Possible bicameral PCI
PCIs possible
11


2. A classification of PCIs
The use of PCIs since 2020
Countries with restricted use of PCIs (0 to 5)
Countries with moderate of PCIs (5 to 10)
Countries with high use of PCIs (10 to 15)
Countries with an intensive use of PCIs (15 and more)
70
60
50
40
30
20
10
0
0 0 0 0 0 0 1 1 1 1 2 2 2 2 3 3 3 3 4 4 4 5 6 6 6 8 11 13 16 17 21 31 39 65
Croatia
Estonia
Finland
Hungary
Ireland
Luxembourg
North Macedonia
Norway
Serbia
Switzerland
Belgium
Bosnia Herzegovina
Czech Republic
European Parliament
Germany
Greece
Latvia
Poland
Austria
Netherlands
Romania
Armenia
Albania
Moldova
Portugal
Slovenia
Canada
Spain
Turquey
Italy
UK (House of Lords)
Ukraine
Bulgaria
France
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2. A classification of PCIs

Length & Initiative

Duration of PCIs varies greatly:

From **3 to 4 months** (Türkiye)
Up to **5 years** (Norway)
In general, not more than **1 year**

Initiative:
In many assemblies, **a majority ranging from 1/5 to 1/3** of the members is needed to set up a PCI.

No right of the opposition or a minority to create a PCI in a few countries (Belgium, The Netherlands).

Specific cases :

- "Drawing right" of parliamentary groups in France
- Setting up of a PCI by passing a law in Italy

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2. A classification of PCIs

Chairpersons & Conflict Resolution

Selection and responsibility of chairpersons:

It is a common practice that the chairperson is a **member of the political group that has iniated the PCI**. In Estonia, the chairperson has to be a member of the opposition.

The President of the Chamber as chairperson ex lege:
The Austrian Nationalrat is unique: The President of the Chamber has to chair a PCI (and is not a member of it). S/He is assisted by the Procedural Judge.

Conflict resolution mechanisms:
In general, conflicts within a PCI and between (parts of) a PCI and other state organs have to be resolved **politically**. But there are **exceptions** like conflicts over the right to establish a PCI (Slovenia) or the competences of a PCI (Spain).

In **Austria** and in **Germany**, the **Constitutional Courts** have a designated role as arbiter in such conflicts. In Austria the Constitutional Court is under an obligation to decide such cases immediately.

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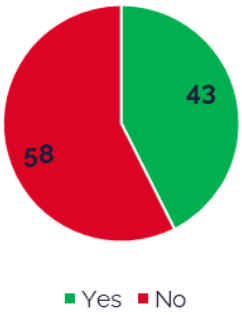
2. A classification of PCIs

Parallel judicial proceedings on the same matter

Parliamentary assemblies allowing a PCI in parallel to judicial proceedings on the same facts (in %)



The ***sub judice* rule** applies in a majority of countries.

In other countries, there are generally political arrangements or negotiations (Germany) or an *ad hoc* consultation procedure in Austria.

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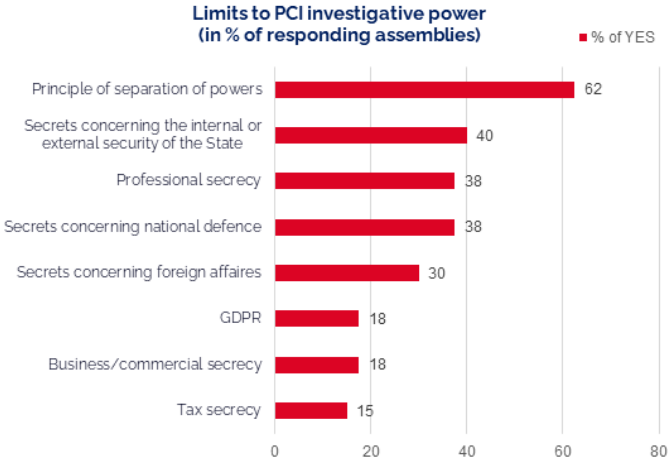
2. A classification of PCIs

Investigative powers and their limits

The main investigative powers of PCIs are :

- **hearing of witnesses**, officials, civil servants, members of Gvt
- **requesting documents**
- in fewer parliaments, conducting fact-finding visits or on-the-spot investigations.

In many countries, possibility of **administrative or criminal sanctions** for providing false evidence, refusing to provide a document or refusing to be heard.



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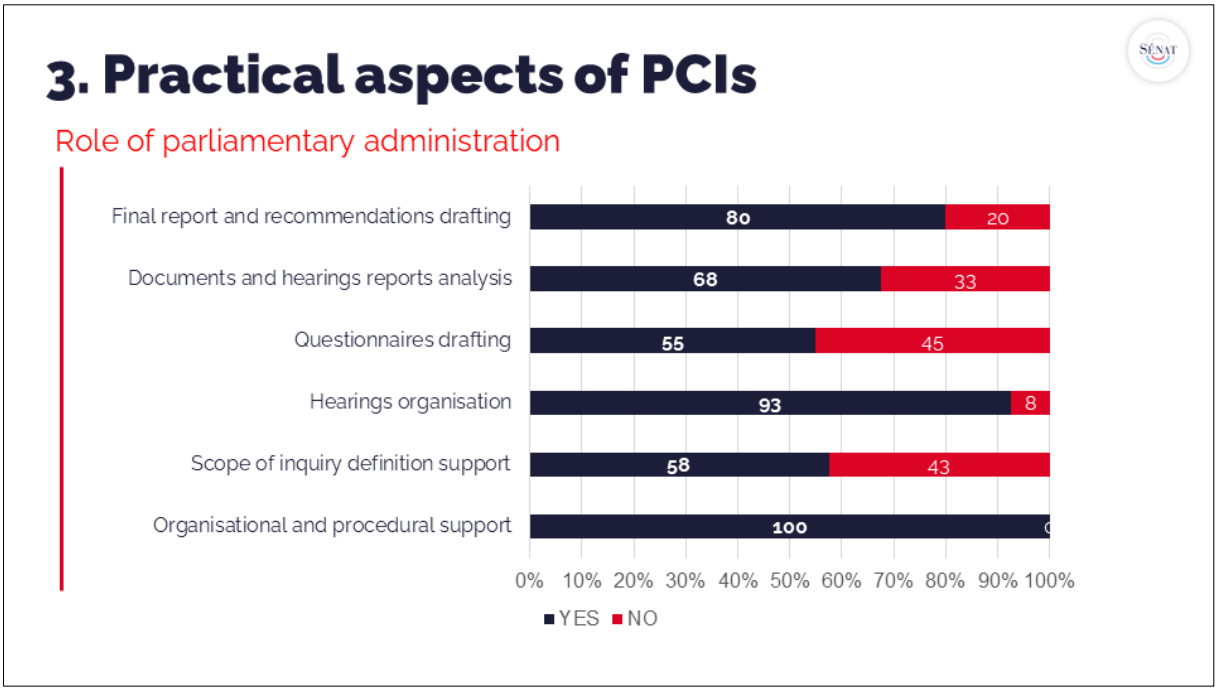
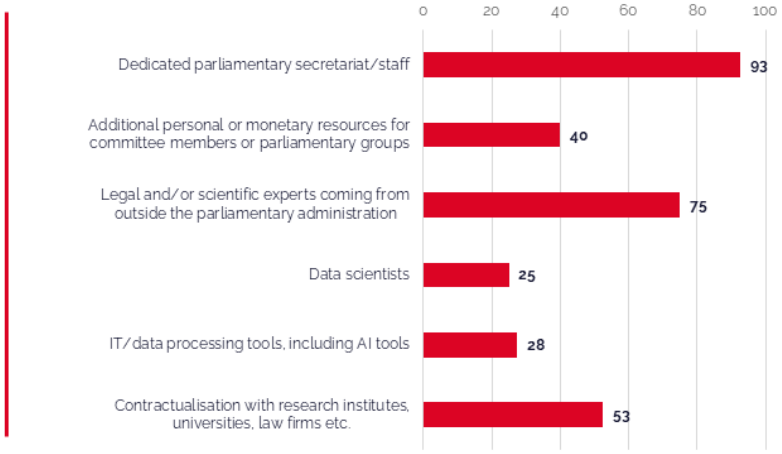
03.
Practical aspects of PCIs


3. Practical aspects of PCIs
Role of parliamentary administration
Final report and recommendations drafting
80
20
Documents and hearings reports analysis
68
33
Questionnaires drafting
55
45
Hearings organisation
93
8
Scope of inquiry definition support
58
43
Organisational and procedural support
100
0
0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
YES NO

3. Practical aspects of PCIs

Available resources and tools



In some assemblies, possible specific (external) assistance:

- from a procedural judge (Austria)
- from an « investigator » if requested by MPs (Germany

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