

Handbook on

**Standing Orders and
Parliamentary Ethics**

Handbook on Standing Orders and Parliamentary Ethics

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FOREWORD

Secretary General of the House of Representatives of the Republic of Indonesia

The members of the House of Representatives of the Republic of Indonesia (DPR RI) of the 2009-2014 period are the people's representatives elected by the third general election after the Democratic Reform, the advent of democracy in Indonesia. Compared to previous post-Reform elections, we may say that the 2009 election has gone through a more mature democratization process.

The positive development of democracy in Indonesia intensifies the people's demand on their representatives in the DPR to improve their work performance and quality compared to previous periods. In truth the demand must also take account of the fact that the majority of the people's representatives of this period is new to the DPR. They would need relatively more time to study and comprehend their tasks and authorities in performing their functions as the people's representatives.

In addition, it is necessary to immediately familiarize DPR members of this current period with their role, function, tasks, and authorities, because the recently issued Law No. 27/2009 on the People's Consultative Assembly, House of Representatives, House of Regional Representatives, and Regional House of Representatives has changed several regulations on the system and procedures of representative institutions in Indonesia.

We understand that in order to improve work performance, DPR members need to increase their knowledge and understanding of their main tasks and functions according to new developments, including new adjustments to existing laws. To help increase such knowledge and understanding, the General Secretariat of DPR is cooperating with Parliamentary Support Programme of UNDP to compose eight handbooks for DPR members.

To optimally realize the hopes and intentions of this book, we have composed this book: (1) based on regulations according to Law No. 27/2009 on the People's Consultative Assembly, House of Representatives, House of Regional Representatives, and Regional House of Representatives, which is currently the main foundation for the system and procedures of representative institutions in Indonesia; (2) with the goal to fill practical needs; (3) complete with best practices in Indonesia or in other countries.

It is our hope this book will have significant positive impact on the work performance of the DPR.

Secretary General DPR RI,

Dra. Hj. Nining Indra Shaleh, M.Si.

PREFACE

UNDP Parliamentary Support Programme

On this occasion, the United Nations Development Programme (UNDP) would like to congratulate the new members of the House of Representatives (DPR) of the Republic of Indonesia, 2009-2014. We wish you success in your public endeavours. We would like to take this moment to express our gratitude to the Secretariat General of the DPR RI, the Australian Agency for International Development, and The Asia Foundation for their unwavering support in the development of these handbooks. Finally, we also would like to thank the authors themselves for generously sharing their expertise and experience.

Becoming a member of parliament is a great honor, but it also entails great responsibility. Certainly, the House Members are expected to not only listen to the people, but also represent them and respond to their needs in a timely and effective manner. The UNDP Parliamentary Support Programme gives its full support to the Secretariat of DPR RI and all the House Members in the representation of their constituents.

The Handbook on Standing Orders and Parliamentary Ethics explains what rules or Standing Orders are and why they are important for the day to day activities in parliament. The Standing Orders define the rights, duties, and responsibilities of members. Moreover, the book discusses the parliamentary Code of Ethics and its purpose. Further, the book also explains the ideal oversight of the Code of Ethics through the Ethics Council.

The success of parliamentary democracy in Indonesia depends much on the work of its members. For that reason, the public will have a great interest in overseeing the members' work in parliament. To support the effectiveness of the members' work, this handbook describes best practices from various democratic countries. The UNDP Parliamentary Support Programme is also continuously supporting the work of members with the necessary knowledge and technical assistance.

We hope that members will find this handbook useful, and will refer to it regularly as a source of information in carrying out their duties. We have compiled complicated and complex issues into a simple and easy-to-read format. We wish all the members the best of luck in all their future work.

Yours sincerely,

UNDP Parliamentary Support Programme

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Glossary

Transparency

Efforts and systems that provide information, access, and legal guarantees for the public to know public information.

Conflict of Interest

A situation experienced by a state official involving both personal interests and the interests of one's position that could influence the decisions and actions that are taken.

Disclosure

Revealing and providing information to the public.

Participation

Efforts and systems that provide space and access for the public to influence the processes of setting of public policy and decision making by the DPR.

Code of Ethics

Norms or standards as a unitary ethical or philosophical foundation through regulations on behavior and statements regarding what is obligatory, forbidden, or inappropriate for a member of the DPR.

Voting

The method of decision making based on a majority of votes.

Susduk

The abbreviation for *susunan dan kedudukan* ("organization and status"), commonly used as the title of the Law that regulates the status of the MPR, DPR, DPD and DPRD.

The background of the entire page is a repeating geometric pattern of interlocking lines forming stars and polygons, rendered in a light green color against a darker green background. A dark green horizontal bar is positioned at the top, containing the chapter title. A thin white horizontal line is located just below the 'CHAPTER I' text.

CHAPTER I

The DPR Standing Orders

About The Standing Orders

Parliamentary Autonomy

As its name implies, the House of Representatives (*Dewan Perwakilan Rakyat/DPR*, literally "People's Representative Assembly") is an institution that represents the people. The role of "representing" is realized in the form of absorbing, accommodating and directing the aspirations and interests of the people and channeling them through the three basic functions of the DPR: the legislative function, the oversight function, and the budgeting function.

In the legislative function, the people's aspirations are channeled through formulation of policy that is set forth in the form of laws. In the oversight function, the DPR exercises political oversight of the institutions that implement the laws. And through the budgetary function, the DPR assesses taxes and levies as the state's revenues, and determines the use of the national budget.

In order to carry out enact these three functions, **arrangements for mechanisms of institutional performance are needed**. Why? Because the performance of these functions must be subject to **rules of procedure**, and these rules are the DPR's Standing Orders or Procedural Rules (*Tata Tertib*), which have been composed based on the consensus of the DPR's members.

In the practice of the DPR, the Standing Orders used as the initial reference are the Standing Orders passed on from the previous term's DPR to the new term's DPR. Usually, before ending its term of office, the DPR establishes a Special Committee (*Pansus*) whose duty is to amend the DPR Standing Orders. Changes to the Standing Orders are made possible by, and are usually based upon or follow, amendments to the Law that regulates the MPR, DPR, DPD and DPRD (hereinafter referred to as the Law on Parliaments) that has previously been ratified. For this reason, **these new Standing Orders are not binding upon the DPR in the next term**.

However, the DPR in the new term has the **right** to alter the Standing Orders submitted to them by the previous term's DPR. This is because the efforts at revision by the previous term's DPR are normally made only to help the members of the next term's DPR in their work at the start of their term of office. For this reason, the new DPR is required to further revise the Standing Orders in line with the conditions and needs of the new term.

Status and Function of the DPR Standing Orders

The DPR Standing Orders are a set of procedural rules that are valid and binding within the DPR. Thus, it is not only the DPR as an institution that is bound by the regulations of the DPR Standing Orders, but also all the DPR's members.

Although valid internally **within the DPR**, the DPR's Standing Orders are also relevant to institutions outside the DPR, for instance in the DPR's relations with the DPD regarding the drafting of laws, and in efforts to request information from state officials, government officials, legal entities or citizens whose input is needed for issues that must be addressed for the interests of the nation and the state.

It is clear that the DPR's Standing Orders are very important. In the preliminary activities of the new DPR's session, the Standing Orders are instrumental in the formation of the DPR's Parliamentary Party Groups (*Fraksi*), the election of the DPR Leadership, and the election of the Leaderships of the DPR's Bodies (*Alat Kelengkapan*). Thus, at the start of each DPR session, the first order of business for the DPR's session after the formation of the Temporary Leadership is to establish the DPR's Standing Orders.

The legal form of the Standing Orders is a DPR Decree. In the DPR for the period 2004-2009, the DPR passed DPR Decree Number 08/DPR RI/I/2005.2006 regarding the Standing Orders of the House of Representatives of the Republic of Indonesia.

The DPR Standing Orders are an important pillar in the efforts to improve the DPR's performance. The Standing Orders play a central role by encompassing the institutional processes to optimize the DPR's functions. The Standing Orders also affect the ways that every actor in parliament achieves their interests and goals.

What are the Contents of the DPR's Standing Orders?

In many aspects, the provisions regarding "assembly matters" are already stipulated in a law that regulates the DPR (previously known as the "*Susduk*" Law). As a consequence, the content of the DPR Standing Orders must be based upon and may not deviate from the provisions of the law that regulates the DPR.

Basically, the content of the DPR Standing Orders is limited to **formal procedural aspects**, covering, among other matters:

- the execution of functions, duties and authority, including of the House Bodies;
- rights, obligations and privileges of House members;
- formalization of the dismissal of members, changes in the Leadership, and the mid-term replacement of members;
- types and mechanisms of sessions (management of sessions);
- decision making; and
- mechanism for transparency and public participation in the implementation of the DPR's functions

Since the matters that are regulated in the Standing Orders are procedural matters regarding methods, the **DPR Standing Orders do not need to repeat the provisions that are already stipulated in the Law on Parliaments**. Apart from the technical standards on the design of regulations, it is feared that repetition of regulations in the Standing Orders would **weaken or expand** on the rules that are already stipulated in Law on the Parliament. Therefore, the matters regulated in the Standing Orders are only those that are **ordered by the Law or that are not regulated by the Law**.

How are the DPR Standing Orders Compiled?

In line with its institutional authority, the compilation of the Standing Orders is based entirely upon the consensus of the Members of the DPR. However, as mentioned earlier, the procedures must be based upon the Law that regulates the DPR (previously known as "*UU Susduk*").

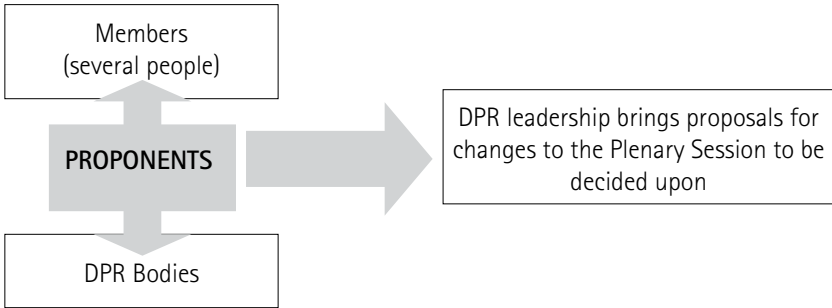
In the practice of the DPR, before its term of office ends, the DPR forms a Special Committee with the duty of drafting the Standing Orders, the results of which will be submitted by outgoing DPR to as a basis for the Standing Orders of the incoming DPR. However, these Standing Orders are not yet binding for the next term's DPR. The new DPR has the **authority** to improve these Standing Orders through changes or revisions.

In the matter of preparing Standing Orders for the new DPR period, aside from the preliminary model of Standing Orders provided by the DPR Special Committee of the previous term, other methods need to be developed that are **freer from the interests of political parties**. The practice used in **Canada**, for instance, could be one option. There, the Parliamentary Rules of Orders are prepared by a unit known as the Table Branch of the Canadian Parliament, which consists of experts with experience in designing procedures for parliamentary practice. Likewise, in the **United Kingdom**, to evaluate and revise the Standing Orders, the House of Commons forms a Commission on Procedures and House Affairs.

How are the DPR Standing Orders Revised?

The mechanism for changes to the DPR Standing Orders is as follows:

Figure 1
Procedure for Revising DPR Standing Orders



The provision regarding the number of proponents is not intended to **limit** the rights of the DPR Members, but rather to **prevent** making it too easy to revise the Standing Orders based only on the proposals of a single member. However, the requirement on the number of proponents should not make it difficult to revise the Standing Orders.

According to the DPR Standing Orders for 2004–2009, a request to revise the Standing Orders must come from at least 13 members.

The provisions regarding the mechanism for changes to the DPR Standing Orders – as stipulated in the DPR Decree – must comply with the provisions of the Law on Parliaments. In the provisions of that Law, it is explicitly stated that the Ethics Council not only functions as the enforcer of the DPR Standing Orders and Code of Ethics, but also **conducts evaluations and makes improvements** to the DPR regulations on the Standing Orders.

When Are Changes Made to the DPR Standing Orders?

From the regulations concerning the establishment and revision of the DPR Standing Orders, it can be concluded that in principle, changes are made to the DPR Standing Orders when:

- **There are changes in the Law that regulates the DPR.**
The Standing Orders are based on the **provisions of higher regulations**, such as the 1945 Constitution and the Law on Parliaments. In other words, the legal products that are the main source and basis for regulation of the DPR Standing Orders are the 1945 Constitution and the Law on Parliaments. In many areas, the Law on Parliaments orders establishment of the working mechanisms of the House through the Standing Orders of the DPR.
- **Based on the results of evaluations, changes are needed to the Standing Orders.**
The Standing Orders have been codified to order aspects of the parliamentary process that are procedural in nature. Therefore, the DPR Standing Orders must be able to optimally address the **conditions and needs** for the execution of the DPR's functions. For this reason, based on practical experience in prior sessions of the DPR, the Standing Orders must always be subject to evaluation.

The Institutional Aspects of the DPR Standing Orders

Duties and Authority of the DPR

According to the 1945 Constitution, in the presidential system of government in Indonesia, the DPR has broad authority and duties. These duties and authorities basically derive from three functions:

- (1) **Legislative functions**, including making and deliberating bills (draft laws), and accepting proposals for bills submitted by the DPD.
- (2) **Oversight functions**, including oversight of the implementation of laws, the National Budget (APBN), and government policies.
- (3) **Budget functions**, including promulgating the National Budget together with the President with attention to the advice of the DPD, providing suggestions, granting consent, consultation and opinions.

In principle, the duties and authorities in the implementation of these three functions are a manifestation of the function of representation, with the primary function being to absorb, collect, and follow up on the aspirations of the people.

The Rights of the DPR

These broad rights and authorities of the DPR have as their consequence certain rights that must be held by the DPR. Among the DPR's rights are:

Right of Interpellation

The right of interpellation (*hak interpelasi*) is the DPR's right to request **explanations** regarding policies of the Government that are **important and strategic** and have a **broad impact** upon the lives of the society and the state.

Based upon previous experience, the problem related to the use of the right of interpellation is the emergence of **differing interpretations** of the substance of issues. Although the Law on Parliaments clearly defines these, in practice the Party Groups in the DPR may interpret these provisions on the basis of their own interests. An example is the case of the Vice-Presidential Secretary's Letter, on which the President was to be asked for explanation. The Golkar Party Group dismissed this desire as irrelevant (*Media Indonesia*, 31 January 2005: F-PG Deems Interpellation on VP Secretary Letter Irrelevant).

Right of Inquiry

The right of inquiry (*hak angket*) is the DPR's right to conduct **investigations** of the implementation of certain laws and/or Government policy that is related to important and strategic matters that have broad impact on the life of society and the state, which are suspected of conflicting with laws and regulations.

Right to State an Opinion

The right to state an opinion (*hak menyatakan pendapat*) is the DPR's right to state opinions regarding:

- a. government policy, or extraordinary events that occur in Indonesia or in the world situation
- b. follow-up on the exercise of the right of interpellation or the right of inquiry
- c. suspicions that the President or Vice President has violated the law in the form of treason, corruption, bribery, other serious criminal offenses, or disgraceful conduct, or no longer fulfills the requirements of the office of President or Vice President.

The House Bodies of the DPR

Operationally, the duties and authorities of the DPR are exercised by certain organs within the institution of the DPR, which are referred to as the House Bodies (*Alat Kelengkapan*). Politically, the DPR Bodies are structures that are the arena of competition among the political parties in the parliament. The placement of "competent and appropriate" DPR members in the DPR Bodies and the workings of the respective House Bodies strongly affects the overall performance of the DPR. The DPR's House Bodies are as follows:

- | | |
|--|--|
| - Leadership | - Ethics Council |
| - Deliberation Council | - Interparliamentary Cooperation Committee |
| - Standing Committees | - Household Affairs Committee |
| - Legislation Committee | - Special Committees |
| - Budget Committee | - Other House Bodies as needed and created |
| - State Finance Accountability Committee | by a Plenary Session |

The Bodies of the DPR are established not only on the basis of performing the three functions of the DPR, but also to manage the various operations within the DPR, such as the existence of the Leadership. All the House Bodies are permanent, standing bodies, except for the Special Committees (which are temporary in nature).

How Are Members of the House Bodies Assigned?

Each member of the DPR, except for those in the Leadership of the MPR and DPR, must be a member of one of the Standing Committees. The distribution of DPR members

is therefore divided up among the various DPR Committees. However, the allocation of the DPR members to the other House Bodies, whether permanent or temporary, must be based upon the capacity of the member in question. For this purpose, the DPR Standing Orders need to **set restrictions** on DPR members serving concurrently as members of other House Bodies. If DPR members serve concurrently in many different Bodies, it is certain that they will not perform their functions optimally. The provisions restricting the placement of DPR members in the House Bodies also pertain to their ability to be **present in the meetings** of the various House Bodies, because the more Bodies members serve on concurrently, the more likely it is that these meetings will not achieve a quorum.

The DPR Leadership and its Duties

The Leadership in a representative body such as the DPR is a House Body that is always highly sought after by the political parties in the DPR. This tendency is quite understandable because, in reality, the DPR Leadership is mostly a mouthpiece for the policy stance of the political parties, compared with the other House Bodies, which perform the functions of coordination and institutional administration.

Actually, the main function of DPR Leadership is to symbolically represent the DPR in its relations with the executive, high institutions of other countries, and international organizations. The DPR Leadership also functions to **lead the general administrative functions of the DPR**, including by chairing plenary sessions.

Impartiality of the DPR Leadership

The DPR Chairperson, as reflected in the Law on the Parliament, actually **does not play a very central role**. Basically, the DPR Chairperson is only assigned duties in accordance with the orders of the DPR, as set forth in the decisions of DPR Plenary Sessions. But having learned from experience in previous terms of the DPR, the DPR's Standing Orders place the DPR Leadership as figures of authority with a central role.

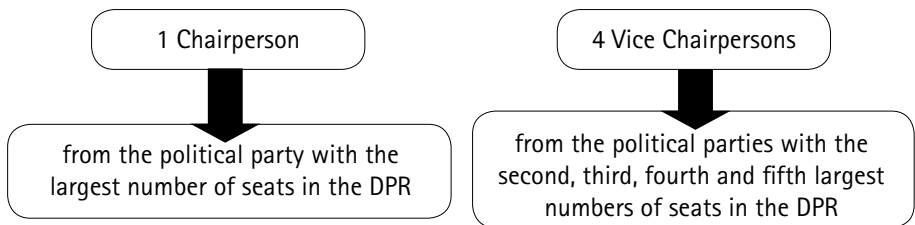
The role of the parliamentary leadership as an impartial referee in debates, as is the case in countries following the Westminster model, is not seen in the DPR. One example of problems with the DPR Leadership occurred when the 2004–2009 DPR was starting its term of office. At that time, five party groups joined together in the “Populist Coalition” (*Koalisi Kerakyatan*) submitted a motion of no confidence in the DPR Leadership because the Leadership was seen as being biased towards the “Nationalist Coalition” (*Koalisi Kebangsaan*) (*Media Indonesia*, 30 October 2005).

And in practice in Indonesia, the **DPR Chairperson often expresses views or opinions** in the name of the DPR, even though this conflicts with the principle that the DPR has a collective Leadership. For example, after attending a consultation meeting with the President to discuss the draft Memorandum of Understanding between the Republic of Indonesia and the Free Aceh Movement (GAM), the DPR Chairperson, as an element of the DPR Leadership, stated that the DPR approved the MoU. Actually, all institutional decisions that are the authority of the Leadership must be based upon consensus or agreement of the entire Leadership (Riris Khatarina: 2005, p. 66).

The impartiality of the DPR Leadership is an essential prerequisite to guarantee the sovereignty of the DPR members as representatives of the people whose main duty is to gather, absorb, and channel the people’s aspirations. Therefore, the DPR Standing Orders must ensure that the duty of the DPR Leadership is to act as a “referee” that must not take sides or take actions without a basis in authority.

Learning from the experiences of other countries, consideration should perhaps be given to other models of parliamentary leadership. The Speaker of Parliament in the Westminster model, as in England, Canada and India, has the duty of controlling the course of debate and maintaining order in the parliament. In this model, the speaker is impartial, as shown from the restrictions on the Speaker’s right to vote, which is limited by either rule or by custom to casting the deciding vote in the case of a tie (NDI, 1996).

What is the Composition of the DPR Leadership, and How Are They Chosen?



The provisions of the Law of Parliaments stipulate that the composition of the DPR Leadership is linear with the results of the elections. The composition of the DPR Leadership is a reflection of the political power in the DPR. The main challenge for the parliamentary Leadership is how to balance their power and authority as members of the Leadership and their position as members of their parties. Therefore, the selection of the parliament’s leadership is critical, in either a presidential or a parliamentary system

of government. In Commonwealth countries, however, the Parliament Speaker is chosen through secret ballot.

Parliamentary Party Groups in the DPR

The Party Groups are not Bodies of the DPR; rather, they are “vessels for gathering” DPR members that actually represent the interests of political parties or coalitions of political parties. Although these groups are actually extensions of the political parties in parliament, the party groups receive facilities such as materials, budgets and expert advisors from the DPR Secretariat General. Thus, the Party Groups are funded by the government just like the other DPR Bodies.

Why Are Party Groups Formed?

As a vessel for gathering the various members of the DPR, the Party Groups are an institution established to optimize the execution of the functions, duties and authority of the DPR and the rights and obligations of the DPR members. But in reality, the Party Groups are extensions of the political parties to channel and struggle for the implementation of party policies in the process of setting policies in parliament.

In practice, the existence of the Party Groups has tended to reduce the **constitutional rights of DPR Members**. This can be seen in the regulations that determine: 1) the requirements for proposing bills; 2) proposal of DPR rights; 3) the decision making process; and 4) the process of presenting views that are expressed in meetings, especially in Plenary Sessions of the DPR. The result is the emergence of accusations that question the actual role of the Party Groups, such as “Do the Party Groups optimize the functions of the DPR, or do they actually neutralize the roles of its individual members?”

Yet at the empirical level, the existence of the Party Groups greatly assists the smooth execution of sessions and decision making in the DPR. If DPR members were not represented by the Party Groups in presenting their opinions orally, it would take a very long time to accommodate the rights of all the members concerned to state their individual positions as members.

For this reason, the DPR Standing Orders must respect the principle of **sovereignty of members** as popular representatives with freedom to state opinions and make decisions regardless of their “party line”. One must remember that individual members were elected by a majority of voters in their respective regions, and not solely because of their affiliations to a particular party.

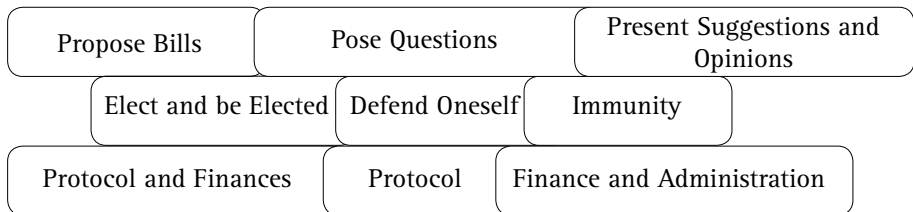
As a consequence of the function of optimizing work performance, the party groups are required to conduct evaluations of the performance of their members and report the results of their evaluation to the public.
(Article 80 section (2), 2009 Law on Parliaments)

The Membership Aspect in the DPR Standing Orders

The Rights of DPR Members

In the DPR Standing Orders, there are differences between the rights of members as individuals and the rights of the DPR as an institution. Such distinctions are embedded in the mechanism for application of rights. If the rights of individual members are obtained by the individual members themselves, the rights of the DPR as an institution must be conducted in line with specific requirements, among which is that opinions must be stated by more than one member and in accordance with restrictions regarding the number of Party Groups.

Each DPR member has the rights shown below:



The Right to Propose Bills

The DPR holds the power to make and draft laws. As a consequence, the initiative to formulate laws should come from the DPR. This right is intended to encourage and inspire the creativity, spirit and quality of the DPR members in addressing, channeling and following up on the aspirations of the people they represent in the form of proposal of bills.

Article 20 section (1) of the 1945 Constitution states that the DPR has the power to make and pass laws. As a consequence, the 1945 Constitution guarantees that DPR members have the right to submit draft legislation, without stipulating the number of DPR members required to propose a bill. However, this constitutional provision is then

restricted by the existence of a regulation that the proposal for a bill must come from several members.

In reality, however, the legislative function performed by the DPR has been **very weak**, as is apparent in the fact that the number of bills initiated by the DPR very low compared to those proposed by the Government. To encourage the initiative of DPR members to propose bills, the **Standing Orders need to accommodate regulations regarding facilities or support** for DPR Members who have bills to propose, for example by providing the services of expert personnel for legislative drafting and other expert assistance.

The Right to Express Suggestions and Opinions

Expressing opinions is the very spirit of the representative function of a representative of the people. The consequence is that every DPR member has the right to put forward suggestions or opinions regarding certain issues, whether that topic is being discussed in a meeting or not. The freedom to express opinions in the in the context of parliamentary governance is founded upon the freedom as a Member of the DPR and the call of conscience. For this reason, each DPR Member basically **cannot be directed** by anyone in the decision making process, especially since the system for electing DPR Members is based on the **plurality of votes** and not solely on the basis of "party votes". Therefore, freedom and courage to express opinions or suggestions in the context of voicing the aspirations of the people is part of the "execution of the people's trust".

The Right to Immunity

This right is also called the **right to legal immunity** of the members of the DPR. The right to immunity is the right to not be sued in a court of law because of statements, questions and/or opinions that have been expressed, whether orally or in writing, in DPR meetings or outside DPR meetings, in connection with the functions, duties and authority of the DPR.

Why is the Right to Immunity Needed?

- The Members of the DPR are representatives of the people, whose freedom must be guaranteed so that they can voice the interests of the people through their statements, questions and/or opinions.
- The right to immunity is a "shield" for freedom and independence in exercising their rights as DPR Members.

-
- As a consequence, DPR Members cannot be replaced in mid-term simply because of their statements, questions or opinions.

Limits to the Right to Immunity

The Right to Immunity is restricted by two things:

- (1) Its scope, which applies only to statements, questions and/or opinions;
- (2) Force of validity; the immunity only applies to the individual in his/her capacity as a Member of the DPR who is carrying out the functions, duties and authority of the DPR.

As individuals and citizens, however, DPR Members remain legal subjects and are **subject to the law**. Defamation of character, theft, fraud, embezzlement, corruption, or immoral acts committed by DPR Members are not categories of actions covered by the right to immunity. Therefore, Members can be prosecuted for such actions.

Although it operates as a "shield" for the performance of public service, use of the Right to Immunity must still follow certain standards of propriety and etiquette, as regulated by the DPR Code of Ethics. The uproar in a hearing between the DPR and the Attorney General, when a DPR Member called Attorney General Abdurrahman Saleh a "preacher in a village of thieves," is an example of a statement that did not abide by standards of propriety and politeness. The same thing happened in a meeting with the Director of Pertamina when a DPR Member said:

"If it's only to run the businesses of the powerful, such as the President and Vice President, my security guard is there, we don't need you. But it's to improve Pertamina's performance, you're not good enough. You lack the necessary experience, knowledge and quality."

(Downloaded from <http://www.detikfinance.com/read/2009/02/17/171545/1086298/4/kata-satpam-pemicu-kisruh-pertamina-komisi-vii>)

The Right to Defend Oneself

In order to run its organization and protect its dignity, the DPR has Standing Orders and a Code of Ethics, both of which must be implemented and obeyed by all Members. Members who violate their oaths or the code of ethics and/or neglect their obligations as DPR Members can be legally processed and subjected to penalties. In this process, a DPR Member has the right to self-defense and to provide testimony to the Ethics Council.

Box 1
The Rights of Immunity

The DPR's Right to Immunity Is Not Unlimited [18/2/05]

DPR members' right to immunity is not without its limits. The right to immunity is restricted by the political ethics of the DPR.

This was stated by the Executive Director of the Center for Study of Law and Policy (PSHK), Bivitri Susanti, to [hukumononline](http://hukumononline.com). The press requested Bivitri's comments on the uproar in a Joint Working Meeting of DPR Standing Committee II and Standing Committee III with the Attorney General. In this Joint Working Meeting, Attorney General Abdul Rahman Saleh stated that the session could only continue if the DPR member who made the "ustadz in a den of thieves" comment apologized for his remarks. In response to the Attorney General's request, Teras Nanang, the Chairperson of Standing Committee III, defended the DPR Member by quoting the elucidation of Article 28 letter (f) of Law Number 22 of 2003 on the Organization and Status of the MPR, DPR and DPRD.

The elucidation states that the right of immunity or the right of legal invulnerability of DPR members is the right not to be taken to court because of a statement or opinion expressed in a DPR session. Not to be outdone, Attorney General Abdul Rahman Saleh cited Article 29 letter (j) of the same Law, which states that the members of the DPR are sworn to uphold ethics and standards in their working relationships with other institutions. Since both sides stuck to their own views, the Joint Working Meeting could not be continued. Commenting on this incident, Bivitri Susanti stated that the purpose of the right to immunity or the right not to be sued for a statement made in parliament session is meant to protect DPR members so that they are freer to perform their oversight duties. If they were not protected by the right to immunity, when they have to request information or question an assumption, they would not be able to work effectively. Nevertheless, the right to immunity does have limits; it only applies to enabling representatives to perform their duties effectively.

Source: <http://www.hukumononline.com/detail.asp?id=12252&tcl=Berita>



Obligations of DPR Members

As well as rights, DPR members also have obligations, including the following:

- to defend and maintain national harmony and the integrity of the Unitary State of the Republic of Indonesia (NKRI)
- to strive to improve the welfare of the people
- to place the interests of the country above the interests of individuals or of any group
- to absorb and collect the aspirations of constituents through regular visits to their electoral districts; and
- to obey the DPR Standing Orders and Code of Ethics.

In the DPR Standing Orders from the previous term, the provisions regarding the obligations of the DPR are exactly the same as the provisions of the Law on Parliaments at that time. However, the regulations on the obligations of the DPR are very difficult to measure, while on the other hand DPR members found guilty of violating their obligations can be subjected to penalties by the Ethics Council (Khatarina: 2005, p. 122). Therefore, the DPR Standing Orders should stipulate the obligations of DPR members with clearer and more measurable parameters.

Prohibitions for DPR members

DPR Members are forbidden to:

- Concurrently hold a position as:
 - State Official of another country
 - Judge of a Court;
 - Civil Servant, member of the Military/Police, employee of a State-Owned Enterprise, Regionally-Owned Enterprise, or other entity whose budget derives from the National Budget (APBN) or a Local Budget (APBD).
- Work as a structural official in a private educational institution, public accountant, consultant, lawyer, notary or other job related to the duties and authority of the DPR or the rights of DPR members.
- Engage in corruption, collusion or nepotism or receive gratuities.

The prohibition on engaging in corruption, collusion or nepotism (“KKN”) or receiving gratuities is a confirmation of the provisions of earlier legislation. This prohibition needs to be emphasized, since DPR Members are highly susceptible to the temptations of KKN. The fact that the Corruption Eradication Commission (KPK) has caught Members in the act of such violations is proof that DPR Members are vulnerable to such “temptations”.

Meetings and the Transparency of the DPR

Hearings/meetings in the DPR are the very essence of parliamentary activity. Parliamentary activities to realize the functions of policy formulation, monitoring the implementation of laws, and planning and use of the national budget are conducted through debate, hearings, and decision making in parliamentary session forums. Therefore, the provisions of the DPR Standing Orders stipulate certain important aspects of such forums:

1. The Type and Level of the Session/Meeting
2. Session Periods
3. Regulation of the traffic and schedule of sessions and debates
4. Nature of the meeting
5. Rules on attendance
6. Mechanisms for decision making



The regulations on the Sessions of the DPR are as follows:

- There are four (4) session periods per year;
- The session periods include sitting periods and recess periods.

There are many types of meetings in the DPR. The types of meetings basically correspond to the DPR Bodies; for instance, Deliberation Council Meetings, Standing Committee Meetings and Joint Standing Committee Meetings, Legislation Committee Meetings, Special Committee Meetings, and other meetings of a joint or cross-sectoral nature.

The types of meetings can also be classified by their nature into two categories. The first is open meetings, which are meetings that are not only attended by DPR members but can also be attended by non-members, whether invited or not. The second category is closed meetings, which can only be attended by DPR members and those whom the DPR has invited. In the case of closed meetings, if it has been explicitly declared to be secret, the discussions and decisions made in the meeting may not be announced publicly. Those who know about the discussions in closed meetings are required to firmly uphold this secrecy.

Table 1
Names and Types of DPR Meetings

NAME OF MEETINGS	TYPE	OPEN	CLOSED
Plenary Session		Yes	Possible
Extraordinary Plenary Session		Yes	Possible
Standing Committee Meeting		Yes	Possible
Joint Standing Committee Meeting		Yes	Possible
Legislation Committee Meeting		Yes	Possible
Budget Committee Meeting		Yes	Possible
Special Committee Meeting		Yes	Possible
Working Meeting		Yes	Possible
Hearing		Yes	Possible
Public Hearing		Yes	Possible
DPR/DPD Leadership Meeting		Possible	Yes
Leadership Meeting of DPR/DPD Body		Possible	Yes
Deliberation Council Meeting		Possible	Yes
Household Affairs Committee Meeting		Possible	Yes
Interparliamentary Cooperation Committee Meeting		Possible	Yes
Ethics Council Meeting		Possible	Yes
Working Committee Meeting		Possible	Yes
Party Group Meeting		Determined by Party Group	Determined by Party Group

Source: Khatarina, Riris. Mapping of Parliament Issues: Examined from the DPR/DPD Standing Orders, P3I, Jakarta. p. 100

The **Plenary Session** is the highest forum in the DPR. The question is: When a Plenary Session is under way, do other meetings, both in the DPR and outside the DPR, continue or must they be suspended until the Plenary Session is over? This should be stipulated in the DPR Standing Orders.

If related to the **transparency and accountability of parliament**, closed meetings do not provide the opportunity of access for the public to follow the meetings, and as

a result the public does not know the process or substance of the debates and ideas in these meetings. Furthermore, pursuant to the DPR Standing Orders, article 118 (period 2004–2008), a closed meeting may decide that the certain matters that are discussed and/or decided shall not be included in the proceedings, minutes, or brief report of the meeting. This procedural rule clearly deprives the public of their right to know, because basically the public should have access to all documents and processes that occur in DPR/DPD meetings. Furthermore, the absence of documentation of the meeting is also detrimental to the DPR, as they have no instrument to implement the policies decided in such closed meetings (Khatarina: 2005, p. 100).

Actually, there is a **contradiction** in the regulation of public access to DPR meetings. Why? Because the philosophical reasons and principles on the **criteria for determining the type of meetings** in the DPR – which are declared either open or closed – still remain unclear. In such circumstances, there is potential to ignore public access to the matters being debated and that will later be decided by the DPR. This condition creates the possibility that the issue being discussed—and the political level of a particular issue—will determine the preference of DPR members to decide the nature of the meeting so as to strengthen their own political position in the DPR. The consequence is that the public's access to political discussion in DPR meetings is full of uncertainties.

Aside from that, closed meetings are in direct **contradiction to the logic of democracy**. As a public institution, all the DPR's activities that are related to the public interest should be open, with the exception of those issues that could endanger the public or national interest if they were given such access (Frank Feulner et al., 2008, p. 86).

The DPR Standing Orders need to develop clear, definite criteria regarding the criteria for open or closed meetings. It is not the type of meeting that determines the criteria, but rather the topic being discussed that determines, philosophically and in principle, whether the meeting should be open or closed. On the other hand, the DPR Standing Orders also need to stipulate the possibility for a closed meeting to be declared open.

Where Are Sessions Held?

The question regarding where the DPR holds its sessions is of crucial significance because it relates to the public's access to the workings of parliament. The DPR must convene or meet at the DPR building for the reasons of transparency and public access. When meetings are held outside the DPR Building, for whatever reason, this technically

reduces the level of public accessibility. Regarding this issue of such accessibility, it must be stressed that, even though all sessions/meetings are held at the DPR Building, public access to enter the DPR Building area must be easy and not bureaucratic – obviously, however, with due consideration to security aspects.

Decision Making in the DPR

As it is a political institution, decision making in the DPR is an essential part of exercising the functions of legislation, oversight and budgeting. Therefore, the methods of decision making must be defined in the DPR Standing Orders. This regulation is important not only to assess the legal validity of matters that are decided, but also to assess the effectiveness of the parliament's work. Several fundamental features regarding this decision making are as follows:

All types of DPR meeting may make decisions;

the decision of a DPR meeting may be in the form of approval or rejection

While deliberation to achieve consensus (*musyawarah mufakat*) is theoretically prioritized in decision making, in reality voting cannot always be avoided, and has in fact become the main method of reaching a decision. The determination of the type of voting, such as voting with a simple majority or voting with a 2/3 majority of votes, depends upon the matter that is to be decided. The use of the voting mechanism expedites the process of decision making so that the sessions of the DPR do not become too protracted.

In this regard, the *musyawarah mufakat* (consensus) principle suggests that all decisions must be the result of total unanimity of opinion among various actors or elements with the right to vote. But it must be remembered that *musyawarah mufakat* also has implications for the performance of the DPR because it must go through several lengthy stages to reach the final decision. For instance, sessions must be delayed, lobbying must be done, and so on.

Decisions may be made openly or in secret

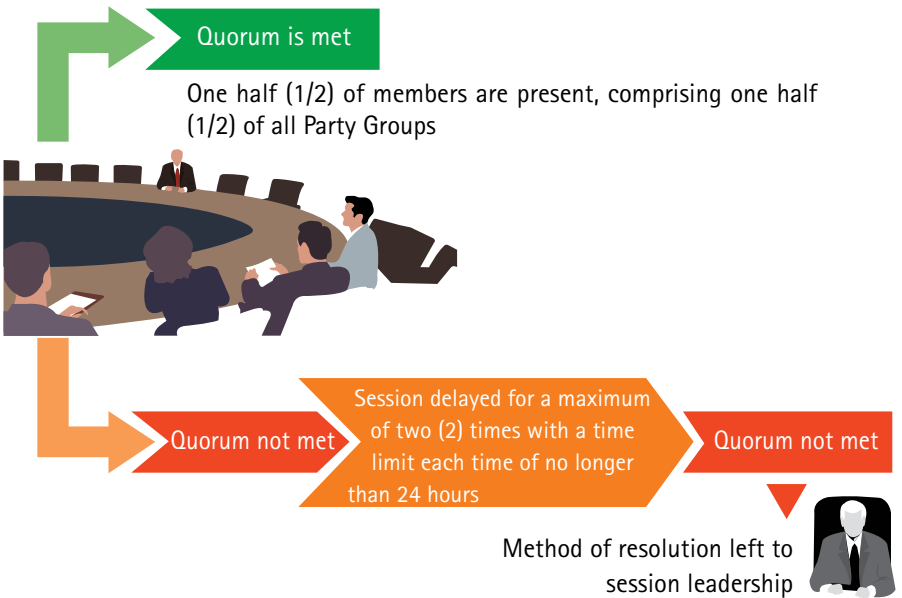
The rules regarding decision making in the DPR basically provide freedom for all members of the DPR to determine their own positions. In this regard, decision making by majority vote through secret ballot provides the opportunity for each member of the

DPR to make a free choice. In reality, however, the role of political parties through their Party Groups has a tremendous influence on the freedom of DPR members in deciding their position when decisions are being made, especially since in nearly all decision making, the presence of Party Group members is required.

Quorums in Decision Making

A decision is the final stage that signals an agreement or the result of a session. For instance, in the making and drafting of a Law, it is mandatory to approve or reject certain articles, and then in the final decision to approve or reject the law itself. Decisions must not be made arbitrarily; rather, consideration must be given to the number of members present. This is important to legitimize the decisions that are made. Therefore, a quorum is the "heart" of a successful decision - whatever the decision - as well as the "face" of the DPR's performance. The regulations regarding quorums are stipulated as follows:

Figure 2
Flow Chart: Determining a Quorum





Meeting the Quorum: A Serious Problem in the DPR

Although the quorum is the "heart" of the success of a decision, the reality in practice is that the absence of members has become a serious problem with dire consequences for the performance of the DPR's duties. One example is the DPR sessions that produce the Laws that have been agreed upon in the National Legislation Program. The results of research by the Center for the Study of the Press and Development (LSPP) in 2006 concluded that 60 percent of DPR meetings never achieved a quorum. The absence of (some) DPR members from sessions or meetings has caused delays in the execution of their duties.

Transparency and Public Participation in the DPR

Democracy does not end at the polling booth. The people who are chosen in elections still need to be monitored to ensure that they actually realize, or at least strive toward, the mandate they have received from the people. For this reason, the representatives need to be monitored. This monitoring requires two conditions: transparency or openness, and the participation of the public.

Transparency refers to efforts and systems that provide information, access, and legal guarantees for the public to know public information. Parliamentary transparency means that the direction of policies and all parliamentary activities can be seen, known and accessed by the public. In this context, the DPR must be more active in disseminating parliamentary information and providing and creating access for the public to obtain information.

To realize this transparency, three conditions are needed:

- 1) Legal guarantees for the fulfillment of the public's right to obtain information;
- 2) Disclosure of information regarding matters that are the duty and responsibility of parliament, whether relating to the openness of sessions, session proceedings, draft legislation, discussion processes, lobbying by DPR members, or the decisions and conclusions reached in meetings;
- 3) Availability of access and procedures for the public to obtain information.

Participation refers to the existence of space and access for the public to influence the processes of setting of public policy and decision making by the DPR. In this regard, the Law on Parliaments does not specify in detail how participation should be achieved, except by stating that the DPR Standing Orders must contain regulations regarding **public participation**. In the DPR Standing Orders, specifically regarding participation, the emphasis is mostly on the legislative function, stating that the public has the right to provide input in the stages of the preparation and discussion of bills, based on mechanisms stipulated by the DPR. In the future, when drafting the DPR Standing Orders, more thought needs to be given to efforts to expand public participation in the other functions of the DPR, through mechanisms that facilitate public participation.

Participation Requires the Precondition of Transparency

If all information relating to the duties of parliament can be known, then the public can communicate its opinions or input. In order to manifest transparency and participation at the institutional level, the **Standing Orders must stipulate the obligations of parliament** as an institution, such as determining whether or not the public is allowed to **attend meetings/sessions**, receive **publications** or written results of discussions and decisions in parliament, and be informed of the DPR's performance reports and financial statements.

Aside from that, the types and forms of public participation in the parliamentary process need to be stipulated in detail. At the individual level, the Standing Orders should stipulate, clearly and in detail, the **responsibility and obligation of every DPR Member** to provide information, absorb and collect the aspirations of the public, and provide opportunities for constituents to discuss their interests in dialogues with their representatives. This can be done through **Working Visits** (*Kunjungan Kerja/Kunker*), through routine publications in the media that are published for political communication, and through opinions/positions (that are publicized) regarding certain issues being discussed in Parliament or current problems in society.



CHAPTER II

The DPR Code of Ethics

What is the Code of Ethics?

Definition

The Code of Ethics is a set of norms or standards as a unitary ethical or philosophical foundation, together with regulations on behavior and statements regarding what is obligatory, forbidden, or inappropriate for a Member of the DPR. The Code of Ethics comprises norms that must be obeyed by every DPR Member while they are performing their duties.

Code of Ethics as a Product of Professional Ethics

The Code of Ethics is a behavioral norm that is formulated, accepted, and obeyed within the internal environment of parliament. A Code of Ethics that is followed and obeyed reflects the moral values of the DPR Members. The DPR Code of Ethics is set forth in Decision of the House of Representatives of the Republic of Indonesia Number 16/DPR-RI/I/2004-2005 regarding the Code of Ethics of the DPR-RI.

The Difference in Scope between Ethics and Etiquette

Ethics is a scientific discipline used as the foundation for deliberations by the Ethics Council to interpret the Code of Ethics. In contrast, etiquette refers to matters relating to manners and ways of eating, drinking and dressing in accordance with the traditions of specific communities. The Code of Ethics does not regulate this kind of etiquette in daily life; rather, it stipulates moral principles in parliamentary politics, which are important for the Members of the DPR and the DPR as an institution (Putra: 2008, p. 13).

Boundaries between the Code of Ethics and the Code of Law

The criteria of the Code of Ethics are "ethical or unethical", "moral or immoral", while the Code of Law tends to employ the principles of justice and legal certainty, with criteria of "right or wrong". The Code of Ethics can be regarded as the moral norms to assess the statements and behavior of DPR members (Putra: 2008, p. 13).

The Code of Ethics Encompasses the Legislative, Budget and Oversight Functions

The Code of Ethics consists of ethical principles, ideals of behavior, penalties and rewards for the political behavior of DPR members. Currently, the content of the DPR's Code of Ethics covers the aspects of ethical behavior in execution of the legislative, budget and oversight functions. For example, DPR Members are forbidden to request payment from their working counterparts in meetings or sessions.

Why do We Need a Code of Ethics?

Power must be controlled

*“Power tends to corrupt, and absolute power corrupts absolutely.
Great men are almost always bad men.”*

The sentences above were a warning by John Emerich Edward Dalberg Acton (Lord Acton, 1887), stressing the dangers of power, including and especially the powers of the state. Democracy does not assume that all people possess the same degree of wisdom, but rather that all people, with their varying degrees of wisdom, can fall into the same errors, especially if they hold power in their hands. Thus, the **tendency for power to strengthen itself is far greater than the ability to control oneself**, and the tendency of power to justify itself is also many times greater than its ability to criticize or oversee its own behavior (Ignas Kleden, Kompas, 6 June 2006).

Individuals who hold power, such as DPR members, cabinet ministers, heads of government, law enforcers and so on are not individuals who are blessed with moral qualities superior to those of their fellow citizens. Morally speaking, they are just the same as the people they lead. And in fact, because of the temptations that power invites, they are more vulnerable to error and failure. Why? Because they hold power, which always implicitly entails the tendency for abuse.

In the institutional context, the power of the DPR is a constitutional power that requires constant **oversight**, so regulations are needed that regulate not only the institution but also its Members, both legally and ethically. The fact of the tremendous power of the DPR and the accompanying temptation to abuse it – by at least some Members of the DPR – is well illustrated by the corruption cases involving several DPR members. Such facts are perceived by the public as behavior that is not merely disgraceful but also illegal.

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Box 2
Cases Affecting DPR Members

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Bulyan Adds to List of Corruption Cases Involving DPR members

Tuesday, 1 July 2008 | 06:17 WIB

JAKARTA, Tuesday- With the arrest of Bulyan Royan, two members of the DPR have now been arrested in suspected bribery cases. Bulyan Royan was caught in the act at Plaza Senayan mall on Monday (30/6) in a case involving alleged misappropriation of budgetary funds from the Department of Transportation.

The first DPR member arrested was Al-Amin Nur Nasution, in connection with the change in status of protected forest in of Bintan Regency, Riau Islands. After Amin's arrest, the Corruption Eradication Commission (KPK) expanded its investigation and eventually arrested Sarjan Tahir in the case of changing the legal status of a mangrove forest to be converted into a port in Banyuasin, South Sumatra. Sarjan was not caught in the act, but KPK investigations in the field found indications of his involvement in this corruption case.

Before Al-Amin, Sarjan Tahir, and Bulyan Royan, the KPK detained Saleh Djasit, but his arrest was not related to his status in the DPR but rather with his previous position as governor. Almost two weeks after Al-Amin, the KPK arrested Hamka Yamdhu and former DPR member Anthony Zeidra Abidin in a case involving flow of funds from Bank Indonesia.

Source: (<http://www.kompas.com/read/xml/2008/07/01/06170344/bulyan.menambah.daftar.kasus.korupsi.anggota.dpr>)

The Honor and Dignity of DPR Members Must Be Protected

The DPR members' position as the representatives of the people is honored and respected, because they hold the people's trust. For this reason, every statement and/or action of the DPR members is certain to attract the attention of the public, or at least of their constituents. DPR members are responsible to God, the state, the people, and their constituents in performing the duties mandated to them.

The Context of Indonesia's New Constitutional Arrangements

Aside from the reasons above, in the matter of ethics, the DPR takes the view that the development of constitutional arrangements in the New Indonesia is an inseparable part of the process of reform in the various aspects of the life of the state. The new constitutional arrangements require performance of legislative institutions that have a political commitment, morality, and professionalism, supported by oversight and balance between the constitutional organs of the state.

Protecting the Image of the DPR

The Code of Ethics is the crystallization of the behavior of DPR members. The Code of Ethics urges the Members, as representatives of the people, to be willing to behave in line with ethical principles and to avoid all things that are inappropriate, forbidden or in violation of the law. The authority of the DPR is also determined by the behavior of its members. A strong and trusted DPR must be supported by a positive image in the eyes of the people.

Protecting the Members of the DPR

Aside from being needed to prevent and take action against behavior that is not in accordance with the regulations, essentially the Code of Ethics is also needed to protect the DPR Members themselves. As matters that are judged to be good or bad, statements, behavior and actions are often relative, depending on different times and places. For this reason, the Code of Ethics serves as a guide for the DPR members and protects them from behaviors that could diminish their dignity and status.

Objectives of the Code of Ethics

Institutional Objective

Institutionally, the objective of the Code of Ethics is to protect the dignity, honor, image and credibility of the DPR. This means that the defender of the DPR's dignity is not just the Ethics Council, which plays a role as the judge of the DPR Members' behavior, but the Code of Ethics itself. Thus, the Code of Ethics is an extremely important product of parliament to protect the parliament itself.

Individual Objectives

The Code of Ethics is aimed at assisting DPR members in implementing their authorities, duties, obligations and responsibilities to the state, the public, and their constituents. The Code of Ethics also protects DPR members from unbecoming behavior. Thus, the Code of Ethics also assists the performance of DPR members through the mechanism of the Ethics Council (*Badan Kehormatan*), which monitors the ethics of their political behavior in carrying out their authorities, duties, obligations and responsibilities as Members of the DPR.

The Content of the Code of Ethics

First: Ethical Principles of Obligation and Moral Responsibility

Ten Ideal Personality Traits in the Code of Ethics

Devotion to God	Have the Spirit of <i>Pancasila</i>	Faithful to the 1945 Constitution and Laws and Regulations	
Have Strong Integrity	Uphold Truth and Justice	Uphold Democracy and Human Rights	Carry out the Mandate of the People
Professionalism as Members	Obey the DPR-RI Standing Orders	Constantly Improve Quality and Performance	

Moral Responsibility

First, moral responsibility is based on populism:

Each Member Has a Responsibility to:

- Carry out the Mandate of the People
- Perform Duties Fairly
- Obey the Law
- Respect the Legislative Institution
- Employ Power and Authority for the People
- Defend the Sovereignty of Nation and the State



Second, responsibility in the context of the function of representation, based on anti-discrimination principles:

Every Member Has a Responsibility to:

Communicate and struggle for the aspirations of the people, regardless of ethnicity, religion, race, social status or gender.

Second: The Value of Propriety in the Code of Ethics

The moral value of propriety provides an orientation for DPR members regarding life between individuals and interactions with fellow DPR members in an atmosphere of polite and respectful behavior, which includes:

Absence of DPR Members from Meetings

DPR members must put their duties first by being **physically** present in every meeting they are expected to attend. Under the current Code of Ethics, the physical absence of a Member from meetings of the same type on three consecutive occasions without permission from the Leadership of the Party Group constitutes a violation of the Code of Ethics. **Absence** from DPR meetings/hearings does not require a complaint to be treated as a violation, unlike the other articles of the Code of Ethics. In this regard, the Ethics Council is expected to actively monitor Members' attendance. **The requirement of physical presence** (not just a signature) is to ensure that each DPR member knows and truly understands the issues discussed in the meetings/ sessions.

DPR Members will be removed in mid-term if they fail to attend Plenary Sessions and/or meetings of the DPR Bodies that are their duties and obligations six (6) consecutive times without a valid reason.

Statements in Meetings

- A Member is expected to make statements in certain meetings or in consultations in certain capacities, whether as a Member, a Chair of a House Body, or part of the DPR Leadership.
- Statements that are not made in such a capacity are deemed to be expressions of personal views that are unrelated to the Member's character and responsibility as a Member or of the DPR as an Institution.

Making Statements without Attending Meetings

A DPR member who does not attend a meeting or consultation should not discuss the results of the meeting or the decisions reached by the assembly or meeting that he/she did not attend. It would be unethical to mislead the public in such a way.

Etiquette in Meetings

DPR members must behave politely, sincerely maintain order, and obey the procedural rules of the meeting while a meeting is being held as stipulated in the Standing Orders.

Propriety and Appearance

In the performance of their duties, members of the DPR should dress **appropriately and politely**. In this area, the criteria of propriety are harder to measure concretely, but may refer to the moral norms generally prevailing in society.

Third: Moral Obligations

Obligations in Connection with Official Travel:

- Members are obliged to undertake official travel within the country or abroad in accordance with the approved national budget plan.
- Members are obliged to use official travel facilities for the purposes of official DPR duties.
- Members must use their own personal finances and facilities if they take family members along on official trips.
- Members must notify the DPR Leadership through an official letter if they undertake official travel at the expense of the inviting party, whether domestically or abroad.

Moral Obligation to Protect Secrets

- Members are required to protect results of meetings that are declared closed to the public.
- Members are required to protect secrets that are entrusted to them, including the results of meetings that are declared secret, until a specified time limit or until the issue has been declared open to the public.



Moral Responsibility in relation to Compliance with the Law

Members have responsibilities in connection with the provisions of the prevailing laws, in such as reporting their personal wealth. The personal assets report is a legal obligation with a preventive function to measure reasonable earnings as an indicator of possible corruption crimes or to trace income obtained illegally.

Moral Obligation in relation to Activities in Organizations outside the DPR

- Members who participate in activities of organizations outside the DPR must place first priority on their activities as DPR Members.
- All involvement in organizations outside the DPR must be reported in advance to the DPR Leadership and/or the Leadership of the relevant House Bodies.

Fourth: Prohibitions

Eight Forms of Forbidden Behavior

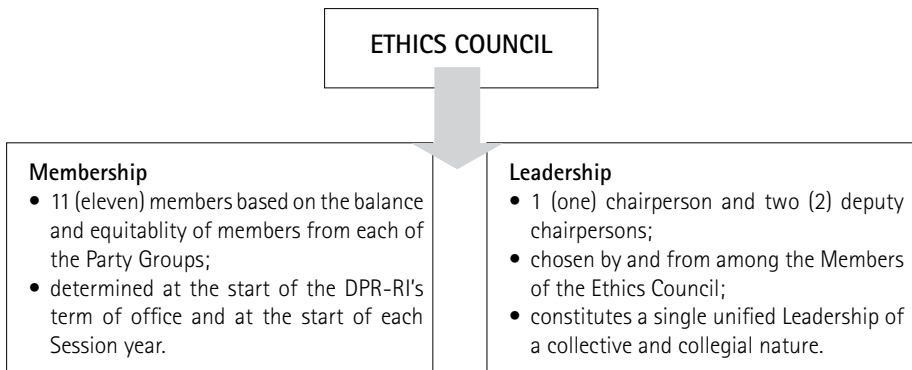
1. Members are forbidden to contact counterparts with the intention of requesting or receiving gifts or compensation for their personal interest, whether inside or outside the DPR building.
2. A Member is forbidden to state an opinion regarding a topic being discussed in a meeting if the Member has a conflict of interest in the matter under discussion.
3. Members are forbidden to use their positions to influence the processes of inquiries, investigations or decision making by law enforcement agencies, for personal interests.
4. Members are forbidden to use their positions to seek personal advantage in any business sector that uses government funds.
5. Members are forbidden to perform work as a structural official (private educational institution, public accountant, consultant, lawyer, notary, practicing doctor) or other work that is related to their duties, authority and rights as DPR members.
6. Members are forbidden to serve concurrently as government officials, judges, civil servants, members of the military/ police, or employee consultants to State-Owned or Regionally-Owned Enterprises and/or other entities whose budgets derive from the National Budget or a Regional Budget.

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7. Members are forbidden to violate the provisions on requirements for candidate Members.
 8. Members are forbidden to violate their oaths or promises.

Knowing and Understanding The Ethics Council

The Ethics Council (*Badan Kehormatan/BK*) is a permanent standing Body of the House. The Ethics Council is a "court" to enforce the Standing Orders and the Code of Ethics. The competence of the Ethics Council is to receive, examine, and decide on allegations of violations of the DPR Standing Orders or Code of Ethics by Members.

Membership and Leadership of the Ethics Council



The Role of the Ethics Council

Duty of Investigation and Verification

Conducts Investigation and Verification of members because of:

- Failure to carry out their obligations as Members
- Inability to carry out their duties continually or being unavoidably absent as a Member for three (3) consecutive months without any explanation
- Being absent from Plenary Session meetings and/or meetings of the DPR House Bodies that are their duties and obligations for six (6) consecutive times without valid reason

-
- Failure to fulfill the requirements to be a Candidate for the DPR pursuant to the provisions of the election laws and regulations
 - Violating the prohibitions as stipulated in the Law on the MPR, DPR, DPD and DPRD, such as:
 - Holding status as an employee of a State-Owned Enterprise or a structural official of a private educational institution
 - Continuing to practice as a consultant, lawyer, notary, or other job related to their duties, authorities and rights as a DPR Member

Duty of Making and Communicating Decisions

The Ethics Council makes decisions on the results of its investigation and verification. Before a decision is made, all of the results of the hearings or meetings of the Ethics Council are verified and the results are written up in a Decision Sheet. The contents of the decision relate to whether the violation is proven or not, together with imposition of penalties or rehabilitation. The results of the Ethics Council's decision are they communicated to the DPR Leadership.

Duty of Evaluating and Revising the Standing Orders and the Code of Ethics

The "core competence" of the Ethics Council, pursuant to the old Law on Organization and Status (*UU Susduk*) was to receive, investigate and decide upon complaints of suspected violations of the Standing Orders and Code of Ethics by Members of the DPR. But now, as well as acting as "judges" for the Standing Orders and Code of Ethics, the Ethics Council also acts as the House Body with the duty of evaluating and revising the Standing Orders and the Code of Ethics.

With these additional duties, the Ethics Council is required to be conscientious and critical regarding the practices of implementation of the Standing Orders and the Code of Ethics, so that it can judge whether the Standing Orders and the Code of Ethics are still relevant to support the work of the DPR.

As "overseer" and "judge" for the implementation of the DPR Standing Orders and Code of Ethics, the Ethics Council has limits to its authority and procedures. Before arriving at a decision to impose sanctions, the Ethics Council must always go through specified formal processes.

Sessions of the Ethics Council

In the context of performing the Ethics Council's functions of investigation and verification, the procedure must be determined. In drafting of the content of the procedural rules, it must be ensured that the principle of treatment that is balanced and fair to all sides is upheld. In other words, the procedural format must provide equal rights to both the complainant and the complainee. To do so, the procedural regulations must contain at least the following provisions:

- 1) Criteria regarding the issues/ incidents against which complaints may be filed
- 2) Requirements and procedures for filing complaints
- 3) Investigation of complaints
- 4) Opportunities and procedures for self-defense
- 5) Evidence
- 6) The basis for making decisions
- 7) The making of decisions and their implementation

The Ethics Council of the outgoing period has stipulated provisions for procedural rules through Decision of the House of Representatives of the Republic of Indonesia Number 01/DPR-RI/IV/2007-2008 regarding Procedures, Performance of Duties and Exercise of Authority of the Ethics Council of the House of Representatives of the Republic of Indonesia.

The next part of this Handbook will describe important matters regarding the procedural rules of the Ethics Council pursuant to the DPR Decree on Procedural Rules. This descriptive explanation is expected to serve as input for re-formulating the procedural rules for the next term of the DPR.

Complaint Stage

Definition of Complaint

A complaint report must be submitted in writing, accompanied by the identity of the complainant and preliminary evidence of an act and/or incident that is suspected to be a violation committed by a Member.

Complainant/ Report Filer

Any person, group or organization can submit complaints to the Ethics Council if they have sufficient evidence regarding misconduct or negligence by a Member of the DPR.

Role of the DPR-RI Leadership in Complaints

The DPR Leadership forwards complaints to the Ethics Council in the form of suspected misconduct by a Member based on information reported by the public or from a Member and/or information already widely known to the public.

For Absences, No Complaint Needs to Be Filed

Violation in the form of non-attendance (absence) from DPR meetings does not require a complaint. In this regard, the Ethics Council must actively monitor the attendance records containing the Members' signature in all types of DPR meetings.

Complaints: Written and Oral

The important matters that need to be specified in a complaint are the identity of the complainant, the complaine, and a detailed description of the incident suspected of being a violation of the Code of Ethics. Complaints are submitted in Indonesian, using forms provided by the Ethics Council Secretariat. Complaints may also be submitted orally by illiterate persons. The Ethics Council Secretariat will write out the oral complaint and read it out loud to the complainant, who then signs or affixes his/her thumbprint to the complaint.

■

Box 3
Absence Members

DPR Chair Agrees to Publish Member Attendance Records

JAKARTA, Friday— The Chairperson of the DPR, Agung Laksono, agreed with a proposal from several Parliamentary Party Group Leaders that the attendance records of DPR members who often skip meetings should be made public. "I agree with this idea," said Agung Laksono, after a plenary session at the DPR Building on Friday (19/12).

Agung was of the opinion that such announcements could be effective in reducing the number of Members who skip meetings, because this is embarrassing not only to themselves but also to their parties. "I think it could be effective, because it would at least create a negative image for the members concerned and also for their parties," he said.

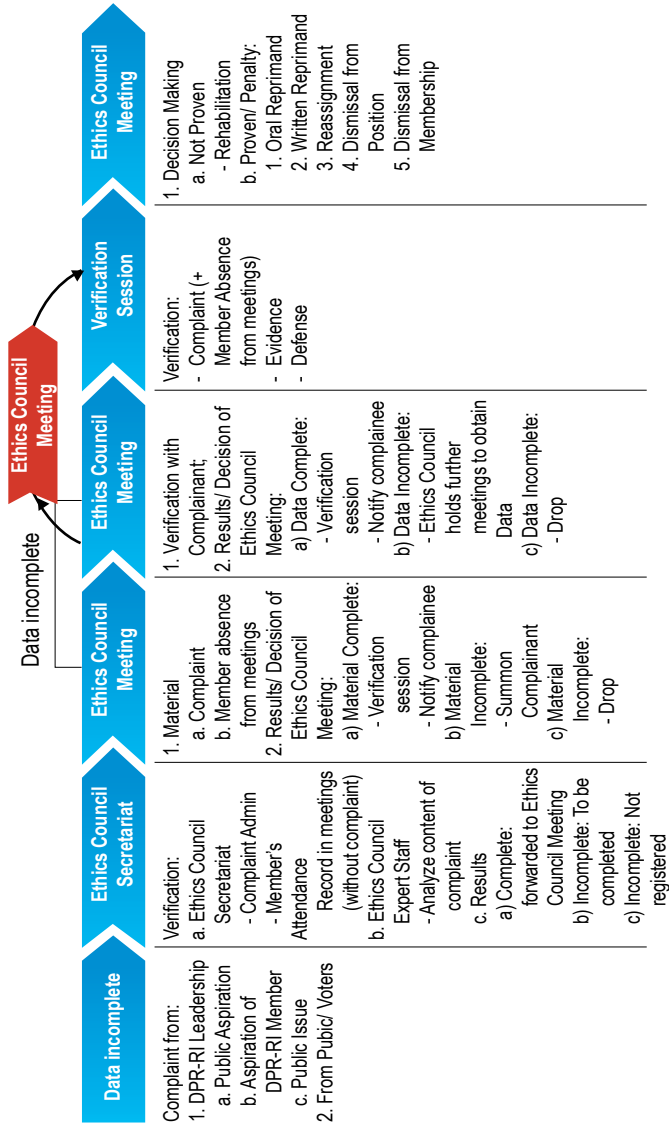
Agung, who is also Deputy Chairperson of the Golkar Party, said that applying this policy would require the full support of all parties, because the DPR Leadership cannot react by publicizing DPR members who are absent before receiving a 'green light' from the DPR Ethics Council and all the Party Groups in the DPR. "If this is to be done, everyone must approve it, not just the DPR Leadership," he said.

Regarding penalties, Agung explained that these are already stipulated in DPR Standing Orders; for example, a DPR Member who is absent for three months without valid reason may be dismissed.

Source: *Kompas*, Friday, 19 December 2008

How are Ethics Council Hearings Conducted?

Figure 3
 Procedural Rules in the Ethics Council
 A Visual Display of the Procedural Rules for Implementation of the Duties and Authority of the DPR-RI Ethics Council



Administrative Verification and Meeting Scheduling Stage

Verification

After a complaint is submitted, the verification stage is conducted as a process to examine the administrative elements and content of the complaint.

Secretariat as the Executor of Administrative Verification

In performing its duties, the Ethics Council is assisted by a Secretariat, which has the duties of assisting with administrative verification, i.e.:

- Verification regarding the presence or absence of the DPR member being investigated, without a complaint.
- Verification of full details of the complaint, such as the identity of the complainant and of the complaine.

Involvement of Special Experts and Independent Experts

In the performance of its duties as related to verification, the Ethics Council is assisted by experts to verify the content or substance of the complaint, based on the Code of Ethics and other standards related to the substance of the complaint. In performing the investigation and verification, the Ethics Council may also request assistance from independent experts.

Opportunity to Complete the Complaint during the Verification Process

- The complainant must be accurate in submitting the complaint file.
- From the results of the verification, if the initial proof is insufficient or the material bears no relation to the Code of Ethics or Standing Orders, the complainant will receive notification letter to complete it.
- The length of time to complete the complaint file is no longer than seven (7) days. After this deadline, the complainant must file a new complaint along with new evidence.
- To complete the complaint, a meeting of the Ethics Council may invite the complainant to explain the problem.

Regarding Withdrawal of Complaints

Complaints that have been administratively registered cannot be withdrawn unless the Ethics Council decides to do so.

Confidentiality of Complaints

The Ethics Council and the Leaderships of Party Groups are required to maintain the secrecy of complaints, especially the identity of the complainee, until the case has been decided.

Failure of Complaints

A complaint fails if:

- The complainee dies
- The complainee resigns as a Member of the DPR; or
- The rule that was allegedly violated is declared null and void.

Responsibilities of Complainees

- The complainee is summoned by the Ethics Council if the data of the complaint are complete. The summons shall be sent a maximum of three (3) times.
- A complainee who does not comply with a summons with the excuse of illness must prove such illness with a doctor's note.
- A complainee who does not comply with a summons from the Ethics Council because he/she is performing state duties abroad must prove this with a Decision Letter from the DPR Leadership.

Verification Stage

Verification Session is Closed

The Ethics Council conducts verification in a closed session. The Ethics Council must ensure the secrecy of all information or data discussed or shown in the closed session.

Attendance and Absence of Complainee in the Session

- The complainee must attend the Ethics Council session in person and cannot delegate this to another person. This is because the verification session is an ethical forum related to behavior, actions or statements that were made by the complainee himself/herself, so the ethical argumentation put forward cannot be presented by a proxy.
- If the complainee cannot attend the Ethics Council session with the excuse of illness or state duties, the session can be postponed for no longer than three (3) months, starting from the first valid and official summons.
- If this time limit is exceeded, the Ethics Council can hold a verification session without the attendance of the complainee.

Grounds for Making Decisions in Sessions

Evidence is the basis for the decision made in the verification session. The procedural rules implicitly encourage the Ethics Council to prepare transcripts or minutes of the verification session.

Decision Making Stage

Verification of Session Minutes

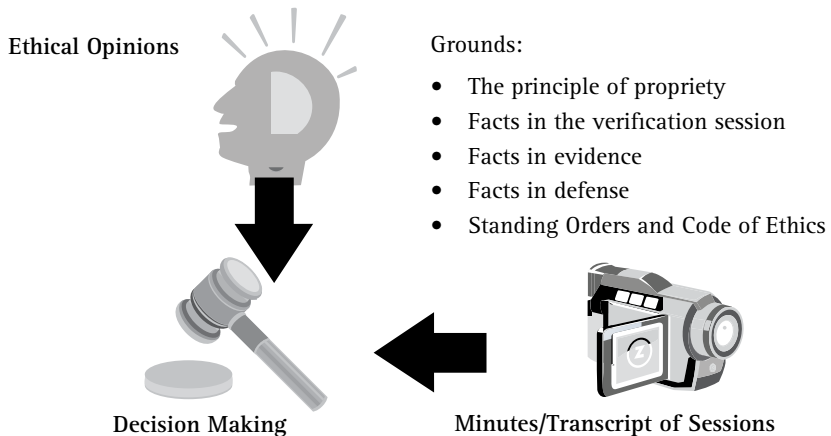
The process of decision making is verification of the minutes or transcript of the verification meetings and/or sessions, and the ethical opinions of the entire Leadership and the members of the Ethics Council.

Ethical Opinions of All Members of the Ethics Council

The ethical opinions in the decision making meetings are based on:

- The principle of propriety
- Facts in the verification session
- Facts in evidence
- Facts in defense
- Standing Orders and Code of Ethics

Figure 4
Process and Grounds for Decision Making



Decisions of the Ethics Council

The decisions of the Ethics Council are final and binding. This means that there is no further administrative recourse within the DPR or legal remedies in domain of the courts, such as the State Administrative Court (PTUN).

Types of Ethics Council Decisions

- If the violation is not proven, the complainee is rehabilitated.
- If it is proven that the complainee is guilty of an infraction, the Ethics Council can decide among the following punishments:
 - Oral reprimand
 - Written reprimand
 - Reassignment of membership in the DPR Bodies
 - Dismissal of the member from the DPR Leadership or Leadership of a DPR Body
 - Dismissal as a Member of the DPR.

In the matter of violations of the Code of Ethics, consideration should be given to financial aspects. In South Africa, for example, the Parliament imposes penalties in the form of fines, including the following:

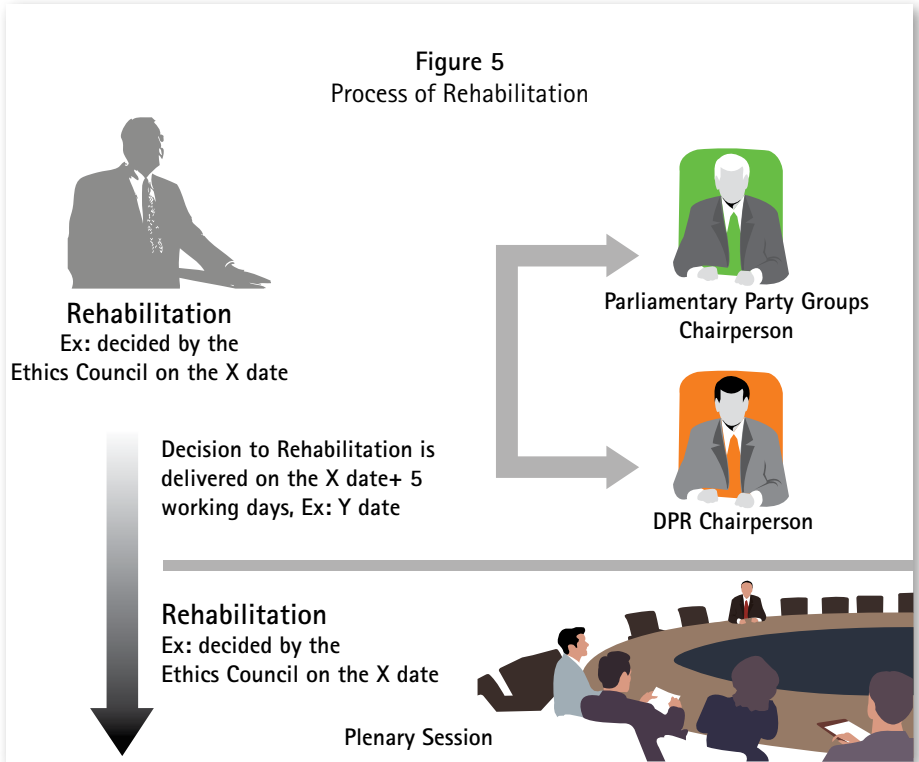
- Fines no greater than 30 days' salary
- Reduction of salary for a period no longer than 15 days

Apart from this financial approach, the South African parliament also has other penalties in the form of temporary revocation of the right to attend sessions, but no longer than 15 days.

Decision Implementation Stage

Rehabilitation if the Violation is not Proven

- In the case that the violation is not proven, the complainee must be rehabilitated
- The Ethics Council conveys the rehabilitation to the DPR Leadership, with a copy to the Leadership of the relevant Party Group
- The rehabilitation is announced in the first DPR Plenary Session after the Ethics Council's decision is received by the DPR Leadership
- The rehabilitation is distributed to all Members of the DPR



Decisions in the Case that Violation is Proven:

Oral Reprimand

An oral reprimand is communicated to the complainee in an Ethics Council meeting no later than five (5) working days after the decision has been made.

Written Reprimand

A written reprimand is communicated by the Ethics Council to:

- The DPR Leadership
- The Leadership of the Party Group of which the complainee is a member
- The DPR Leadership then presents a written reprimand to the DPR member concerned, no later than seven (7) working days after the decision is received from the Ethics Council

Reassignment of Membership in DPR Bodies

A reassignment of membership in the DPR House Bodies is communicated by the Ethics Council to the DPR Leadership and the Leadership of the Party Group of which the complainee is a member, no later than five (5) working days after the decision is finalized.

The DPR Leadership communicates the decision to the DPR Member concerned, no later than seven (7) working days after it receives the decision from the Ethics Council.

Removal from Position in the DPR Leadership or in Leadership of a DPR House Body

The dismissal is communicated by the Ethics Council to the DPR Leadership, with a copy also sent to the Leadership of the Party Group of which the complainee is a member, no later than five (5) working days after the decision has been formalized. The dismissal is read out in the first DPR Plenary Session after the DPR Leadership receives the decision from the Ethics Council.

Dismissal as a Member of the DPR

The dismissal is communicated by the Ethics Council to:

- The DPR Leadership, with a copy to the Leadership of the Party Group of which the DPR member is a member
- It is read out in the first DPR Plenary Session after the Ethics Council's decision is received by the DPR Leadership.
- It is communicated by the DPR Leadership to the President in order to be formalized through a Presidential Decree.

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