



Doc. 12488

25 January 2011

Challenge on procedural grounds of the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia

Report

Committee on Rules of Procedure, Immunities and Institutional Affairs

Rapporteur: Mr Holger HAIBACH, Germany, Group of the European People's Party

Summary

On 24 January 2011, at the opening of the Parliamentary Assembly session, the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia were challenged on procedural grounds in accordance with Rule 7 of the Rules of Procedure, on the ground that they comprised no female representative in violation of Rule 6.2.a.

In accordance with the Assembly's Rules of Procedure, these credentials were referred to the Committee on Rules of Procedure, Immunities and Institutional Affairs. The committee proposes that the Assembly ratify the credentials of the parliamentary delegations concerned but suspend the voting rights of its members in the Assembly and its bodies in accordance with Rule 7.3.c, with effect from the beginning of the Assembly's April 2011 part-session, until the composition of these delegations is brought into conformity with the Rules of Procedure.



Contents	Page
A. Draft resolution	3
B. Explanatory memorandum by Mr Haibach, rapporteur	4
1. Introduction	4
2. Conformity of the composition of the parliamentary delegations of Montenegro, San Marino and Serbia with Rule 6.2 of the Assembly's Rules of Procedure	4
3. Conclusions	7

A. Draft resolution¹

1. On 24 January 2011, the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia were challenged on procedural grounds, in accordance with Rule 7.1 of the Assembly's Rules of Procedure, on the ground that their delegations comprised no female representative in violation of Rule 6.2.a of the Rules of Procedure.
2. The Parliamentary Assembly reiterates its commitment to promoting the balanced representation of women and men in political and public decision making and to applying the principle of gender equality in its internal structures, in particular by encouraging a balanced representation of women and men in national delegations.
3. The Assembly notes that the composition of the three delegations in question does not fulfil the conditions laid down in Rule 6.2.a of the Rules of Procedure and that their credentials have been legitimately challenged. It notes that the delegations have stated that it had been impossible for them to satisfy the condition laid down by the Rules of Procedure in the time available and that they undertake to ensure full compliance at the earliest opportunity.
4. Accordingly, the Assembly decides:
 - 4.1. with regard to the credentials of the delegation of Montenegro, to ratify the credentials of the parliamentary delegation, but to suspend the voting rights of its members in the Assembly and its bodies in accordance with Rule 7.3.c of the Rules of Procedure, with effect from the beginning of the Assembly's April 2011 part-session, until the composition of this delegation is brought into conformity with Rule 6.2.a insofar as it relates to the appointment in a national delegation of, at a very minimum, one member of the under-represented sex as a representative;
 - 4.2. with regard to the credentials of the delegation of San Marino, to ratify the credentials of the parliamentary delegation, but to suspend the voting rights of its members in the Assembly and its bodies in accordance with Rule 7.3.c of the Rules of Procedure, with effect from the beginning of the Assembly's April 2011 part-session, until the composition of this delegation is brought into conformity with Rule 6.2.a insofar as it relates to the appointment in a national delegation of, at a very minimum, one member of the under-represented sex as a representative;
 - 4.3. with regard to the credentials of the delegation of Serbia, to ratify the credentials of the parliamentary delegation, but to suspend the voting rights of its members in the Assembly and its bodies in accordance with Rule 7.3.c of the Rules of Procedure, with effect from the beginning of the Assembly's April 2011 part-session, until the composition of this delegation is brought into conformity with Rule 6.2.a insofar as it relates to the appointment in a national delegation of, at a very minimum, one member of the under-represented sex as a representative.

1. Draft resolution adopted by the committee on 24 January 2011.

B. Explanatory memorandum by Mr Haibach, rapporteur

1. Introduction

1. On 12 November 2010, the Standing Committee, acting on behalf of the Parliamentary Assembly, adopted [Resolution 1781 \(2010\)](#) on a minimum of 30% of representatives of the under-represented sex in Assembly national delegations. This resolution amended Rules 6.2.a and 7.1.b of the Rules of Procedure and laid down new conditions regarding gender representation, by strengthening the existing provisions to ensure a more balanced participation of women and men. These new provisions entered into force upon their adoption. By letter dated 6 December 2010, the Secretary General of the Parliamentary Assembly informed the speakers of the parliaments of member states of the changes that had been made, so that they could take due account of these changes when appointing their delegations.

2. At the Assembly sitting on 24 January 2011, Mr José Mendes Bota, chairperson of the Committee on Equal Opportunities for Women and Men, and several members of the Assembly challenged on procedural grounds the still unratified credentials of the delegations of Montenegro, San Marino and Serbia to the Parliamentary Assembly, in accordance with Rule 7.1.b of the Rules of Procedure, on the ground that the delegations in question comprised no female representative, in violation of Rule 6.2.a.

3. The second sentence of Rule 6.2.a provides that:

“National delegations shall include the under-represented sex at least in the same percentage as is present in their parliaments and, at a very minimum, one member of the under-represented sex appointed as a representative”.

4. The failure to include at least one member of the under-represented sex as a representative in a national delegation is explicitly acknowledged in Rule 7.1.b of the Rules of Procedure as a ground for challenging the credentials of the delegation in question:

“Credentials may be challenged by at least ten members of the Assembly present in the Chamber, belonging to at least five national delegations, on stated procedural grounds based upon: ... the principles in Rule 6.2, that national parliamentary delegations should be composed so as to ensure a fair representation of the political parties or groups in their parliaments and should include in any case one member of the under-represented sex, appointed as a representative”.

5. The Committee on Rules of Procedure, Immunities and Institutional Affairs must therefore examine whether the composition of the delegations of Montenegro, San Marino and Serbia violates the principles set out in Rule 6.2.a of the Assembly's Rules of Procedure.

6. Under the terms of Rule 7.2, as amended by [Resolution 1698 \(2009\)](#) on amendment of various provisions of the Parliamentary Assembly's Rules of Procedure, “[i]f the committee concludes that the credentials should be ratified, it may submit an opinion to the President of the Assembly, who shall read it out in the plenary sitting of the Assembly or the Standing Committee, without debate. If the committee concludes that the credentials should not be ratified or that they should be ratified but that some rights of participation or representation should be denied or suspended, the committee's report shall be placed on the agenda for debate within the prescribed deadlines”.

2. Conformity of the composition of the parliamentary delegations of Montenegro, San Marino and Serbia with Rule 6.2 of the Assembly's Rules of Procedure

7. The report of the President of the Assembly on the examination of credentials of representatives and substitutes for the 2011 ordinary session of the Assembly ([Doc. 12474](#)) shows that the national delegations of Montenegro, San Marino and Serbia do not include any women as representatives.

2.1. Credentials transmitted by the delegations concerned

2.1.1. The credentials of the members of the Montenegrin delegation sent on 6 December 2010

8. In accordance with Articles 25 and 26 of the Statute of the Council of Europe, the Montenegrin parliamentary delegation is entitled to three representatives and three substitutes. According to the report of the President of the Assembly on the examination of credentials of representatives and substitutes for the 2011 ordinary session of the Assembly, the Montenegrin parliamentary delegation is composed as follows:

Representatives:

Mr Neven GOSOVIC (Socialists People's Party)

Mr Džavid ŠABOVIC (Social Democratic Party)

ZZ...

Substitutes:

Mr Obrad GOJKOVIC, (Socialist People's Party)

Mrs Valentina RADULOVIC-ŠČEPANOVIC, (Democratic Party of Socialists)

Mr Ervin SPAHIC, (Social Democratic Party)

9. Following receipt of the Montenegrin delegation's credentials, the Secretary General of the Parliamentary Assembly contacted it. No letter was sent to the President of the Assembly to provide an explanation. However, the Secretary General of the Assembly was informed orally that it had not been possible to change the delegation in the interval because of the difficulties that would be caused by the equal need to maintain political balance in the delegation.

10. At its meeting on 24 January 2011, the Committee on Rules of Procedure had an exchange of views with Mrs Radulovic-Ščepanovic, member of the Montenegrin delegation. She indicated that the delegation would be modified in due time for the Assembly's April part-session, since a vacant seat of representative needed to be filled following the appointment of the holder to the newly appointed government.

2.1.2. The credentials of the members of the San Marino delegation sent on 7 January 2011

11. In accordance with Articles 25 and 26 of the Statute of the Council of Europe, the San Marino parliamentary delegation is entitled to two representatives and two substitutes. According to the report of the President of the Assembly on the examination of credentials of representatives and substitutes for the 2011 ordinary session of the Assembly, the San Marino parliamentary delegation is composed as follows:

Representatives:

Mr Marco GATTI (P.D.C.S.)

Mr Fiorenzo STOLFI (PSD)

Substitutes:

Mrs Assunta MELONI (Alleanza Popolare)

Mr Pier Marino MULARONI (DdC)

12. Following receipt of the San Marino delegation's credentials, the Secretary General of the Parliamentary Assembly contacted it. In a letter to the President of the Assembly dated 21 January 2011, Mr Marco Gatti, chairperson of the delegation, said that the San Marino delegation was committed to the principle of equality of the sexes and to complying with the Rules of Procedure as rapidly as possible. However, he regretted that the current wording of the rules failed to take account of the "objective problems of micro-states", which were also required to secure a balance of political groups within the delegation that reflected the current composition of parliament. Mr Gatti also stated that given the time set for the entry into force of the amendment to the rules it had not been possible for the political parties to give detailed consideration to this important change, with a view to achieving a solution in time for the first part of the 2011 session. Consultation

between the political groups with a view to changing the composition of the delegation for the first part of the 2011 session had not been possible in the time available. Finally, Mr Gatti said that micro-states faced specific problems when forming their delegations if they were to take account of all the conditions laid down in the Rules. The San Marino delegation comprised only two full members – one from the majority and one from the opposition – and one woman (from the majority) was included as a substitute.

13. At its meeting on 24 January 2011, the Committee on Rules of Procedure had an exchange of views with Mr Stolfi, member of the San Marino delegation. He confirmed the above-mentioned information and insisted on the fact that changing the composition of the delegation, which results from an agreement among the political parties represented in the parliament, requires time.

2.1.3. The credentials of the members of the Serbian delegation sent on 17 December 2010

14. In accordance with Articles 25 and 26 of the Statute of the Council of Europe, the Serbian parliamentary delegation is entitled to seven representatives and seven substitutes. According to the report of the President of the Assembly on the examination of credentials of representatives and substitutes for the 2011 ordinary session of the Assembly, the Serbian parliamentary delegation is composed as follows:

Representatives:

Mr Miloš ALIGRUDIC (Democratic Party of Serbia)
Mr Željko IVANJI (G17 Plus)
Mr Cedomir JOVANOVIĆ (Liberal-democratic Party)
Mr Dragoljub MICUNOVIĆ (Democratic Party)
Mr Tomislav NIKOLIĆ (Parliamentary group "Forward Serbia")
Mr Branko RUŽIĆ (Socialist Party of Serbia)
Mr Dragan TODOROVIĆ (Serbian Radical Party)

Substitutes:

Mr Mladen GRUJIC (New Serbia)
Mr Miloš JEVTIĆ (Democratic Party)
Ms Nataša JOVANOVIĆ (Serbian Radical Party)
Mr Bojan KOSTREŠ (League of Social Democrats of Vojvodina)
Ms Elvira KOVÁCS (Alliance of Vojvodina Hungarians)
Mrs Vjerica RADETA (Serbian Radical Party)
Mrs Nataša VUCKOVIĆ (Democratic Party)

15. Following receipt of the Serbian delegation's credentials, the Secretary General of the Parliamentary Assembly contacted it. In a letter to the President of the Assembly dated 19 January 2011, the Speaker of the Serbian National Assembly, Mrs Slavica Djukić-Dejanović, emphasised the commitment of National Assembly members to equality between the sexes but said that the National Assembly was in parliamentary recess until March 2011 so there was no procedural means of changing the delegation's composition. Mrs Dejanović also stated that the Serbian national delegation, elected on 2 February 2009, comprised seven representatives and seven substitutes, including four women who were all very actively involved in the work of the Assembly and its committees. Mrs Nataša Vuckovic was vice-chair of the Socialist Group and a member of the Committee on Legal Affairs and Human Rights and Mrs Elvira Kovacs, who had been an Assembly rapporteur on numerous occasions, was vice-chair of the Group of the European People's Party and a member of the Committee on Culture, Science and Education.

16. At its meeting on 24 January 2011, the Committee on Rules of Procedure had an exchange of views with Mrs Vuckovic, member of the Serbian delegation, who confirmed the information given by the Speaker of the National Assembly. She indicated that the delegation would be modified in due time for the Assembly April part-session, as soon as the National Assembly resumed its session.

2.2. Assessment

17. The challenge to the delegations of Montenegro, San Marino and Serbia is based on their failure to comply with the provision requiring delegations to appoint, as a representative, at least one member of the under-represented sex (Rule 6.2.a of the Rules of Procedure). In view of the composition of the delegations as shown above, and the tables submitted by the delegations showing the representation of men and women in the respective parliaments and their parliamentary delegations, it is clear that women come into the category of under-represented sex.

18. Article 25 of the Council of Europe Statute states that members (representatives or substitutes) of the Assembly from Council of Europe member states shall be “elected by [their] parliament from among the members thereof, or appointed from among the members of that parliament, in such manner as it shall decide”. The Rules of Procedure lay down certain conditions that have to be met regarding the composition of delegations, with reference in particular to the balanced representation of political parties or groups and the appointment of members of the under-represented sex.

19. The three delegations that are the subject of this challenge clearly fail to meet the condition established in Rule 6.2.a that national delegations should include at least one member of the under-represented sex appointed as a representative.

20. Reference should be made to the Assembly’s position in principle, restated in its [Resolution 1585 \(2007\)](#) on gender equality principles in the Parliamentary Assembly, according to which national parliaments should ensure that their national delegations to the Assembly comprise a percentage of women in at least the same proportions as they are present in the national parliament “with the aim of achieving, as a minimum, a 30% representation of women, bearing in mind that the threshold should be 40%”.

21. This is not the first time that the Assembly has had to deal with a challenge of credentials related to gender representation. In 2004, the credentials of the delegations of Ireland and Malta were challenged on the ground that they did not comprise at least one female member, which was an obligation under the Rules of Procedure at that time. The Assembly had then decided² to ratify the credentials of the Irish and Maltese delegations but with the suspension of the voting rights of the members of the delegations concerned in the Assembly and its bodies until the composition of those delegations were brought into conformity with Rule 6.2.a of the Rules of Procedure.

22. In the explanatory memorandum in that report, the committee considered that “it would go too far to declare in such a case the whole national delegation as being not in conformity with the Rules and to refuse ratification of the credentials of all members” and that “the Assembly cannot itself select which of the seats allocated to a national parliamentary delegation is not correctly filled and cannot arbitrarily declare the credentials of a certain delegation member as not ratified”.

23. The committee notes that for small parliaments, it may be difficult to ensure that the composition of parliamentary delegations complies with all the criteria laid down by the Rules of Procedure – fair representation of parties or political groups and gender representation. It notes, however, that the national delegations of Andorra, Cyprus, Iceland, Latvia, Luxembourg, Slovenia, “the former Yugoslav Republic of Macedonia”, Malta and Monaco do satisfy these criteria and that those which have experienced difficulties have managed to resolve them. The committee also accepts that procedures in certain parliaments do not enable them to easily amend the composition of their parliamentary delegations insofar as those procedures provide for the appointment of delegations for the whole duration of the legislature, the consultation of or decision by the political groups, or the need for the composition to be ratified in plenary session.

3. Conclusions

24. The Committee on Rules of Procedure, Immunities and Institutional Affairs considers that the credentials of the parliamentary delegations of Montenegro, San Marino and Serbia have been legitimately challenged on the ground that the delegations concerned did not comprise at least one female representative, in violation of Rule 6.2.a of the Rules of Procedure.

25. The Committee on Rules of Procedure could therefore take the view that in this case, it should adopt the same position in respect of these delegations as was adopted in 2004, having regard to [Resolution 1360 \(2004\)](#).

2. See [Doc. 10051](#), report of the Committee on Rules of Procedure and Immunities of 27 January 2004, and [Resolution 1360 \(2004\)](#) on contested credentials of the parliamentary delegations of Ireland and Malta.

26. In accordance with Rule 7.3 of the Rules of Procedure, the committee may propose in its report:

- non-ratification of the credentials;
- ratification of the credentials together with depriving or suspending the exercise of some of the rights of participation or representation of members concerned in the activities of the Assembly and its bodies.

27. Having considered the explanations given and bearing in mind the assurances provided by the parliaments concerned, the committee proposes that the Assembly ratify the credentials of the parliamentary delegations of Montenegro, San Marino and Serbia, but suspend the voting rights of their members in the Assembly and its bodies in accordance with Rule 7.3.c of the Rules of Procedure, with effect from the beginning of the Assembly's April 2011 part-session, until the composition of these delegations is brought into conformity with Rule 6.2.a of the Rules of Procedure, insofar as it relates to the appointment in a national delegation of, at a very minimum, one member of the under-represented sex as a representative.

28. The committee also proposes that this suspension be automatically lifted once the delegations concerned have modified their composition so as to comply with Rule 6.2.a and that the modifications in question have been ratified by the Assembly or the Standing Committee.