Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Resolution 1931 (2013)**[1]
Final version

# Challenge on procedural grounds of the still unratified credentials of Mr Andriy Shevchenko (Ukraine, EPP/CD)

Parliamentary Assembly

1. On 22 April 2013, the still unratified credentials of Mr Andriy Shevchenko (Ukraine, EPP/CD) were challenged by Mr Pieter Omtzigt on procedural grounds, in accordance with Rule 7 of the Rules of Procedure of the Parliamentary Assembly, on the ground that he was replacing, in the Ukrainian delegation, Mr Serhiy Vlasenko, who had been deprived of his national parliamentary mandate under a judicial decision which may have been politically motivated.

2. The Assembly recalls that, in pursuance of Article 25 of the Statute of the Council of Europe, no representative can be deprived of his mandate during an Assembly session without the latter's consent. This provision is designed to protect elected representatives against any arbitrary authority, in particular in the case of prosecution possibly leading to the revocation of their mandate for reasons of opinions expressed or positions defended in the Assembly. Both the Statute of the Council of Europe (ETS No. 1) and the Rules of Procedure of the Assembly stipulate that national parliaments are entitled to fill vacant seats in the Assembly only if the vacancy is due to death, resignation or parliamentary elections. This is why the possibility of filling vacant seats, in all other cases, is accompanied by the major safeguard set out in Article 25.*b* of the Statute of the Council of Europe, which lays down that the Assembly is the sole authority which can decide on the revocation, during a given session, of the mandate of one of its members.

3. The Assembly notes that the appointment of Mr Andriy Shevchenko, whose as yet unratified credentials have been challenged, to the seat which became vacant following the revocation of Mr Serhiy Vlasenko's national mandate by the Ukrainian High Administrative Court, has been examined by the Committee on Rules of Procedure, Immunities and Institutional Affairs in the light of the procedural requirements set out in Rule 7 of the Rules of Procedure, with reference to which the said credentials have been challenged. It concluded that Mr Andriy Shevchenko belongs to the same political faction, known as "Batkivtshchyna", as Mr Vlasenko. Furthermore, he was appointed to replace Mr Serhiy Vlasenko by the President of the "Batkivtshchyna" faction in conformity with the procedures of the Verkhovna Rada, and his appointment is not incompatible with the fair representation of political groups and parties in the current composition of the Verkhovna Rada.

4. The Assembly recalls its position that, where an Assembly member has been deprived of his mandate under a final judicial decision, and provided that all domestic remedies have been exhausted, there is a presumption that the decision applies *mutatis mutandis* to the Assembly, in the light of Article 25.*a* of the Statute of the Council of Europe, which stipulates that "the Assembly shall consist of representatives of each member, elected by its parliament from among the members thereof, or appointed from among the members of that parliament". It considers, moreover, that it should not appraise, in the place of either the Verkhovna Rada or the European Court of Human Rights – which has been formally seized – the validity of the judicial decision which is at the origin of the revocation of Mr Vlasenko's mandate in the light of the relevant national legislation, regulations and procedures or the provisions of the European Convention on Human Rights (ETS No. 5).

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1. *Assembly debate* on 25 April 2013 (16th Sitting) (see Doc. 13193, report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Ms Vučković). *Text adopted by the Assembly* on 25 April 2013 (16th Sitting).

5. The Committee on Rules of Procedure, Immunities and Institutional Affairs has also considered the various objections raised, and has established that Mr Andriy Shevchenko's appointment to the Parliamentary Assembly was effected in compliance with Article 25 of the Statute of the Council of Europe and Rule 6 of the Rules of Procedure of the Assembly. Furthermore, the Assembly notes that substantive violations of the Statute of the Council of Europe, whose obligations are binding on member States, are governed by a separate procedure which was not initiated by the challenging parties at the opening of the part-session.

6. Consequently, in view of these circumstances, the Assembly decides to deprive Mr Serhiy Vlasenko of his mandate and to ratify the credentials of Mr Andriy Shevchenko.