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Challenge on procedural grounds of the still unratified credentials of the parliamentary delegation of Iceland

Report[1]
Committee on Rules of Procedure, Immunities and Institutional Affairs
Rapporteur: Ms Nataša VUČKOVIĆ, Serbia, Socialist Group

Summary

On 24 June 2013, the still unratified credentials of the parliamentary delegation of Iceland were challenged on procedural grounds, in accordance with Rule 7 of the Rules of Procedure of the Parliamentary Assembly, 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 Icelandic parliamentary delegation 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 October 2013 part-session, if the composition of the delegation has not been brought into conformity with the Rules of Procedure by then, and until conformity is achieved

1. Reference to committee: Assembly decision of 24 June 2013.

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A. Draft resolution[2]

1. On 24 June 2013, the still unratified credentials of the parliamentary delegation of Iceland were challenged on procedural grounds, in accordance with Rule 7.1 of the Assembly's Rules of Procedure, on the ground that the delegation 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 Icelandic delegation does not fulfil the conditions laid down in Rule 6.2.*a* of the Rules of Procedure and that its credentials have been legitimately challenged. It notes that the delegation has stated that it had been impossible for it to satisfy the condition laid down by the Rules of Procedure in the time available and that it undertakes to ensure full compliance at the earliest opportunity.

4. Accordingly, the Assembly decides to ratify the credentials of the parliamentary delegation of Iceland, 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 October 2013 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 the delegation of, at a very minimum, one member of the under-represented sex as a representative.

2. Draft resolution adopted unanimously by the committee on 24 June 2013.

B. Explanatory memorandum by Ms Vučković, rapporteur

1. Introduction and applicable regulatory provisions

1. At the Assembly sitting on 24 June 2013, Mr José Mendes Bota, Vice-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 national delegation of Iceland to the Parliamentary Assembly, in accordance with Rule 7.1.*b* of the Rules of Procedure, on the ground that the delegation in question comprised no female representative, in violation of Rule 6.2.*a*.

2. Resolution 1781 (2010) "A minimum of 30% of representatives of the under-represented sex in Assembly national delegations" 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.

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 Icelandic delegation violates the principles set out in Rule 6.2.*a* of the Assembly's Rules of Procedure.

6. Furthermore, under the terms of Rule 7.2, "[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 delegation of Iceland with Rule 6.2 of the Assembly's Rules of Procedure

7. Following parliamentary elections, the parliament of Iceland (Alþingi) presented the credentials of its new delegation at the opening of the June 2013 Assembly part-session. The report of the President of the Assembly on the examination of credentials of representatives and substitutes for the third part of the 2013 Ordinary Session of the Assembly (Doc. 13235) shows that the Icelandic national delegation does not include any women as representatives.

2.1. The credentials of the members of the Icelandic delegation sent on 19 June 2013

8. In accordance with articles 25 and 26 of the Statute of the Council of Europe (ETS No. 1), the Icelandic 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 third part of the 2013 Ordinary Session of the Assembly, the Icelandic parliamentary delegation is composed as follows:

Representatives:

Mr Karl GARÐARSON (Progressive Party)

Mr Ögmundur JÓNASSON (Left-Green Movement)

Mr Brynjar NÍELSSON (Independence Party)

Substitutes:

Mr Guðbjartur HANNESSON (Social Democratic Alliance)

Ms Unnur Brá KONRÁÐSDÓTTIR (Independence Party)

Ms Jóhanna María SIGMUNDSDÓTTIR (Progressive Party)

9. Following receipt of the Icelandic delegation's credentials, the Secretariat of the Parliamentary Assembly contacted it. No letter was formally sent to the President of the Assembly to provide an explanation. However, the Secretariat of the Assembly was informed by e-mail that the delegation had been elected (in plenary sitting) on 6 June 2013 on the basis of nominations from the various political parties without their having consulted each other beforehand, and that the non-compliance with the conditions laid down by the Rules of Procedure of the Assembly had only been discovered afterwards; the internal procedures in force in the Alþingi did not allow a change to the delegation to be made in sufficient time before the part-session, in particular because consultation among the political groups could not be organised at short notice. An assurance was given that the political parties concerned could re-discuss the composition of the delegation before the next Assembly part-session, in October 2013.

10. It may also be recalled that reference to these regulatory provisions is expressly made in the letter sent each year by the Secretary General of the Parliamentary Assembly to presidents and speakers of the member States' parliaments at the beginning of the month before the opening of the new session, to be borne in mind by them in appointing their delegations.

11. At its meeting on 24 June 2013, the Committee on Rules of Procedure had an exchange of views with Mr Garðarson, chairperson of the Icelandic delegation, who confirmed the above-mentioned information and indicated that the delegation will be modified in due time for the Assembly October 2013 part-session.

2.2. Assessment

12. The challenge to the credentials submitted by the Icelandic delegation is based on the 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 delegation as shown above, and the table submitted by the delegation showing the representation of men and women in the parliament[3] and the parliamentary delegation, it is clear that women come into the category of under-represented sex.

13. 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.

14. The delegation whose credentials have been challenged clearly fails 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.

15. 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%".

16. 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 decided[4] to ratify the credentials of the Irish and Maltese

3. The Parliament of Iceland has 25 female and 38 male parliamentarians.

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.

17. In the explanatory memorandum in that report, the Committee on Rules of Procedure 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".

18. A second precedent was set in January 2011 when, at the opening of the Assembly's 2011 Ordinary Session, the Assembly examined a challenge on formal grounds of the not yet ratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia, with the same root cause, namely that they did not include any woman in the capacity of a representative. At the time, the Assembly adopted Resolution 1789 (2011) on the basis of a report by the Committee on Rules of Procedure, in which it decided to ratify the credentials of the parliamentary delegations concerned but to suspend their members' right to vote in the Assembly and in its bodies as from the beginning of the next part-session and until such time as the composition of these delegations conformed to the Rules of Procedure.

19. The Committee on Rules of Procedure then noted in its report[5] 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. … 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

20. The Committee on Rules of Procedure, Immunities and Institutional Affairs considers that the credentials of the Icelandic parliamentary delegation have been legitimately challenged on the ground that the delegation did not comprise at least one female representative, in violation of Rule 6.2.*a* of the Rules of Procedure.

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

– non-ratification of the credentials of the delegation;

– ratification of the credentials of the delegation;

– 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.

22. The Committee on Rules of Procedure took the view that in this case, it shall adopt the same position in respect of this delegation as was adopted in 2011, having regard to Resolution 1789 (2011).

23. Consequently, bearing in mind the assurances provided by the Icelandic Parliament, the committee proposes that the Assembly ratify the credentials of the Icelandic parliamentary delegation, but provide for the automatic suspension of 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 October 2013 part-session, if the composition of the delegation has not been brought into conformity with Rule 6.2.*a* of the Rules of Procedure by then and new credentials presented, insofar as it relates to the appointment of at least one member of the under-represented sex as a representative, and until conformity is achieved.

Additional remarks

24. The wording of Rules 6.2, 7.1 and 7.2 of the Rules of Procedure, in referring to the concept of the "under-represented sex", would be liable to cause some confusion over the exact construction which the Committee on Rules of Procedure might place on it if credentials were contested in certain theoretical cases.

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4. See Doc. 10051, report of the Committee on Rules of Procedure and Immunities of 27 January 2004, and Resolution 1360 (2004).

5. See Doc. 12488, report of the Committee on Rules of Procedure, Immunities and Institutional Affairs of 24 January 2011, paragraph 23.

If the under-represented sex is determined on the basis of statistics concerning the composition of the national parliament and of the delegation, then it would be evident that a delegation which comprised only male representatives and all of whose women members were substitutes, but stemming from a parliament with a 70% female composition, for example, would in no circumstances incur the sanction prescribed in Rule 7, since in this instance men would be the under-represented sex. The committee should therefore re-examine the letter of these rules in the context of the report in preparation on the reform of the Parliamentary Assembly.

25. Furthermore, a delegation may be in a situation of non-fulfilment of the obligation to include at least one member of the under-represented sex appointed as a representative, without incurring a challenge of its credentials: indeed a delegation may – at least temporarily – free itself from that obligation simply by not appointing the whole of its membership and filling only partly the representatives' seats – which would then be filled by men only. The committee might also consider this situation in the context of the above-mentioned report.