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Challenge on procedural grounds of the still unratified credentials of the parliamentary delegation of the Slovak Republic

Report¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

Rapporteur: Mr Jordi XUCLÀ, Spain, Alliance of Liberals and Democrats for Europe

Summary

At the opening of the Parliamentary Assembly's 2017 session, the still unratified credentials of the parliamentary delegation of the Slovak Republic were challenged on the ground that the delegation comprised no female representative in violation of Rule 6.2.a of the Rules of Procedure.

Bearing in mind the assurances provided by the Slovak delegation to ensure full compliance with the condition laid down by the Rules of Procedure at the earliest opportunity, the Committee on Rules of Procedure proposes that the Assembly ratify the credentials of the delegation, but provide for the automatic suspension of the voting rights of its members in the Assembly and its bodies in accordance with Rule 10.1.c of the Rules of Procedure, with effect from the April 2017 part-session, if the composition of the delegation has not been brought into conformity with Rule 6.2.a of the Rules of Procedure.

1. Reference to committee: Assembly decision, Reference 4273 of 23 January 2017.



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A. Draft resolution²

1. On 23 January 2017, at the opening of the Parliamentary Assembly session, the still unratified credentials of the parliamentary delegation of the Slovak Republic 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 Slovak 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 undertakes to ensure full compliance with the condition laid down by the Rules of Procedure at the earliest opportunity.
4. Accordingly, the Assembly decides to ratify the credentials of the Slovak parliamentary delegation, but to suspend the voting rights of its members in the Assembly and its bodies in accordance with Rule 10.1.c of the Rules of Procedure, with effect from the beginning of the Assembly's April 2017 part-session, if the composition of the delegation has not been brought into conformity with Rule 6.2.a of the Rules of Procedure 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 by the committee on 24 January 2017.

B. Explanatory memorandum by Mr Jordi Xuclà, rapporteur

1. Introduction and applicable regulatory provisions

1. At the Parliamentary Assembly's opening sitting on 23 January 2017, Ms Elena Centemero (Italy, EPP/CD) and several members of the Assembly challenged on procedural grounds the still unratified credentials of the Slovak national delegation 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 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 Slovak delegation violates the principles set out in Rule 6.2.a of the Assembly's Rules of Procedure.

6. Lastly, 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 the Slovak Republic with Rule 6.2 of the Assembly's Rules of Procedure

7. The Slovak Parliament – the National Council of the Slovak Republic – has presented the credentials of its delegation for the Assembly's 2017 session. The credentials show that the Slovak delegation does not include any women as representatives.

2.1. The credentials of the members of the Slovak delegation sent on 13 January 2017

8. In accordance with Articles 25 and 26 of the Statute of the Council of Europe (ETS No. 1), the Slovak parliamentary delegation is entitled to five representatives and five substitutes. According to the report of the President of the Assembly on the examination of credentials of representatives and substitutes for the first part of the 2017 Ordinary Session of the Assembly ([Doc. 14236](#)), the Slovak parliamentary delegation is composed as follows:

Representatives

Mr Peter KRESÁK (MOST – HÍD)

Mr Róbert MADEJ (Social Democracy (SMER))

Mr Ján MAROSZ (Ordinary People and Independent Personalities (OLANO))

Mr Jaroslav PAŠKA (Slovak National Party (SNS))

Mr Martin POLIAČIK (Freedom and Solidarity (SaS))

Substitutes

Mr Tibor BERNAŤÁK (Slovak National Party (SNS))

Mr Pavol GOGA (Social Democracy (SMER))

Ms Renáta KAŠČÁKOVÁ (Freedom and Solidarity (SaS))

Ms Veronika REMIŠOVÁ (Ordinary People and Independent Personalities (OLANO))

Mr Péter VÖRÖS (MOST – HÍD)

9. The credentials of the Slovak delegation were submitted by letter to the President of the Assembly dated 11 January 2017. The letter mentioned the decisions of the National Council of the Slovak Republic of 11 October 2016 ([Resolution No. 247](#)) appointing Mr Marosz to replace Ms Verešová, representative, and of 23 November 2016 ([Resolution No. 333](#)) appointing Mr Madej as representative and chair of the delegation, to replace Ms Nachtmannová, appointed Secretary of State for Education, Science, Research and Sport.³ Following receipt of the credentials, the Table Office of the Parliamentary Assembly contacted the delegation secretariat. The Assembly secretariat was informed by email that, as the National Council was not sitting, it was no longer possible to alter the composition of the delegation in time for the Assembly part-session. However, Table Office received a copy of a letter sent on 18 January 2017 by Ms Natalia Blahova, chair of the parliamentary caucus of the party, *Sloboda a Solidarita* (SaS) / Freedom and Solidarity, to the Speaker of the National Council, Mr Andrej Danko, announcing the group's intention to propose that Ms Renáta Kaščáková, substitute in the delegation submitted to the Assembly, be appointed as representative, and Mr Martin Poliačik, representative in the delegation submitted, as substitute. The assurance was given that this change in the composition of the delegation would be placed on the agenda of the National Council session that opens on 31 January 2017.

10. It should be noted that reference is expressly made to these regulatory provisions of Rule 6 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.

2.2. Assessment

11. The challenge to the credentials of the Slovak 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 showing the representation of men and women in the Slovak Parliament⁴ and the parliamentary delegation, it is clear that women form the category of the under-represented sex.

12. 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.

13. 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.

14. 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%".

3. Following the parliamentary elections held on 5 March 2016, the credentials of a new delegation were ratified at the Assembly's 2016 third part-session. It comprised two female representatives and two female substitutes.

4. The Slovak Parliament comprises 31 women (20.7%) and 119 men (79.3%).

15. In 2004, the Assembly already dealt with a challenge of credentials of the delegations of Ireland and Malta 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 decided⁵ to ratify the credentials of the Irish and Maltese delegations but to combine this 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.

16. 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”.

17. A second precedent was set in January 2011 when, at the opening of the 2011 Assembly 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 complied with the Rules of Procedure.

18. On that occasion, the Committee on Rules of Procedure noted in its report⁶ 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”.

19. In June 2013, the Assembly examined a challenge to the credentials of the Icelandic parliamentary delegation, which comprised no female representative. In [Resolution 1944 \(2013\)](#), the Assembly decided to adopt the same stance as it had in 2011 and ratify the credentials of the Icelandic delegation but suspend its members' voting rights with effect from the beginning of the following part-session if the composition of the delegation had not been brought into conformity with the Rules of Procedure by then.⁷

3. Conclusions

20. The Committee on Rules of Procedure, Immunities and Institutional Affairs considers that the credentials of the Slovak 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. At its meeting on 24 January 2017, the Committee on Rules of Procedure heard the observations made by Mr Madej, Chairperson of the Slovak delegation.

22. The Committee on Rules of Procedure therefore took the view that in this case, it should adopt the same position in respect of the Slovak delegation as was adopted in 2011 and 2013, having regard to [Resolution 1789 \(2011\)](#).

23. Consequently, in accordance with Rule 10.1 of the Rules of Procedure,⁸ and bearing in mind the assurances provided by the Slovak Parliament, the committee decided to propose that the Assembly ratify the credentials of the Slovak 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 10.1.c of the Rules of Procedure, with effect from the beginning of the Assembly's April 2017 part-session, if the composition of the

5. See [Doc. 10051](#), report of the Committee on Rules of Procedure and Immunities of 27 January 2004, and [Resolution 1360 \(2004\)](#).

6. [Doc. 12488](#), report of the Committee on Rules of Procedure, Immunities and Institutional Affairs of 24 January 2011, paragraph 23.

7. [Doc. 13246](#), report of the Committee on Rules of Procedure, Immunities and Institutional Affairs of 25 June 2013.

8. “Reports submitted to the Assembly ... under Rules 7.2 ... shall contain a draft resolution proposing in its operative part one of the following three options:

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 requirement for delegations to include at least one member of the under-represented sex as a representative may be infringed by a delegation without necessarily incurring a challenge of its credentials: indeed parliaments may – at least temporarily – free themselves from this obligation when they do not appoint all of the members of the delegation and the seats that are filled are occupied by men only. This is the case following parliamentary elections when a parliament presents the temporary credentials of a delegation made up provisionally only of the re-elected members of the previous delegation. The Committee on Rules of Procedure should take the view that such circumstances cannot be considered tantamount to renouncing Rule 6.2 and the principles enshrined therein and that a challenge to a delegation's credentials in such a context would be properly founded.

10.1.a. ratification of the credentials, or confirmation of ratification of the credentials;

10.1.b. non-ratification of the credentials, or annulment of ratification of the credentials;

10.1.c. ratification of the credentials, or confirmation of ratification of the credentials together with depriving or suspending the exercise of some of the rights of participation or representation of members of the delegation concerned in the activities of the Assembly and its bodies."