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

Report¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

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Summary

At the opening of the Parliamentary Assembly's 2018 session, the still unratified credentials of the parliamentary delegation of Andorra 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 Andorran 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 2018 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 4360 of 22 January 2018.



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A. Draft resolution²

1. On 22 January 2018, at the opening of the Parliamentary Assembly session, the still unratified credentials of the parliamentary delegation of Andorra 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 once again reiterates its strongest 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 balanced representation of women and men in national delegations. The Assembly also refers to its [Resolution 2111 \(2016\)](#) "Assessing the impact of measures to improve women's political representation" and reasserts its support for the principle of gender parity as the ultimate goal of political representation.
3. The Assembly therefore finds it regrettable that it must remind national parliaments, through the challenge of credentials procedure, of what, nonetheless, is a very minimal requirement as regards the representation of women in the Assembly, namely the presence of at least one woman as a representative in each delegation.
4. The Assembly notes that the composition of the Andorran 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.
5. Accordingly, the Assembly decides to ratify the credentials of the Andorran 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 2018 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 comprises, at a very minimum, one member of the under-represented sex as a representative – and until conformity is achieved.

2. Draft resolution adopted by the Committee on 23 January 2018.

B. Explanatory memorandum by Ms Petra De Sutter, rapporteur

1. Introduction and applicable regulatory provisions

1. At the Assembly sitting on 22 January 2018, Ms Maryvonne Blondin (France, SOC) and several members of the Assembly challenged on procedural grounds the still unratified credentials of the Andorran 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. She pointed out that while the Andorran delegation indeed presented perfect parity – two men, two women –, the female members were, however, merely substitutes.

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 Andorran 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 Andorra with Rule 6.2 of the Assembly's Rules of Procedure

7. The Andorran Parliament – the *Consell General* – has presented the credentials of its delegation for the Assembly's 2018 session. The credentials show that the Andorran delegation does not include a women as a representative.

2.1. The credentials of the members of the Andorran delegation sent on 18 January 2018

8. In accordance with Articles 25 and 26 of the Statute of the Council of Europe (ETS No. 1), the Andorran 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 first part of the 2018 Ordinary Session of the Assembly ([Doc. 14472](#)), the Andorran parliamentary delegation is composed as follows:

Representatives

- Mr Carles JORDANA (Democrat Group)
- Mr Víctor NAUDI ZAMORA (Mixed Group)

Substitutes

- Ms Judith PALLARÉS (Liberal Group)
- Ms Patrícia RIBERAYGUA (Democrat Group)

9. The credentials of the Andorran delegation were submitted by letter to the President of the Assembly dated 18 January 2018.³ Following receipt of the credentials, the Table Office of the Parliamentary Assembly contacted the delegation secretariat. On 19 January, a letter from Mr Vicenç Mateu Zamora, *Síndic General* (Speaker of the Andorran Parliament), sent to the Secretary General of the Parliamentary Assembly, stated that the current composition of the Andorran delegation, approved “following an extraordinary election [on 18 January]”, was the result of “an internal reorganisation of two parliamentary groups” and gave an assurance that the *Consell General* would take “as soon as possible the necessary measures to rectify the composition of the national delegation”.

10. It should also 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 Andorran 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 Andorran Parliament,⁴ it is clear that women form the category of the under-represented sex.

12. 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.

13. 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%”.

2.3. Precedents

14. It was in 2004 that the Assembly first examined a challenge of credentials relating to the lack of balanced representation between the sexes: there were no female members in the delegations of Ireland and Malta (having at least one member of the under-represented sex was an obligation under the Rules of Procedure at that time). The Assembly had then decided 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 was brought into conformity with the Rules of Procedure.⁵

15. In the explanatory memorandum in that report, the Committee on Rules of Procedure had 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”.

3. At the 2017 Session, the composition of the delegation was as follows:

- Representatives: Mr Carles JORDANA (Democrat Group), Ms Judith PALLARÉS (Liberal Group)
- Substitutes: Ms Silvia Eloïsa BONET (Mixed parliamentary group), Ms Patrícia RIBERAYGUA (Democrat Group).

4. The Andorran Parliament has nine female members (32.14%) and 19 male members (67.86%).

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

16. A second precedent was set in January 2011 when the Assembly examined a challenge on procedural grounds of the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia, with the same root cause, namely that they did not include a woman in the capacity of a representative. The Assembly had then 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.⁶

17. On that occasion, the Committee on Rules of Procedure noted in its report,⁷ 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”.

18. In June 2013, the Assembly examined a challenge to the credentials of the Icelandic parliamentary delegation, which comprised no female representative. 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.⁸

19. Lastly, in January 2017, the Assembly applied the same “case law” regarding the challenge to the credentials of the Slovak parliamentary delegation, for the same reason – the fact that there was no female member appointed as a representative – and decided to ratify the credentials of the delegation, but to suspend the voting rights of its members in the Assembly and its bodies with effect from the beginning of the Assembly's following part-session, if the composition of the delegation had not been brought into conformity with the Rules of Procedure in the meantime.⁹

3. Conclusions

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

21. At its meeting on 23 January 2018, the Committee on Rules of Procedure heard the observations made by Mr Jordana, Chairperson of the Andorran delegation. He emphasised the commitment of the Andorran Parliament to promote balanced representation of the sexes, as illustrated by the equal gender composition of the delegation. He also stressed the difficulty for small delegations to comply in their composition with the criteria of fair representation of political parties or groups and balanced representation of the sexes.

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 Andorran delegation as was adopted in 2011, 2013 and 2017 in similar cases.

23. Consequently, in accordance with Rule 10.1 of the Rules of Procedure,¹⁰ and bearing in mind the assurances provided by the Andorran Parliament, the committee decided to propose that the Assembly ratify the credentials of the Andorran parliamentary delegation, but provide for the automatic suspension of the

6. [Resolution 1789 \(2011\)](#) and report of the Committee on Rules of Procedure, Immunities and Institutional Affairs of 24 January 2011 (Doc. 12488).

7. *Op. cit.*, paragraph 23.

8. [Resolution 1944 \(2013\)](#) and report of the Committee on Rules of Procedure, Immunities and Institutional Affairs of 25 June 2013 (Doc. 13246).

9. [Resolution 2148 \(2017\)](#) and report of the Committee on Rules of Procedure, Immunities and Institutional Affairs of 26 January 2017 (Doc. 14247).

10. “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:

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.”

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 2018 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 until conformity is achieved.