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Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting

Report¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

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Summary

This report assesses the proposals made in the framework of the Bureau's ad hoc committee on the role and mission of the Parliamentary Assembly related to the challenge or reconsideration of the credentials of national delegations, the rights of representation and participation of national delegations, and, in this context, the Assembly's voting procedures and the voting rights of its members.

It provides a detailed insight into the existing procedures, recalling the powers and prerogatives assigned to the Assembly by the Statute of the Council of Europe, the numerous resolutions that the Assembly has adopted over the last thirty years to strengthen the effectiveness of its mechanisms, in order to guarantee and defend the values and fundamental principles of the Council of Europe, in stating its position on the member States' failure to honour the statutory obligations they entered into upon joining the Council of Europe.

The Committee on Rules of Procedure proposes to enhance the coherence of the procedures for challenging or reconsidering the credentials of national delegations on substantive grounds, to reinforce the legitimacy and authority of the Assembly's decisions when deciding on a challenge or a reconsideration of credentials, and to restrict the scope of sanctions incurred by members of delegations whose credentials have been challenged.

1. Reference to committee: Bureau decision, Reference 4395 of 29 June 2018.



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A. Draft resolution²

1. The Parliamentary Assembly emphatically reiterates its willingness, as one of the statutory organs of the Council of Europe, to resolutely promote the aims of the Organisation, as set forth in the Preamble to and Articles 1 and 3 of the Statute of the Council of Europe (ETS No. 1). It recalls the numerous resolutions it has adopted over the last few decades both to strengthen its machinery in this area and to state its position on the failure of given member States to honour the statutory obligations they entered into upon joining the Council of Europe.

2. With its 70th anniversary approaching in several months' time, the Assembly intends to constructively analyse the relevance, effectiveness and legitimacy of its procedures in the light of the goals it has set itself. It may find it necessary to change its practices and adjust its rules, were a revision of its machinery and procedures to prove indispensable to better guarantee the principles and values that are the "common heritage of the peoples" of Greater Europe.

3. Nevertheless, the Assembly considers that its Rules of Procedure should not be changed in an attempt to resolve a purely political problem. Revising rules and procedures is justified only where it helps to make the Assembly more robust in order to better uphold the fundamental values of democracy, the rule of law and human rights.

4. The Assembly welcomes the numerous contributions submitted by its parliamentary delegations and political groups and the debates within the framework of the Ad Hoc Committee on the Role and Mission of the Parliamentary Assembly set up by the Bureau in December 2017. It believes that the proposals made must be assessed in terms of their implications and consequences for the effective functioning of the Assembly, in a broader and longer-term perspective, and that care must be taken to avoid a short-sighted approach.

5. It also welcomes the deep attachment of the delegations and political groups to the Council of Europe's fundamental values and principles, their promotion, their protection and the monitoring of the member States' respect for them. It notes with great satisfaction the unwavering backing clearly expressed for the existing supervision machinery.

6. Consequently, the Assembly resolves to strengthen the coherence, legitimacy and effectiveness of its decision-making machinery by amending certain provisions of its Rules of Procedure as follows:

6.1. with regard to enhancing the *coherence of its procedures for the challenge and reconsideration of national delegations' credentials on substantive grounds*, provided for in Rule 8 and Rule 9 of the Rules of Procedure, it resolves to:

6.1.1. *unify these procedures* and merge the provisions in a single rule worded as follows:

"Rule 8: Challenge of still unratified credentials or request for the reconsideration of previously ratified credentials on substantive grounds

8.1. The credentials of a national delegation as a whole may be challenged on substantive grounds:

8.1.a. at the opening of an ordinary session, on the basis of a request made by at least one sixth of the members of the Assembly, present in the Chamber, belonging to at least five national delegations and, recommending that these credentials should not be ratified;

8.1.b. during an ordinary session, on the basis of a motion for a resolution tabled by at least one sixth of the members of the Assembly, belonging to at least five national delegations, distributed at least one week prior to the opening of a part-session, recommending that these credentials be reconsidered;

8.1.c. on the basis of a draft resolution of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) recommending that these credentials should not be ratified or that they be reconsidered.

8.2. The challenge shall be duly reasoned and shall be based upon one or more of the following substantive grounds:

2. Draft resolution adopted by the committee on 20 September 2018.

8.2.a. a serious violation of the basic principles of the Council of Europe mentioned in Article 3 of, and the Preamble to, the Statute; or

8.2.b. persistent failure by member States to honour the obligations and commitments they entered into and lack of co-operation in the Assembly's monitoring procedure.

8.3. The list of signatories of the motion for a resolution may not include more members of a delegation than the number of seats held by that delegation in the Assembly. Once tabled, it may not be withdrawn by its authors and no signatures may be removed or added.

8.4. The challenge presented at the opening of the session or the motion for a resolution tabled during a session shall be referred without debate to the appropriate committee for report and to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion. It may be referred, if necessary, to other committees for opinion. The main committee shall report within 48 hours if possible and the Assembly shall consider its report as soon as possible.

8.5. A report of the Monitoring Committee calling into question the credentials of a national delegation shall be placed on the agenda of the next Assembly part-session following its approval in committee, to be debated no later than 48 hours after the opening of the part-session. It shall be referred to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion.”;

6.1.2. and to amend the references to former rules made in Rule 10.1 accordingly;

6.2. with regard to reinforcing the *legitimacy of its procedures for the challenge and reconsideration of national delegations' credentials on substantive grounds and the authority of its decisions*, it resolves to amend the voting requirements for Assembly decisions on challenges or reconsideration of credentials:

6.2.1. by amending Rule 41.a as follows:

*“[The following majorities are required:] for the adoption of a draft recommendation or a draft opinion to the Committee of Ministers, for the adoption of urgent procedure, for an alteration to the agenda, for the setting up of a committee, for the fixing of the date for the opening or resumption of ordinary sessions, a decision to dismiss the holder of an elective office **and the adoption of an Assembly decision on a challenge or reconsideration of a national delegation's credentials**, a majority of two thirds of the votes cast.”;*

6.2.2. by inserting, after Rule 10.2, the following new rule:

“The adoption of the draft resolution by the Assembly shall require a majority of two thirds of the votes cast with the requisite quorum, in accordance with Rules 41.a and 42.3. In the absence of a quorum the vote shall be postponed until the next sitting. In the absence of a qualified majority, or in the absence of the quorum at this next sitting, the draft resolution shall be rejected and the credentials of the national delegation concerned shall be deemed to be ratified or confirmed.”

7. With regard to the grounds serving as the basis for any request to challenge credentials on substantive grounds, stipulated in Rule 8.2 of the Rules of Procedure, the Assembly does not intend to restrict the scope of its procedure by defining a catalogue of restrictive criteria, and decides that it will assess the grounds for the challenge, at its sole discretion, for each procedure initiated, basing its assessment on the body of law of the Council of Europe.

8. In order to more closely harmonise its machinery with that of the Committee of Ministers, the Assembly undertakes to step up dialogue with the Committee of Ministers and, when required to adopt a stance on a violation by a member State of its statutory obligations in connection with a challenge or reconsideration of a national delegation's credentials on substantive grounds, to call on the Committee of Ministers, via a recommendation, to examine the Assembly's findings and support its recommendations, including, where appropriate, the suspension of a member State under Article 8 of the Statute.

9. The Assembly decides that depriving or suspending the exercise of some of the rights of participation or representation in the activities of the Assembly and its bodies, as mentioned in Rule 10.1 c of the Rules of Procedure, does not impinge on the rights of Assembly members to take part in the election of judges to the European Court of Human Rights, the Commissioner for Human Rights, the Secretary General and the Deputy Secretary General of the Council of Europe and the Secretary General of the Parliamentary Assembly.
10. The Assembly reiterates the terms of Article 25 of the Statute of the Council of Europe and considers it as an obligation of each member State parliament to transmit the credentials of the parliament's representatives at the opening of its ordinary session.
11. The Assembly decides that the amendments to the Rules of Procedure set out in the present resolution shall enter into force upon its adoption.

B. Draft recommendation³

1. The Parliamentary Assembly, referring to its Resolution ... (2018) on strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting, wishes to emphatically reiterate its willingness, as one of the statutory organs of the Council of Europe, to resolutely promote the aims of the Organisation, as set forth in the Preamble to and Articles 1 and 3 of the Statute of the Council of Europe (STE No. 1).

2. It recalls the numerous resolutions it has adopted over the last few decades both to strengthen its machinery in this area, in order to better guarantee the principles and values that are the “common heritage of the peoples” of Greater Europe, and to state its position on the failure of given member States to honour the statutory obligations they entered into upon joining the Council of Europe.

3. The Assembly considers that the strengthening of its procedures, the result of long and gradual discussions over the last thirty years, has been clearly intended to elevate the Assembly to the level of competence of the Committee of Ministers, which, under Article 8 of the Statute, may suspend a member State from its rights of representation. The Assembly considers that its procedures for the challenge and reconsideration of national delegations' credentials, also established in relation to its procedure for monitoring the obligations and commitments of member States, constitute the parliamentary variant of the powers held by the Committee of Ministers in this area.

4. The Assembly reiterates that it has sole competence to regulate its internal procedure and lay down its own rules, a power bestowed on it by Article 28 of the Statute of the Council of Europe, and that the Statute places no restrictions on the Assembly's power to adopt rules it deems necessary for its proper functioning.

5. The Assembly invites the Committee of Ministers to engage in discussions on the effectiveness of its own procedures and ability to respond effectively to violations of the statutory obligations entered into by member States and failure to respect the values and principles promoted by the Council of Europe, in the spirit of [Resolution 2186 \(2017\)](#) on a call for a Council of Europe summit to reaffirm European unity and to defend and promote democratic security in Europe, which seeks greater coherence of rules between the Committee of Ministers and the Parliamentary Assembly governing participation and representation of member States in both statutory organs.

3. Draft recommendation adopted unanimously by the committee on 20 September 2018.

C. Explanatory memorandum by Ms Petra De Sutter, rapporteur

1. Introduction

1. At its meeting on 29 June 2018, the Bureau of the Assembly took note of the report of the Ad Hoc Committee on the Role and Mission of the Parliamentary Assembly and decided to transmit it to the Committee on Rules of Procedure, Immunities and Institutional Affairs so that, when preparing a report to be presented at the Assembly's October 2018 part-session, it could examine “the proposals aimed at maintaining, changing or supplementing the Rules governing ratification or challenging of credentials and/or representation or participation rights of national delegations” as well as the “proposals regarding the voting rights of members or the voting procedures of the Assembly”.

2. By way of a reminder, the ad hoc committee was set up by decision of the Bureau of 15 December 2017 with the aim of conducting prior reflection involving as many stakeholders as possible in the Assembly in order to prepare concrete proposals for the implementation of paragraphs 16-18 of [Resolution 2186 \(2017\)](#) on a call for a Council of Europe summit to reaffirm European unity and to defend and promote democratic security in Europe.⁴ The task of the ad hoc committee was:

“ – to reflect on, and if possible prepare, proposals aimed at harmonising the rules governing participation and representation of member States in both statutory organs, while fully respecting the autonomy of the two bodies;

– to prepare proposals as regards the role and mission of the Parliamentary Assembly as a statutory organ of the Council of Europe and a pan-European forum for interparliamentary dialogue which aims at having an impact in all Council of Europe member States.”

3. While the context prompting the setting up of the Bureau's ad hoc committee is well-known and has undeniably had a bearing on the scope of its discussion, the Committee on Rules of Procedure has, for its part, unequivocally decided to ignore political considerations and assess the proposals made by the Assembly's parliamentary delegations and political groups from a broader and longer-term institutional viewpoint, with a view to determining the Assembly's modus operandi for the years to come. The Assembly's Rules of Procedure should not be used as a means to an end: a procedure should not be changed in an attempt to resolve a purely political problem. The reintegration of the Russian Federation in the Parliamentary Assembly is neither the subject nor the purpose of the present report.

4. The question of a possible revision of the Assembly's decision-making machinery is legitimate though, because it provides the Assembly with an opportunity – a few months away from its 70th anniversary – to question, in fully transparent debate, whether its procedures are appropriate to the goals it has set itself. In so doing, it is once again demonstrating its ability to change its practices and adjust its instruments, if and when it sees fit, to better promote, as a statutory organ of the Council of Europe, the principles and values that are the “common heritage of the peoples” of Greater Europe (Preamble to the Statute of the Council of Europe (ETS No. 1)).

5. Accordingly, the present report seeks to provide detailed insight into the existing procedures, from an institutional viewpoint from which the Committee on Rules of Procedure wishes to formally reiterate the powers and prerogatives assigned to the Assembly by the Organisation's Statute. Looking back at the decisions taken by the Assembly over the last 30 years to slowly but surely enhance its own mechanisms, consolidating their effectiveness and authority, is an indispensable step, not least because the vast majority of our Assembly's members were obviously not involved in the deliberations of their predecessors and not required to express their views on the major political events to which these related.

4. *“16. Therefore, the Assembly, as part of the preparatory work for the summit, resolves to initiate a procedure aimed at harmonising, jointly with the Committee of Ministers, the rules governing participation and representation of member States in both statutory organs, while fully respecting the autonomy of these bodies. This coherence should strengthen the sense of belonging to a community and of the obligations incumbent upon every member State.*

17. This common reflection could be carried out jointly by the Assembly and the Committee of Ministers within an ad hoc working group set up by the Joint Committee. For this process to be credible and fruitful, the whole Assembly and every single member State should do their utmost to ensure that all member States of the Organisation will be fully represented in the process on both the parliamentary and intergovernmental sides in strict compliance with their respective obligations and resolutions.

18. In the meantime, and as part of the preparatory work for the summit, the Assembly resolves to continue its own reflection on its identity, role and mission as a statutory organ of the Council of Europe and a pan-European forum for interparliamentary dialogue which aims at having an impact in all Council of Europe member States. This reflection would also enable the Assembly to provide its own vision of the future of the Organisation.”

6. Finally, it is important to point out that the reflection of the Committee on Rules of Procedure is strictly limited to the scope of the questions referred to it, namely examining the provisions relating to the challenge or reconsideration of national delegations' credentials and also to the national delegations' rights of representation and participation and, within that framework, voting procedures in the Assembly and the voting rights of its members.

2. Powers and competence of the Parliamentary Assembly

2.1. Review of the statutory provisions

7. The Statute of the Council of Europe stipulates, in Article 10, that "The organs of the Council of Europe are: i. the Committee of Ministers; ii. the Consultative [Parliamentary] Assembly", and, in chapter V, sets out in detail the prerogatives of the Assembly, "the deliberative organ of the Council of Europe".

8. Under Article 1 of the Statute, the Parliamentary Assembly is, like the Committee of Ministers, the other statutory body responsible for contributing to the achievement of the Council of Europe's aim ("The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress. **This aim shall be pursued through the organs of the Council**, by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the **maintenance and further realisation of human rights and fundamental freedoms**").

9. Under Article 28 of the Statute, the Parliamentary Assembly adopts its Rules of Procedure and is free to amend them. The articles relating to the Assembly's constitution, organisation and functioning (Articles 23 to 35 of the Statute) may not be changed without its consent and any amendment must be approved by the Assembly itself. Article 28 of the Statute confers on the Assembly the exclusive competence for enacting its own rules. The fact that the Statute requires certain elements of procedure to be included in the Rules of Procedure cannot limit the competences of the Assembly to adopt rules that it considers necessary for its proper functioning.

2.2. Reminder of the regulatory provisions

10. In accordance with the principle of the hierarchy of legal norms, the Rules of Procedure of the Assembly (Article 28 of the Statute of the Council of Europe) cannot include provisions which are contrary to the Statute of the Council of Europe. The Rules of Procedure derive from the Statute of the Organisation, and, through special provisions, serve to specify the general provisions it contains.

2.2.1. with regard to the ratification or challenge of credentials and the representation or participation rights of national delegations

11. Thus, the Statute of the Council of Europe expressly provides for the competence of the Assembly to verify the credentials of its members. The provisions of Rules 6 et seq. of the Rules of Procedure concerning the composition of national delegations and the examination of credentials are based on Articles 25, 26 and 28 of the Statute.⁵ While the Committee of Ministers has the competence to decide to suspend the representation of a member State or to declare its exclusion (Article 8 of the Statute), the Assembly is, for its part, sovereign as to the conditions of representation of national parliaments within it.

12. It is on this whole statutory basis that the Parliamentary Assembly has introduced, since 1949, a general procedure for the examination of the credentials of its members at the opening of the annual session (corresponding to Rules 6.3, 6.4, 7 and 8 of the Rules of Procedure currently in force), as well as a procedure for challenging credentials during a session (Rule 9), it being understood that it is on this same statutory basis that the Assembly has devised special procedures for challenging credentials since 1964.

13. The entire regulatory mechanism for challenging credentials, developed over the last 30 years (see section 3 below), is based on Article 3 and the Preamble of the Statute. As mentioned above (paragraph 8), the Assembly, as an organ of the Council of Europe, is obliged to establish the effective means of promoting the aims of the Council of Europe.

5. Article 28.c of the Statute states that "[t]he Rules of Procedure shall determine inter alia: ... iv. the time and manner in which the names of the Representatives and their Substitutes shall be notified".

14. Regardless of whether a challenge to a national delegation's credentials is based on procedural grounds (Rule 7 of the Rules of Procedure) or substantive grounds (Rules 8 and 9), Rule 10 of the Assembly's Rules of Procedure on Assembly decisions on a challenge or reconsideration of credentials lists only three possible alternatives:

“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.”

15. In the latter case, the parliamentary delegation of the member State concerned sits in the Assembly but is deprived of some of its rights of representation and/or participation. These rights are not listed in the Rules of Procedure. It is up to the Assembly to determine the extent of the “sanction” when it is called upon to decide, by resolution, on a challenge of the credentials (however, the Rules Committee, at the request of the Bureau of the Assembly, has drawn up a list of rights of participation or representation of which members may be deprived in the context of a challenge or reconsideration of credentials – document AS/Pro (2014) 10 def).

2.2.2. with regard to the voting rights of members and the voting procedures of the Assembly

16. The Assembly shall freely determine the procedures and conditions for voting on its decisions, including the majorities which apply to the vote, in accordance with Articles 29 and 30 of the Statute and subject to the stipulations contained therein.

17. The conditions governing voting on Assembly decisions are laid down in Chapter IX of the Rules of Procedure (Rule 40 on methods of voting, Rule 41 on the required majorities, Rule 42 on the quorum, Rule 43 on the right to vote⁶). Rules 41 to 43 have remained unchanged since 1949, the sole (recent) exception being the addition of the decision to dismiss the holder of an elective office (Rule 54.7) by a two-thirds majority of the votes cast under the rules of quorum.

6. Rule 41: *“The following majorities are required:*

41.a. for the adoption of a draft recommendation or a draft opinion to the Committee of Ministers, for the adoption of urgent procedure, for an alteration to the agenda, for the setting up of a committee, for the fixing of the date for the opening or resumption of ordinary sessions and a decision to dismiss the holder of an elective office, a majority of two thirds of the votes cast.

41.b. in respect of appointments, subject to the provisions of Rules 15 and 16, an absolute majority of the votes cast at the first ballot and a relative majority at the second ballot; in the event of a tie-vote between candidates in the second ballot, successive ballots shall be held until one candidate obtains a relative majority;

41.c. for the adoption of a draft resolution and for any other decision, a majority of the votes cast in the case of a tie the question being rejected.”

Rule 42:

“42.1. The Assembly may deliberate, decide upon procedural motions, and agree to adjourn, whatever the number of representatives present.

42.2. All votes other than votes by roll call shall be valid whatever the number of members voting, unless, before the voting has begun, the President has been requested to ascertain whether there is a quorum. At least one sixth of the representatives authorised to vote, belonging to at least five national delegations, have to vote in favour of the request. To ascertain whether there is a quorum, the President, before proceeding to a vote on the subject matter that prompted the request, invites representatives to mark their presence in the Chamber using the electronic voting system.

42.3. The quorum is one third of the number of representatives of the Assembly authorised to vote.

42.4. A vote by roll call shall not be valid, nor the result made public, unless one third of the representatives authorised to vote took part. The President may decide to ascertain whether there is a quorum, using the procedure of Rule 42.2, before proceeding to a vote by roll call.

42.5. In the absence of a quorum, the vote shall be postponed until the next sitting or, on a motion from the Chair, until a subsequent sitting. The Assembly proceeds to the next item on the agenda.

42.6. If, owing to the absence of a quorum, the Assembly is unable to take a decision on one of the procedural motions specified in Rule 37, the President shall declare that motion to be null and void”.

Rule 43: “The right to vote is an individual one. Voting by proxy is prohibited. A Substitute authorised to sit in place of an absent representative shall vote in his or her own name.”

18. However, it is clear from Article 29 of the Statute that *any amendment to the provisions of the Rules of Procedure relating to the majority required for voting on a decision requires the approval of the Assembly by a two-thirds majority* (“... resolutions of the Parliamentary Assembly, ... determining what majority is required for resolutions in cases not covered by i to iv above ..., shall require a two-thirds majority of the Representatives casting a vote”).

19. Any amendment by the Assembly to Rule 41 of the Rules of Procedure must therefore be carried by a two-thirds majority of the votes cast.

20. In addition, the Assembly has elective powers (judges of the European Court of Human Rights, Commissioner for Human Rights, Secretary General and Deputy Secretary General of the Council of Europe, Secretary General of the Parliamentary Assembly) deriving from the Statute of the Council of Europe, a convention or a resolution of the Committee of Ministers, in the framework of a joint (or at least shared) procedure with the Committee of Ministers. As has been recalled (paragraph 10), the Assembly cannot apply procedures that run counter to statutory provisions.

3. Amendments to the Assembly’s Rules of Procedure concerning the examination of the credentials of national delegations – Timeline

21. *Since 1949*, the Assembly has examined the credentials of the national delegations at the beginning of each annual session as well as the credentials of representatives and substitutes appointed after the opening of the session in the course of the year, in order to ascertain whether the nominations comply with the provisions of the Statute. However, over the years this exercise has become a “genuine test of democracy”.

22. Following major political crises or coups in certain member States (Cyprus in 1964, Greece in 1967, Turkey in 1981), the Assembly invented an ad hoc formula for challenging credentials, regardless of any specific regulatory provision in its Rules of Procedure, in order to monitor the situation in those member States, assess the extent of their compliance with the Council of Europe’s fundamental values and principles and adopt a position on violations of their statutory obligations.

23. Indeed, until 1996, the Assembly’s Rules of Procedure only provided for a general and very simple procedure for examining credentials of members, based on the Statute of the Council of Europe (under Articles 25, 26 and 28) which went no further than stating that credentials which gave rise to an objection or were contested had to be referred to the Committee on Rules of Procedure. This basis was found sufficient to enable the Assembly to consider every case where credentials were contested on non-compliance grounds “drawn from one or more of the relevant provisions of the Statute (in particular Articles 3, 25 and 26) including the democratic principles set out in the Preamble to the Statute” (Article 6 of the Rules of Procedure, as amended by [Resolution 852 \(1985\)](#)).

24. With the adoption of [Resolution 1081 \(1996\)](#) on the challenge of credentials of national delegations in the course of an ordinary session, the Assembly established in its Rules a formal procedure allowing for a challenge of credentials in the course of a parliamentary year and not just at the opening of the ordinary session. Furthermore, this very elaborate and very comprehensive procedure (need for a prior request meeting certain conditions as regards tabling and justification, precise stages in the processing of the request, etc.) provided that the Assembly would adopt its position on the request for the ratification of credentials to be annulled on the basis of proposals outlining the consequences of the decision.

25. Thus, Rule 6 of the Rules of Procedure, in force between 1996 and 2000, stipulated that:

“Ratified credentials may be reconsidered in the course of the same ordinary session if a motion for a resolution has been tabled with a view to annulling the ratification. Such a motion must state the reasons and shall be based:

– on a serious violation of the basic principles of the Council of Europe mentioned in Article 3 and the preamble of the Statute; or

– on paragraph 9 of [Order No. 508 \(1995\)](#).”

“The draft text shall, if appropriate, justify annulling the ratification of credentials of a delegation and submit proposals with respect to the consequences such as:

– depriving the members of the delegation concerned of tabling official documents in the sense of Rule 23 of the Rules of Procedure, taking on duties and voting in the Assembly and its bodies, while maintaining those members’ rights to attend and to speak at Assembly part-sessions and meetings of its bodies; or

– depriving the members of the delegation concerned of the exercise of the full rights of participation in the activities of the Assembly and its bodies.”

26. The new Rules of Procedure, which entered into force in 2000 following the general revision conducted in 1999, provide for three separate procedures [challenge of still unratified credentials on procedural grounds (Rule 7), challenge of still unratified credentials on substantive grounds (Rule 8), and reconsideration of previously ratified credentials on substantive grounds (Rule 9)], but a single basic set of proposals as to the range of potential recommendations:

- either the ratification of the credentials (or the confirmation of the ratification of the credentials),
- or the non-ratification of the credentials (or the annulment of the ratification of the credentials),
- or the deprivation or suspension of 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 (together with the ratification of the credentials or the confirmation of the ratification of the credentials).

27. Following the 2014 revision of the Rules of Procedure ([Resolution 2002 \(2014\)](#)), the corresponding rules (Rules 7.3, 8.5 and 9.4) have been merged into a single rule, Rule 10 - Decision of the Assembly on a challenge or reconsideration of credentials (see paragraph 14 above).

28. These regulatory developments are closely linked to the introduction of a **procedure for monitoring the obligations and commitments entered into by the member States** in 1993 and the consolidation of this procedure since then:

- In [Order 488 \(1993\)](#) on the honouring of commitments entered into by new member States, the Assembly considers that the honouring of “specific commitments entered into by the authorities of the candidate states on issues related to the basic principles of the Organisation” is a “condition for full participation of parliamentary delegations of new member States in its work”.
- In [Resolution 1031 \(1994\)](#) on the honouring of commitments entered into by member States when joining the Council of Europe, the Assembly considers that “all member States of the Council of Europe are required to respect their obligations under the Statute, the European Convention on Human Rights and all other conventions to which they are parties” and that a “persistent failure to honour commitments freely entered into will have consequences ... For this purpose, the Assembly could use the relevant provisions of the Council of Europe's Statute and of its own Rules of Procedure”.
- [Order No. 508 \(1995\)](#) on the honouring of obligations and commitments by member States of the Council of Europe reads as follows: “The Assembly may sanction persistent failure to honour commitments, and lack of co-operation in its monitoring process, by the non-ratification of the credentials of a national parliamentary delegation at the beginning of its next ordinary session, in accordance with Rule 6 of the Rules of Procedure” (paragraph 9); “Should the country continue not to respect its commitments, the Assembly may address a recommendation to the Committee of Ministers requesting it to take the appropriate action provided for in Article 8 of the Statute of the Council of Europe” (paragraph 10).
- [Resolution 1081 \(1996\)](#) on the challenge of credentials of national delegations in the course of an ordinary session, mentioned above, established a procedure allowing the Assembly to cancel its ratification of credentials in the event of “a serious violation of the basic principles of the Council of Europe mentioned in Article 3 and the preamble of the Statute” or a “persistent failure to honour commitments, and lack of co-operation in its monitoring process”.⁷

[Resolution 1081](#) establishes the following possible sanctions:

“– depriving the members of the delegation concerned of tabling official documents in the sense of Rule 23 of the Rules of Procedure, taking on duties and voting in the Assembly and its bodies, while maintaining those members' rights to attend and to speak at Assembly part-sessions and meetings of its bodies; or

– depriving the members of the delegation concerned of the exercise of the full rights of participation in the activities of the Assembly and its bodies.”

7. [Doc. 7481](#), report of the Committee on the Rules of Procedure on the challenge of the credentials of national delegations during an ordinary session, 9 February 1996 (rapporteurs: Mr John Cummings, United Kingdom, SOC, and Sir Anthony Durant, United Kingdom, EDG).

- finally, [Resolution 1115 \(1997\)](#) on the setting up of an Assembly committee on the honouring of obligations and commitments by member States of the Council of Europe established the Monitoring Committee “responsible for verifying the fulfilment of the obligations assumed by the member States under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member States upon their accession to the Council of Europe.”

It was agreed that the Assembly “may penalise persistent failure to honour obligations and commitments accepted, and lack of co-operation in its monitoring process, by adopting a resolution and/or a recommendation, by the non-ratification of the credentials of a national parliamentary delegation at the beginning of its next ordinary session or by the annulment of ratified credentials in the course of the same ordinary session in accordance with Rule 6 of the Rules of Procedure. Should the member State continue not to respect its commitments, the Assembly may address a recommendation to the Committee of Ministers requesting it to take the appropriate action in accordance with Articles 8 and 9 of the Statute of the Council of Europe”.

Rules 7 to 9 of the Rules of Procedure were modified accordingly.

29. It may be seen as surprising that voices are being raised, in 2018, to challenge, or at least question, the Assembly's competence to establish its procedures for challenging national delegations' credentials, an issue that does not seem to have bothered or caught the attention of anyone at all for decades, whether within the Assembly or at the Committee of Ministers. The Assembly has no recollection of the Committee of Ministers voicing any condemnation in this respect when informed of Assembly decisions on the composition of parliamentary delegations in connection with given member States' breaches of their statutory obligations – for example through [Resolution 361 \(1968\)](#) on the situation in Greece, [Recommendation 547 \(1969\)](#) on the situation in Greece, or [Recommendation 1444 \(2000\)](#) on the conflict in Chechnya.

30. When analysing 30 years of Assembly decisions aimed at strengthening its procedures, one can but agree that this carefully considered, continual and gradual approach has clearly been geared to elevating the Assembly to the level of competence of the Committee of Ministers. The Committee of Ministers possesses the ultimate weapon in Article 8 of the Statute, which enables it to suspend a member State from its rights of representation or decide to exclude it, but has never used it, even in the situations of armed conflict, coups d'état or major political crises that have blemished the European history of member States over the last 50 years. The machinery for challenging credentials on the basis of a violation of the statutory obligations entered into by the States is merely the parliamentary variant of the powers of the Committee of Ministers in this area.

31. If procedures are to be harmonised between the Committee of Ministers and the Parliamentary Assembly, following the calls of some – doubtless not free of ulterior motives –, it is not for the Assembly to devalue its machinery, which has enabled it to respond to crises effectively, but for the Committee of Ministers to upgrade its own.

32. The Assembly's proposals for general revision of the Council's Statute – [Recommendation 1212 \(1993\)](#) on the adoption of a revised Statute of the Council of Europe⁸ – included a new and politically important rule (Article 20.d), providing that: “During any period when its representation in the Assembly is suspended, a member shall not be entitled to vote in the Committee of Ministers and may not occupy the Chair”. The Assembly was thinking of Cyprus, whose nineteen-year absence from the Assembly had not prevented its Foreign Minister from chairing the Committee of Ministers. The Committee of Ministers took no follow-up action on the proposals of the Assembly.

4. Contributions from the Assembly's national delegations and political groups to the work of the Ad hoc Committee on the Role and Mission of the Parliamentary Assembly: position of the Committee on Rules of Procedure, Immunities and Institutional Affairs

33. The Committee on Rules of Procedure has examined the contributions from national delegations and political groups submitted in connection with the work of the Ad hoc Committee on the Role and Mission of the Parliamentary Assembly⁹ as well as the ad hoc committee's final report.¹⁰ It found that the proposals made had to be taken into account but not in a short-term perspective and instead assessed in terms of their implications and consequences for the effective functioning of the Assembly in the long term.

8. [Doc. 6788](#), report of the Committee on Rules of Procedure (Rapporteur: Lord Finsberg, United Kingdom, EDG)

34. It should be reiterated, once again, that only two questions were specifically referred to the Rules Committee: the procedure for challenge or reconsideration of national delegations' credentials and also the rights of representation and participation of national delegations; voting procedures in the Assembly and the voting rights of Assembly members.

35. As the ad hoc committee's final report emphasises, while virtually all the contributors see the Parliamentary Assembly as a body promoting the shared European values of democracy, the rule of law and human rights, which is an approach that should be reinforced, their views vary and sometimes diverge as to the mechanisms for guaranteeing effective respect on the part of the member States for the Council of Europe's fundamental aims and founding principles.

4.1. Powers and rights of representation and participation of the national delegations

4.1.1. Positions of the national delegations and political groups

4.1.1.1. Challenge of credentials on formal grounds

36. None of the contributions called into question the principle of challenging credentials on formal grounds provided for in Rule 7 of the Rules of Procedure based on the current criteria of fair representation of political groups or parties and representation of the sexes.

4.1.1.2. Challenge of credentials on substantive grounds

37. On the whole, the national delegations and political groups reiterated their attachment to the instruments developed by the Assembly over the decades, in its capacity of a "watchdog" for human rights, the rule of law and democratic pluralism, to ensure that the obligations of member States, including their convention-based obligations, are monitored. Many delegations pointed out that it is not possible to promote the upholding of the most elevated legal standards for the protection of human rights, democracy and the rule of law if violations of the fundamental values and principles which the Council of Europe's member States have statutorily undertaken to respect go unsanctioned.

38. Accordingly, a large majority of contributions support the existing machinery, pointing out that it is the only effective means available to the Assembly for checking member States' compliance with the Council of Europe's principles and values and taking action, at least in emergency situations or exceptional circumstances such as a coup d'état and the imposing of a military dictatorship. A number of contributors fear that a revision of its mechanisms would result in the Assembly's role being weakened, particularly where its monitoring procedure is concerned, and call for caution when making any amendments to the Rules of Procedure. In the eyes of some, the commitments entered into upon accession and the statutory obligations of member States should even be stepped up.

39. However, the following proposals were also put forward:

- harmonising the rules governing participation and representation of member States in both statutory organs, the Assembly and the Committee of Ministers;¹¹
- purely and simply ruling out the possibility of challenging unratified and previously ratified credentials of national delegations on substantive grounds;¹²
- maintaining the current system of examining national delegations' credentials on substantive grounds but narrowly defining the criteria for challenging credentials:
 - not having arbitrary criteria but following objective criteria based on the established rules and values of the Council of Europe;¹³

9. Document summarising the proposals of the participants drawn up by the President of the Parliamentary Assembly (AS/Bur/MR-PA (2018) 04).

10. Report, AS/Bur/MR-PA (2018) 08, of 28 June 2018.

11. Turkish delegation and UEL group.

12. Delegation of Serbia, the Russian parliament's participants in the ad hoc committee and, to a certain extent, the Greek and Slovakian delegations.

13. Norwegian delegation

- expanding these criteria (for example, respect for the principles of the sovereignty, independence and territorial integrity of member States;¹⁴ the obligation for delegations to comprise only parliamentarians elected in legitimate elections held solely within the internationally recognised boundaries of the national territory, and the impossibility for a delegation to comprise individuals elected illegally on occupied or annexed territory;¹⁵
- changing the current system of challenges of credentials on substantive grounds by tightening up the requirements enabling the Assembly to take these decisions (increase in the minimum number of members for tabling the challenge, quorum of total number of members and qualified majority of votes cast – see also section 4.3 below).

4.1.2. Position of the Committee on Rules of Procedure

4.1.2.1. on the procedure for challenging still unratified credentials on procedural grounds

40. During the exchange of views held at its meeting on 3 September 2018, the committee agreed that there was no reason to change the procedure for challenging credentials on procedural grounds, as set out in Rule 7 of the Rules of Procedure.

4.1.2.2. on the procedure for challenging still unratified credentials or reconsidering previously ratified credentials on substantive grounds

41. Regarding the challenge or reconsideration of national delegations' credentials on substantive grounds, the committee observed that the vast majority of national delegations and political groups contributing to the work of the ad hoc committee are opposed to calling the essence or existence of the current procedure into question, as it is the sole impelling instrument enabling the Assembly to respond to grave violations of the Organisation's values and principles and take action to prompt member States to comply with their statutory and convention-based obligations and commitments. Were this procedure to be done away with, what room for decision-making would the Assembly have for taking action against a member State bringing back the death penalty, imprisoning all opposition MPs, abolishing the parliamentary institution, dismantling the judicial system, setting up extraordinary courts or engaging in the military occupation of a neighbouring State?

42. The views expressed in the committee on the proposal to tighten up the requirements for initiating a procedure, by increasing the minimum number of members tabling it, were not unanimous.

43. At present, a procedure for challenging still unratified credentials (Rule 8.1.a) must be initiated by at least 30 members of the Assembly present in the Chamber, belonging to at least five national delegations, and a procedure to annul previously ratified credentials requires the prior tabling of a motion for a resolution signed by at least 50 members, belonging to at least two political groups and five national delegations (Rule 9.2), while the Monitoring Committee may trigger either one of these procedures on the basis of a report (Rules 8.1.b, 8.4, 9.1.b and 9.3).

44. The committee therefore examined the possibility of clarifying these two procedures and unifying the requirements governing a challenge or request for the reconsideration of credentials provided for in Rules 8 and 9. Drawing on the requirements applicable to a request to ascertain quorum in the Assembly (Rule 42), Rules 8 and 9 could be amended and merged in a single rule reading as follows:

“a. at the opening of an ordinary session, on the basis of a request tabled by at least one sixth of the Assembly's members, belonging to at least five national delegations and present in the chamber, recommending that these credentials should not be ratified;

b. during an ordinary session, on the basis of a motion for a resolution tabled by at least one sixth of the Assembly's members, belonging to at least five national delegations, distributed at least one week prior to the opening of a part-session, recommending that these credentials be reconsidered.”

45. The requirements set out in the Rules of Procedure for ascertaining quorum in a sitting – and those establishing quorum itself – are fully transposable: if at least one sixth of the Assembly's representatives authorised to vote, belonging to at least five national delegations is required to support a request to ascertain quorum, this provision may be regarded as a valid criterion for initiating a challenge of credentials. Likewise

14. Ukrainian delegation

15. Ukrainian delegation, EPP/CD group.

(see section 4.3 below), the same criterion could be applied to the vote on Assembly decisions on challenges of credentials, which would require a quorum of Assembly members (namely one third of the representatives and substitutes authorised to vote).

46. The Monitoring Committee would retain all its regulatory prerogatives, unchanged.

4.1.2.3. on the criteria serving as a basis for challenging still unratified credentials or reconsidering previously ratified credentials on substantive grounds

47. As regards the more specific criteria on which a challenge to credentials should be based (the current wording – Rule 8.2 of the Rules of Procedure – mentions “serious violation of the basic principles of the Council of Europe mentioned in Article 3 of, and the Preamble to, the Statute” and “persistent failure to honour obligations and commitments and lack of co-operation in the Assembly’s monitoring procedure”), it does not appear desirable for the Committee on Rules of Procedure to set about – or be tasked with – drawing up a catalogue of criteria: on the one hand, such a list could in no way be exhaustive and, on the other hand, the exercise would hinge on a political assessment which must be left to the discretion of the Assembly when it examines the grounds for a request for challenging credentials, on a case-by-case basis. It goes without saying that an assessment of what constitutes a “serious violation of the basic principles of the Council of Europe” will have to be based *inter alia* on the existing reference framework – the body of law of the Council of Europe. This could be specified in the draft resolution proposed.

4.1.2.4. on the procedure for challenging the credentials of individual members

48. During the exchange of views of 3 September, the question of a challenge of the credentials not of a delegation as a whole but of one or more individual members was raised.

49. The committee has had occasion in recent years to discuss the expediency of amending the Rules of Procedure regarding follow-up to a request to challenge the still unratified credentials, on procedural grounds, of Assembly members, taken individually, in the context of Rule 7, and more specifically with a view to sanctioning the actions or words of members seriously and persistently violating the principles and values upheld by the Council of Europe.¹⁶

50. When dealing with a challenge to credentials made in January 2013,¹⁷ the Committee on Rules of Procedure pointed out the limits of the current Rules of Procedure, since, in practice, only the refusal of a member to sign a solemn statement would result in a challenge to his or her credentials on an individual basis.¹⁸ The committee held that “the current wording of Rule 7.1.c does not make it possible to challenge the credentials of individual members in an effective manner, particularly so as to sanction the actions or words of a member where these seriously and persistently violate the principles and values defended by the Council of Europe”.

51. The Committee on Rules of Procedure had previously examined the question of challenging the credentials of individual members in a 2005 report, analysing in detail the arguments both for and against the introduction of a procedure with a view to preventing members of national parliaments who have expressly identified themselves with the activities and programmes of parties opposing the values of the Council of Europe from becoming Assembly representatives and substitutes¹⁹.

16. The question was looked at in detail by the Rules Committee in its report on “Evaluation of the implementation of the reform of the Parliamentary Assembly”, [Doc. 13528](#) of 6 June 2014 (rapporteur: Ms Liliana Palihovici, Republic of Moldova, EPP/CD).

17. See the opinion to the President of the Parliamentary Assembly adopted by the Rules Committee on 22 January 2013 (document AS/Pro (2013) 03 def), following the challenge of the credentials of Mr Gaudi Nagy and Ms Zaroulia by Ms Nierenstein.

18. Rule 7.1 of the Rules of Procedure provides for only three formal grounds as the basis for such a challenge: failure to comply with one or more of the relevant provisions of the Statute, relating to formal obligations (Rule 7.1.a), failure to respect the principles for the composition of delegations regarding fair political representation and representation of the sexes (Rule 7.1.b), and the absence of a solemn statement (Rule 7.1.c).

19. See [Resolution 1443 \(2005\)](#) and the report by the Committee on Rules of Procedure and Immunities on challenging credentials of individual members of a national delegation to the Parliamentary Assembly on substantive grounds ([Doc. 10494](#)). See also [Resolution 1370 \(2004\)](#) on the contested credentials of the parliamentary delegation of Serbia and Montenegro, in which the Assembly said it considered it inappropriate not to ratify the credentials of the whole delegation for reasons concerning individual members, since such a decision would penalise all the members of the delegation and the parties represented. The Assembly regretted the fact that the Rules did not allow for challenging the credentials of individual members of a national delegation on substantive grounds, such as a serious violation of the Council of Europe’s basic principles by one or more members of a delegation.

52. In [Resolution 1443 \(2005\)](#), the Assembly held that “if new Rules of Procedure were introduced allowing ... to challenge credentials of individual members of national parliaments who are accused of activities or statements persistently violating the basic principles of the Council of Europe, there would be a danger of abuse. The Assembly cannot have an interest in becoming the forum for political infighting. ...”. It then decided to insert into its Rules of Procedure a provision stating that the credentials of members of a national delegation can be accepted only after each of them has signed a solemn statement affirming that they subscribe to the aims and basic principles of the Council of Europe ([Resolution 1503 \(2006\)](#) added Rule 6.2.b to this effect).

53. In 2005-2006, the Committee on Rules of Procedure considered that a challenge to credentials in an individual capacity, on political grounds, could entail a risk of misuse for the pursuit of political battles, whether internal – between political parties represented in the national parliament, and even for settling personal scores – or at the level of the Assembly, by opening up the possibility of pursuing at a procedural level political controversies (between political groups or representatives of different delegations, and so on); the committee considered that “the Assembly cannot have an interest in becoming the forum for political infighting”.

54. It does not seem expedient therefore for the Committee on Rules of Procedure to once again examine the possibility of amending the Rules of Procedure in order to introduce a procedure for challenging the credentials of representatives and substitutes on an individual basis,²⁰ and all the more so as the Code of Conduct for members of the Parliamentary Assembly and its sanctions mechanism are applicable to members whose conduct, actions or statements breach their obligations in this respect (paragraph 7 of the Code).

4.2. The issue of sanctions

4.2.1. Positions of the national delegations and political groups

55. Numerous contributors to the reflection of the Bureau's ad hoc committee pointed out that the Assembly is a common area for dialogue between parliamentarians from the Council of Europe's member States and an instrument of parliamentary diplomacy, with a core philosophy of inclusion and engagement.

56. While some thought that the Assembly can only remain a forum for open and constructive dialogue by guaranteeing that all representatives have equal rights regarding attendance of meetings and the right to speak and vote, most contributors agreed that the option for the Assembly to resort to sanctions, the restriction of which would put the institution at risk of losing its credibility and legitimacy, should be maintained and that the current system should be kept. Indeed, some contributions were in favour of reinforcing the sanctions mechanism.

57. More specifically, the following proposals were made:

- harmonising the rules governing the rights of representation and participation of member States between the Assembly and the Committee of Ministers so that a member State is represented in both the statutory organs or in neither;²¹
- envisaging different levels of rights according to the progress made in fulfilling obligations;²²
- removing the right to vote and the right to speak from the list of rights of representation and participation of which a delegation may be deprived;²³
- all national delegations must participate in the election of judges to the European Court of Human Rights, the Commissioner for Human Rights, the Secretary General and the Deputy Secretary General of the Council of Europe and the Secretary General of the Parliamentary Assembly;²⁴
- inversely, adopting new constraining measures for member States persistently failing – for lack of political will – to fulfil their contractual obligations in respect of the Council of Europe,²⁵ or unilaterally deciding to suspend their contribution to the Organisation's budget.²⁶

20. At its meeting on 15 May 2014, the Committee on Rules of Procedure decided by a small majority not to propose the introduction of such a procedure.

21. Turkish delegation and UEL group.

22. Delegation of Malta.

23. UEL group.

24. UEL group.

25. Delegation of Cyprus

26. EPP/CD group

4.2.2. Position of the Committee on Rules of Procedure

58. On the question of sanctions applicable under Rule 10.1.c of the Rules of Procedure, the committee wishes to stress the following points:

- The procedure for challenging credentials is closely linked to the **mechanism for monitoring the obligations and commitments of member States** (see paragraph 13 of modified [Resolution 1115 \(1997\)](#), as well as Rules 8.1.b, 8.2.b, 8.4, 9.1.b, 9.3 of the Rules of Procedure); among the points that “could offer important insights for a future revision of the monitoring system”, the ad hoc committee's final report expressly mentions (paragraph 24, document AS/Bur/MR-PA (2018) 08) “introducing more constraining measures for countries persistently and seriously violating human rights, democratic standards and the rule of law, as well as their obligations and commitments vis-a-vis the Council of Europe”.
- Regarding the **scope of “sanctions”**, it is for the Assembly, when deciding via a resolution on a challenge of credentials, to determine which rights of participation and representation are to be suspended. These rights are not listed in the Rules of Procedure.

59. The Committee on Rules of Procedure – to which any challenge of credentials must be referred for report or for opinion – may interpret Rule 10.1 of the Rules of Procedure (see paragraphs 14 and 15), within the framework of its general competence for interpreting the Rules of Procedure (Rule 70.2), and determine the scope of sanctions applicable to national delegation members whose credentials have been challenged or reconsidered. Accordingly, in September 2014, the Committee on Rules of Procedure, at the request of the Bureau of the Assembly, drew up a list of rights of participation or representation of which members may be deprived in the context of a challenge or reconsideration of credentials.²⁷

60. The committee therefore examined the proposal to exclude from the possible sanctions the removal of Assembly members' right to participate in the election of judges to the European Court of Human Rights, the Commissioner for Human Rights, the Secretary General and Deputy Secretary General of the Council of Europe and the Secretary General of the Parliamentary Assembly. While the **Assembly's electoral competence** derives in fact from texts of differing legal value (from the Statute of the Council of Europe for the Secretary General and Deputy Secretary General of the Council of Europe and the Secretary General of the Parliamentary Assembly, from the European Convention on Human Rights (ETS No. 5) for the election of judges, and from a Committee of Ministers resolution for the Commissioner for Human Rights), the fact that the procedures for selecting and electing candidates fall within a remit that is exercised jointly (or at least shared) with the Committee of Ministers should prompt the Assembly to exclude the right to elect these figures from the scope of participation rights that could be suspended.

27. Document AS/Pro (2014) 10 def “Deprivation or suspension of the rights of participation or representation of Assembly members in the context of a challenge or reconsideration of the credentials of a delegation under Rules 7, 8 and 9 of the Assembly's Rules of Procedure”. The committee's opinion listed the categories of rights attached to the exercise of a member's functions in the Assembly which could be suspended under Rule 10.1.c:

1. Participation rights

- right to vote (Rule 43)
- right to speak (Rule 35)
- right to speak in free debates (Rule 39)
- right of amendment (Rule 34)
- right to table motions for resolutions or recommendations (as main mover or signatory) (Rule 25)
- right to table written declarations (Rule 56)
- right to address questions to the Committee of Ministers (Rule 61)
- right to be a committee member (Rule 44)
- right to be appointed rapporteur (Rule 50)
- right to request a debate under urgent procedure or a current affairs debate (Rules 51, 52 and 53)
- right to be a candidate for the office of President of the Assembly (Rule 15), chairperson or vice-chairperson of a committee or sub-committee (Rules 46 and 49)
- right to be a member of an ad hoc committee on observation of elections.

2. Representation rights

- representation in the Assembly bodies: Presidential Committee, Bureau, Standing Committee (Rules 14 and 17)
- representation in the Joint Committee (Rule 58)
- representation as an ex officio member in Assembly committees (Rules 19.5 and 44.1);
- institutional representation of the Assembly (in Council of Europe bodies, by Bureau decision)
- representation of the Assembly on an occasional basis (by Bureau or committee decision) at events, meetings, conferences, organised by Council of Europe bodies, international organisations or interparliamentary assemblies.

61. Accordingly, the Assembly could decide, in the draft resolution presented, that the deprivation or suspension of certain rights of participation or representation in the activities of the Assembly does not affect the rights of Assembly members to take part in the election of judges to the European Court of Human Rights, the Commissioner for Human Rights, the Secretary General and Deputy Secretary General of the Council of Europe and the Secretary General of the Parliamentary Assembly. It should be clearly pointed out in this connection that only Assembly members may participate in such elections: this would mean that the delegation members who were deprived of some of their rights of participation and representation as a result of a formal decision of the Assembly, including their voting rights, could participate in the election of the aforementioned figures. On the other hand, any parliament not having had its credentials ratified by the Assembly or, by its own choice, not represented in the Assembly by a delegation, has no claim to participation in these elections.

4.3. Decision-making process (voting requirements, such as quorum or majorities required)

4.3.1. Positions of the national delegations and political groups

62. As the ad hoc committee's final report mentions, several contributors referred to the need to strengthen the legitimacy and the integrity of the decision-making process overall within the Assembly,²⁸ including through the introduction of quorum for all votes in plenary session, and others put forward proposals specifically intended to tighten up the requirements for voting on Assembly decisions regarding challenges of the credentials of a delegation (Rule 10.1 of the Rules of Procedure).²⁹

4.3.2. Position of the Committee on Rules of Procedure

63. The Committee on Rules of Procedure decided that, at this stage of the referral, it would examine the question of voting procedures solely in relation to the procedure for the challenge or reconsideration of credentials.

64. Upgrading the requirements for voting on an Assembly decision so fundamental for the national delegations concerned, which would apply to challenges of credentials both on formal and on substantive grounds and show irrefutably that the decisions adopted are supported by a very clear majority of Assembly members, can only help strengthen the Assembly's institutional position and political visibility.

65. Since the Rules of Procedure state (Rule 41.a) that the most important decisions (notably adoption of a recommendation or opinion to the Committee of Ministers, setting up of a committee, dismissal of the holder of an elective office, adoption of urgent procedure) are taken by a majority of two thirds of the votes cast, it seems logical for the same majority to apply to an Assembly decision on the challenged credentials of a delegation.

66. It should be noted that the procedure for dismissing the President and Vice-Presidents of the Assembly, incorporated by the Assembly into its Rules of Procedure in 2017 (Rule 54.7), stipulates that the decision shall be taken by a two-thirds majority of the votes cast and in accordance with the quorum conditions laid down in Rule 42.3.

67. The Committee on Rules of Procedure therefore stated its position on the following proposals:

- to amend Rule 10 (“Decision of the Assembly on a challenge or reconsideration of credentials”) and Rule 41.a (“Majorities required”) of the Rules of Procedure so that an Assembly decision on a challenge or reconsideration of a national delegation's credentials, whether on formal or on substantive grounds, requires a **quorum** of Assembly representatives (namely one third of the representatives or substitutes authorised to vote)³⁰ and a **two-thirds majority of the votes cast**;
- to determine, in Rule 10 of the Rules of Procedure, what the **consequences of the rejection of a draft resolution** on a challenge or reconsideration of credentials would be – namely that a draft resolution failing to gain a two-thirds majority of the votes cast and/or not meeting the condition of quorum³¹ is not adopted and, consequently, the credentials of the national delegation concerned are deemed ratified or confirmed.

28. Delegations of the Netherlands, Norway and Turkey, UEL group.

29. Delegation of Serbia.

30. Rule 42.3: “The quorum is one third of the number of representatives of the Assembly authorised to vote.”

5. Conclusions

68. The Committee on Rules of Procedure considered the expediency of amending the relevant provisions of the Rules of Procedure, within the strict framework of the referral made to it, namely:

- the provisions on the challenge or reconsideration of national delegations' credentials and on the rights of representation and participation of national delegations;
- the provisions on the Assembly's voting procedures and the voting rights of members.

69. It should be pointed out that all the other proposals put forward in connection with the work of the Bureau's ad hoc committee geared to amending the Assembly's Rules of Procedure or rationalising the Assembly's work will be studied in a separate report prepared by the committee.

70. This report contains a draft resolution proposing to:

- enhance the coherence of the procedures for the challenge and reconsideration of national delegations' credentials on substantive grounds, by merging the present Rules 8 and 9 of the Rules of Procedure into a single rule, unifying the requirements for initiating these procedures, and strengthening them;
- reinforce the legitimacy of the Assembly and the authority of its decisions in cases where it decides on a challenge or reconsideration of the credentials of a national delegation, whether on formal or substantive grounds, by stipulating that these decisions require a quorum of Assembly members (namely one third of the representatives or substitutes authorised to vote) and a two-thirds majority of the votes cast;
- restrict the scope of sanctions incurred by members of delegations whose credentials have been ratified but have had the exercise of certain rights of participation or representation in the activities of the Assembly suspended.

71. In this connection, it is to be noted that the Assembly must adopt the draft resolution presented by a two-thirds majority of the votes cast, in accordance with Article 29 of the Statute of the Council of Europe, which places the Assembly under obligation to **approve by a two-thirds majority any amendment of provisions of the Rules of Procedure** determining what majority is required for the voting of a decision.

72. This report also contains a draft recommendation inviting the Committee of Ministers to engage in its own discussion on the effectiveness of its procedures, in the spirit of [Resolution 2186 \(2017\)](#) on a call for a Council of Europe summit to reaffirm European unity and to defend and promote democratic security in Europe, which calls for greater coherence of rules between the Committee of Ministers and the Parliamentary Assembly.

31. By analogy with Rule 42.5 ("In the absence of a quorum, the vote shall be postponed until the next sitting or, on a motion from the Chair, until a subsequent sitting. The Assembly proceeds to the next item on the agenda."), the committee proposes that, in the absence of a quorum, the vote shall be postponed until the next sitting.