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# Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation

**Report**[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Piero FASSINO, Italy, Socialists, Democrats and Greens Group

*Summary*

The Monitoring Committee draws attention to the deteriorating situation with regard to pluralism, human rights and fundamental freedoms in the Russian Federation manifested by the crackdown on opposition politicians, independent civil society, dissenting voices and critical journalists.

It deplores the closure of Memorial and the plight of Mr Alexei Navalny. It refers to the serious shortcomings identified during the 2021 parliamentary elections and expresses its concern about the deterioration of relations with its neighbours and the escalation of tension which threatens European security.

At the same time, the Committee emphasises that the Parliamentary Assembly constitutes the unique pan-European parliamentary platform for political dialogue with the participation of all European countries.

It therefore proposes that the Assembly ratify the credentials of the delegation of the Russian Federation and returns to the assessment of the progress made when a monitoring report is submitted later this year.

1. Reference to committee: Decision of the Assembly, Reference 4628 of 24 January 2022.

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## A. Draft resolution[2]

1. The Parliamentary Assembly recalls its Resolution 1990 (2014), Resolution 2034 (2015), Resolution2063 (2015), Resolution 2292 (2019),Resolution 2320 (2020), and Resolution 2363 (2021), and reiterates the recommendations addressed to the Russian authorities therein.

2. The Assembly expresses its utmost concern over the deteriorating situation with regard to pluralism, human rights and fundamental freedoms in the Russian Federation manifested by the crackdown on opposition politicians, independent civil society, dissenting voices and critical journalists.

3. In particular, the laws on foreign agents, undesirable organisations and extremism, recently amended, are incompatible with Council of Europe standards, and have a negative impact on democracy, the rule of law and respect for human rights.

4. The closure, despite multiple appeals of the international community, of Memorial, one of the most respected human rights organisations in the Russian Federation constitutes a serious blow to democracy and the freedoms of association and expression. This is a turning point and an important obstacle to the functioning of independent civil society in the Russian Federation.

5. The plight of Mr Alexei Navalny, arrested and detained despite the judgement of the European Court of Human Rights, raises utmost concern, in particular taking into account his role in the political process in the Russian Federation, as well as the events surrounding his poisoning.

6. The Assembly notes that, contrary to the last parliamentary and presidential elections held in Russia in 2016 and 2018 respectively, it was invited to observe the 2021 parliamentary elections. It nevertheless regrets the shortcomings in the electoral legislation and the conduct of the 2021 parliamentary elections to the Duma as identified by the Assembly Assessment Mission and the Venice Commission.

7. The Assembly expresses its deep concern about the escalating tensions which threaten security in Europe and about Russia's build-up of military troops along the border with Ukraine.

8. The Assembly regrets that no progress has been made with addressing the Assembly's demands and requests in the context of the 2008 war between the Russian Federation and Georgia as expressed in Resolution 1633 (2008), Resolution 1647 (2009) and Resolution 1683 (2009), as well as with regard to the military intervention in Donbass and the illegal annexation of Crimea by the Russian Federation as expressed in Resolution 1990 (2014); Resolution 2034 (2015); Resolution 2063 (2015) and Resolution 2132 (2016).

9. The Assembly expresses its utmost disappointment that none of its recommendations included in Resolution 2363 (2021) "Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation" has been fulfilled.

10. In addition, the Assembly regrets the lack of co-operation of the Russian Federation with the Assembly in the preparation of the reports entitled "Shedding light on the murder of Boris Nemtsov" (Resolution 2297(2019)); on "The arrest and detention of Alexei Navalny in January 2021" (Resolution 2375 (2021)); on the "Poisoning of Alexei Navalny" (Resolution ... (2022)) and "Political prisoners in the Russian Federation".

11. While the above mentioned concerns justify questions with regard to the respect by the Russian Federation of its commitments and obligations as a member State of the Council of Europe, it should be emphasised that the Assembly constitutes the unique pan-European parliamentary platform for political dialogue with the participation of all European countries about the ways of upholding the values and standards that the Council of Europe stands for, including in the Russian Federation. It is recalled that the Assembly can play a meaningful role in this process only if the Russian Federation is a member State of the Organisation and fully participates in its bodies, co-operation mechanisms and activities.

12. In this respect, the Russian delegation's commitment to co-operate with the Monitoring Committee should be acknowledged. The Assembly should use this opportunity to have an impact on developments in the Russian Federation with regard to democracy, rule of law and respect for human rights.

13. It should also be highlighted that, more generally, the Russian Federation is an active member of the Council of Europe, intensively involved in its numerous activities including under the Conventions of relevance to the country's compliance with its commitments and obligations in the Organisation.

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2. Draft resolution adopted on 25 January 2022.

14. The supremacy of the decisions of the Constitutional Court of the Russian Federation over the international law including the decisions of the European Court of Human Rights does not guarantee to the Russian citizens a human rights remedy, and the possibility to hold the authorities accountable, which remains an important argument in favour of continuing co-operation at all levels including the parliamentary level.

15. It should be noted that the European Union, NATO, the Organization for Security and Co-operation in Europe (OSCE) and also the United States, while clearly expressing their criticism of the behaviour of the Russian authorities, have not interrupted their relations with Moscow with a view to maintaining a dialogue on security in Europe and favouring an evolution that will see the rule of law and democratic principles respected in the Russian Federation.

16. Consequently, the Assembly resolves to ratify the credentials of the members of the Russian delegation.

17. At the same time, the Assembly calls on the Russian authorities to fulfil the recommendations included in Resolution 1633 (2008), Resolution 1647 (2009), Resolution 1683 (2009), Resolution 1990 (2014), Resolution 2034 (2015), Resolution 2063 (2015), Resolution 2132 (2016), Resolution 2292 (2019), Resolution 2320 (2020), and Resolution 2363 (2021) and in particular to:

17.1. address concerns with regard to repealing the 2012 law on foreign agents as amended, and the 2015 law on undesirable organisations as amended and revising the law on extremism in order to put it in compliance with Council of Europe standards;

17.2. abstain from adopting new laws putting further restrictions on civil society, human rights defenders and journalists;

17.3. refrain from acts leading to violations of fundamental rights and freedoms, in particular freedom of association, freedom of assembly and freedom of expression;

17.4. co-operate with all Assembly committees and facilitate the activity of Assembly's monitoring and information missions;

17.5. incorporate the judgments of the European Court of Human Rights into the Russian legal system and implement them;

17.6. implement without delay all Committee of Ministers' decisions regarding the execution of the judgments of the European Court of Human Rights and the multiple recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);

17.7. fully implement Resolution 2375 (2021) "The arrest and detention of Alexei Navalny in January 2021", Resolution ... (2022) "Poisoning of Alexei Navalny" and Resolution 2297 (2019) "Shedding light on the murder of Boris Nemtsov".

18. The Assembly expects that by ratifying the credentials of the Russian delegation, this should be reciprocated by a meaningful dialogue, leading to concrete results. It invites the Monitoring Committee to continue the dialogue with the authorities of the Russian Federation and to submit its report on the honouring of obligations and commitments by the Russian Federation at its earliest convenience and not later than before the end of 2022.

## B. Explanatory memorandum by Mr Piero Fassino, rapporteur

### 1. Introduction

1. On 24 January 2022, with the support of more than 30 members of the Parliamentary Assembly present in the Chamber and following the proceedings via videoconference and belonging to at least five national delegations, Mr Emanuelis Zingeris (Lithuania, EPP/CD) challenged the still unratified credentials of the Russian delegation on substantive grounds on the basis of Article 8 of the Rules of Procedure of the Assembly. Later, Ms Yevheniia Kravchuk (Ukraine, ALDE) challenged the credentials of the Russian delegation on the procedural grounds on the basis of Article 7 of the Rules of Procedure with the support of more than 10 members present and belonging to at least five national delegations.

2. The substantive grounds on which the credentials were challenged refer to violations of the basic principles of the Council of Europe enshrined in Article 3 and the Preamble of its Statute (ETS No. 1); to non-fulfilment by the Russian Federation of the Assembly`s recommendations addressed to it and included in relevant past resolutions, in particular, Resolution 1990 (2014), Resolution 2034 (2015), Resolution 2063 (2015), Resolution 2292 (2019),Resolution 2320 (2020), and Resolution 2363 (2021); further violations with regard to the rule of law and democracy, the respect for basic freedoms and human rights, and, more generally the non-compliance of the Russian Federation with its commitments and obligations in the Council of Europe.

3. In line with Article 8.3 of the Rules of Procedure, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) was seized for a report on substantial grounds and the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion.

4. At its meeting on 24 January 2022, the Monitoring Committee appointed me to be rapporteur.

5. The present challenge of the credentials follows similar challenges submitted in June 2019 (upon the return of the Russian delegation to the Assembly after the absence since 2015), in January 2020 and in January 2021.

6. In the following chapters I will try to take stock of the developments and concerns of relevance to the Russian Federation`s compliance with its obligations and commitments in the Council of Europe. For obvious reasons I cannot present an exhaustive picture of the state of democracy and human rights in the Russian Federation, and in any case this is not the purpose of my report which is not meant to replace or duplicate a report under preparation by the monitoring rapporteurs for Russia, scheduled for debate in the Assembly later this year. The present report will only outline some outstanding concerns with regard to democracy, rule of law and protection of human rights in Russia which are relevant for the debate on the credentials of the Russian parliamentary delegation.

### 2. Parliamentary elections

7. The parliamentary elections took place over 3 days from 17 to 20 September 2021. It can be noted that in contrast to the previous parliamentary elections held in 2016 and the presidential election held in 2018, the Assembly this time received an invitation for the election observation. Upon the decision of the Bureau of the Assembly, an ad hoc Committee of the Assembly composed of representatives of the five political groups held, on 2-3 September 2021, remote pre-electoral meetings in order to collect information about the preparations for the elections and to assess the feasibility of holding an *in-situ* meeting. The ad hoc committee then met in Moscow from 16 to 20 September 2021 in the format of an Election Assessment Mission.

8. Despite the absence of a fully-fledged International Election Observation Mission[3], the Election Assessment Mission was not in a position to conduct an election observation, visiting a number of polling stations and holding meetings with some stakeholders. Building upon the information collected within the framework of the remote and *in situ* meetings, including with the Central Electoral Commission, domestic observers and civil society organisations as well as the findings of the Venice Commission, the Election Assessment Mission reported back to the Bureau and its conclusions have been transmitted to the Monitoring Committee to be taken into account in the next monitoring report on the Russian Federation.[4]

3. The OSCE decided not to send their observers following the restrictions imposed by the Russian authorities due to the pandemic situation.
4. See As/Bur (2021) 62.

9. The Mission identified some concerns with regard to the electoral legal framework.

10. Election-related legislation in Russia is in constant evolution, with the most recent changes introduced in 2020 and 2021. In particular, recent amendments vested the Central Election Commission (CEC) with the right to decide on the extension of voting for up to three days. The multiday voting was first introduced in April 2020 during the All-Russian vote on the constitutional amendments which was spread over 7 days. It was subsequently used during the regional and local elections in September 2020 and 2021. It was criticised for giving the authorities more control over elections and not ensuring necessary transparency and security of voting. That criticism was confirmed during the parliamentary elections by observers who had no possibility to monitor the storage of ballot boxes overnight and complained that multiple-day voting was used to exert pressure on voters to come to polling stations in order to increase turnout.

11. Furthermore, access to video monitoring was restricted only to a limited number of accounts allocated to representatives of political parties and to certain observers contrary to the previous elections when video streams from polling stations could be consulted by anyone online. The new system appears to raise issues with regard to the respect of the Venice Commission's Code of Good Practice in Electoral Matters, as it opens a possibility for limiting the capacity of observers to follow different election-related operations.[5]

12. There were also serious concerns relating to electronic voting which was introduced in May 2020. This option was available in seven federal subjects and according to the CEC data, could potentially affect approximately 15 million voters.

13. A number of domestic organisations involved in the election observation process and some political parties raised concerns about the secrecy and transparency of the process, the lack of possibility to observe electronic voting, the absence of instruments allowing to audit and verify its functioning, and for voters to verify the vote, as well as the lack of clarity regarding the competent body to consider related complaints.

14. The most recent amendments introduced to the electoral legal framework include serious restrictions to the right to stand for elections, in particular in relation with the "foreign agent" status, the law on extremism as well as the holding of assets abroad. Indeed, some well-known members of opposition parties were denied registration, and a number of initiated and ongoing criminal proceedings as well as criminal sentences against some opposition figures effectively prevented them from running in the elections.

15. What was even more worrying, the CEC proceeded to the deregistration of a number of candidates on the basis of information received from the authorities without any judicial decision. Allegedly some 9 million Russian citizens have thus been deprived of their passive voting rights.

16. The electoral campaign clearly lacked a level playing field. Unequal campaigning conditions, in particular media coverage as well as the allegations of misuse of State and administrative resources had a negative impact on fairness of the campaign.

17. Following the elections, United Russia maintained its constitutional majority despite some losses, winning 324 out of 450 seats and receiving 49,82% of the vote. Besides three other parties already present in the previous Duma (The Communist Party, A Just Russia – for truth, and the Liberal Democratic Party of Russia), and a new party, New People, made it to the parliament receiving 13 seats and 5,32 % votes. The turnout was 51,72%. According to the extra parliamentary opposition, in particular Yabloko, independent civil society and journalists and genuine critics of the authorities have remained outside the Duma, as has been the case since 2012.

18. Finally, I would like to refer to the Assembly`s position regarding the illegal annexation of Crimea, confirmed most recently in Resolution 2363 (2021) and it referred to the Venice Commission's opinion on "The compliance with Council of Europe and other international standards of the inclusion of a not internationally recognised territory into a nationwide constituency for parliamentary elections" which points out that "the organisation of elections in the annexed territory does not and cannot remedy the annexation".

5. See the Code of good practice in electoral matters (CDL-AD (2002)023rev2-cor).

## 3. Crackdown on civil society and political opposition

### *3.1. The case of Mr Alexei Navalny*

19. The emblematic case of the opposition leader, Mr Alexei Navalny, is the subject of another Assembly report entitled "Poisoning of Alexei Navalny", prepared by the Committee on Legal Affairs and Human Rights (Rapporteur, Mr Jacques Maire, France, ALDE) to be debated during the 2022 January Part Session.[6] With no intention to interfere in the rapporteur`s work, I would like to point out some issues of relevance to the present report.

20. On 17 January 2021, Mr Navalny was arrested upon his arrival from Germany where he was recovering from poisoning. He was arrested for having breached the terms of a suspended sentence passed in 2014 in the Yves Rocher case. The original trial which led to this sentence was found unfair by the European Court of Human Rights which amounted to a violation of Article 18 of the European Convention on Human Rights (ETS No. 5).[7] Mr Navalny has remained in the prison until today, despite heavy criticism of the international community, including by the Assembly monitoring rapporteurs who have made a public statement in this respect.

21. Mr Navalny's political activities prior to his poisoning and arrest included an anti-corruption campaign (he was a founder of Anti-Corruption Foundation, FSK). He was a candidate in the 2013 Moscow mayoral election and won 27% of the vote cast. He attempted to run for the presidential election in 2018 but the CEC rejected his candidacy due to his previous conviction. He nevertheless continued his political activities organising a "smart vote" in the regional and local elections and a network. He was repeatedly detained on charges of organising or participating in unauthorised public rallies.

22. In several other judgements with regard to complaints by Mr Navalny, the European Court of Human rights has found violations by the Russian authorities of Mr Navalny`s freedom of expression, right to liberty and security, as well as the right to fair trial, the prohibition on punishment without law, and the prohibition on inhuman and degrading treatment and punishment.

23. Regrettably, Mr Navalny`s case is symptomatic of the plight of political opponents and government critics. Moreover, in its several judgements, the European Court of Human Rights recognised the negative impact that the treatment of Mr Navalny by the authorities has had on pluralism and democracy in Russia. It referred to the chilling effect of the authorities' actions by "discouraging Mr Navalny and others from participating in protest rallies and engaging actively in opposition politics".

### *3.2. Restrictive legislation: foreign agents law, law on undesirable organisations and law on extremism*

24. The situation of critical journalists and civil society operating in the field of democracy, rule of law and human rights has been systematically deteriorating over the last years. However, the most recent developments raise the utmost concerns.

25. Among the laws which have a devastating impact on the activities of civil society, the law on foreign agents is of particular concern. It was adopted in 2012 and already then was severely criticised by the international community, including by the Assembly[8] and the Venice Commission. Unfortunately, instead of being revoked, it was considerably strengthened by successive amendments introduced in 2014, 2017, and in 2019.

26. The package of most recent amendments to the law on foreign agents was adopted in 2020 and was criticised in the Venice Commission`s Opinion published on 6 July 2021. In its Opinion, the Venice Commission expressed deep concern that "this legislation enables the authorities to exercise significant control over the activities and existence of associations as well as over the participation of individuals in civic life".[9] Now, the Ministry of Justice has the power to recognize as foreign agents not only organisations, but also media outlets and individuals. The label can be applied to bloggers, journalists, students receiving grants and activists participating in international conferences.

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6. See Doc. 15434.
7. Navalny v. Russia, judgement of 17 October 2017.
8. CDL-AD(2014)025 - Opinion on Federal Law n 121-fz on non-commercial organisations.
9. CDL-AD(2021)027 - Opinion on the compatibility with international human rights standards of a series of Bills introduced to the Russian State Duma between 10 and 23 November 2020, to amend laws affecting "foreign agents" adopted by the Venice Commission on 2-3 July 2021.

27. The criteria for defining an individual as a foreign agent are broad and unclear. Definition of “political activity” is vague and includes election monitoring, posting comments on Russian politics and taking part in rallies. “Support from abroad” does not only mean foreign funding but also “assistance from foreign sources”. The amendments in 2020 also introduced new registration and reporting requirements. Furthermore, individuals labelled foreign agents are banned from joining civil service or holding a municipal government position. They cannot be election observers. The law provides for a punishment of up to five years in prison for individuals or organisations labelled as foreign agents who fail to inform official entities about their status and/or refuse to report their activities to the Russian authorities. Media and NGOs which are designated foreign agents very often have to close down as they lose advertisers, journalists and activists.

28. The decision of the Ministry of Justice can be challenged in court. However, there has been no successful challenge so far.

29. Among the organisations labelled “foreign agents” are well respected NGOs, human rights defenders and journalists. In the most worrying developments, in August 2021, GOLOS, a respected election watchdog, was labelled “foreign agent”. As of July 2021, Russia labelled 76 organisations and 20 media outlets or individual persons as “foreign agents”.

30. The Law on undesirable organisations was first adopted in 2015 and raised a lot of international criticism. “Undesirable organisations” are banned or limited from engaging in any activities inside Russia. Organisations that do not disband as well as Russians who maintain ties to them, are subject to high fines and significant jail time. The label, likewise, in the case of “foreign agents” aims not only to prevent international NGOs from conducting their activities on the territory of the Russian Federation, but also to prevent the citizens of the Russian Federation from participating in the activities of the NGOs themselves, both in Russia and abroad.

31. On 9 June 2021, the State Duma adopted a package of laws on countering “the infiltration of undesirable organisations into the Russian Federation”. As a result of these amendments, citizens are banned from taking part in the work of “undesirable organisations,” even if they are located abroad. The law also allows Russia’s State financial watchdog (Rosfinmonitoring) to obtain information about any money transfers from abroad.

32. In July 2021, there were 34 organisations on the list including “Open Russia” (put on the list in 2017, and its dissolution was announced in 2019). Shockingly, included on the list is an organisation linked to the work of the Council of Europe entitled “the Council of Europe Schools of Political Studies” (since December 2020) and 3 German non-profit organisations (Forum of Russian-speaking Europeans, Center for Liberal Modernity and German-Russian Exchange) (in May 2021), which help people with disabilities and run exchange programmes for students. Since then, new entities have been added to the list.

33. The Law on extremism is another piece of legislation used and abused to supress independent opinions and criticism. Its major problem is a vague definition of extremist activities which allows for a wide scope for arbitrary decisions. The revised Article 275 is very broad and vague, very unspecific and it is easy to imprison journalists on the grounds of revealing State secrets. The law does not specify what information is classified leaving it up to various government agencies. According to lawyers, this law can be used to target anyone with international contacts, including scholars, journalists, researchers and human rights activists.

34. In a number of emblematic cases the law has been applied against journalists critical towards the authorities.

35. Strikingly, Alexei Navalny`s Anti-corruption Foundation has also been labelled as extremist.

36. Furthermore, the legal professionals at “Team 29” who specialize in Russia`s political prosecutions have effectively been declared enemies of the State under this law.

37. In addition, under a newly amended electoral law, people linked to organisations declared extremist cannot run for elections.

### *3.3. Dissolution of Memorial*

38. Memorial is one of the best known and respected Russian non-governmental organisations dedicated to the history of political repression and the protection of human rights and symbolizing the country`s democratisation. It was founded in 1989 by a group of Russian human rights activists led by Nobel Peace Prize laureate Andrei Sakharov, initially with the aim of documenting the history of Soviet repression,

rehabilitating its victims and monitoring the observance of human rights. It has campaigned for the rights of political prisoners, migrants and other marginalised groups and highlighted abuses particularly in the North Caucasus.

39. On 11 November 2021, the General Public Prosecutor`s Office of the Russian Federation filed a case in the Supreme Court against Memorial International in Moscow, the umbrella organisation of all Memorial organisations in Russia, demanding its dissolution over systematic violations of foreign agent legislation. In particular, the Organisation was accused of failing to identify itself publicly as a designated foreign agent.

40. On 28 December, the Supreme Court ordered the closure of Memorial International and its regional branches. An appeal has been filed.

41. This dissolution of the respected human rights organisation comes after many years of harassment, extortionate fines for alleged non-compliance with the law on foreign agents, and arbitrary criminal and administrative prosecution of its staff, who have also been subject to attacks and harassment, including the 2009 killing of researcher Natalia Estemirova, never been properly investigated. Mr Oyub Titiev, winner of Václav Havel Prize and Head of Memorial Office in Chechnya as well as Mr Yury Dmitriev, Head of the Karelian branch, have been imprisoned on politically motivated charges. In one of the most recent developments, the International Memorial Office in Moscow was raided by the police on 14 October 2021.

42. The international community has severely criticised this decision and qualified it as a heavy blow to rapidly shrinking space for independent civil society, media and pro-democracy activists in Russia. The Council of Europe Secretary General in her statement spoke about “devastating news for civil society in the Russian Federation”. She stressed that the existence and development of civil society organisations is an essential pillar of any European democracy and recalled that Russia`s authorities have ignored the Council of Europe’s repeated calls to review the “Foreign agent law” in line with the European Convention on Human Rights.

43. The monitoring rapporteurs for Russia have reacted on this issue and have had a constructive exchange of letters with the Russian Commissioner for Human Rights, Ms Tatiana Moskalkova. While the competence of the Commissioner as defined by the Federal Constitutional Law does not permit her to interfere in the judicial proceedings, her staff are following the procedure and the Commissioner has announced her intention to use all legal tools available to her once the court decision enters into force.

### *3.4. Restrictions on freedoms of assembly and expression*

44. Restrictions on freedom of assembly have been of concern for many years. In one of the most emblematic cases on 6 May 2012 almost 700 people were detained during peaceful rallies at Bolotnaya Square). The majority of them were subject to one-month administrative detention and fines.

45. In big rallies before the September 2019 municipal elections, thousands of peaceful protesters gathered in central Moscow to demand that opposition candidates be permitted to run for the city’s legislature (they had been refused registration). The local government did not grant a permit for the event and the authorities responded with excessive force against peaceful protesters. Over 1 300 demonstrators were arrested, often through violent force. Three days later, Moscow’s Investigative Committee opened a criminal case that human rights advocate Pavel Chikov called “a signal that the price of protest is now prison”. This criminal case alleged that the rally was not a peaceful protest but rather a set of violent “mass riots” punishable not by fines and administrative detention but by prison sentences. Those convicted of calling for the “riots” could face up to two years in prison, participants could receive three to eight, and organizers could be put behind bars for up to 15 years. As a result, six people were charged in this case.

46. In January 2021, large crowds gathered in more than 100 cities across Russia to protest against the arrest of Alexey Navalny, sparking more protests in Moscow and St. Petersburg, again leading to mass arrests. In all three days of protests, police arrested more than 11 000 people and subsequently launched dozens of felony criminal investigations.

47. Freedom of expression is another serious concern. The Russian Federation is ranked 150 out of 180 countries in the Reporters without Borders 2021 World Press Freedom Index.

48. Very few independent outlets still operate, most of them online and some with headquarters abroad. There is no independent TV channel with national coverage. TV Dozhd, which is the last television channel known for its independent editorial line, has, since 2014, been accessible only on internet.

49. As for the print media, just a few national newspapers, led by Novaya Gazeta maintain their editorial independence and express opposition views. Thus, the internet, including social networks and online versions of print media, has become an important source of information.

50. New anti-extremism legislation which entered into force in July 2016 gave State authorities a wide range of tools to control the media by introducing unclearly defined notions of "separatism", "extremism" and "incitement to violence" open to abusive interpretation, and by granting the authorities great discretion to crack down on any criticism.

51. Roskomnadzor, (Federal Service for Supervision of Communications, Information Technology and Mass Media), a State agency composed of 71 regional offices responsible for media (including online) control is formally subordinated to the government and lacks independence from the authorities. Its Head and deputies are appointed by the Minister of Telecom and Mass Communications. Yet it enjoys broad sanctioning powers including fines, requesting removal of publications deemed inconsistent with the legislation, blocking websites without a prior court ruling and initiating media`s closure in case of two warnings in a calendar year.

52. Attacks and threats against journalists are common. Critical journalists and editors are also often persecuted on criminal charges which are widely considered as politically motivated by the international community.

53. On 23 June 2020, the European Court of Human Rights found a violation of Article 10 (right to freedom of expression) and 13 (right to an effective remedy) of the Convention in four emblematic cases concerning the blocking of websites in Russia.[10]

### 4. Relations with neighbouring countries

54. The developments with regard to relations with a number of neighbouring countries remains a point of serious concern that has been brought to the forefront again in the context of the recent escalation of tensions and build-up of military forces along the border with Ukraine.

55. In relation to its neighbouring States, when acceding to the Council of Europe the Russian Federation committed itself to, *inter alia*: "settle international as well as internal disputes by peaceful means (an obligation incumbent upon all member states of the Council of Europe), rejecting resolutely any forms of threats of force against its neighbours"[11] and to "denounce as wrong the concept of two different categories of foreign countries, whereby some are treated as a zone of special influence called the "near abroad".[12]

56. In an extraordinary large and unannounced troop movement[13] in March and April 2021, Russia amassed more than 85 000 troops along its border with Ukraine, considerably increasing tensions in the region and raising fears of a military conflict. Following interventions by *inter alia* German Chancellor Merkel and US President Biden, the Russian authorities announced that the troops would return to their normal bases, while reportedly leaving much of the military infrastructure in place.[14] However, in November 2021 Russia started again to massively build up its troop presence along the Ukrainian border. At this moment there are an estimated 100 000 Russian troops stationed along this border. In an attempt to defuse tensions, Presidents Biden and Putin held a video call on 7 December 2021. This was later followed by a series of meetings between Russian and US officials as well as meetings between Russian officials and NATO, as well as the OSCE Permanent Council. While denying that Russia would have any intent to invade Ukraine, the Russian authorities have publicly made a series of demands from NATO as a condition for de-escalating the tensions, including a legally binding promise that Ukraine would never be allowed to join NATO and that NATO would not deploy troops or deploy missiles in any of the new NATO member-States. These demands were firmly rejected by all NATO member states as this would run counter to the open door policy of NATO as well as the sovereign rights of these countries. Emphasising that NATO has fully abided with the 1997 "Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation" NATO Secretary General Stoltenberg underscored that Russia has no right to establish a sphere of influence to try to control their neighbours".[15] Despite the flurry of diplomatic initiatives, tensions and fears of an

10. Vladimir Kharitonov v. Russia (application 10795/14), O. Flavus and others v. Russia (12468/15), Bulgakov v.Russia (20159/15) and Engels v. Russia (61919/16).
11. Opinion 193(1996), para. 10.7.
12. Idem, para. 10.11.
13. www.janes.com/defence-news/news-detail/russian-ground-troop-units-and-iskander-ballistic-missiles-identified-at-ukrainian-border-by-janes.
14. www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/b092-responding-russias-new-military-buildup-near-ukraine.

imminent re-invasion of Ukraine by the Russian Federation have not subsided and even increased following the start of Russian-Belarusian military exercises along the border between Belarus and Ukraine. An additional 1 500 Russian troops – not counting Russian Peace keepers – are stationed in the Transnistrian region of the Republic of Moldova, along the border with Ukraine, in violation of its commitments to the Council of Europe[16] and under the 1999 OSCE Istanbul summit.

57. Regrettably, no progress has been made with regard to resolving the illegal annexation of Crimea by the Russian Federation, while the Minsk process to resolve the military conflict in Donbass is all but moribund with the Russian Federation reportedly[17] refusing a ministerial level meeting in the framework of the so-called Normandy format. Similarly, no progress has been made with addressing the Assembly's demands and requests in the context of the 2008 war between Russia and Georgia, as expressed in Resolutions 1633 (2008), 1647 (2009) and 1683 (2009). On the contrary the rapporteurs for Georgia have repeatedly expressed their concern about the ongoing borderisation and creeping annexation of the Georgian regions of South Ossetia and Abkhazia by the Russian Federation and have urged the Russian authorities to allow the free movement of Georgian civilians across the administrative boundary lines with these two regions.

## 5. Conclusions

58. The situation in the Russian Federation with regard to the country's compliance with its commitments and obligations in the Council of Europe is very worrying. Restrictive policies and measures adopted by the authorities and used to suppress pluralism and limit basic rights and freedoms raise utmost concern. Crackdowns on extra parliamentary political opposition and independent civil society, human rights defenders and media have been severely criticised by the international community including by the Council of Europe. The plight of the opposition figure, Mr Alexei Navalny and the closure of the oldest and well known human rights organisation Memorial, have been seen as emblematic and serious blows to democracy.

59. As rapporteur of the Monitoring Committee for the challenge of the credentials of the Russian delegation I have outlined all these outstanding concerns and I have had to face the responsibility of proposing to the Assembly the way forward. Should we accept the Russian delegation? Should we ratify its credentials?

60. It is clear that our Organisation, and the Assembly in particular, is the most important, if not unique, pan-European platform instrumental for conducting political dialogue at the parliamentary level. And, we have to recognise that such dialogue takes place. The Monitoring Committee is well placed to testify to the commitment and political will of the Russian delegation illustrated by active participation of its representatives in the Committee's activities in general, but also importantly concerning Russia itself, including through hearings, exchanges of views and discussions.

61. The monitoring rapporteurs for Russia visited Moscow in July 2021 despite challenging sanitary conditions and reported back to the Committee stressing the readiness of Russian parliamentarians for dialogue. They announced their intention to prepare a roadmap – in co-operation with Russian colleagues – which would define the Committee's expectations as to concrete steps to be undertaken in terms of legislative and policy measures. I think that as the members of the Assembly we have no right to reject this chance, however slim it is, for having some impact on developments in the Russian Federation with regard to democracy, rule of law and respect for human rights.

62. Similarly, other Assembly committees co-operate with Russian colleagues in the preparation of their reports, as illustrated by the Committee on Political Affairs and Democracy and the Committee on Legal Affairs and Human Rights' work on "The continuing need to restore human rights and the rule of law in the North Caucasus region".

63. Furthermore, the Russian Federation is an active member of the Council of Europe, intensively involved in its numerous activities including under many Conventions of relevance to the country`s compliance with its commitments and obligations in the Organisation.

64. Access of Russian citizens to the European Court of Human Rights, guarantees them a human rights remedy and the possibility of holding the authorities accountable for respect of the rule of law. This remains an important argument in favour of continuing co-operation at all levels including the parliamentary level.

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15. www.euractiv.com/section/defence-and-security/news/russia-has-no-right-to-establish-a-sphere-of-influence-nato-chief-says/.
16. Opinion 193(1996), para. 10.9.
17. www.reuters.com/world/europe/france-says-russia-refused-hold-normandy-format-meeting-ukraine-2021-11-09/.

65. Finally, it should be noted that the European Union, NATO, the OSCE and also the United States, while clearly expressing their criticism of the behaviour of the Russian authorities, have not interrupted their relations with Moscow with the aim of obtaining a reduction in tensions and favouring an evolution that will see the rule of law and democratic principles respected in Russia.

66. It is in this context, therefore, that I recommend to the Assembly to ratify the credentials of the Russian delegation.