



**Doc. 15445**

25 January 2022

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

### **Committee Opinion<sup>1</sup>**

Committee on Rules of Procedure, Immunities and Institutional Affairs

Rapporteur: Ms Maria JUFEREVA-SKURATOVSKI, Estonia, Alliance of Liberals and Democrats for Europe

### **A. Conclusions of the committee**

1. The Committee on Rules of Procedure, Immunities and Institutional Affairs is of the opinion that the proposal contained in the report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) to ratify the credentials of the Russian parliamentary delegation ([Doc. 15443](#)) is in accordance with the Parliamentary Assembly's Rules of Procedure and the Statute of the Council of Europe (ETS No. 1).
2. Moreover, the committee recalls its position stated in its opinion of 27 January 2021 that, by virtue of the obligation of States and international organisations under international law not to recognise the consequences of the illegal annexation of a territory, the ratification of the credentials of the Russian delegation by the Assembly would in no way constitute recognition, even implicit, of the annexation of Crimea by the Russian Federation.

### **B. Explanatory memorandum by Ms Maria Jufereva-Skuratovski, rapporteur for opinion**

#### **1. Introduction**

1. At the opening of the Assembly's part-session, on 24 January 2022, Mr Emanuelis Zingeris (Lithuania, EPP/CD), supported by the required number of members of the Assembly, challenged the still unratified credentials of the parliamentary delegation of the Russian Federation on substantive grounds, pursuant to Rule 8 of the Rules of Procedure. The reasons for which the credentials were challenged relate to violations of the basic principles of the Council of Europe as set out in Article 3 and the preamble to its Statute.
2. The Assembly decided to refer the challenge to the Monitoring Committee for report and, in keeping with Rule 8.3 of the Rules of Procedure, to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion.
3. On 25 January 2021, the Monitoring Committee adopted a report and a draft resolution which:
  - proposes to ratify the credentials of the members of the Russian delegation;

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1. Reference to Committee: Bureau decision, Reference 4628 of 24 January 2022. Reporting Committee: Monitoring Committee. See [Doc. 15443](#). Opinion approved by the committee on 25 January 2022.



- 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:
    - 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;
    - abstain from adopting new laws putting further restrictions on civil society, human rights defenders and journalists;
    - refrain from acts leading to violations of fundamental rights and freedoms, in particular freedom of association, freedom of assembly and freedom of expression;
    - co-operate with all Assembly committees and facilitate the activity of the Assembly's monitoring and information missions;
    - incorporate the judgments of the European Court of Human Rights into the Russian legal system and implement them.
    - implement without delay all Committee of Ministers' decisions regarding the execution of judgements 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);
    - fully implement the [Resolution 2375 \(2021\)](#) «Arrest and detention of Alexei Navalny in January 2021», [Resolution ... \(2022\)](#) «Poisoning of Mr Alexei Navalny» and [Resolution 2297 \(2019\)](#) «Shedding light on the murder of Boris Nemtsov».
  - 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.
4. The Committee on Rules of Procedure is asked therefore to consider the compatibility of the proposed decision with the Rules of Procedure, in particular Rule 8 as well as with the Statute of the Council of Europe.

## **2. On the compatibility of the proposed decision with the Assembly's Rules of Procedure**

### **2.1. Compliance of the motion to challenge the credentials with formal requirements**

5. The committee points out that a motion to challenge the credentials of a delegation must comply with certain formal conditions in order to be admissible. Rule 8.1 provides that “[t]he unratified credentials of a national delegation as a whole may be challenged on the substantial grounds set out in paragraph 2 by: at least thirty members of the Assembly present in the Chamber, belonging to at least five national delegations”, and that “[t]he authors shall state the reasons for the challenge”.

6. The committee notes that the challenge was supported by more than 5 national delegations. No irregularities were observed. It could therefore be concluded that the request had gathered the support of members, as required by the Rules.

### **2.2. Analysis of the substantial grounds in the light of the scope of Rule 8 of the Rules of Procedure**

7. Rule 8.2 provides that:

*“The substantive grounds on which credentials may be challenged are:*

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

*b. persistent failure to honour obligations and commitments and lack of co-operation in the Assembly's monitoring procedure.”*

8. In its previous opinions the Committee on Rules of Procedure stressed that any challenge of credentials should be based on a duly substantiated request. The challenge of the credentials of the Russian delegation relates to, *inter alia*: the non implementation of Assembly resolutions; the systematic suppression of the political opposition in Russia, in particular the arrest and ongoing detention of Mr Navalny; the deterioration of the situation in the Russian Federation with regard to the rule of law and democracy, the respect for basic freedoms and human rights, in particular freedom of expression, assembly and association (the closure of the internationally recognised Memorial Human Rights Center).

9. The reasons given to challenge the credentials constitute *prima facie* legitimate grounds able to fall under the scope of Rule 8.

10. The rapporteur notes that the Monitoring Committee's report includes a detailed description of the facts leading the rapporteur and the European Commission for Democracy through Law (Monitoring Committee) to propose the ratification of the Russian delegation credentials.

11. However, it is not the role of the Committee on Rules of Procedure to enter into substantive considerations, the analysis of the substantial grounds being under the scrutiny of the Monitoring Committee according to its terms of reference.

12. At the same time, the rapporteur considers it important to note the Opinion No. 955/2019 of the European Commission for Democracy through Law (Venice Commission) which stated that, "the Parliamentary Assembly as an organ of the Council of Europe is therefore bound not to recognise implicitly an annexation. The discharge of this obligation may include *inter alia* the verification of the credentials of the delegation of the annexing State. When verifying the credentials of MPs who have been elected in elections in a nationwide constituency which covers a territory that may not be recognised as forming part of the organising State, the impact of the inclusion of the annexed territory on the final results of the election should be examined". Given that this issue has already been raised several times in the Assembly, the rapporteur proposes to discuss the possibility of developing, within the Rules of Procedure, appropriate ways to address such situations.