Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 16107
28 January 2025

Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of Georgia

Committee Opinion[1]
Committee on Rules of Procedure, Immunities and Institutional Affairs
Rapporteur: Ms Petra BAYR, Austria, Socialists, Democrats and Greens Group

A. Conclusions of the committee

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) on the challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of Georgia (Doc. 16104) complies with the Assembly's Rules of Procedure and the Statute of the Council of Europe (STE No. 1).

The proposal is for the Assembly to ratify the credentials of the Georgian delegation, together with depriving or suspending the exercise of some rights of participation or representation of members of the Georgian delegation in the activities of the Assembly, and whilst requiring the implementation of a number of actions. Given this proposal, it is evident that specific efforts will be needed to seek to address the lack of genuine political pluralism in the current delegation, which poses difficulties for the effective operation of the Assembly. This matter could benefit from further consideration, having regard to the importance of genuine political pluralism and thus of hearing from a plurality of different voices within a democracy.

Further, in order to make the actions set out in the sub-paragraphs of paragraph 11 of the draft resolution meaningful, they should be followed up closely by the Monitoring Committee and its co-rapporteurs, as well as, as appropriate, other bodies of the Council of Europe, including the Secretary General of the Council of Europe, the Commissioner for Human Rights, and the Committee of Ministers, in order to inform the Assembly of developments on the implementation of these required actions. It would be important for the Monitoring Committee to prepare a report on the implementation of the requirements set out in the draft resolution in time for the April 2025 part-session.

B. Explanatory memorandum by Petra Bayr, rapporteur for opinion

1. Introduction and regulatory framework

1. On 27 January 2025, Ms Boriana Åberg (Sweden, EPP/CD), supported by the required number of members of the Assembly, challenged the still unratified credentials of the parliamentary delegation of Georgia on substantive grounds, pursuant to Rule 8 of the Rules of Procedure.

1. Reference to Committee: Assembly decision of 27 January 2025. Reference 4851 of 28 January 2025. Reporting Committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). See Doc. 16104. Opinion approved by the committee on the 28 January 2025.

2. The substantive grounds on which the credentials were challenged refer to the recent parliamentary elections and subsequent developments, including the deteriorating situation with regard to the respect for democratic values, democratic pluralism, respect for the rule of law, human rights and fundamental freedoms, and in particular concerns at the dismantling of the democratic order in Georgia, violations of the freedoms of assembly and expression and the crackdown on the opposition and civil society. All these issues cast serious doubt as to the compliance of Georgia with its commitments and obligations in the Council of Europe.

3. In line with Rule 8.3 of the Rules of Procedure, the Assembly decided to refer the challenge to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) for report and to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion.

4. At its meeting on 28 January 2025, the Rules Committee appointed me rapporteur for opinion.

5. On 28 January 2025, the Monitoring Committee adopted a report and a draft resolution which proposes to the Assembly to ratify the credentials of the Georgian delegation together with depriving or suspending the exercise of some of the rights of participation or representation of members of the Georgian delegation in the activities of the Assembly and its bodies and whilst calling for Georgia to implement a number of actions.

6. The Committee on Rules of Procedure is asked therefore to consider the compatibility of the proposed decision with the Assembly's Rules of Procedure, as well as with the Statute of the Council of Europe.

7. Rule 10.1 reads as follows:

> *"10.1. Reports submitted to the Assembly or the Standing Committee under Rules 7.2, 8.3., 8.4., 9.2. and 9.3. shall contain a draft resolution proposing in its operative part one of the following three options:*
>
> *10.1.a. ratification of the credentials, or confirmation of ratification of the credentials;*
>
> *10.1.b. non-ratification of the credentials, or annulment of ratification of the credentials;*
>
> *10.1.c. ratification of the credentials, or confirmation of ratification of the credentials together with depriving or suspending the exercise of some of the rights of participation or representation of members of the delegation concerned in the activities of the Assembly and its bodies.*
>
> *The members' rights to vote, to speak and to be represented in the Assembly and its bodies shall not be suspended or withdrawn in the context of a challenge to or reconsideration of credentials."*

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

8. The Rules committee points out that challenging the credentials of a delegation must comply with certain formal conditions in order to be in order. 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".*

9. The committee notes that the challenge was supported by more than 30 members, belonging to at least five national delegations. No irregularities were observed. It could therefore be concluded that the request had gathered sufficient support of members, as required by the Rules of Procedure.

2.2. Analysis of the substantive grounds in the light of the scope of Rule 8 of the Rules of Procedure

10. 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 of, 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."*

11. In its previous opinions the Committee on Rules of Procedure, Immunities and Institutional Affairs expressed its concern that any procedure for challenging credentials should be based on a duly substantiated request.

12. It therefore welcomes the fact that the challenge of the credentials identified the grounds on which it is based. As was announced in the plenary, the challenge of the credentials of the delegation of Georgia relates to, *inter alia*: the recent parliamentary elections and subsequent developments, including the deteriorating situation with regard to the respect for democratic values, democratic pluralism, respect for the rule of law, and in particular concerns at the dismantling of the democratic order in Georgia. All these issues cast serious doubt as to the compliance of Georgia with its commitments and obligations in the Council of Europe.

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

14. It is not the task of the Rules Committee 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.

15. However, it is noted that the lack of genuine political pluralism in the current delegation poses difficulties for the operation of the Assembly. This matter could benefit from further consideration, having regard to the importance of genuine political pluralism and thus of hearing from a plurality of different voices within a democracy.

16. The rapporteur notes that the Monitoring Committee's report includes a detailed description of the facts leading the rapporteur and the Monitoring Committee to propose to ratify the credentials of the Georgian delegation together with depriving or suspending the exercise of some of the rights of participation or representation of members of the Georgian delegation in the activities of the Assembly and its bodies, whilst also calling for Georgia to implement a number of actions.

2.3. Analysis of the option chosen with respect to the question of the ratification of credentials

17. As is set out above, Rule 10.1 contemplates three options following a challenge to the ratification of credentials (i) ratification of the credentials; (ii) non-ratification of the credentials; (iii) 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. It further provides that "the members' rights to vote, to speak and to be represented in the Assembly and its bodies shall not be suspended or withdrawn in the context of a challenge to or reconsideration of credentials."

18. The draft resolution proposes the ratification of the credentials, together with depriving or suspending the exercise of some of the rights of participation or representation of members of the Georgian delegation in the activities of the Assembly and its bodies, which is one of the options foreseen in Rule 10.

19. The required actions set out in the sub-paragraphs of paragraph 11 of the draft resolution should be followed up closely by the Monitoring Committee and its co-rapporteurs. It would also be appropriate for all bodies of the Council of Europe, including the Secretary General of the Council of Europe, the Commissioner for Human Rights, and, as appropriate, the Committee of Ministers, to follow-up and to monitor the implementation of these required actions in order to inform the Assembly of developments.

20. The draft resolution further notes the possibility for the credentials of the Georgian delegation to be reconsidered, under the conditions in Rule 9 of the Rules of Procedure. The draft resolution explicitly references the April 2025 part-session. It would be important for the Monitoring Committee to prepare a report on the implementation of the requirements set out in the draft resolution in time for the April 2025 part-session.

21. The draft resolution proposes depriving or suspending the exercise of some of the rights of participation or representation of members of the Georgian delegation in the activities of the Assembly and its bodies. The list of the affected rights is set out in paragraph 12 of the draft resolution and is in conformity with the Rules of Procedure.

2.4. Precedents

22. The following precedents are of relevance to the consideration of challenges on substantive grounds to the ratification of credentials.

– In 2024, the Assembly adopted Resolution 2527 (2024) in which it did not ratify the credentials of Azerbaijan.

– In 2022, the Assembly adopted Resolution 2422 (2022) in which it ratified the credentials of the Russian Federation.

– In 2021, the Assembly adopted Resolution 2363 (2021) in which it ratified the credentials of the Russian Federation.

– In 2020, the Assembly adopted Resolution 2320 (2020) in which it ratified the credentials of the Russian Federation.

– In 2019, the Assembly adopted Resolution 2292 (2019) in which it ratified the credentials of the Russian Federation.

– In 2015, the Assembly adopted Resolution 2034 (2015) in which it ratified the credentials of the Russian Federation delegation but suspended the following rights during the 2015 session: to be appointed rapporteur, membership of an *ad hoc* committee on election observation; to represent the Assembly in Council of Europe bodies and external institutions and organisations. Furthermore, the Assembly resolved to suspend the voting rights and the right to be represented in the Bureau of the Assembly, the Presidential Committee and the Standing Committee of the Russian delegation to the Assembly. The Assembly decided to return to this issue, with a view to reinstating these two rights at its April 2015 part-session if the Russian Federation had made marked and measurable progress towards implementing the demands of the Assembly formulated in this resolution. In Resolution 2063 (2015), adopted in June 2015, the Assembly confirmed the sanctions.

– In 2014, in its Resolution 1990 (2014) the Assembly suspended the voting rights of the delegation of the Russian Federation as well as the right to be represented in the Bureau, the Presidential Committee and the Standing Committee and the right to participate in election observation missions, until the end of the 2014 session (the challenge was referred to the Monitoring Committee for report – Doc. 13483 – and to the Rules Committee for opinion – Doc. 13488).

– In 2006, the Assembly adopted Resolution 1480 (2006) in which the Assembly ratified credentials of Azerbaijan, with certain requirements including in relation to investigations into electoral fraud, amendments to electoral legislation, the freedom of assembly and media pluralism.

– In 2004, the Assembly adopted Resolution 1370 (2004) in which it ratified the credentials of Serbia and Montenegro.

– Before that date, it is worth recalling that the Assembly decided on only one occasion to suspend the voting rights of the members of a delegation, whose credentials had been challenged on substantive grounds. The Russian delegation was sanctioned in this way in April 2000, in connection with the conflict in Chechnya; it recovered all its participation and representation rights in January 2001 (Resolution 1241 (2001)).

– It is also interesting to note, looking back a little further into the past, that the Assembly, faced with the situation in Greece following the 1967 military coup d'état and the installation of the "colonels' regime", took the decision "not to recognise the credentials of any Greek delegate purporting to represent the Greek Parliament until such time as the Assembly is satisfied that freedom of expression is restored and a free and representative parliament is elected in Greece" (Recommendation 547 (1969), January 1969). This decision was taken a few months before Greece's withdrawal from the Council of Europe (December 1969 – November 1974).

– Similarly, bearing in mind the situation in Turkiye following the 1980 coup d'état, the Assembly decided in May 1981 not to "envisage the prolongation of the term of office of the Turkish delegation" (Order 398), and then, in September 1983, that the elected parliament "will not be able to be considered as representing the Turkish people in a democratic manner, and could not therefore validly constitute a delegation to participate in the work of the Parliamentary Assembly" (Resolution 803).

23. The latter two decisions are atypical but illustrate the Assembly's ability to react to the violation by a member State of its obligations under the Statute and to sanction the parliamentary delegation of the member State in question.

3. Conclusion

24. The Committee on Rules of Procedure, Immunities and Institutional Affairs considers that the proposal included in the draft resolution presented by the Monitoring Committee to ratify the credentials of the Georgian delegation together with depriving or suspending the exercise of some of the rights of participation or

representation of members of the Georgian delegation in the activities of the Assembly and its bodies, whilst calling for Georgia to implement a number of actions is an option compliant with Rule 10.1 of the Assembly's Rules of Procedure.

25. It is evident that specific efforts will be needed to seek to address the lack of genuine political pluralism in the current delegation, which could pose difficulties for the operation of the Assembly. This matter could benefit from further consideration, having regard to the importance of genuine political pluralism and thus of hearing from a plurality of different voices within a democracy.

26. Further, in order to make the actions set out in the sub-paragraphs of paragraph 11 of the draft resolution meaningful, the implementation of these actions should be followed up closely by the Monitoring Committee and its co-rapporteurs, as well as, as appropriate, other bodies of the Council of Europe, including the Secretary General of the Council of Europe, the Commissioner for Human Rights, and the Committee of Ministers, in order to inform the Assembly of developments on the implementation of these required actions. In this context, it would be important for the Monitoring Committee to prepare a report on the implementation of the requirements set out in the draft resolution in time for the April 2025 part-session.