



Doc. 12051

30 September 2009

Reconsideration on substantive grounds of previously ratified credentials of the Russian delegation

Committee Opinion¹

Committee on Rules of Procedure, Immunities and Institutional Affairs

Rapporteur: Mr John GREENWAY, United Kingdom

A. Conclusions of the committee

The Committee on Rules of Procedure, Immunities and Institutional Affairs considers that the proposal in the report by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) concerning the credentials of the Russian delegation ([Doc. 12045](#)) complies with the Assembly's Rules of Procedure and the Statute of the Council of Europe.

B. Explanatory memorandum

1. Introduction

1. On 11 September 2009, Mr Michael Aastrup Jensen and 71 other Parliamentary Assembly members tabled a motion for a resolution contesting the previously ratified credentials of the Russian delegation on substantive grounds in accordance with Rule 9 of the Rules of Procedure ([Doc. 12014](#)).

2. At its meeting on 28 September 2009, the Bureau decided to refer this motion to the Monitoring Committee for report and, in accordance with Rule 9.2 of the Assembly's Rules of Procedure, to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion. This decision was ratified by the Assembly the same day.

3. This is the fourth time in a year that the Assembly has had before it a request to annul the credentials of a parliamentary delegation.² The procedure provided for in Rule 9 had hitherto remained unused since its introduction in 1996. The challenge of the Russian delegation's credentials in October 2008 set a precedent and was the opportunity for the Committee on Rules of Procedure to clarify certain procedural issues at the request of the President of the Assembly.

1. See [Doc. 12045](#), report tabled by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).

2. See [Resolution 1631 \(2008\)](#) on reconsideration on substantive grounds of previously ratified credentials of the Russian delegation, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) ([Doc. 11726](#)), and opinion of the Committee on Rules of Procedure, Immunities and Institutional Affairs ([Doc. 11728](#)); [Resolution 1643 \(2009\)](#) on the implementation by Armenia of Assembly [Resolutions 1609 \(2008\)](#) and [1620 \(2008\)](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) ([Doc. 11786](#)), and opinion of the Committee on Rules of Procedure, Immunities and Institutional Affairs ([Doc. 11799](#)); [Resolution 1674 \(2009\)](#) on reconsideration on substantive grounds of previously ratified credentials of the Ukrainian delegation, report of the Committee on Legal Affairs and Human Rights ([Doc. 11963](#)) and opinion of the Committee on Rules of Procedure ([Doc. 11965](#)).



2. General remarks concerning the procedure for reconsideration of a national parliamentary delegation's credentials

4. When examining the previous requests, the Committee on Rules of Procedure provided a detailed statement of its position concerning the conditions for implementing the procedure for reconsideration of a delegation's previously ratified credentials. In this connection it therefore refers to the opinions which it approved in 2008 and 2009 in these procedures (see footnote 2).

5. It will also be recalled that, in October 2008, the Bureau of the Assembly referred several questions to the committee concerning the procedures for challenging and reconsidering credentials. At its meeting on 7 September 2009, it adopted a report on the amendment of various provisions of the Assembly's Rules of Procedure (rapporteur: Mr Holovaty), which sets out in detail the committee's thoughts on these procedures, with particular reference to the following points:

- the differences between the procedure for challenging still unratified credentials (Rule 8) and the procedure for reconsidering previously ratified credentials (Rule 9);
- the possibility of withdrawing a signature from, or adding a signature to, a motion, or of withdrawing a motion or any other document in its entirety;
- the procedure for examination of amendments by the Assembly in plenary and questions related to amendments that are out of order;
- the interpretation of the final vote of the Assembly on a resolution presented in accordance with Rule 8.5 or Rule 9.4.

6. The committee notes, however, that on the occasion of this part-session and the debate on the war between Georgia and Russia, questions relating to the understanding and interpretation of the rules on challenging a delegation's credentials have once again been raised. For example, some Assembly members have expressed the view that the provisions of Rule 9 should be strengthened. The committee is therefore ready to examine any new request for clarification of the Rules of Procedure which it might receive from the Bureau. Such request may include the conditions of tabling a motion for a resolution to annul ratification of credentials on substantive grounds.

3. Compliance of the motion calling for reconsideration of the credentials of the Russian delegation with the Rules of Procedure

7. The committee points out that a motion calling for reconsideration of a delegation's credentials must comply with certain formal conditions in order to be admissible.

8. Rule 9.2 states that "A motion for a resolution to annul ratification shall be tabled by at least twenty members, belonging to at least two political groups and five national delegations (...)", and that "A motion for a resolution to annul ratification shall (...) be distributed at least two weeks before the opening of a Part-Session (...)". The motion meets these criteria.

9. When examining the previous requests in 2008 and 2009, the committee was particularly concerned that any procedure for reconsideration of credentials should be based on a duly substantiated request "as the procedure in question [was] of major political importance and [needed] to be conducted with rigour because of its implications, it [could not] be used as a mere means of exerting pressure".³ It therefore welcomes the fact that the present motion contesting credentials ([Doc. 12014](#)) contains a detailed statement of the grounds on which it is based.

4. Examination of the proposal made by the Monitoring Committee

10. The Committee on Rules of Procedure has considered whether the proposal made in the draft resolution contained in the Monitoring Committee's report is consistent with the Assembly's Rules of Procedure, particularly Rule 9, and the Statute of the Council of Europe.

3. See opinion of the committee on the reconsideration of the Russian delegation's previously ratified credentials on substantive grounds ([Doc. 11728](#)) and opinion of the committee on the implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008) ([Doc. 11799](#)).

11. Rule 9.4 provides as follows:

“Reports submitted to the Assembly or the Standing Committee under paragraphs 2 and 3 shall contain a draft resolution proposing in its operative part:

- confirmation of the ratification of the credentials;*
- annulment of the ratification of the credentials;*
- confirmation of 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 delegation concerned in the activities of the Assembly and its bodies.”*

12. The proposal by the Monitoring Committee in paragraph 6 of the draft resolution is “to confirm the ratification of the credentials of the Russian delegation, on the understanding that this will enable the Russian authorities to engage in a meaningful and constructive dialogue with a view to addressing all the issues mentioned in the Assembly resolutions on the consequences of the war between Georgia and Russia”, in accordance with Rule 9.4.

13. The Committee on Rules of Procedure also notes that the Monitoring Committee’s report includes a detailed analysis of the facts and circumstances leading the rapporteur and the Monitoring Committee to support the proposal to confirm ratification of the Russian delegation’s credentials.

5. Conclusion

14. The Committee on Rules of Procedure, Immunities and Institutional Affairs considers that the draft resolution contained in the report submitted by the Monitoring Committee ([Doc. 12045](#)) meets the requirements of Rule 9 and complies with the Assembly’s Rules of Procedure and the Statute of the Council of Europe.

Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe

Committee for opinion: Committee on Rules of Procedure, Immunities and Institutional Affairs

Reference to committee: Reference 3590 of 28 September 2009

Draft opinion unanimously approved on 30 September 2009

Secretariat of the committee: Mr Heinrich, Mrs Clamer