



Doc. 15050

28 January 2020

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

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Rapporteur: Mr Tiny KOX, Netherlands, Group of the Unified European Left

Summary

The rapporteur recalls that in June 2019, when the Parliamentary Assembly adopted [Resolution 2287 \(2019\)](#) on Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting, which paved the way for the Russian delegation's return to the Assembly, its intention was to relaunch a political and meaningful dialogue.

The rapporteur stresses that the dialogue has been relaunched and the Monitoring Committee should continue its work with regard to the Russian Federation. The co-rapporteurs should carry out a fact-finding visit and prepare a substantial report at the earliest convenience. The Committee should carefully follow developments in the Russian Federation, with a view to assessing whether the new constitutional amendments are in compliance with democratic standards and the Russian Federation's commitments and obligations.

He therefore proposes that the Assembly ratifies the credentials 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 4490 of 27 January 2020.



Contents	Page
A. Draft resolution	3
B. Explanatory memorandum by Mr Tiny Kox, rapporteur	4
1. Introduction	4
2. Background	4
3. Other developments since the adoption of Resolution 2292 (2019)	5
4. Conclusions	6

A. Draft resolution²

1. The Parliamentary Assembly refers to its [Resolution 2287 \(2019\)](#) on strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting, which, following a period of non-co-operation at the parliamentary level, led to the Russian delegation's return to the Assembly and confirmed the Assembly's commitment to dialogue as a means of finding lasting solutions for outstanding issues.
2. Furthermore, the Assembly refers to its [Resolution 2292 \(2019\)](#) on the Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation, in which it resolved to ratify the credentials and called on the Russian delegation to co-operate with the Monitoring Committee and engage in a meaningful dialogue on the fulfilment of its commitments and obligations. It invited the Monitoring Committee to present a report on the honouring of the obligations and commitments by the Russian Federation at its earliest convenience, but no later than in April 2020.
3. The Monitoring Committee has resumed its work with regard to the Russian Federation and organised a number of hearings, which will be taken into account by the co-rapporteurs in their ongoing preparation of the report. The Russian delegation has co-operated fully with the Monitoring Committee.
4. The Assembly notes that, in the past six months since the Russian Federation's return to the Assembly, some other recommendations included in [Resolution 2292 \(2019\)](#) have also been addressed by the Russian Federation. In particular, all 24 illegally detained Ukrainian sailors captured in the Kerch Strait were returned to Ukraine as part of a hostage exchange. This included one person wanted for questioning in connection with the shooting down of airplane MH17. Some progress has been made with regard to the implementation of the Minsk Agreements. The Russian Federation has participated in so-called "prisoners swaps" and, alongside Ukraine, is preparing other exchanges.
5. With regard to the financial obligations towards the Council of Europe, the Russian Federation has paid all due contributions to the ordinary budget and partial agreements. Unpaid interests are the subject of discussions in the Council of Europe Committee of Ministers.
6. The Assembly acknowledges that the general assessment of the state of compliance of the Russian Federation with its commitments and obligations towards the Council of Europe, and [Resolutions 1990 \(2014\)](#), [2034 \(2015\)](#), [2063 \(2015\)](#) and [2292 \(2019\)](#) is subject to the monitoring report under preparation.
7. Furthermore, the Assembly invites the Monitoring Committee to follow closely the ongoing legislative process with regard to the constitutional amendments currently underway in the Russian Federation and explicitly underlines each member State's obligation to abide by the judgments of the European Court of Human Rights.
8. The Assembly resolves to assess the progress made in this respect in the course of 2020 and invites the Monitoring Committee to present the full monitoring report as soon as possible.
9. The Assembly emphasises that it constitutes the most important pan-European parliamentary platform where political dialogue on the Russian Federation's obligations under the Statute of the Council of Europe can take place with the participation of all those concerned, and where the Russian Federation can be held accountable on the basis of Council of Europe's values and principles
10. Therefore, the Assembly does not consider Rule 8.2.a. or 8.2.b. applicable and resolves to ratify the credentials of the Russian Federation.

2. Draft resolution adopted on 28 January 2020.

B. Explanatory memorandum by Mr Tiny Kox, rapporteur

1. Introduction

1. On 27 January 2020, with the support of more than 30 members of the Parliamentary Assembly present in the Chamber belonging to at least five national delegations, Mr Emmanuelis 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 Parliamentary Assembly. Later, Ms Marija Golubeva (Latvia, ALDE) challenged the credentials of the Russian delegation on procedural grounds on the basis of Article 7 of the Rules of Procedure with the support of more than 10 members present in the Chamber belonging to at least five national delegations.
2. The substantive grounds on which the credentials were challenged refer to the ongoing legislative process in the Russian Federation with regard to the proposed constitutional amendments and its possible impact on the compliance of the Russian Federation with its commitments and obligations in the Council of Europe and with recommendations included in Assembly [Resolution 1990 \(2014\)](#), [Resolution 2034 \(2015\)](#), [Resolution 2063 \(2015\)](#) and [Resolution 2292 \(2019\)](#).
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 as well as for a separate report on procedural grounds.
4. At its meeting on 27 January 2020, the Monitoring Committee appointed me rapporteur of the present report.

2. Background

5. In June 2019, the Assembly adopted [Resolution 2292 \(2019\)](#), on the challenge, on substantive grounds of the still unratified credentials of the parliamentary delegation of the Russian Federation in which it resolved to ratify the credentials of the Russian delegation. It highlighted its support for political meaningful dialogue and expressed expectation that its clear offer of dialogue would be reciprocal and would lead to concrete results. It invited the Monitoring Committee to present a report on the honouring of commitments and obligations by the Russian Federation at its earliest convenience but no later than in April 2020.
6. The Monitoring Committee immediately resumed its work with regard to the Russian Federation. At its meeting on 10 September 2019, in the wake of the local elections to the Moscow City Duma, it held an exchange of views with Mr Jakob Wienen, co-rapporteur on local and regional democracy in the Russian Federation of the Monitoring Committee of the Council of Europe Congress of Local and Regional Authorities. On 1 October 2019, it organised a hearing on civil society and democratic participation in the Russian Federation with the participation of Mr Vladimir Kara-Murza, Chairperson of the Boris Nemtsov Foundation for Freedom, Ms Emiliya Slabunova, President of the Yabloko Party, Mr Leonid Volkov, Campaign Manager of Mr Alexei Navalny and Ms Tatiana Glushkova, representative of Memorial. Furthermore, it held an exchange of views with Mr Fredrik Sundberg, Head of Department for the Execution of judgments of the European Court of Human Rights on the implementation of the Court's decisions by the Russian Federation.
7. As no members of the Russian delegation were members of the Monitoring Committee in 2019, in accordance with the Rules of Procedure, representatives from both the majority and opposition in the Russian Parliament were invited and took active part in the discussions in all above mentioned events.
8. Regrettably, no monitoring visit could be organised because of the unavailability of the then co-rapporteurs. It has to be acknowledged, however, that the chairperson of the Russian delegation made it clear during one of the meetings that, should the co-rapporteurs express their wish to carry out a visit, they will be well received. Hopefully, newly appointed co-rapporteurs will fix the dates for the visit as soon as possible.
9. The Committee followed and paid particular attention to the developments with regard to the implementation of recommendations to the Russian Federation included in [Resolution 2292 \(2019\)](#) and it has to be acknowledged that some progress may be recorded.
10. On 7 September 2019, all 24 sailors captured illegally by the Russian Federation in the Kerch Strait in Crimea were returned to Ukraine in the framework of a broader exchange of prisoners, which included 35 prisoners on each side. On 18 November 2019, the captured ships were returned to Ukraine.

11. More generally, some progress has been made with regard to the implementation of the Minsk agreements with the Russian Federation and following the election of President Volodymyr Zelensky in Ukraine.

12. The aforementioned swap of prisoners – which also included the Ukrainian filmmaker Mr Sentsov, was widely seen as a perquisite for the summit of the so-called Normandie group (France, Germany, Ukraine and the Russian Federation) that took place on 9 December 2019 in Paris.

13. During the summit of the Minsk Group, the leaders agreed to stabilise the situation in the conflict area and to take measures to implement the Minsk agreements. As part of this agreement, President Zelensky agreed with Russia and the Russian backed rebels to organise local elections in the Donbas area, under the condition that they, inter alia, would be organised on the basis of Ukrainian legislation, with the participation of all Ukrainian political parties, and after Ukraine has regained full control over its borders with the Russian Federation.

14. In preparation for the elections, the Ukrainian authorities and the Russian backed rebel forces agreed to initially disengage in two areas in Luhansk and Donetsk before the end of 2019, a process that was monitored by the OSCE. An additional three areas in which disengagement would be completed by March 2020 were also agreed upon. While these disengagements have reduced tensions along the territories, frequent cease fire violations from all sides are still recorded on a daily basis by OSCE Monitoring bodies.

15. Furthermore, during the Normandie Group summit, President Putin and President Zelensky agreed to an “all-for all” prisoner swap between the Ukrainian authorities and the Russian backed de facto authorities in the Lugansk and Donetsk areas that are not under the control of Kiev. This prisoner swap took place on 29 December and involved 200 prisoners, 74 released by the pro-Russian rebel forces and 124 by the authorities in Kiyv.

16. With regard to the financial obligations towards the Council of Europe, the Russian Federation has paid all due contributions to the ordinary budget and partial agreements for the second part of 2017, 2018 and 2019. At present, the only payment that remains due, are unpaid interests amounting to 8,8 million euros. The Russian Federation has blocked their reimbursement following disputes within the Council of Europe Committee of Ministers on their status and enduing allocation.

17. With regard to other recommendations, the co-rapporteurs on the Russian Federation of the Monitoring Committee are in the process of the preparation of their report and we can expect that their findings and conclusions will be submitted to the Assembly later this year.

3. Other developments since the adoption of Resolution 2292 (2019)

18. On 15 January 2020, in a new development, President Vladimir Putin announced in his annual state-of-nation address, his intention to propose changes to the Constitution. Already on 20 January 2020, he submitted draft amendments to the State Duma.

19. The proposed amendments refer to 14 articles of the Constitution and include, inter alia, provisions on the precedence of the Russian Constitution over international law; increased powers for the State Duma in the procedure of appointment of the Prime Minister, Deputy Prime Ministers and Federal Ministers; incompatibility of foreign citizenship or residence permit with being candidate for senior posts in the State (President, Ministers, judges, heads of regions); an increased role for the Federation Council in the procedure of dismissal and removal of judges and in the appointment of heads of law enforcement agencies; consolidation of the status and role of the State Council (at present it is only an advisory body not mentioned in the Constitution); removal of the “in a row” clause from the article regulating the maximum number of presidential terms; a minimum wage; regular indexation of pensions

20. While the revision of the Constitution does not require a referendum, the President announced that the package will be submitted to a consultative “All-Russian vote” foreseen in the Federal Constitutional Law on the Referendum in order to gain more legitimacy. Unlike in a referendum, voters will be asked whether they approve the entire revised constitution as a whole, rather than approving each amendment separately. The exact date of the vote has not yet been announced, but it is known that it will take place before 1 May.

21. The State Duma held its first reading on the proposed amendments and approved them in the unanimous vote on 23 January, fewer than ten days after the first announcement of the proposed changes to the Constitution. The changes to the Russian State system are taking place with unprecedented speed without, until now, any meaningful public debate or consultations.

22. While it would be certainly premature and inappropriate for me to assess the impact of the constitutional changes in terms of standards for the functioning of democratic institutions, I can certainly express my concern with regard to the amendment on the supremacy of the Russian Constitution over international law, which is a potential threat to the obligation on the part of every Council of Europe Member State to abide by the European Court of Human Rights' judgments.

23. For that reason, the Monitoring Committee should certainly closely follow further developments and consider a possible request to the Venice Commission for an opinion on the amendments.

4. Conclusions

24. In June 2019, when the Assembly adopted Resolution 2287 (2019) on Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting, which paved the way for the Russian delegation's return to the Assembly, its intention was clear. The reason why the majority of members voted in favour of this text and then following the challenge of the Russian Delegation's credentials in favour of resolution 2292 (2019) was to relaunch a political and meaningful dialogue.

25. The dialogue has been relaunched – we can see it at all levels of the Assembly, and indeed in the Monitoring Committee, where the Russian representatives take active part. It is, in my opinion, too early to assess to what extent this dialogue will be meaningful and whether it will result in any progress in the fulfilment of the obligations and commitments.

26. I think that the Monitoring Committee should continue its work with regard to the Russian Federation. The co-rapporteurs should carry out a fact-finding visit and prepare a substantial report at the earliest convenience. We should carefully follow developments in the Russian Federation, with a view to assessing whether the new constitutional amendments are in compliance with democratic standards and the Russian Federation's commitments and obligations.

27. I therefore propose that the Assembly ratifies the credentials of the Russian Federation and returns to the assessment of the progress made when a monitoring report is submitted later this year.