

AS/Pro (2020) 06 def

28 January 2020

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Committee on Rules of Procedure, Immunities and Institutional Affairs

Challenge on procedural grounds of the still unratified credentials of the parliamentary delegation of Spain

Report¹

prepared by the Chairperson of the Committee

A. Opinion to the President of the Parliamentary Assembly²

1. On 27 January 2020, at the opening of the session of the Parliamentary Assembly, the still unratified credentials of the Spanish parliamentary delegation were challenged on procedural grounds in accordance with Rule 7.1 of the Assembly's Rules of Procedure, on the ground that the delegation would not include any representatives of the Vox party, whereas the other main political parties represented in the Spanish Parliament were included, in breach of Rule 6.2.a of the Rules of Procedure which guarantees the principle of fair representation of political parties or groups.

2. At its meeting on 28 January 2020, the Committee on Rules of Procedure, Immunities and Institutional Affairs examined the objection raised. It noted the explanations provided by the Chairperson of the Spanish delegation, and notably the fact that the Parliament has appointed a provisional delegation, which has three vacant substitute seats, which will be filled as soon as possible, in compliance with Rule 6.2 of the Assembly's Rules of Procedure.

3. The committee notes that the Vox party is the third-ranking political force in the country. The other main political currents present in the *Cortes Generales* are represented in the delegation, including the opposition parties. The fact that there are vacant seats in the Spanish delegation implies that members of the Vox group, currently not represented in the delegation, would be able to join it.

4. The committee considers, in the light of Article 25 of the Statute of the Council of Europe and Rule 6 of the Assembly's Rules of Procedure and also Assembly Resolution 1798 (2011) on fair representation of the political parties or groups of national parliaments in their delegations to the Parliamentary Assembly, and bearing in mind the assurances given by the Spanish Parliament that the composition of its delegation will be modified as soon as possible, that there are insufficient grounds not to ratify the credentials of the Spanish delegation.

5. The committee therefore concludes that the credentials of the Spanish parliamentary delegation should be ratified.

¹ Reference to committee: Assembly decision of 27 January 2020

² Adopted by the committee on 28 January 2020

B. Explanatory memorandum

1. Introduction and relevant provisions of the rules

1. On 27 January 2020, at the opening of the Parliamentary Assembly session, Mr Liddell-Grainger (United Kingdom, EC/DA) and several members of the Assembly challenged the still unratified credentials of the Spanish national delegation to the Parliamentary Assembly on procedural grounds, in accordance with Rule 7.1.b. of the Assembly's Rules of Procedure, on the ground that the delegation's composition did not allow fair representation of the political parties or groups represented in the Spanish Parliament, as all the main parties were represented in it except for the Vox party which had repeatedly requested to be included. Mr Liddell-Grainger recalled that the credentials of the Spanish delegation had been challenged in June 2019 and that the delegation had at that time given the Committee on Rules of Procedure firm assurances that this party would be represented. In accordance with Rule 7.2, the Assembly referred the credentials to the Committee on Rules of Procedure, Immunities and Institutional Affairs for report.

2. The principle whereby the composition of any delegation must reflect the composition of its parliament in terms of the parties represented is expressly laid down by Rule 6.2.a: "*Insofar as the number of their members allows, national delegations should be composed so as to ensure a fair representation of the political parties or groups in their parliaments (...)*".

3. Failure to comply with that principle constitutes, under Rule 7.1.b of the Rules of Procedure, grounds for challenging a delegation's credentials: "*Credentials may be challenged by at least ten members of the Assembly present in the Chamber, belonging to at least five national delegations, on stated procedural grounds based upon (...) the principles in Rule 6.2, that national parliamentary delegations should be composed so as to ensure a fair representation of the political parties or groups in their parliaments (...)*".

4. The Committee on Rules of Procedure, Immunities and Institutional Affairs must therefore examine whether the composition of the Spanish delegation is in breach of the principles laid down by Rule 6.2.a of the Assembly's Rules of Procedure. Under Rule 7.2, "*if the Committee concludes that the credentials should be ratified, it may submit an opinion to the President of the Assembly, who shall read it out in the plenary sitting of the Assembly or the Standing Committee, without debate. If the Committee concludes that the credentials should not be ratified or that they should be ratified but that some rights of participation or representation should be denied or suspended, the Committee's report shall be placed on the agenda for debate within the prescribed deadlines*".

2. Conformity of the composition of the Spanish parliamentary delegation with Rule 6.2 of the Assembly's Rules of Procedure

5. The credentials of the Spanish delegation were sent by letter to the President of the Parliamentary Assembly, dated 20 January 2020. It was a renewed delegation, appointed by the new legislature resulting from the parliamentary elections of 10 November 2019.

2.1. Credentials of the members of the Spanish delegation transmitted on 21 January 2020

6. In accordance with Articles 25³ and 26 of the Statute of the Council of Europe, the Spanish parliamentary delegation comprises 12 representatives and 12 substitutes. The report by the President of the Assembly on the examination of credentials of representatives and substitutes for the first part of the 2020 ordinary session of the Assembly (Doc. 15039 rev) mentions that the composition of the Spanish parliamentary delegation is as follows:

Representatives

Mr Jokin BILDARRATZ (PNV)
Ms María Luisa BUSTINDUY (PSOE)
Mr José CEPEDA (PSOE)
Mr Héctor GÓMEZ HERNÁNDEZ (PSOE)
Mr Antón GÓMEZ-REINO (Unidas Podemos)
Ms Ruth GOÑI (Ciudadanos)
Ms Marta GONZÁLEZ VÁZQUEZ (Partido Popular)

³ Under Article 25 of the Statute of the Council of Europe, the members (representatives and substitutes) of the parliamentary delegations are "elected by [their] parliament from among the members thereof, or appointed from among the members of that parliament, in such manner as it shall decide".

Mr Sergio GUTIÉRREZ PRIETO (PSOE)
 Mr Antonio GUTIÉRREZ (PSOE)
 Ms María Valentina MARTÍNEZ FERRO (Partido Popular)
 Mr Gonzalo ROBLES (Partido Popular)
 Ms Susana SUMELZO (PSOE)

Substitutes

Ms Belén HOYO (Partido Popular)
 Ms Carmen LEYTE (Partido Popular)
 Mr Manuel MIRANDA (PSOE)
 Ms Esther PEÑA (PSOE)
 Mr César SÁNCHEZ (Partido Popular)
 Mr Felipe SICILIA (PSOE)
 Mr Alejandro SOLER (PSOE)
 Mr Salvador VIDAL (PSOE)
 Ms Sara VILA (En Comú Podem)
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7. The credentials of the Spanish delegation were accompanied by a letter from the director of international relations of the Congress of Deputies informing the President of the Assembly that it was a provisional delegation. The letter pointed out that, following the parliamentary elections, the Parliament, owing to its work schedule, had not been able to definitively appoint its delegations to international parliamentary assemblies and was submitting to the Parliamentary Assembly the credentials of a provisional delegation comprising parliamentarians who had previously been members of the Spanish delegation and had been re-elected. The Parliament intended to submit definitive credentials within the time limit laid down in Rule 11.3 of the Rules of Procedure.

8. The Spanish delegation has three vacant substitute seats. The composition of the delegation to the Parliamentary Assembly was decided by the bureaux of the two chambers of the *Cortes* in full compliance with the applicable internal rules and procedures.

2.2. Assessment

9. The form giving the composition of the Spanish delegation shows that the representation of the political groups in the *Cortes Generales* (which comprises 614 seats) was as follows:

- Partido Socialista (majority): 232 seats
- Partido Popular (opposition): 185 seats
- VOX (opposition): 52 seats
- Unidas Podemos-En Comú Podem-Galicia en Común (majority): 41 seats
- Esquerra Republicana + EHBildu (opposition): 33 seats
- Ciudadanos (opposition): 19 seats
- Grupo Parlamentario Mixto (opposition): 18 seats
- Partido Nacionalista Vasco (opposition): 16 seats
- Grupo Plural (opposition): 12 seats
- Grupo Nacionalista Senado (opposition): 6 seats

10. The number of seats allocated to the Spanish parliamentary delegation – 24 members (12 representatives and as many substitutes) – should allow full representation of the greatest possible number of political tendencies in the Spanish Parliament, represented within the 10 parliamentary groups formed following the last parliamentary elections.

11. That said, it should be pointed out that it is mainly four parliamentary groups which are represented, out of the 10 in parliament, but the third political force in parliament – VOX – is not represented at all in the Assembly. Other groups, while less representative, are not only included in the delegation but furthermore hold representative seats.

12. It should be remembered that previously, on 24 June 2019, the credentials of the Spanish delegation were challenged on similar grounds, as the delegation comprised only members of the four main political parties represented in the Spanish Parliament and none of the other parties – including the Vox party – had

been invited to appoint members. The Committee on Rules of Procedure, Immunities and Institutional Affairs considered at the time that "the fact that there are vacant seats in the Spanish delegation implies that members of certain political groups in the minority, currently not represented in the delegation, would be able to join it". Bearing in mind the assurances given by the Spanish Parliament that the composition of its delegation would be modified as soon as possible, it concluded that the delegation's credentials should be ratified.

13. The fact is that the committee's demands have not been acted upon, and the Spanish Parliament reshuffled its delegation for the October 2019 part-session, including through filling vacant seats, and the Vox group – which, it is true, held only 24 seats in the previous legislature – was still unable to join the delegation.

3. Precedents in the Parliamentary Assembly concerning challenges to credentials based on Rule 7 of the Rules of Procedure and the rulings of the committee

14. The challenge to the credentials of the Spanish parliamentary delegation is clearly based on the fact that its composition would not meet the criterion of fair representation of political parties or groups laid down in the Rules of Procedure. In this connection, the Rules Committee obviously points to the "principles to be used to assess whether political parties or groups are fairly represented in national delegations to the Parliamentary Assembly", set out by the Assembly in 2011 (Resolution 1798).

15. There are a few precedents where the Assembly has been asked to take a position on a challenge to credentials on the ground of a lack of fair political representation of political parties or groups, and to which the committee can refer here, in the present context:

– In October 2016, the still unratified credentials of the Serbian parliamentary delegation were challenged on the ground that the composition of the delegation did not allow fair representation of the political parties or groups represented in the Serbian Parliament. The committee concluded that the credentials of the Serbian delegation should be ratified, given that the decision on the composition of interparliamentary delegations had been taken by the Serbian Parliament in compliance with its internal procedure, which was based on the pluralist functioning of parliament⁴.

– In January 2016, the still unratified credentials of the Moldovan parliamentary delegation were challenged on the ground that the incomplete composition of the delegation, as well as the absence of one of the main political parties from the delegation, did not allow fair representation of the political parties or groups represented in the Moldovan Parliament. The committee proposed that the Assembly ratify the credentials of the Moldovan parliamentary delegation but provide for the automatic suspension of the voting rights of its members in the Assembly and its bodies if the composition of the delegation were not brought into conformity with Rule 6.2.a of the Rules of Procedure by the April 2016 part-session⁵.

– In January 2012, the still unratified credentials of the Ukrainian parliamentary delegation were challenged. The list of members of the Ukrainian delegation contained erroneous information in that three members were listed as members of the Yuliya Tymoshenko Bloc, when in fact they actually sat in the parliament under other political labels. Taking the view that the composition of the delegation did not violate the principle of fair representation of political parties or groups, the committee concluded that its credentials should be ratified⁶.

– In January 2010, the committee was asked to take a position on the challenge to the still unratified credentials of the Armenian parliamentary delegation, relating to the alleged under-representation of opposition parties or groups. The challenge claimed that the Armenian parliament had "manipulated its internal rules in order to exclude a member of the EPP group". The committee concluded that the credentials should be ratified, insofar as the list of delegation members ensured a fair representation of the political groups in the Armenian National Assembly and included a representative and substitute belonging to the opposition⁷.

– In 1998 and 1999, the committee considered the composition of the special guest delegation of Armenia, as the main opposition party, accounting for 50 out of a total of 149 members of the Armenian parliament, had not been granted any of the delegation's four seats⁸. The committee then concluded that *"a delegation which omitted from its ranks a representative of the main opposition faction could not be considered to reflect the*

⁴ Opinion to the President of the Parliamentary Assembly, document AS/Pro (2016) 23 def

⁵ See Resolution 2092 (2016) and the report by the Committee on Rules of Procedure, Immunities and Institutional Affairs (Doc. 13962).

⁶ Opinion to the President of the Parliamentary Assembly, document AS/Pro (2012) 03 def.

⁷ Opinion to the President of the Parliamentary Assembly, document AS/Pro (2010) 06 def.

⁸ See reports transmitted to the Bureau, doc. AS/Pro (1998) 11 and AS/Pro (1999) 03.

various currents of opinion of that parliament". It recommended that the Assembly ratify the special guest delegation's credentials "on the condition that a seat would remain vacant for a representative [of the opposition]".

16. In the examination of previous challenges to credentials, it was pointed out that the Assembly must, in principle, simply ensure that the main political currents present in a parliament are represented and, in particular, that the delegation includes representation of opposition parties⁹. It is this position that is reflected in the above-mentioned Assembly decisions and which has been enshrined among the principles to be used to assess whether political parties or groups in national parliaments are fairly represented in the Parliamentary Assembly delegations, as laid down in Resolution 1798 (2011).

17. One of the "principles for assessing the notion of fair representation of political parties or groups in national delegations to the Parliamentary Assembly" states that *"both representatives and substitutes are taken into account when determining the political balance of a national delegation in order to assess "fair representation"*".

18. Accordingly, the existence of three vacant substitute seats in the Spanish delegation implies that these should be filled by members of political groups currently not represented within the delegation.

4. Conclusions

19. At its meeting on 28 January 2020, the Committee on Rules of Procedure considered the challenge of the credentials of the Spanish delegation. Following an exchange of views, and after hearing the chairperson of the Spanish parliamentary delegation, the committee considered, in accordance with Rule 10.1 of the Rules of Procedure, that the credentials of the delegation should be ratified.

⁹ Doc. 5497, paragraph 7; Doc. 6101, paragraph 11.