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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 the Russian Federation

Report¹

Rapporteur: Ms Ingjerd SCHOU, Norway, EPP/CD

A. Opinion²

1. On 24 January 2022, the still unratified credentials of the parliamentary delegation of the Russian Federation were challenged on procedural grounds, in accordance with Rule 7.1.a of the Rules of Procedure of the Assembly, on the ground that “the election of parliamentarians from nationwide party lists in Russia includes votes from the illegally occupied and annexed territory of Crimea”.
2. The Committee recalls that it has held several exchanges of views on similar challenges to the still unratified credentials of the parliamentary delegation of the Russian Federation in 2019 and 2020. It also recalls that it has previously examined this question in Opinion (Doc. 15218) on Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation on 27 January 2021.
3. These exchanges of views and the opinion of the Committee took account of the opinion of the Venice Commission on “the compliance with Council of Europe and other international standards of the inclusion of a not internationally recognised territory into a nationwide constituency for parliamentary elections”. The Committee “emphasised 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”.
4. The Committee recalls that in its above-mentioned opinion on this issue the Venice Commission stated the obligation under international law for the Parliamentary Assembly not to recognise an annexation “does not necessarily entail the obligation to deny credentials to the whole delegation of an annexing State. Other options are possible. The Parliamentary Assembly might consider increasing the range of such options for the future”.
5. On the basis of the above, the Committee concludes that the credentials of the parliamentary delegation of the Russian Federation should be ratified.

¹ Reference to committee: Assembly decision on 24 January 2022

² Adopted by the committee on 25 January 2022

B. Explanatory memorandum by Ms SCHOU, rapporteur

1. Introduction and applicable rules

1. On 24 January 2022, at the opening of the Parliamentary Assembly session, Ms Kravchuk (Ukraine, ALDE) supported by more than ten members of the Assembly challenged on procedural grounds the still unratified credentials of the delegation of the Russian Federation, in accordance with Rule 7.1.a of the Rules of Procedure. This was done on the grounds that “the election of parliamentarians from nationwide party lists in Russia includes votes from the illegally occupied and annexed territory of Crimea”. In making this challenge, Ms Kravchuk also recalled “the Venice Commission's opinion on the inclusion of a not internationally-recognised territory into a nationwide constituency for parliamentary elections, which points out that the organisation of elections in the annexed territory does not and cannot remedy the annexation”.³

2. This challenge was based on grounds which have already discussed by the Committee in 2019 and in 2020. At that time, it led the Committee on Rules of Procedure to question their admissibility and validity under Rule 7 of the Rules of Procedure and, consequently the Committee decided that the matter was within its sphere of competence. (Rule 7.1.a, in this respect provides that: “*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 one or more of the relevant provisions of the Statute (in particular Articles 25 and 26)*”).

4. The Committee on Rules of Procedure held in 2019 and 2020, several in-depth exchanges of views on the issues raised by these challenges.⁴

5. The Committee requested, in June 2019, the opinion of the Venice Commission on the question of “compliance with Council of Europe and other international standards of national parliamentary elections organised in a State’s nationwide constituency which is not within internationally recognised borders”, in the context of the non-recognition under international law of the consequences of the illegal annexation of a territory. It also held hearings in the context of the follow-up to the debate on the draft report on the “Challenge on procedural grounds of the still unratified credentials of the parliamentary delegation of the Russian Federation” (Rapporteur: Mr Egidijus Vareikis, Lithuania, EPP/CD).⁵

6. The Committee on Rules of Procedure, now in 2022, once again has to consider the composition of the Russian delegation under Rule 7. It should be noted that 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. The credentials of the members of the Russian delegation sent on 14 January 2022

7. The Russian delegation’s credentials for the 2022 session were presented in a letter of 14 January 2022 sent to the President of the Assembly by the Chairman of the State Duma of the Federal Assembly of the Russian Federation and the Speaker of the Federation Council of the Federal Assembly of the Russian Federation.

8. In accordance with articles 25 and 26 of the Statute of the Council of Europe, the Russian parliamentary delegation is entitled to 18 representatives and 18 substitutes. According to the document of the

³ Opinion No. 955/2019 of the European Commission for Democracy through Law (Venice Commission) – Report on the compliance with Council of Europe and other international standards of the inclusion of a not internationally recognised territory into a nationwide constituency for parliamentary elections, adopted by the Venice Commission at its 121st Plenary Session, (Venice, 6-7 December 2019) , [CDL-AD\(2019\)030-e](#)

⁴ Hearing held in Strasbourg on 2 October 2019 on “Rule 7 of the Assembly’s Rules of Procedure on the challenge, on procedural grounds, of credentials submitted by national delegations: taking into account restrictive measures adopted by the European Union concerning individuals”, with the participation of Professor Pierre Klein, Centre for International Law, Faculty of Law – Free University of Brussels (Belgium), and Professor Władysław Czapliński, Institute of International Law, Polish Academy of Sciences, Łódź (Poland) – extract of the minutes [AS/Pro \(2019\) PV 07](#)
A legal advice was also prepared by Professor Pierre Klein (AS/Pro (2019) 15).

⁵ Information memorandum on Challenge on procedural grounds of the still unratified credentials of the parliamentary delegation of the Russian Federation. Rapporteur: Mr Egidijus Vareikis, Lithuania, Group of the European People’s Party. [AS/Pro \(2020\) 01](#)

President of the Assembly on the examination of credentials of representatives and substitutes for the first part of the 2022 Ordinary Session of the Assembly (Doc. 15441) the parliamentary delegation is composed as follows:

Representatives

Mr Iurii AFONIN (Communist Party)
 Mr Aleksandr BASHKIN ()
 Ms Maria BUTINA (United Russia)
 Mr Alexei CHEPA (A Just Russia - Patriots - For Truth)
 Mr Andrey EPISHIN ()
 Mr Leonid KALASHNIKOV (Communist Party)
 Ms Olga KAZAKOVA (United Russia)
 Mr Sergey KISLYAK ()
 Mr Vladimir KOZHIN ()
 Mr Vladimir KRUGLYI ()
 Mr Alexei NECHAEV (New People)
 Mr Evgenii POPOV (United Russia)
 Ms Irina RUKAVISHNIKOVA ()
 Mr Shamsail SARALIEV (United Russia)
 M. Leonid SLUTSKIY (Liberal Democratic Party)
 Mr Viacheslav TIMCHENKO ()
 M. Petr TOLSTOI (United Russia)
 Ms Svetlana ZHUROVA (United Russia)

Substitutes

Mr Anatoli AKSAKOV (A Just Russia - Patriots - For Truth)
 Mr Oleg ALEKSEEV ()
 Mr Sergei ALTUHOV (United Russia)
 Ms Alena ARSHINOVA (United Russia)
 Mr Alexandr BORISOV (United Russia)
 Mr Boris CHERNYSHOV (Liberal Democratic Party)
 Mr Denis GUSEV ()
 Mr Georgii KAMNEV (Communist Party)
 Mr Belan KHAMCHIEV ()
 Ms Olga KHOKHLOVA ()
 Ms Alfiia KOGOGINA (United Russia)
 Mr Oleg MOROZOV (United Russia)
 Mr Valery PONOMAREV ()
 Mr Alexandr PROKOPIEV (United Russia)
 Ms Irina RODNINA (United Russia)
 Mr Sergei SOKOL (United Russia)
 Mr Oleg TSEPKIN ()
 Mr Dmitrii VASILENKO ()

3. Previous Opinion by the Committee on Rules of Procedure, Immunities and Institutional Affairs and Opinion of the Venice Commission

9. In 2021, the Committee had the opportunity of examining the same or similar issues as part of its opinion on the Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation (Doc. 15218) of 27 January 2021, for which I was rapporteur.

10. In this document reference was made to Opinion No. 955/2019 of the European Commission for Democracy through Law (Venice Commission), which was delivered upon the request by the committee. The Venice Commission in its opinion stated that, when verifying the credentials of parliamentarians who have been elected 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. The Assembly should consider this impact paying due regard to the principle of proportionality and determine whether the credentials should be ratified or refused”. Moreover, it should be noted that the Assembly's obligation not to recognise an annexation has an impact on its verification of the credentials of the delegation of the annexing State.

11. The opinion of the Rules Committee went on to consider whether ratifying the credentials of a national delegation which includes parliamentarians elected by citizens of an illegally annexed territory:

- would run counter to the obligation not to recognise the consequences of an internationally wrongful act;
- would be tantamount to recognition of the consequences of that internationally wrongful act – the illegal election of parliamentarians in that constituency;
- would give it any legal effect and could entail implicit recognition by the Council of Europe and the Assembly of the annexation of Crimea by the Russian Federation.

12. The Venice Commission when it looked into these matters replied in the negative: clearly, the validation of the credentials of members elected on the basis of an illegal election cannot lead to a recognition of the annexation of the annexed territory by the annexing State which organised the elections. It stated that the obligation under international law for the Parliamentary Assembly not to recognise an annexation “does not necessarily entail the obligation to deny credentials to the whole delegation of an annexing State. Other options are possible. The Parliamentary Assembly might consider increasing the range of such options for the future”.

13. In conclusion it can be said that the ratification of the credentials of the delegation of the Russian Federation will not constitute recognition, even implicit, of the annexation of Crimea by the Russian Federation, when taking into account “the election of parliamentarians from nationwide party lists in Russia [which] includes votes from the illegally occupied and annexed territory of Crimea”. In this context, in my view the credentials of the delegation of the Russian Federation should not be rejected on procedural grounds.