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Provisional

## Committee on Rules of Procedure, Immunities and Institutional Affairs

# Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting

Rapporteur: Ms Petra De Sutter, Belgium, Socialists, Democrats and Greens Group

### A. Draft resolution

1. The Parliamentary Assembly emphatically reiterates its willingness to resolutely promote the aims of the Council of Europe, as one of its statutory organs, as set forth in the Preamble to and Articles 1 and 3 of the Statute of the Council of Europe. It recalls the numerous resolutions it has adopted over the last few decades both to strengthen its machinery in this area and to state its position on given member States' failure to honour the statutory obligations they entered into upon joining the Council of Europe.

2. With its 70th anniversary approaching in several months' time, the Assembly intends to constructively analyse the relevance, effectiveness and legitimacy of its procedures in the light of the goals it has set itself. It may find it necessary to change its practices and adjust its rules, were a revision of its machinery and procedures to prove indispensable to better guarantee the principles and values that are the "common heritage" of the peoples of Greater Europe.

3. Nevertheless, the Assembly considers that its Rules of Procedure should not be changed in an attempt to resolve a purely political problem. Revising rules and procedures is justified only where it helps to make the Assembly more robust in order to better uphold the fundamental values of democracy, the rule of law and human rights.

4. The Assembly welcomes the numerous contributions submitted by its parliamentary delegations and political groups and the debates within the framework of the Ad Hoc Committee on the Role and Mission of the Parliamentary Assembly set up in December 2017. It believes that the proposals made must be assessed in terms of their implications and consequences for the effective functioning of the Assembly, in a broader and longer-term perspective, and that care must be taken to avoid a short-sighted approach.

5. It also welcomes the deep attachment of the delegations and political groups to the Council of Europe's values and principles, their promotion, their protection and the monitoring of the member States' respect for them. It notes with great satisfaction the unwavering backing clearly expressed for the existing supervision machinery.

6. Consequently, the Assembly resolves to strengthen the coherence, legitimacy and effectiveness of its decision-making machinery by amending certain provisions of its Rules of Procedure as follows:

6.1. with regard to enhancing the *coherence of its procedures for the challenge and reconsideration of national delegations' credentials on substantive grounds*, provided for in Rule 8 and Rule 9 of the Rules of Procedure, it resolves to:

6.1.1. unify these procedures and merge the provisions in a single rule worded as follows:

**"Rule 8: Challenge of still unratified credentials or request for the reconsideration of previously ratified credentials on substantive grounds**

8.1. *The credentials of a national delegation as a whole may be challenged on substantive grounds:*

8.1.a. *at the opening of an ordinary session, on the basis of a request made by at least one sixth of the members of the Assembly, present in the Chamber, belonging to at least five national delegations and, recommending that these credentials should not be ratified;*

8.1.b. *during an ordinary session, on the basis of a motion for a resolution tabled by at least one sixth of the members of the Assembly, belonging to at least five national delegations, distributed at least one week prior to the opening of a part-session, recommending that these credentials be reconsidered;*

8.1.c. *on the basis of a draft resolution of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) recommending that these credentials should not be ratified or that they be reconsidered.*

8.2. *The challenge shall be duly reasoned and shall be based upon one or more of the following substantial grounds:*

8.2.a. *a serious violation of the basic principles of the Council of Europe mentioned in Article 3 of, and the Preamble to, the Statute; or*

8.2.b. *persistent failure to honour obligations and commitments and lack of co-operation in the Assembly's monitoring procedure.*

8.3. *The list of signatories of the motion for a resolution may not include more members of a delegation than the number of seats held by that delegation in the Assembly. Once tabled, it may not be withdrawn by its authors and no signatures may be removed or added.*

8.4. *The challenge presented at the opening of the session or the motion for a resolution tabled during a session shall be referred without debate to the appropriate committee for report and to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion. It may be referred, if necessary, to other committees for opinion. The committee shall report within 48 hours if possible and the Assembly shall consider its report as soon as possible.*

8.5. *A report of the Monitoring Committee calling into question the credentials of a national delegation shall be placed on the agenda of the next Assembly part-session following its approval in committee, to be debated no later than 48 hours after the opening of the part-session. It shall be referred to the Committee on Rules of Procedure, Immunities and Institutional Affairs for opinion.";*

6.1.2. and to amend the references to former rules made in Rule 10.1 accordingly;

6.2. with regard to reinforcing the legitimacy of its procedures for the challenge and reconsideration of national delegations' credentials on substantive grounds and the authority of its decisions, it resolves to amend the voting requirements for Assembly decisions on challenges or reconsideration of credentials:

6.2.1. by amending Rule 41.a. as follows:

"The following majorities are required: for the adoption of a draft recommendation or a draft opinion to the Committee of Ministers, for the adoption of urgent procedure, for an alteration to the agenda, for the setting up of a committee, for the fixing of the date for the opening or resumption of ordinary sessions, a decision to dismiss the holder of an elective office and the adoption of an Assembly decision on a challenge or reconsideration of a national delegation's credentials, a majority of two thirds of the votes cast.";

6.2.2. by inserting, after Rule 10.2, the following new rule:

"The adoption of the draft resolution by the Assembly shall require a majority of two thirds of the votes cast with the requisite quorum, in accordance with Rules 41.a and 42.3. In the absence of a quorum the vote shall be postponed until the next sitting. In the absence of a qualified majority, or in the absence of the quorum at this next sitting, the draft resolution shall be rejected and the credentials of the national delegation concerned shall be deemed to be ratified or confirmed."

7. With regard to the grounds serving as the basis for any request to challenge credentials on substantive grounds, stipulated in Rule 8.2 of the Rules of Procedure, the Assembly does not intend to restrict the scope of its procedure by defining a catalogue of restrictive criteria, and decides that it will assess the grounds for the challenge, at its sole discretion, for each procedure initiated, basing its assessment on the body of law of the Council of Europe.
8. In order to more closely harmonise its machinery with that of the Committee of Ministers, the Assembly undertakes to step up dialogue with the Committee of Ministers and, when required to adopt a stance on a member State's violation of its statutory obligations in connection with a challenge or reconsideration of a national delegation's credentials on substantive grounds, to call on the Committee of Ministers, via a recommendation, to examine the Assembly's findings and support its recommendations, including, where appropriate, the suspension of a member State under Article 8 of the Statute.
9. The Assembly decides that depriving or suspending the exercise of some of the rights of participation or representation in the activities of the Assembly and its bodies, as mentioned in Rule 10.1 c. of the Rules of Procedure, does not impinge on the rights of Assembly members to take part in the election of judges to the European Court of Human Rights, the Commissioner for Human Rights, the Secretary General and the Deputy Secretary General of the Council of Europe and the Secretary General of the Parliamentary Assembly.
10. The Assembly reiterates the terms of Article 25 of the Statute of the Council of Europe and considers it as an obligation of each member State parliament to transmit the credentials of the parliament's representatives at the opening of its ordinary session.
11. The Assembly decides that the amendments to the Rules of Procedure set out in the present resolution shall enter into force upon its adoption.

## **B. Draft recommendation**

1. The Parliamentary Assembly, referring to its Resolution ... (2018) on "Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting", wishes to emphatically reiterate its willingness to resolutely promote the aims of the Council of Europe, as one of its statutory organs, as set forth in the Preamble to and Articles 1 and 3 of the Statute of the Council of Europe.
2. It recalls the numerous resolutions it has adopted over the last few decades both to strengthen its machinery in this area, in order to better guarantee the principles and values that are the "common heritage" of the peoples of Greater Europe, and to state its position on given member States' failure to honour the statutory obligations they entered into upon joining the Council of Europe.
3. The Assembly considers that the strengthening of its procedures, the result of long and gradual discussions over the last thirty years, has been clearly intended to elevate the Assembly to the level of competence of the Committee of Ministers, which, under Article 8 of the Statute, may suspend a member State from its rights of representation. The Assembly considers that its procedures for the challenge and reconsideration of national delegations' credentials, also established in relation to its procedure for monitoring the obligations and commitments of member States, constitute the parliamentary variant of the powers held by the Committee of Ministers in this area.
4. The Assembly reiterates that it has sole competence to regulate its internal procedure and lay down its own rules, a power bestowed on it by Article 28 of the Statute of the Council of Europe, and that the Statute places no restrictions on the Assembly's power to adopt rules it deems necessary for its proper functioning.
5. The Assembly invites the Committee of Ministers to engage in discussions on the effectiveness of its own procedures and ability to respond effectively to violations of the statutory obligations entered into by the member States and failure to respect the values and principles promoted by the Council of Europe, in the spirit of Resolution 2186 (2017) on a "Call for a Council of Europe summit to reaffirm European unity and to defend and promote democratic security in Europe", which seeks greater coherence of rules between the Committee of Ministers and the Parliamentary Assembly governing participation and representation of member States in both statutory organs.