

**Joint position of the Initiative Group of Russian human rights defenders on the crisis in relations between the Council of Europe and Russia and of the Board of the EU-Russia Civil Society Forum on proposals to amend the PACE Rules of Procedure**

24 June 2019

We appeal to all members of the Parliamentary Assembly of the Council of Europe (PACE) to vote for the revised draft resolution “Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting” prepared by Ms Petra De Sutter, Chairperson of the Committee on the Rules of Procedure, Immunities and Institutional Affairs, and approved by the Committee at its meeting on 3 June. We very much hope for a positive and constructive position of all Assembly’s political groups and national delegations on this proposal.

The proposed resolution appears to be a logical final step in the process of looking for a solution to the crisis related to Russia’s non-participation in work of the PACE – the process which was started in autumn of 2017 with the adoption of the “Nicoletti Report” by the overwhelming majority of the Assembly members, then continued with discussions in the Ad-hoc Committee on the role and mission of the Assembly in 2018 and, finally, with the adoption of the “Kox Report” in April 2019. Supporting the current proposal of the Rules Committee in the plenary vote at the June part-session would be absolutely consistent with the previous decisions taken by the Assembly and would give a chance to finish this lengthy and difficult process in a constructive way with a tangible outcome.

All the previous attempts to resolve this crisis have failed, which only led to increasing the price of finding a solution.

As a result, the situation has reached a deadlock with Russia threatening to leave the CoE and cease to be party to the European Convention on Human Rights.

Why the proposed draft resolution should be seen NOT AS A THREAT to the future of the PACE and the Council of Europe but AS AN OPPORTUNITY to secure it?

*1. The proposed amendments to the PACE Rules of Procedure DO NOT fully eliminate the existing mechanism of “sanctions”, i.e. depriving or suspending the exercise of the participation or representation of members of a national delegation in the activities of the Assembly and its bodies.*

These amendments only limit the potential scope of such sanctions by clarifying that ‘the members’ rights to vote, to speak and to be represented in the Assembly and its bodies shall not be suspended or withdrawn.’ At the same time, in case these amendments are passed, a number of other members’ rights may still be withdrawn or suspended, including the right to table a motion for resolution or recommendation, to address questions to the Committee of Ministers, to be appointed rapporteur, to request an urgent or current affairs debate, to be candidate for elected posts within the Assembly, to be a member of election observation missions, to represent the Assembly in other Council of Europe bodies or at external events.

This IS NOT what the Russian officials wanted and publicly demanded as regards amending the Rules of Procedure. In fact, this appears to be the best available compromise solution. On the one hand, it resolves the discrepancy between the provisions of the Assembly’s Rules of Procedure on deprivation or suspension of national delegations’ rights and the principle of equality of member states in making key decisions in the organisation according to the CoE’s Statute. It is also in line with the decision of the Committee of Ministers adopted in Helsinki on 17 May 2019, which pointed out that ‘all member states shall be entitled to participate on an equal basis in the two statutory organs of the Council of Europe.’ And, on the other hand, these amendments do not impair the Assembly’s sovereign powers to examine and challenge the credentials of its members and, thus, preserve the opportunity of imposing certain sanctions. The proposed amendments IN NO WAY change the existing procedure and requirements for that. This means that the credentials of a national delegation can still be challenged, as before. For instance, we believe that this option should

definitely be invoked in case the Russian delegation presents a list of its members that includes illegally elected MPs from the annexed Crimea and the city of Sevastopol.

*2. Not adopting any decision on the matter at the June part-session of the Assembly would most probably lead to Russia's departure from the organisation – with all the negative consequences this would cause for the Russian public and the Council of Europe as a whole.*

The proposed compromise solution to the crisis may have its pros and cons, but, unfortunately, its critics have not proposed any realistic alternative options, which would mean not introducing any changes at all and keeping the *status quo*. It is clear, though, that the *status quo* cannot be preserved any longer: if the crisis is not resolved at this part-session, there is a high risk of Russia's pre-emptive withdrawal from the CoE at the end of June, when the Committee of Ministers is to discuss a potential suspension of its membership in the organisation due to non-payment of financial contributions for two years. Besides, Russian authorities have repeatedly flagged their participation in the elections of the new CoE Secretary General, which is also scheduled for the June part-session, as an essential condition for staying. Thus, the prospect of Russia's withdrawal should be taken very seriously and not seen as 'just a bluff'.

As previously pointed out in the [Memorandum of Russian human rights defenders of November 2018](#), which was also [endorsed by the Board of the EU-Russia Civil Society Forum](#) and a number of European human rights NGOs, this move would by no means help to solve the issues that prompted the Assembly to impose restrictions on voting and participation rights of the Russian delegation in 2014 and 2015.

As many others in civil society organisations, parliaments and governments across Europe, we are extremely concerned about Russia's deplorable human rights and the rule of law record both inside the country and beyond its borders. However, we believe that actions aimed at pushing Russia out of the CoE are short-sighted. Driven by understandable anger (which we respect, as indeed the reasons for taking extraordinary steps with respect to Russia have not disappeared), these actions will not lead to what their proponents would like to achieve. We are convinced that Russia's departure from the CoE would not stop human rights violations and halt the authoritarian backslide in the country, or prevent Russian government's aggressive behaviour in the international arena. In particular, it would by no means contribute to the resolution of the conflict in Eastern Ukraine and the return of Crimea under Ukrainian jurisdiction or help the Ukrainian nationals imprisoned in Russia on politically motivated charges. Instead, it would have irreversible consequences, putting an end to a difficult struggle of Russian society to make the country an important part of Europe on the basis of shared values of democracy, rule of law and respect for human rights. In the case of Russia's departure from the organisation, the Assembly and the Council of Europe in general would lose even the existing limited opportunities to influence the situation of human rights and the rule of law in Crimea and the territories of Donbas that are currently not controlled by Ukraine, as well as inside Russia.

We recognise and deeply regret the fact that Russia has taken very little, if any, steps to address the Assembly's demands with regard to the situations in Crimea and Donbas, except for a recent decision by Moscow to invite the Commissioner for Human Rights to visit Crimea – just one of many demands that we and other stakeholders have put forward. But we believe that the possible return of the Russian delegation to PACE should not be regarded as a retreat from these demands and a return to 'business as usual'.

*3. Any sanctions are a tool to achieve some political goal, not a goal in itself.*

The goal of restricting the rights of Russian delegation to the PACE was pushing Russia to observe the norms of international law with regard to the annexed Crimea and the conflict in Donbas. Now, five years after, we have to admit that these sanctions failed to achieve their goal. Instead, they provoked a deep institutional crisis in the CoE and a serious risk of Russia departing from the organisation.

So, we believe that instead of arguing about the symbolic importance of preserving the sanctions against Russia in the PACE and mobilising significant efforts for this, those who really care about compelling the Russian authorities to observe international law should rather focus on finding other, more effective ways and tools for ensuring that.

The adoption of the proposed draft resolution would open the possibility for the Russian delegation to return to the PACE at the June part-session and for the continuation of Russia's membership in the Council of Europe. We consider this a crucial factor in maintaining and strengthening international legal control and supervision over human rights observance in and by Russia. Indeed, it should be the start of a very badly needed stepping up of interaction with and increasing pressure on the Russian authorities to ensure their compliance with the Council of Europe obligations and standards.

How this can be done?

Firstly, the continued membership of Russia in the CoE should be actively used by all concerned parties as **an opportunity to build up stronger pressure on Russia to ensure implementation of its obligations**. The PACE should much more actively use all the other tools it already has, such as the monitoring procedure, thematic reports and resolutions, posing questions to the Committee of Ministers and prompting it to apply Article 46 in the cases of persistent non-implementation of judgements of the European Court of Human Rights by Russia. Moreover, new and more intense mechanisms to intervene with respect of Russia's violations of international law should be developed and applied in the CoE, in particular with respect to Crimea and Donbas. The idea of a special human rights monitoring regime for Crimea is one such example.

These measures in the Council of Europe should be complemented by other practical tools outside of the organisation, including in bilateral relations of states with Russia.

Secondly, the current crisis should lead to a critical review and **an upgrade of the CoE's toolbox to address grave and systemic violations of the organisation's norms by member states**. In this regard, follow-up to the Committee of Ministers' proposal to develop a new procedure for a coordinated response to such situations, including a decision on suspension or expulsion of a member state should be prioritised. We believe that this new joint procedure would be a much better and stronger tool than symbolic sanctions within PACE. Similarly, following up to relevant proposals put forward in the latest annual report by the Secretary General is important.

Developing the two abovementioned lines of action (building up stronger pressure on Russia to ensure implementation of its obligations and an upgrade of the CoE's toolbox to address grave and systemic violations of the organisation's norms by member states) would demonstrate that the PACE has not just resorted to a short-term tactical solution to the crisis by allowing an 'unconditional return of the Russian delegation' and thus 'appeasing the aggressor' but, on the contrary, is working on a longer-term strategy of responding to violations committed by Russia, and, potentially, by any other member states.

Signed:

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