

18 February 2015



Report and Recommendation of the Credentials Committee Regarding the Russian Federation's Designation of Ms. Olga Kovitidi as a Member of the OSCE PA

1. The Ukrainian PA delegation has formally, in letters addressed to the President of the OSCE PA on February 6, 2015 and February 12, 2015, challenged the credentials of Ms. Kovitidi from the Russian Federation. OSCE PA President Ilkka Kanerva therefore established a Credentials Committee in line with Rule 3 No. 6 of the OSCE PA Rules of Procedure. After a presentation of the respective positions of the PA delegations of Russia and Ukraine and extensive deliberations in the committee, the Committee has come to the conclusions herein.
2. The Committee's task was to examine the credentials of a member of the Russian Federation Council, Ms. Olga Kovitidi, whom the Delegation of the Russian Federation designated as a Member of their Delegation, and consequently as a Member of the PA, through Notes Verbales of January 19 and 28, 2015.
3. The OSCE PA normally tacitly accepts members on the basis of such communications supplied by the national parliaments, on the basis of official documents (Rule 3 No 5) – unless the credentials of a person notified as a Member have been challenged.
4. Thus, the purpose of challenging credentials is to start a formal procedure in which a Credentials Committee examines the credentials in order to give the competent decision-making body – in this case, the Bureau – the possibility to make an informed formal decision on the person's membership. The committee reports the results of this examination, together with a recommendation regarding the legitimacy of the member, to the Bureau. The Bureau will then – on the basis of the results of the work of the Committee – decide whether this person is a member of the PA. Therefore, the task of the Credentials Committee was not to assess the position of the Ukrainian Delegation, but rather to establish whether the documents and communications provided are sufficient to accept Ms. Kovitidi as a legitimate Member of the OSCE PA.

5. The basis for membership in the OSCE PA are Rules 1 No 1 and Rule 3. They have to be interpreted in light of our OSCE commitments, and in particular the Helsinki Final Act and the Charter of Paris, on which this Organization is founded. Both of these founding documents are also mentioned in Rule 1 in the context of the membership. These fundamental commitments of our Organization include the territorial integrity of States and the inviolability of borders. In this light, and since Rule 1 No 1 states that the Assembly shall be composed of members of parliaments **f r o m** countries that are signatories of these documents, a member of parliament designated as a PA member has to represent the country that makes the notification – and not some authority of that country which has been set up on foreign territory in a way considered illegal by the overwhelming majority of the OSCE participating States.
6. If a country appoints representatives of territorial entities to a parliamentary body, the country needs to make sure that this act does not infringe upon the sovereignty and territorial integrity of another state. When Rule 1 No 1 of the OSCE PA Rules speaks of members of parliament from countries, the authors did not envisage that a country would nominate a representative from an authority, which 56 of the 57 participating States, the OSCE PA in its Baku Declaration, and the international community in the March 2014 UN GA Resolution “Territorial Integrity of Ukraine” all see as illegally exercising state power on foreign ground.
7. Any act directly affecting the border between sovereign states requires a minimum of international recognition before gaining validity. Anything that constitutes a de-facto recognition of an annexation considered illegal by the international community violates the rights of the affected country to its territorial integrity, and also the Helsinki Final Act, according to which territorial changes require mutual consent.
8. If the PA accepted this appointment, it could lead to a precedent for future use in other territorial disputes. Russia should understand that such a precedent is very dangerous. Other countries that occupy parts of the territory of OSCE participating States might be tempted to appoint representatives of illegal de-facto authorities as members of parliament and designate them as PA members, which the affected State would of course see as a provocation.
9. Russian Authorities that claim to govern this part of the Ukrainian territory can therefore not create acts having validity with respect to Ukraine or to third parties like the OSCE Parliamentary Assembly. Ms. Kovitidi’s membership in the Russian Parliament is exclusively based on her function as part of these authorities, which also enacted her appointment. As a

consequence of the above, for the purpose of establishing her credentials in our Assembly, these acts are invalid.

10. The Russian Federation has proposed the postponement of consideration of this issue to the 2015 OSCE PA Annual Session because of Ms. Kovitidi's absence from the Winter Meeting, and requested to refer it to the Standing Committee. We have come to the conclusion that we need to decide now, because the Russian Delegation has not withdrawn the designation of Ms. Kovitidi as a PA member, meaning that her membership rights are pending and need to be decided.

Recommendation to the Bureau:

The Credentials Committee has come to the conclusion that, on the basis of the communication provided by the Russian Federation and other official documents, what Ms. Kovitidi represents in the Russian Federation Council is not a Russian territorial entity, but an illegal de-facto authority on Ukrainian territory. She therefore cannot be accepted as a member of the OSCE PA in line with Rule 1 No 1. As a consequence of this, the Credentials Committee recommends that the Bureau does not recognize Ms. Kovitidi as a member of the OSCE PA.