

NEGOTIATING WITH A POINTED GUN

**SANCTIONS, APPEASEMENT AND
THE ROLE OF RUSSIA IN THE COUNCIL OF EUROPE**

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Tomorrow the Parliamentary Assembly of the Council of Europe (PACE) will vote on changes to its rules of procedure. Normally procedural reforms do not attract much attention. These ones should.

Legislators in Strasbourg will be voting on changes to PACE’s powers to sanction the parliamentary delegations of states violating human rights, democracy and the rule of law. They will also be voting on something much bigger: the relevance and credibility of the Council of Europe itself.

The story begins in April 2014 with the [suspension of the Russian delegation’s voting rights](#) in PACE following the Russian annexation of Crimea. Denied its voting rights again in 2015, the Russian delegation left PACE and has from then on declined to present its credentials at all, excluding itself from the Assembly altogether. Unwilling to address the underlying reasons prompting the removal of their voting rights, it has chosen a different route to restore them: blackmail. Since summer 2017, Russia has refused to pay its financial contribution to the organisation “until full and unconditional restoration of the credentials of the delegation of the Federal Assembly of the Russian Federation in PACE,” as a [foreign ministry statement](#) read.

A few days ago a number of concerned Europeans, including Toomas Hendrik Ilves, former president of Estonia, and Andrius Kubilius, twice prime minister of Lithuania, sent a letter to the Council of Europe. [They warned](#) against PACE making a terrible mistake:

“We call upon the ruling elites of all CoE Member States not to allow the demise of the organization. History will judge harshly those who give in to blackmail from undemocratic societies where the rule of force is above the rule of law.”

They are right. At a time of rising challenges to European values from far-right forces across Europe, the 324 members of the parliamentary assembly should make clear that a robust Council of Europe defending its core values will not give in to blackmail by any of its members.

A rule that is (almost) never applied

PACE has two important symbolic sanctions in its tool box, to be employed in the event of a “serious violation of the basic principles of the Council of Europe” or “persistent failure to honour obligations and commitment.” (Rule 8, PACE [Rules of Procedure](#))

The first is the (non)-ratification or withdrawal of the credentials of a national delegation of parliamentarians.

According to the [Rules of Procedure](#), the plenary session of PACE needs to ratify the credentials of each national delegation at the beginning of each calendar year. It may refuse to ratify them or revoke their ratification later in the year. Non-ratification results in the exclusion of the national delegation from all the workings of the Assembly, including all voting rights.

Under current rules:

- A new ratification of credentials may be challenged by at least 30 members of the Assembly belonging to at least five national delegations (or in a report by its Monitoring Committee). ([Rule 8](#)) The adoption requires a simple majority of votes cast in the Assembly.
- Previously ratified credentials may be challenged by at least 50 members, belonging to at least two political groups and five national delegations. The adoption again requiring a simple majority. ([Rule 9](#))

A second, milder sanction is the ratification of credentials with the simultaneous suspension of certain rights of participation, including voting rights ([Rule 10.1.c](#)). This means that a delegation can participate in all PACE sessions, but cannot take part in votes, including in the elections of members of the European Court of Human Rights and of the Secretary General of the Council of Europe. This sanction also requires a simple majority to be adopted.

The [proposed rule changes](#), which will be debated tomorrow, will make it significantly harder to take either of these two steps. From now on:

- denying/withdrawing the ratification of any national delegation will require not a simple majority but a **two-thirds majority**;
- suspending the voting rights of any national delegation will also no longer require a simple majority but a **two-thirds majority**;
- **even if voting rights are suspended, the right to vote in elections to key posts will be safeguarded.** According to the [proposed draft resolution](#), the suspension “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.”

Note that the Council of Europe PACE has withheld or withdrawn ratification of credentials on substantive grounds **only twice** in its long history: in 1980 in the case of Turkey, after a military coup involving executions, mass imprisonment and torture; and in 2000, over Russian atrocities during the war in Chechnya. Note also that PACE has suspended voting rights on substantive grounds **only once** in its history: in 2014 following the Russian annexation of Crimea.

In other words: these symbolic but important sanctions have been **very hard to use even when they only required a simple majority**. There is absolutely no reason to make the use of sanctions which are (almost) never applied even harder, unless one wants to signal that sanctions themselves have no place in the Council of Europe.

To remove the suspension of voting rights in key elections from the list of possible sanctions is a debate nobody considered necessary until Russia raised the issue. It is the result of the demands of a suspended state dictating the terms of its own readmission and holding an entire organisation to ransom.

Russian hardball

In February 2014, the Ukrainian government led by Viktor Yanukovich was ousted after months of peaceful protest culminated in snipers killing demonstrators in the centre of the Ukrainian capital. Within weeks Russia annexed Crimea and precipitated a conflict in the Eastern Ukrainian region of Donbass that has already claimed some 15,000 casualties and continues to this day.

In April 2014, the Parliamentary Assembly of the Council of Europe **suspended** the right to vote of members of the Russian parliamentary delegation. It was a mild response in the face of so brazen a violation of another member state's territorial integrity. PACE might have gone further and revoked their credentials, effectively expelling the Russian delegation from the Assembly altogether (for a limited time) but chose not to do so.

In July 2014, the EU and the US imposed a range of economic sanctions. Since then they have been strengthened in response to Russia's more recent aggressions. These include the reaction to an international investigation accusing Russia of responsibility for the downing of a Malaysian passenger plane that left from Amsterdam, killing more than 200 (mostly Dutch) passengers; a chemical-weapons attack earlier this year, which killed a British citizen in Salisbury; and repeated cyber-attacks on other Council of Europe member states, which are ongoing.

In the Council of Europe, Russia played hard-ball from the very outset. It behaved on the assumption that the organisation's main players - PACE itself, the Secretary General and the majority of states represented in the Committee of Ministers - were more interested in its continued membership (and funding) than it was itself.

Having seen its voting rights denied again in 2015, it has refrained from presenting the credentials of its delegation every year since, thereby excluding itself from PACE. In October 2016, Leonid Slutsky, a former Russian PACE member and Chairman of the International Affairs Committee of the Russian Duma, formulated Russian demands, [insisting](#):

“Russia will return [to PACE] only if certain decisions are changed, namely, the denial of the right to vote and other discriminatory actions ... **If such discriminating decisions cannot be taken in the future with respect to the delegation of Russia or other national delegations**, then we will be able to return to work on the PACE platform in full force.”

A visit of a Russian parliamentary delegation to PACE in March 2017 did not produce any result, with the Russians [making clear](#) once again:

"We are not begging anyone and we will not beg anyone to restore our delegation in PACE ... **Russia will conduct dialogue only after the regulation of the assembly is changed**

so that national delegations cannot be stripped of the right to vote. We strongly hope that our presence will push colleagues towards this choice. In essence you have to decide if you will build Europe with Russia or without Russia."

At the end of June 2017 Russia escalated the conflict and increased the pressure further by declining to pay the remainder of its 2017 contribution to the Council of Europe budget (22 million Euro out of 33 million), [announcing](#) that "in view of the current developments, the Russian Federation decided to suspend payment of its contribution to the budget of the Council of Europe for 2017 until full and unconditional restoration of the credentials of the delegation of the Federal Assembly of the Russian Federation in PACE." This caused a shortfall of 5 percent in the CoE's 2017 budget. Russia has declined to pay its dues for 2018 as well (33 million Euro), forcing the institution to seriously reduce expenditures.

Russia has done nothing to seek and even less to deserve a détente. It is extraordinary that a member state whose voting rights have been suspended should seek to dictate the terms of their restoration. It is even more remarkable that the conditions it insists upon is to make it even harder, if not impossible, to ever remove anyone's credentials again; and to reduce a denial of voting rights to less important votes.

Even if there were a need to debate which symbolic sanctions PACE should be able impose in which way in the future, this should not be done now, following pressure from a state holding the organisation to ransom.

What PACE should do now

So what should PACE do? The [report](#) accompanying the resolution notes that:

"the Committee on Rules of Procedure has, for its part, **unequivocally decided to ignore political considerations** and assess the proposals made by the Assembly's parliamentary delegations and political groups from a broader and longer-term institutional viewpoint."

It continues:

"The Assembly's Rules of Procedure **should not be used as a means to an end:** a procedure should not be changed in an attempt to resolve a purely political problem."

In fact, it is obvious that the rules of procedures would be changed at this moment for one reason only: to get Russia back. This is why, following the logic of the report, PACE should postpone or reject the vote on the report. To rush to a decision on the future of sanctions now is to give in to blackmail.

PACE should insist that the Russian state pays its membership fees. Only then, without a loaded gun in its face, can PACE hold a credible debate on the future of its sanctions policy. PACE should also invite Russian parliamentarians to present their credentials in January.

If PACE does this, it would send a powerful signal that after a decade of giving in all too often to pressure from autocratic members, it is back as a strong defender of European standards.