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Report
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**A Code of Conduct for Congress members – revision of the Congress
*Rules and Procedures***

Bureau of the Congress

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Summary

The objective of the proposed revision of the Congress' *Rules and Procedures* appended to the resolution is to update the current rules in order to give the Congress clearer provisions covering conflicts of interest, stronger rules dealing with unethical behaviour and procedures for instituting disciplinary action.

Existing rules on non-conformity with Council of Europe principles, on public order and on general conduct and gifts and other advantages are updated, with, in particular, the proposed creation of a Congress Gift Register.

In addition, the rapporteurs present new rules proposing declarations of interests and conflicts of interest as a prerequisite for Congress membership, procedures for submitting and dealing with allegations of breach of the Code of Conduct and for imposing sanctions and disciplinary action.

¹ L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC: Socialist Group
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

RESOLUTION 436 (2018)²

1. The ethical behaviour of public officials at all levels of government is the corner stone of a healthy democracy and the basis for citizens' trust and confidence in politics and politicians.
2. Congress Recommendation 383 (2015) on the conditions of office of elected representatives states that "those in public office should uphold high standards of integrity and make decisions free from personal interest".
3. That same recommendation encourages the use of codes of conduct at local and regional level with mechanisms to monitor their implementation and judge possible breaches and further suggests that all local and regional elected representatives complete a public register of interests, including the interests of close family members, at the start of their period of service to be updated if and when significant changes occur.
4. The Congress had already adopted, in 1999, the European Code of Conduct for the Political Integrity of Local and Regional Elected Representatives, a benchmark text which it updated and extended in 2018 as the European Code of Conduct for all Persons Involved in Local and Regional Governance.
5. In tandem with the revision of the above European Code of Conduct, the Congress Bureau decided, on 4 December 2017, it was opportune to follow its own recommendations and prepare a Code of Conduct setting out guidelines for Congress members.
6. The Code of Conduct for Congress members contained in the revised *Rules and Procedures*, while succinct, is intended to be a sound basis for ensuring that all members conduct themselves with integrity and accountability in the carrying out of their Congress mandate, their elected office or position. It is the result of reinforcing existing rules with clearer provisions covering acceptance of gifts and declaration of conflicts of interest, including stronger rules to deal with unethical behaviour and procedures for instituting disciplinary action.
7. The Congress believes that its members should uphold the values of the Council of Europe and, through their leadership and example, act as ambassadors for the principles of probity and integrity when carrying out their duties on behalf of the Congress.
8. The Congress therefore adopts the changes to the *Rules and Procedures*, as appended, which will be incorporated into the *Rules and Procedures* of the Congress and enter into effect immediately after adoption.

² Debated and adopted by the Congress on 7 November 2018, 2nd sitting (see Document CG35(2018)16, explanatory memorandum), co-rapporteurs: Xavier CADORET, France (L, SOC), et Marc COOLS, Belgium (L, ILDG).

Appendix**EXTRACTS of the Rules and Procedures of the Congress – proposed changes****Rule 6 – Verification of credentials**

[...]

5. All delegates are required to sign the statement below concerning the aims and basic principles of the Council of Europe:

“The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress.” (Statute of the Council of Europe, Chapter I, Article 1.a)

Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.” (Statute of the Council of Europe, Chapter II, Article 3)

I the undersigned, ..., hereby affirm and state that I will subscribe to these aims and basic principles of the Council of Europe.”

6. Delegates must also sign the declaration of interest (Rule 62), in order to be entitled to enjoy speaking and voting rights and to have their expenses relating to participation in Congress proceedings reimbursed.

7. Delegates whose credentials the Bureau of the Congress proposes should not be ratified may provisionally sit with the same rights as other delegates until the Congress has ruled on the matter. However, such delegates may not take part in any vote relating to the verification of credentials or of the official appointment procedures. If, following the vote by the plenary session those delegates’ credentials have not been ratified, they are not considered members of the Congress and may not take part in proceedings.

8. It is the responsibility of every head of national delegation to verify that the statement and declaration of interest referred to in this Rule have been signed³ by every member of his or her delegation.

Rule 7 – Non-conformity with Council of Europe principles

1. If it is brought to the attention of the Bureau of the Congress that a delegate has said, written or done anything that may be incompatible with the aims and basic principles of the Council of Europe, it must consider the matter as soon as possible.

2. If the Bureau finds, following due process, that the delegate’s written or oral statement or action is contrary to the aims and basic principles he or she has committed himself or herself to in accordance with Rule 6.5, it may decide upon a disciplinary course of action (Rule 64) or, in accordance with Rule 65.3, make a proposal in the form of a draft resolution to the Congress.

3. The decision of the Bureau has immediate effect, except in cases of dismissal where the provisions of Rules 65.3 and 65.4 apply. The decision shall be published as an official document within one working day and be forwarded to the member concerned.

³ On-line validation via the Congress’ database is equivalent to a “signature” for the purposes of this rule.

CHAPTER XIII – CODE OF CONDUCT OF CONGRESS MEMBERS⁴

Rule 60 – General conduct and commitments

1. Members of the Congress must respect the values and standards of the Council of Europe, in particular those outlined in Rule No. 1327 of 10 January 2011 on awareness and prevention of fraud and corruption, and the general principles outlined in this Rule and refrain from any action or declaration which would cause damage to the reputation and integrity of the Congress or its members.
2. Members must commit themselves to the goals and principles of the Council of Europe (Rule 6.5).
3. In exercising their duties as members of the Congress, members must:
 - a. carry out their duties responsibly, with integrity honesty and impartiality;
 - b. act solely in the interests of the Congress and the Council of Europe and not serve private interests;
 - c. use resources made available to them responsibly and in the interests of the Congress and the Council of Europe;
 - d. use information with discretion, and not make personal use of information acquired confidentially in the course of their duties;
 - e. inform the President of the Congress of any pressure brought to bear against them or against any other Congress member.

Rule 61 – Gifts and other advantages

1. Under no circumstances shall a delegate request or accept from a State, an institution, or a natural or legal person any advantage, direct or indirect, offer of fees, gift, favour, invitation or excessive act of hospitality, which would be likely to influence the position of the delegate in the performance of their duty as a member of the Congress.
2. A delegate may, exceptionally, accept a gift or advantage only if:
 - a. the value does not exceed 100 euros; and
 - b. refusing it would be considered contrary to the good practice in the relevant cultural context.
3. All gifts accepted in accordance with Rule 61.2, or accepted in error, of a value exceeding 100 euros shall be handed in to the Congress. They shall be kept on the premises of the Secretariat of the Congress and duly entered into the Congress Gift Register.
4. As derogation from Rules 61.1 and 61.2, the President of the Congress and the presidents of the chambers may accept gifts whose value exceeds 100 euros. Such gifts will be entered into the Congress Gift Register and shall be kept on the premises of the Secretariat of the Congress.

Rule 62 – Declaration of interests and conflicts of interest

1. All members must sign a written undertaking⁵ that they:
 - a. have no interests, of an economic, commercial or financial nature, nor do any members of their family, which might have the potential to pose a conflict of interest;

⁴ This rule complements the conduct to be respected by the members of the Congress during a monitoring mission (Chapter XV) and/or an election observation mission (Chapter XVI).

⁵ See Rule 6 concerning non-payment of expenses.

- b. shall neither seek nor accept instructions from anybody other than the Congress (no government, governmental or non-governmental organisation, no pressure group or individual);
 - c. shall not accept any reward, payment, distinction or gift in connection with the exercise of their duties;
 - d. shall refrain from any act that may incur a conflict of interest, adversely affect their neutrality or be seen to do so.
2. All relevant interests should be mentioned in any reports or other documents proposed by the delegate in question.
 3. Failure to declare such relevant interests must be examined to determine the circumstances behind this non-declaration. The procedure to be followed shall be, mutatis mutandis, that which is detailed in Rule 63.5.

Rule 63 – Submission of allegations of breach of the Congress Code of Conduct

1. If it is brought to the attention of the Bureau of the Congress that a delegate has said, written or done anything that may be in breach of any part of the Congress' Code of Conduct it must consider the matter as soon as possible.
2. The dedicated online form should be used to submit all allegations of misconduct or breach of the Code of Conduct. It should be sent to the Secretary General of the Congress or submitted online together with the requisite documentary evidence.
3. All documents and information concerning alleged misconduct or breach of the Code of Conduct shall be considered confidential until the procedure has come to an end and the final decision has been taken by the Bureau or by the Congress.
4. Documentary evidence includes written or printed documents, newspapers, audio and video files, etc.
5. The procedure followed by the Bureau of the Congress for breach of the Code of Conduct by a delegate shall be as set out below:
 - a. The Bureau shall examine the evidence as soon as possible after the alleged breach has been brought to its attention.
 - b. The case shall be presented by the Secretary General of the Congress and must be supported by written or documentary evidence.
 - c. The delegate must be informed by the Bureau that a procedure for breach of the Code of Conduct has been instigated and given the opportunity to reply to the allegation in writing. If the delegate has not responded within the space of 4 weeks the case shall be examined nevertheless at the following Bureau meeting.
 - d. The Bureau may invite the delegate to appear before it. If the delegate has not responded to the invitation within the space of 4 weeks, the case shall nevertheless be examined. The delegate may request an interview with the Bureau.
 - e. If the Bureau finds, following due process, that the delegate's action is in breach of the Code of Conduct it may decide upon a disciplinary course of action in accordance with Rule 64.
 - f. Decisions shall be voted on by secret ballot and by a simple majority of the votes cast.
 - g. The delegate concerned is not present during Bureau deliberations or voting concerning his/her case.
 - h. The decision of the Bureau has immediate effect except in cases of dismissal where the provisions of Rules 65.3 and 65.4 apply. The decision shall be published as an official document within the following working day and be forwarded to the member concerned.

6. In the case of voluntary resignation of the delegate concerned from his or her office, the Bureau shall determine, in view of the nature of the allegations, whether the procedure should be terminated.

Rule 64 – Type of sanctions or disciplinary action

1. The Bureau shall decide upon the appropriate sanction or disciplinary action for each case on an ad hoc basis.

2. Disciplinary action may range from temporary to permanent withdrawal of all or part of a delegate's prerogatives as Congress member or holder of an elected or appointed position.

a. Temporary sanctions

Deprivation of the right to:

- speak in committee/in session/in the Bureau
- table or sign an amendment, a proposal (Rule 27) or a memorandum (Rule 28)
- be appointed rapporteur or Congress spokesperson
- be appointed member of a monitoring or election observation delegation
- stand as a candidate for President of the Congress or a chamber or for chair of a committee
- represent the Congress or any of its committees
- participate in one or more sessions (not exceeding the current Congress mandate).

b. Permanent sanctions

- withdrawal from a monitoring, fact-finding or election observation mission concerned by infringement of the Code
- contribution and name struck from a report prepared after the monitoring, fact-finding or election observation mission concerned
- barring from future participation in any missions of a similar nature as rapporteur or member of the delegation
- withdrawal of a delegate's specific rapporteurship or spokesperson status
- loss of elective position within the Congress
- termination of a member's Congress mandate
- loss of the status of honorary member.

Rule 65 – Disciplinary action - procedure

1. In the case of temporary measures, the Bureau shall determine the duration of application or the date of the Bureau meeting at which the case shall be re-examined with a view to the lifting or extension of such measures.

2. Where an urgent decision needs to be taken, and does not directly concern them, the President of the Congress, in consultation with the presidents of the chambers, may take this decision and report back at the following Bureau meeting. The provisions of Rule 63.5.g apply.

3. If the Bureau has determined that the severity of the breach of the Code of Conduct constitutes grounds for dismissal from the delegate's current mandate as Congress member the Bureau's proposal shall be presented to the Congress in the form of a draft resolution not subject to amendment.

4. If the Bureau has determined that the severity of the breach of the Code of Conduct constitutes grounds for dismissal from the delegate's current elective office, if that delegate is:

- a. the President of the Congress or a President of a chamber he/she shall chair no further meetings of that body until the Bureau proposal, presented to the Congress in the form of a draft resolution, not subject to amendment, has been adopted or rejected. The provisions of Rule 17.7 shall apply in the interim;
- b. vice-president of a chamber he/she shall leave the meeting and attend no further bureau meetings (plenary or chamber), nor shall he/she replace the President of the Congress or of his/her chamber in the chair during sessions;
- c. chair of a committee, he/she shall chair no further meetings of that body.

5. A president of the Congress who has been dismissed or who has resigned as a result of a procedure instituted under Rule 63 shall not be granted the title of Past President of the Congress.

EXPLANATORY MEMORANDUM

Introduction

1. While corruption exists in many different forms and to varying degrees throughout Europe's states and regions, two things are clear: no State can claim to be completely free of corruption, and, wherever, and at whatever level of government, such corruption exists, it has the capacity to undermine the economy, governance and the public's trust in their leaders.
2. With the enhanced role of territorial authorities in recent years and their management of significant public expenditure the opportunities for misuse of public funds have grown.
3. In 1999 the Congress had already addressed the general issues associated with corruption at local and regional level by adopting the European Code of Conduct for the political integrity of local and regional elected representatives, a benchmark text it considered essential to revise and update in 2018 as the European Code of Conduct for all Persons Involved in Local and Regional Governance.
4. Many local and regional authorities have already introduced the notion of declarations of interest for their elected representatives and thus implement the proposals made by the Congress.
5. Following inclusion of a chapter on strengthening elected representatives' commitment to ethical conduct and to combating corruption at local and regional level in its 2013-2016 priorities, the Congress renewed its pledge to promote ethics and transparency at local and regional levels in its priorities for 2017-2020, committing itself to supporting rigorous governance frameworks and the development of common standards in a bid to increase transparency and improve participation of citizens.
6. In tandem with the revision of the above European Code of Conduct, the Congress Bureau decided it was opportune to follow its own recommendations and prepare a Code of Conduct setting out guidelines for elected representatives in their role as Congress members.
7. The Congress Bureau decided, on 4 December 2017, that it would be both advisable and timely, in particular in the context of reforms within other Council of Europe organs, notably the Parliamentary Assembly and the INGO Conference and the Congress' revision of the European Code of Conduct, to follow its own recommendations and reinforce the Congress' rules with a more substantial internal framework or Code of Conduct.
8. The current rules already contain Rule 7 on non-conformity with Council of Europe principles, Rule 38 on Public Order and Rules 60 and 61 on General Conduct and Gifts and other advantages, to which the rapporteurs suggest some minor changes, in particular with regard to gifts received, where the rapporteurs propose, inter alia, the creation of a Congress Gift Register.
9. The rapporteurs also include new rules to cover:
 - a. declarations of interests and conflicts of interest;
 - b. procedures for submitting and dealing with allegations of breach of the Code of Conduct and
 - c. sanctions and disciplinary action.

Declarations of interest and conflicts of interest (Rule 62)

10. The new rules propose a pre-emptive approach whereby all persons wishing to become members of the Congress as well as all current members once the rule enters into force, must sign a written undertaking that they have no interest which might have the potential to pose a conflict of interest, that they shall not accept instructions from anybody other than the Congress, shall accept no payment, distinction or gift in connection with the exercise of their duties and shall refrain from any act that may incur a conflict of interest, adversely affect their neutrality or be seen to do so.

11. Failure to sign the undertaking will mean that the member concerned cannot register for any Congress meeting and will therefore not be able to speak, vote, nor be reimbursed for expenses relating to that meeting.

12. Failure to declare relevant interests would lead to an investigation into the circumstances behind the non-declaration and, depending on its outcome, possible sanctions.

Submission of allegations of breach of the Congress Code of Conduct (Rule 63)

13. A new rule is proposed outlining a detailed procedure for submitting evidence of a breach of the Code of Conduct, via an online form also available as a physical form. The different steps taken once such a process is launched are set out in detail.

14. Documentary evidence is required for all allegations of misconduct or breach of the Code of Conduct.

15. Except in cases where an urgent decision is required, in which case the President of the Congress and the presidents of the chambers may take this responsibility upon themselves, the Bureau is the body which will examine these infringements and decide upon the disciplinary action to be taken whether temporary or permanent.

16. In most cases, the Bureau will also be the final arbiter except where the disciplinary action proposed is termination of a member's Congress mandate or dismissal from elective office of a President of the Congress or a chamber; in this case the Congress will approve or reject the proposal presented to it in the form of a draft resolution not subject to amendment.

17. The delegate in question shall be informed that a procedure for breach of the Code of Conduct has been launched, given the opportunity to reply to the allegation in writing and may be given the opportunity to express themselves before the Bureau. However, the delegate will not be present during deliberations or voting.

Sanctions and disciplinary action (Rules 64 and 65)

18. The sanctions or disciplinary action for each case brought before the Bureau shall be decided on an ad hoc basis.

19. Possible sanctions are provided for in the *Rules and Procedures*. Disciplinary action may range from temporary to permanent withdrawal of all or part of a delegate's prerogatives as Congress member or holder of an elected or appointed position.

20. The new rules set out the procedure to be carried out immediately following the Bureau's finding of a serious breach of the code of conduct by a member holding elected office.

Conclusion

21. In its texts the Congress invites local and regional authorities to introduce and implement policies to guard against dishonesty and protect integrity. It also calls for proactive disclosure of relevant information that may help to identify and prevent conflicts of interest. With this revision of its *Rules and Procedures* the Congress intends to provide the same internal guidelines for its members as it has been promoting externally.