

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 439 (2019)<sup>1</sup> Local elections in Turkey and mayoral re-run in Istanbul (31 March and 23 June 2019)

1. Following the invitations from the State authorities, dated 22 February and 20 May 2019, to observe the local elections held in Turkey on 31 March 2019 and the re-run of the metropolitan mayoral election held in Istanbul on 23 June 2019, the Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 4, of the Committee of Ministers' Statutory Resolution CM/Res(2015)9 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto;

b. the principles laid down in the European Charter of Local Self-Government (ETS No. 122), which was ratified by Turkey on 9 December 1992;

c. Chapter XVIII of the Rules and Procedures of the Congress on the practical organisation of election observation missions.

2. It reiterates the fact that genuinely democratic local and regional elections are part of a process to establish and maintain democratic governance. Observation of grass-roots elections is a key element in the Congress' role as guardian of democracy at local and regional levels.

3. The 2019 local elections in Turkey were the second elections held since the 2017 constitutional referendum, which transformed the country from a parliamentary into a presidential system. The political parties largely campaigned in two groupings – one in favour of the government and the president, the other against. This, together with the challenging economic situation for the country and the president's and the government's responses to the ongoing security situation, made the local vote an opportunity to cast a judgment on the president's time in office. It also elevated the importance of these elections both nationally and internationally, which was reflected, not least, in broad international media coverage.

4. The Congress welcomes the fact that both polling days, by and large, were orderly and well-managed. Overall, the ballot box committees (BBCs) performed their technical and procedural tasks competently. The vast majority of electoral staff had been trained and had guidance and support available to them. Training and support were stepped up during the repeat election in Istanbul on 23 June 2019. In part this may have been because the decision of the Supreme Election Council (SEC) to re-run the Istanbul mayoral

election was based on procedural irregularities. There was a high, impressive turnout rate in both elections.

5. Both election days were preceded by a pluralist and dynamic campaign. The run-up to the elections on 31 March 2019 was characterised by a strong presence of members of the government and the President of the Republic. The language used in the campaign was often confrontational, even aggressive, and overshadowed by many examples of inflammatory rhetoric, including allegations that candidates or political parties supported terrorists or terrorism. Positively, in the run-up to the repeat election for Mayor of Istanbul held on 23 June 2019, the two main candidates were able to put forward their views in a televised debate, which was the first such debate in Turkey for 17 years.

6. The official election campaign period began only ten days before the election day and ended at 6 p.m. on the day prior to the vote. Stricter regulations, notably with regard to the misuse of administrative resources, applied only during this ten-day period. The rules applied to the government ministers and members of parliament were different than those applied to the President of the Republic. The president's presence in the campaigns was unregulated. His image was prominently displayed during the campaign leading up to the 31 March 2019 elections.

7. Turkish law does not contain comprehensive regulations on party and campaign finance and there was a lack of transparency on the financing of political parties, which was not conducive to a level playing field during the election campaign.

8. Media plurality and fair access to the media for the political parties has declined in recent years. The governing party has had a dominant presence both in broadcast media and newspapers. Journalists reported to the Congress delegation that they were sometimes the subject of threats and intimidation. Broadcasters suggested they were subject to undue restrictions that fettered their ability to tell the stories they wanted to – although the State broadcast regulator emphatically denied censorship. It was evident that there was a lively social media campaign and the opposition parties used it to get their message across.

9. Opposition parties told the Congress delegation that the government was ensuring that members of the security forces were added to the voters' lists in various locations, predominantly in Kurdish areas, in an attempt to sway the vote.

10. Although the state of emergency had been lifted since the presidential and parliamentary elections held in June 2018, some of the emergency decrees were still having an effect in the larger context of the 2019 local elections, with repercussions on various sectors of Turkish society, including local self-government. Following the elections on 31 March 2019, some successful mayoral candidates were subsequently disqualified from taking office, in favour of the second-placed candidates.

11. Legal amendments made in 2018 also affected the conduct of the local elections held on 31 March 2019 and the

re-run of the election for Mayor of Istanbul on 23 June 2019. This concerned, in particular, new rules according to which only civil servants can become chairmen or deputies of BBCs. This legal requirement played a decisive role in the decision by the SEC to call for a re-run of the election in Istanbul.

12. Similarly, voters residing in the same building can now be assigned to different polling stations on grounds of the secrecy of the vote, and polling stations can be moved and merged on grounds of security. Together with new regulations allowing the increased presence of law enforcement units in and around polling stations, these provisions raised concern among the opposition and civil society, especially due to their specific impact on constituencies in south-east Turkey. Importantly, these measures were originally introduced during the state of emergency and then transposed into regular legislation.

13. Legislation in Turkey does not allow the presence of domestic civil society observers and international observers, which is contrary to some of Turkey's international commitments. The Congress delegation was granted accreditation by the SEC's special measures, which was very much appreciated and made the Congress the only international organisation observing the 2019 local elections. It should be noted that some members of our delegation faced unreasonable and unnecessary hostility in some locations.

14. The Constitution of Turkey generally provides for the right to freedom of expression, but also allows relatively broad restrictions on media in accordance with anti-terror and internet laws, as well as the Criminal Code, which contains extensive defamation provisions on offending the nation and the State, public officials and the president. This has created a generally oppressive atmosphere for critics of the government and critical journalists, including in the context of the 2019 local elections.

15. Turkey can be rightly proud that so many of its citizens exercised the right to vote. Turkey's electoral rules permit the use of mobile ballot boxes to support citizens who are unable to travel to the polling stations due to disability or infirmity. More use of such arrangements could ensure easier accessibility of these groups to the polling stations and increase the turnout rate at the local level.

16. In light of the above, the Congress invites the authorities of Turkey, in particular, to:

- a.* enhance the clarity of election legislation and harmonise all election-related laws in order to provide a cohesive framework for elections;
- b.* remove overly restrictive limitations of freedoms of association, assembly and expression in order to re-establish an environment fully conducive to genuinely democratic elections, in line with Turkey's international commitments;
- c.* revise 2018 legal amendments affecting the conduct of elections, in particular the regulation that the status of civil servant is required for presidents and deputies of ballot box committees, in the light of Opinion 926/2018 of the Council of Europe European Commission for Democracy through

Law (Venice Commission) entitled "Turkey – Amendments to the electoral legislation and related 'harmonisation laws' adopted in March and April 2018";

*d.* likewise review regulations according to which polling stations can be moved and merged, those concerning the increased presence of law enforcement units on security grounds, and those on the assignment of voters residing in the same building to different polling stations on grounds of the secrecy of the vote;

*e.* increase transparency of decision making at all levels of election administration in order to ensure consistency, integrity of the process and a stable electoral framework; strengthen effective judicial remedy and the legal integrity of the election dispute mechanism;

*f.* sound out possibilities for strengthening the independence and impartiality of the SEC and consider subjecting the SEC's decisions to a final review by an independent judicial body;

*g.* step-up training of members of ballot box committees, including those nominated by political parties, on the electoral legislation and election day procedures, as well as on the role and importance of domestic and international election observers present in the polling stations;

*h.* introduce regulations with regard to the election of neighbourhood Mukhtars (representatives), in particular with regard to the campaign environment and the unified design of ballots;

*i.* remove restrictions on voting rights for military cadets and conscripts as well as other blanket restrictions on suffrage rights;

*j.* pay further attention to the accuracy of voters' lists in line with Congress Resolution 378 (2015) on electoral lists and voters residing de facto abroad;

*k.* pay attention also to the voting rights of migrants and internally displaced persons in line with Congress Resolution 431 (2018) on voting rights at local level as an element of successful long-term integration of migrants and IDPs in Europe's municipalities and regions;

*l.* remove overly restrictive conditions for candidate registration and harmonise the election legislation so that candidates eligible to run in parliamentary elections are also allowed to run in local elections; ensure that candidates admitted to run in elections can assume their mandate if elected;

*m.* revise campaign period regulations by lengthening them, step-up provisions on the prevention of misuse of administrative resources generally and especially during the entire campaign period, including both phases as defined by law; and establish fair and equal rules binding all politicians, including the President of the Republic, and how they may participate in elections;

*n.* improve regulations on party and campaign financing, for example through setting a ceiling on campaign expenditure, and introduce an effective oversight mechanism to ensure transparency, integrity and accountability, as

recommended by the Council of Europe's Group of States against Corruption;

*o.* review regulations on the media environment generally and especially during the entire election campaign period; establish an impartial and effective media monitoring system to ensure a level playing field with regard to media coverage before, during and after elections;

*p.* revise anti-terrorism legislation allowing prosecution of journalists based solely on the content of their reporting; decriminalise defamation of the nation and the State, public officials and the president; and ensure that the media should be able to operate free from intimidation or pressure;

*q.* revise legislation regarding the accreditation of domestic and international election observers and make election observation by such actors a normal procedure without the need for special measures;

*r.* undertake measures to strengthen the participation of women in politics as voters, candidates and members of election administration across the hierarchy and at all levels;

*s.* ensure that voters are able to vote free from intimidation and fear of retribution and that the police presence in and around polling stations should be limited to ensuring public order and safety;

*t.* encourage greater use of mobile ballot boxes to support voters with impaired mobility or other disabilities; review the rules that govern the support that can be given to voters when casting their votes taking account, in particular, of problems of sight and dexterity where manual assistance is needed.

17. The Congress calls on the Committee of Ministers, the Parliamentary Assembly and other relevant institutions of the Council of Europe to take account of this recommendation and the related explanatory memorandum regarding the 2019 local elections in Turkey in their activities relating to this member State.

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1. Debated and adopted by the Congress on 30 October 2019, 1st sitting (see Document [CG37\(2019\)14](#), explanatory memorandum), rapporteur: Andrew DAWSON, United Kingdom (R, ECR).