

Dear colleagues,

I am delighted to be able to report to you today on the mission carried out by the Congress to observe the 2019 local elections in Turkey.

As you are aware, we went two times to Turkey this spring:

In March, I was delighted to lead an international delegation composed of 22 Congress members from more than 20 countries and we observed the local elections held on 31 March in some 140 polling stations in Ankara, Istanbul, Antalya, Adana, Diyarbakir, Izmir and Erzurum. In our preliminary conclusions, we described the elections as generally well-organised and transparent. Apart from some inconsistencies – for example, regarding the signing of the voters' lists or the sealing of the ballot boxes – the electoral staff of the Ballot Box Committees performed well and they carried out their tasks in an overall satisfactory manner. We noticed the absence of a “level playing field” in the campaign and the apparent use of administrative resources to favour one party over the other and we hinted to the lack of a pluralistic media environment and deficiencies in fundamental freedoms and human rights.

As far as the technical side of the 31 March elections was concerned, the proficiency of the election administration and the logistics seemed convincing to us. It was the President of the Supreme Election Council who told us that the Turkish voting system should be secure and it should be used also by the rest of Europe. Based on our own observations on the Election Day, we had no reason to doubt it.

However, then came the 6 May and the decision of the Supreme Council of Turkey to repeat the Istanbul mayoral elections. Who would have thought that, further to this decision, the local elections 2019 may go down in history as a turning point for that country's political future...

For us this was the moment to return to Turkey with a smaller delegation of 14 observers to look over the repeat election for the Metropolitan Mayor of Istanbul on 23 June. As on 31 March, the Congress monitoring team were the only international observers.

For both polls in March and in June - these local government elections were seen as having national and even international importance way beyond simple council and mayoral elections.

This brought considerable media attention for the Congress and interest from the international community for our institution. Let's hope that for Turkey these local elections will bring a more open, inclusive and democratic future.

In the March elections virtually every political party could claim some form of victory - although there was and is much to say about the wider context.

The re-run mayoral election in Istanbul saw CHP candidate Ekrem Imamoglu win by some 800,000 votes - significantly up on the 13,000 majority he had in March over AKP candidate

Turkey has, at its heart, a strong desire for democracy. It has a resilient civic society. It is able to conduct orderly and transparent elections at least at the level of the Ballot Box Committees. What happens above that level has given and may still give cause for concern.

It is the tallying of the counts made by the Ballot Box Committees and the processing of their protocols, their minutes, their declarations - whatever your preferred terminology - that

raised concerns, in particular about the reliability of the processing of the protocols and their back-up arrangements.

The re-run Metropolitan Mayoral election for Istanbul on 23 June was well-organised. There was a significant and impressive organisational effort supporting the 10 million voters over 39 districts of Istanbul. There were some 60,000 Bashkans or Chairs and deputies of Ballot Box Committees with some 125,000 Ballot Box Committee members drawn from the political parties. The vast majority has received recent training.

In addition, several thousand lawyers were reportedly deployed by political parties to provide immediate legal advice, in particular during the counting, the most sensitive moment of the day.

In the vast majority of the polling stations, our six teams comprising 14 observers were received openly and friendly, as this was the case on 31 March.

However, there were far too many incidents of unnecessarily aggressive and argumentative behaviour to ignore. One Ballot Box Committee refused to answer any questions, three of our six teams were the subject of outright attempts at intimidation with specific reports of threats of violence and with at least one team being surrounded by angry and threatening locals. The police had to be called.

Having reflected on this unprecedented turn of events I have come to the conclusion that this aggression was a function of the tense and anxious atmosphere in which the election was being held and the fact that many people, not just the candidates and the political parties and their members, were under significant strain and stress.

The members of the Ballot Box Committees - and in particular the Bashkans and their deputies - were under great pressure to do everything correctly - or at least do everything in a way that it was less likely to be challenged. These Bashkans were often young teachers, nurses, tax officials and the like.

There was a lot at stake.

Let's remember: Immediately after the 31 March local elections President Erdogan's ruling AK party filed a number of complaints seeking to have the result overturned through the courts.

In the beginning these challenges centred on whether ineligible voters had been wrongly included on the voters lists. Public prosecutor investigations, including search operations in private homes took place. There were re-counts of ballots in six districts.

However, nothing substantial enough was found to eliminate Imamoglu's lead entirely. This was confirmed to me by the President of the Supreme Election Council.

Given this unsuccessful line the challenges made by the AK party changed tack. They therefore lodged a complaint against the Chairpersons of Ballot Boxes allegedly not being civil servants, as required by the law.

According to our interlocutors in Ankara and Istanbul, after weeks of investigations and unprecedented political pressure, in particular on the district level and provincial level of the electoral administration, the Supreme Election Board decided on 6 May that 754 Ballot Boxes had been staffed by Bashkans and/or deputies who were not being civil servants.

There were other flaws, such as the lack of proper signatures on the protocols or incorrectly completed declarations of votes that led to the cancellation of the result of 31 March by the Supreme Election Board. Their decision was a majority one 7 against 4.

Despite the fact that the same Ballot Box Commissions were in charge of four different elections (Metropolitan Mayor, City Council, District Councils and neighbourhood representatives or Mukhtars), only the election of the Mayor of Istanbul was annulled. Leading Turkish legal commentators described as unsatisfactory, at the least. The Supreme Election Council indicated that the Mayoral election was the only one annulled because this was the only election where a complaint had been filed with the court.

In the detailed, 250 pages reasoning of the Supreme Election Council there is no explanation how these procedural mistakes could have affected the results of the 31 March elections. For the majority of the highest electoral authority of Turkey it was sufficient that there had been procedural irregularities AND a complaint to annul that election.

I find this line of argument, to say the least, 'unsatisfactory' and 'excessively bureaucratic.'

My opinion on the legalities whilst perhaps interesting is irrelevant. More importantly these views are also the view of leading Turkish legal commentators.

Those commentators also suggested in the clearest of terms that the decision of the Supreme Election Council was made under significant political pressure. They also suggested to us that there was no effective separation of powers in Turkey, nor was there an independent Turkish judiciary.

Taking all this together I suggest that the Congress should consider asking the Venice Commission to prepare a legal Opinion on the constitutionality of the decision by the Supreme Election Board. In this context, it should be noted that the Venice Commission, in its Opinion 926 of November 2018, criticised the amendment to the electoral legislation and related "harmonisation laws" (March/April 2018) requiring Chairpersons of Ballot Box Commissions (and a total of two out of 7 members of these Commissions) to be civil servants, who are fundamentally subject to the authority of the executive branch of power and are thereby, on the basis of the amended Article 104 of the Constitution, under the authority of the President of Turkey.

Moreover, the Venice Commission criticised in its Opinion 926 the lack of clarity regarding the appointment of the chairpersons of Ballot Box Commissions by the higher-level election administration, the District Boards who appoint "the presidents from those who do not have any obstacle". The term "obstacle" was not defined and could lead to the exclusion from the post of president of Ballot Box Commissions on arbitrary grounds, according to the Venice Commission.

I also suggest we ask for a view on the post-election disqualification of the first placed mayoral candidates in certain municipalities in the south-east of the country and the promotion of the second placed candidate to take their place. These disqualifications have been made on the strength of allegations of terrorism and conspiracy. As I said after the 31 March elections Turkey's definition of terrorism is far wider than that accepted by the Council of Europe.

Surely if you have been found eligible to stand in an election, and win it, you should be able to take up your mandate. This is, of course a requirement of the European Charter of Local Self-Government which binds Turkey as a member of the Council of Europe.

I'd like to touch on some other matters now.

First, the arrangements for disabled voters. Turkish electoral law provides for mobile ballot boxes - where the ballot box is brought to a disabled person and they do not have to struggle to reach a polling station. It was a striking feature of these elections that so many people who evidently had to struggle to reach a polling station made the significant effort to do so. We saw many moving cases of profound hardship and endurance - people who self-evidently could have benefited from using a mobile ballot box. I suggest much more could be done to support the disabled and promote their use. There were also agonising instances of people, such as those functionally blind or otherwise impaired who were denied help to vote by rigid application of rules which seemed in these circumstances to be unnecessarily unhelpful. I suggest these rules should be reviewed.

Secondly the role of women in running the ballot box committees. You'd expect 50:50 participation - or at least some reasonable approximation of it especially if you are insisting on civil servants being the Baskhans and the deputies. It was a striking feature of my own observations around Ankara on 31 March that there were no women in charge of any of the Ballot Box Committees we visited with the exception of the single mobile ballot box we encountered. On 23 June in Istanbul there were many more women in charge. Perhaps more could be done to encourage women to play a leading role throughout the country?

Thirdly - the voters lists. We received many complaints and that the ruling party had deliberately manipulated the voters lists in certain places by moving in significant numbers of security forces and having them registered to vote with a view to influencing the outcome of elections. There were also suggestions that people were being bused in to vote. However, in this instance I am not sure whether we were simply hearing of people making strenuous efforts to return home to vote or something more sinister.

Fourthly - the sanctity of the ballot. Our interlocutors explained to us that there was something like an unwritten rule in Turkey, namely that - whatever political circumstances may have been in the past - the ballot has always been sacred. By challenging an election result President Erdogan and his AK party broke this taboo - and saw the result - a greatly increased majority for Ekrem Imamoglu.

In conclusion, what are central technical issues that will be reflected in our written report?

There was lack of transparency. Decisions of the Supreme Election Council are taken behind closed doors and the detailed reasoning of the decision of 6 May was accessible to the public only after many weeks.

There was inconsistent decision-making: On 20 April, the IYI party lodged a complaint with the Supreme Election Council in the fourth largest city of Turkey, Bursa, arguing that some of the chairpersons of polling station commissions have not been in public service. This complaint was rejected by the Supreme Election Council

There is lack of stability in the electoral framework: As mentioned, in a declaration of 12 April, the Congress President denounced the decision of the Supreme Elections Council not to confirm those HDP candidates who were successful on 31 March and to appoint, instead of them, candidates who came in second. This is against the free will of the voters and contrary to the principle of fairness in elections - the rules that applied prior to the Election Day must also apply after the E-Day.

Furthermore, there were reports about pressure on election administration officials and there are serious concerns about the independency of the judiciary – a cornerstone of democracy. The trust of citizens in the State authorities is pivotal and a peaceful change of power through elections must be possible.

That brings me to my last point:

There are worrying signs that central Government may be intent on making life difficult for the Mayors of the opposition parties not only in Istanbul and Ankara and other important Turkish cities. A recent circular from the Ministry of Commerce removed the Mayors' authority to appoint managers of municipal enterprises and given to the municipal councils where there is predominantly a majority of the ruling AK party.

I am of the view that the Congress must therefore keep an eye on the further developments after these elections, in particular through its monitoring procedure on the European Charter of Local Self-Government. We also need feedback from all the newly elected representatives. This is why I proposed to the Bureau of the Congress last week in Brussels to invite the newly elected Mayor of Istanbul to speak at the next Plenary Session in October.

With regard to the further preparation of the report for the October Session, I hope that, on the basis of my report today, you will give me the mandate to incorporate the findings of the Congress mission carried out on 23 June in Istanbul. The complete draft report, together with the recommendation and the resolution, will be made available to you by e-mail after the summer and you will have enough time to read it carefully and send me your comments.

Thank you for your attention!