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Report
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Congress Strategy on the Rule of Law at Local and Regional Levels (2025-2028)

Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (Monitoring Committee)

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Summary

The rule of law, human rights and democracy are intrinsically linked, and together they form the cornerstone of the Council of Europe. These three pillars must be firmly anchored to effectively protect and promote the core values across Europe, particularly in today's volatile geopolitical landscape. In such a context, strengthening them can contribute effectively to safeguarding stability, justice and individual freedoms and ensuring that Europe remains resilient in the face of challenges to its democratic foundations.

The Congress has already highlighted the role of subnational authorities in ensuring conformity with the rule of law both as actors and guarantors of the rule of law. It has decided to reinforce the rule of law pillar of its activities, in accordance with the revised political priorities set out in Congress Resolution 493 (2023) "Delivering on the Reykjavik Summit: Revised Congress Priorities, Working Procedures, and Structures," with the aim of contributing to the implementation of the Reykjavik Declaration.

As a follow-up to Congress Resolution 499 (2024) "Local and Regional Authorities as Actors and Guarantors of the Rule of Law", a Congress Strategy on the rule of law at local and regional levels has been developed to complement the Congress human rights strategy, adopted in 2023, and to mainstream and strengthen the rule of law pillar within Congress activities.

This strategy outlines proposed actions and methodologies to be applied. It also includes measures to develop synergies with both internal and external actors within the Council of Europe, aiming to enhance rule of law activities.

1. L: Chamber of Local Authorities / R: Chamber of Regions.
 EPP/CCE: European People's Party Group in the Congress.
 SOC/G/PD: Group of Socialists, Greens and Progressive Democrats.
 ILDG: Independent Liberal and Democratic Group.
 ECR: European Conservatives and Reformists Group.
 NR: Members not belonging to a political group of the Congress.

DRAFT RESOLUTION²

1. The Congress of Local and Regional Authorities of the Council of Europe (“the Congress”) refers to:
 - a. the Statute of the Council of Europe (ETS No. 1);
 - b. the European Charter of Local Self-Government (ETS No. 122);
 - c. the Council of Europe Reykjavik Declaration “United around our values”, and especially the Reykjavik Principles for Democracy (Appendix III), stressing the need to strengthen “the separation of powers through appropriate checks and balances between different State institutions at all levels, to prevent any excessive concentration of power”;
 - d. the United Nations Sustainable Development Goals (SDGs), and particularly SDG 16 “Promote peaceful and inclusive societies for sustainable development, provide access to justice and build effective, accountable and inclusive institutions at all levels”;
 - e. the Rule of Law Checklist of European Commission for Democracy through Law (Venice Commission), CDL-AD(2016)007;
 - f. Parliamentary Assembly Resolution 2437 (2022) “Safeguarding and promoting genuine democracy in Europe”;
 - g. the Congress Human Rights Strategy (2023-2025);
 - h. Congress Resolution 499 (2024) “Local and Regional Authorities as Actors and Guarantors of the Rule of Law”;
 - i. the Congress Strategy on the rule of law at local and regional levels appended to this resolution.
2. The Congress reiterates that genuine democracy, as defined in the Statute of the Council of Europe, cannot be achieved or preserved without the effective implementation of the rule of law at all levels of public authority. Moreover, ensuring the rule of law at local and regional levels plays a key role in countering democratic backsliding across Europe.
3. In line with the Reykjavik Declaration, the Congress emphasises the importance of strengthening the role of local and regional authorities in upholding the rule of law. This includes enhancing their capacities, as part of a system of checks and balances that is essential to healthy and efficient democratic governance.
4. The Congress adopts the appended Strategy on the rule of law at local and regional levels to reinforce the rule of law pillar in its activities and streamline the implementation of this principle throughout the work of all its entities.
5. It invites its Committee on Monitoring the Implementation of the European Charter of Local Self-Government, and on Respect for Human Rights and the Rule of Law at Local and Regional Levels (“the Monitoring Committee”) to collaborate with other Congress Committees to ensure the effective implementation of this Strategy.
6. It also invites its Monitoring Committee to provide a contribution to the work of the Venice Commission on updating the Rule of Law Checklist, notably by incorporating a local and regional perspective.

2. Approved by the Monitoring Committee on 20 February 2025.

APPENDIX : CONGRESS STRATEGY ON THE RULE OF LAW AT LOCAL AND REGIONAL LEVELS (2025–2028)

1. INTRODUCTION

1. The rule of law can be referred to as a “principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights norms and standards.”³

2. According to the European Commission for Democracy Through Law (Venice Commission), “the notion of the rule of law requires a system of certain and foreseeable laws, where everyone has the right to be treated by all decision-makers with dignity, equality, and rationality, in accordance with the laws, and to have the opportunity to challenge decisions before independent and impartial courts through fair procedures.”⁴ Furthermore, it clarifies that “the rule of law focuses on limiting and independently reviewing the exercise of public powers. The rule of law promotes democracy by establishing accountability for those wielding public power and by safeguarding human rights, which protect minorities against arbitrary majority rule.”⁵

3. The rule of law is therefore one of the most important defining characteristics of democracy. Genuine democracy, as enshrined in the Statute of the Council of Europe (ETS No. 1), can only be achieved and maintained if the rule of law is upheld at all levels of public power. Respect for the principle of the rule of law is a precondition for the accession of new member States to the Organisation in accordance with Article 3 of the Statute of the Council of Europe.

4. However, when it comes to the protection of the rule of law, local government (and more generally the multilevel perspective) is usually given much less attention than it deserves. The Venice Commission Rule of Law Checklist, for example, makes a brief reference to the principle of separation of powers and mentions local government only in terms of how well local authorities perform their duties, especially in relation to the issue of corruption. Local self-government, and more generally the vertical separation of powers, is absent from the EU mechanism on the rule of law⁶ and from UN indicators.

5. This is despite the fact that the principle of the rule of law plays a key role in the system of local government. All actions and decisions taken by local authorities must comply with the rule of law and citizens must comply with it, including with decisions adopted by local and regional councils. The rule of law ensures legal certainty, protects the rights and freedoms of citizens, prevents arbitrariness and corruption and helps ensure justice and equality before the law for all members of society.

6. Against this background, the Reykjavik Declaration, adopted at the Summit of the Council of Europe of 16 and 17 May 2023, represents an important development. The Reykjavik Principles for Democracy (Appendix III to the Declaration) aimed at preventing and resisting democratic backsliding, not only refer to the necessity of actively enabling and encouraging democratic participation at national, regional and local levels through free and fair elections, but also refer to the separation of powers. The Heads of State and Government agreed that they will “uphold the separation of powers with appropriate checks and balances between different State institutions, at all levels, to prevent any excessive concentration of power”.

7. To put the Reykjavik Declaration into further practical effect, the Congress extended the terms of reference for its Monitoring Committee to include the rule of law component. It further explored the

3. United Nations, *Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies* Doc. S/2004/616, 23 August 2004, para. 6.

4. Venice Commission, *The Rule of Law Checklist*, para. 15

5. Venice Commission, *The Rule of Law Checklist*, para. 33.

6. The indicators on “other institutional issues related to checks and balances” are: (iv) process for preparing and enacting laws consultations, use of fast-track procedures or emergency procedures, regime for constitutional review of laws (v) independent authorities (vi) accessibility, judicial review of administrative decisions (vii) Enabling framework for civil society”. Among the sources, the following sources are mentioned: “Council of Europe reports: in particular Venice Commission, Group of States against Corruption (GRECO)”. See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2022-rule-law-report_en, accessed 16 August 2023.

practical meaning of the rule of law for local and regional authorities and their administrations in its report “Local and Regional Authorities as Actors and Guarantors of the Rule of Law” adopted in March 2024 (CG(2024)46-20). This report looks at the application of the rule of law in relation to local authorities from two complementary perspectives, since in democratic societies the rule of law defines both the relationship between local authorities and citizens and between the central and subnational authorities.

8. This multilevel dimension of the rule of law is even more important in the context of democratic backsliding across Europe and the wider world, which has resulted in a weakening of checks and balances, limitations on the exercise of civil and political rights and freedoms and restrictions on local self-government.

9. Given the interdependence and interrelatedness of the principles of democracy, human rights and the rule of law, the Congress has decided to develop a Congress Rule of Law Strategy as a comprehensive and integrated document that outlines a clear strategic vision of the Congress rule of law activities and objectives while building on the Congress’ achievements in this area, including with regard to promoting integrity and accountability at the local level. The Congress Strategy on the Rule of Law at Local and Regional levels will be complementary to its Human Rights Strategy.

2. MAIN GOAL OF THE STRATEGY ON THE RULE OF LAW AT LOCAL AND REGIONAL LEVELS

10. This Strategy has been developed to mainstream and strengthen the rule of law pillar within Congress activities, aligning with the revised political priorities set out in Congress Resolution 493 (2023), “Delivering on the Reykjavik Summit: Revised Congress Priorities, Working Procedures, and Structures,” and to contribute to the implementation of the Reykjavik Declaration. Integrating the rule of law dimension into activities at the local and regional levels will contribute to securing and strengthening local democracy and ensuring good democratic governance at the subnational level.

11. This can be achieved by reinforcing the local and regional authorities’ awareness and building their capacity to uphold the rule of law in their fields of competences, and in close co-operation with national governments.

12. Furthermore, based on the report “Local and Regional Authorities as Actors and Guarantors of the Rule of Law” on the multilevel approach towards the rule of law, the Congress will reinforce this dimension in all its activities by focusing on the following strategic objectives:

2.1. Strengthening the role of local authorities as guarantors of the rule of law

13. Communities play a vital role in upholding the rule of law when they protect the fundamental human rights of all residents, without discrimination, are accountable for their actions and decisions, respect the principles of ethics and transparency, and act within the confines of the law. Local authorities also have a duty to combat arbitrariness, injustice and corruption that may arise at their level.

14. This also means that local and regional authorities have an obligation to comply with domestic judgments and the judgments of the European Court of Human Rights that concern them. In its Resolution 499 (2024) “Local and Regional Authorities as Actors and Guarantors of the Rule of Law”, the Congress highlighted that the implementation of the rule of law by local authorities, including the execution of the European Court of Human Rights judgements, is part of the general rule of law implementation. This important element is extensively covered in the Congress Human Rights Strategy.

15. Furthermore, local authorities can contribute to the rule of law by promoting awareness of legal rights of residents, and civic education, to build a culture of legality at the local level.

16. It is therefore essential to ensure that local authorities are fully aware of the importance of respecting the rule of law as an element of good democratic governance. In addition, developing the integrity and accountability of local and regional politicians helps to enhance public confidence in democratic institutions.

17. For a rule of law culture to take root, it is equally important that citizens respect the decisions and regulations adopted by local and regional authorities. The enforcement of such decisions is also crucial.

18. To help achieve these goals, the Congress will raise the awareness of local and regional authorities about their legal obligations and rule of law issues and provide them with methodological and technical support designed to integrate the rule of law perspective into daily local activities, policies and programmes.

19. More specifically, Congress actions in this area will seek to:

- increase local authorities' awareness of the practical application of the principle of the rule of law and its significance for building resilient democratic societies (e.g.: through elaboration of a serious game⁷ to raise awareness of local elected representatives and their administrations);
- provide assistance to establish strong governance frameworks and clear ethical standards to reduce the risk of corruption; reinforce anti-corruption mechanisms at the local level and strengthen the culture of accountability;
- make sure that the process by which local regulations are enacted, administered, and enforced is clear, fair, accessible, stable, and efficient;
- ensure local authorities' effective and even application of legislation and the protection of human rights (based on the Human Rights Strategy), including the security of persons and property;
- promote citizens participation in local political and public affairs and access to data in line with data protection and privacy laws and based on the principles of transparency and open government;
- promote the ethical and human rights-based use of IT technologies and AI at the local and regional levels;
- promote the ratification and implementation by member States to the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 122).

2.2. Promoting the rule of law as a safeguard of local self-government

20. Local and regional authorities are key to upholding and defending democracy, human rights and the rule of law, not only within their communities, but as part of the system of checks and balances which forms the backbone of a genuine pluralistic democracy. This aspect has been specifically highlighted in the Reykjavik Principles of Democracy. The separation of powers, as an essential aspect of the rule of law, "serves as a guarantee against authoritarianism and arbitrariness"⁸.

21. This means that the exercise of legislative and executive powers must respect local self-government as part of the system of checks and balances essential to preserving "genuine democracy". The rule of law therefore acts as a safeguard for local self-government, since national authorities must respect their commitments, in particular under European Charter of Local Self-Government (ETS No. 122). By submitting the State authorities to the rule of law, the Charter ensures legality and prevents arbitrariness in their relationship with subnational authorities.

22. Equally important is that the national governments should set the national legal framework and create enabling conditions for local self-government, in line with the Charter, so that local authorities can fulfil their function as a guarantor of the rule of law in relation to citizens.

23. The Congress' monitoring of the implementation of the Charter in the member States is therefore an important contribution to strengthening the rule of law. It is also an instrument that can point to the

7. Serious games are video games designed for purposes beyond entertainment, such as education, training, or solving real-world problems

8. Congress report, "Local and Regional Authorities as Actors and Guarantors of the Rule of Law" (CG(2024)46-20), para. 24.

erosion of democracy and rule of law in member States. Democratic backsliding - gradual or sudden - degrades the structures and substance of constitutional democracy. This often goes hand in hand with the recentralisation of power, eroding the level of autonomy of local authorities.

24. Monitoring exercises can also provide useful information on corruption issues and anti-corruption measures at the local level.

25. To promote the rule of law as a safeguard of local self-government, the Congress will seek to:

- make sure that international electoral standards are duly applied during local and regional elections and subnational referenda;
- strengthen the rule of law dimension in the monitoring reports on the application of the Charter;
- promote states' use of Congress monitoring reports as an early warning mechanism to prevent or address worrying developments with regard to compliance with democratic standards and rule of law;
- provide technical assistance and advice to authorities to ensure that the reforms of local/regional democracy and decentralisation are implemented in line with the principles of the Charter (e.g. preparation of dedicated training, and study visits).
- promote the dissemination of monitoring reports to international organisations and NGOs dealing with respect for the rule of law;
- strengthen cooperation with other Council of Europe institutions and entities, notably, the European Court of Human Rights, the Venice Commission, and the Department for the Execution of Judgments, to promote implementation of the rule of law by local authorities;
- strengthen political dialogue with national, regional and local authorities in the framework of post-monitoring activities with member States concerned by an erosion of the rule of law.

3. METHODOLOGY

3.1 Developing indicators of the rule of law at local and regional levels

26. Clear indicators should be developed, in cooperation with the Congress advisors on constitutional matters, for evaluating the rule of law in countries under monitoring. These indicators will be used for preparing a "Congress rule of law evaluation grid", to address the implementation of the rule of law in both the relationship between levels of government and between local authorities and citizens.

27. This evaluation grid could first serve as a support document for the rapporteurs and experts during monitoring visits, helping them better understand the political and legal context in which local and regional authorities operate. Gradually, the evaluation grid could be expanded as country factsheets on the rule of law at local level.

28. Based on the monitoring reports and the factsheets, the Congress Monitoring Committee could eventually prepare a periodic general report on "The Rule of Law and local self-government", depending on the availability of resources.

3.2 Specific role of the Group of Independent Experts (GIE)

29. While political dialogue remains a key tool for the implementation of the rule of law at local level, assessment of the implementation of this principle will be essentially legal. Therefore, the inclusion of the rule of law perspective in the Congress activities requires supplementary legal expertise.

30. According to Resolution 499 (2024) "Local authorities as actors and guarantors of the rule of law", the Congress advisors on constitutional matters should be entrusted with contributing to Congress

activities aimed at promoting the role of local and regional authorities in upholding the rule of law among local and regional elected representatives.

31. In addition, the members of the Congress Group of Independent Experts, who have specific knowledge about the rule of law, should be involved, when necessary, in providing legal support in the field of the application of rule of law in domestic legal systems.

32. To increase the visibility of the Rule of Law pillar of Congress' work, a dedicate webpage has been developed, linked to the Congress anti-corruption activities and the execution of the judgments of the European Court of Human Rights. The GIE can also contribute to visibility through dissemination of the Congress' work within the academic community and civil society.

4. PARTNERSHIP AND SYNERGIES

4.1 Strengthening the cooperation with the European Commission for Democracy through Law (Venice Commission)

33. According to its Statute (art. 1, section 2), "The Venice Commission shall give priority to work concerning: a. the constitutional, legislative and administrative principles and techniques which serve the efficiency of democratic institutions and their strengthening, as well as the principle of the rule of law; b. fundamental rights and freedoms, notably those that involve the participation of citizens in public life; c. the contribution of local and regional self-government to the enhancement of democracy".

34. Over time, in this vein, the Venice Commission has adopted several opinions and studies on local and regional self-government (47 of them are listed in the Venice Commission Compilation Concerning Constitutional and Legal Provisions on the Protection of Local Self-Government).

35. It should be noted that the Congress can request opinions from the Venice Commission, alongside the authorities of the State concerned, the Parliamentary Assembly, the Committee of Ministers, the Secretary General, the European Union, or one of the authorised international organisations, in accordance with Article 3 of the revised Statute of the Venice Commission.

36. The Congress should use this statutory opportunity more regularly and increase the number of requests for Venice Commission opinions, especially on topics of common interest (such as hate speech against mayors and other local or regional politicians, the right to vote for foreign residents, states of emergency and local self-government, salaries for locally elected representatives, and internal mechanisms to ensure the execution of European Court of Human Rights judgments). The Congress' constitutional advisers should also be involved in the preparation of opinions following the Congress' requests, when the rules of the Venice Commission allow this.

37. In accordance with the Congress Rules and Procedures, the Congress rapporteurs could also invite "the national member of the European Commission for Democracy through Law (Venice Commission)" to meet during a monitoring visit, where necessary.

38. Furthermore, cooperation with the Venice Commission should be enhanced to integrate the multilevel dimension of the rule of law into the updated Rule of Law Checklist of the Venice Commission, which is currently under preparation.

39. In this respect, the Monitoring Committee should prepare a report on the revision of the Venice Commission Rule of Law Checklist which would constitute a Congress contribution to its work.

4.2 Developing synergies with other Council of Europe entities to reinforce the rule of law at subnational level

40. Effective cooperation between the Congress and the Department for the Execution of Judgments of European Court of Human Rights is already in place (in the context of the Human Rights Strategy) and could extend to the rule of law. In fact, in addition to the execution of the judgments of the Court, effectiveness of judicial decisions is an inherent aspect of the rule of law. In many cases, the execution

of the judgments of the Court at national level depends, ultimately, on local authorities and on their cooperation with national government.

41. The 6th evaluation round of GRECO will be dedicated to preventing corruption and promoting integrity at the sub-national level (starting in 2025). In this respect, cooperation between the Congress and GRECO could be further developed, possibly under the framework of monitoring activities of the two institutions since GRECO monitoring may benefit from Congress' monitoring experience at the local and regional levels. The Congress may support GRECO in facilitating compliance with its recommendations by fostering political dialogue with local and regional authorities and organising training for evaluators. In addition, the Congress could also possibly seek Observer status in GRECO similar to that of the Parliamentary Assembly, European Committee on Legal Co-operation and Council of Europe Development Bank.