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*Check against delivery – Seul le prononcé fait foi*

### **Regional Council and District Assembly Elections in Berlin, Germany (12 February 2023)**

Strasbourg, France, 21 March 2023

Dear colleagues,

I was very pleased to lead the Congress delegation to Berlin last month to observe the repeat elections for the House of Representatives and district assemblies of Berlin held on 12 February. Upon invitation of the authorities of Berlin, the Congress deployed a delegation which included 14 participants from 12 countries. This onsite mission was preceded by meetings with key stakeholders from the election administration, the media, NGOs on 2 February and meetings with candidates and representatives of parties on 11 February.

This election observation mission was a historical deployment not only for the Congress but also for the Berlin authorities. First, it was the first Congress election observation mission to Germany and I can attest that our delegation received a very wide coverage in Germany and beyond. In the hours following the press conference, the Congress mission was mentioned in over 60 press articles. It was a welcomed opportunity to shed some light on the work of the Congress.

It was also a historical mission mainly because these elections presented extraordinary circumstances: it was only the second time that elections had to be repeated in Germany. In fact, these elections were a repetition of elections held in September 2021 and marred by many errors and irregularities. These elections were annulled on 16 November 2022 by the Constitutional Court of Berlin and had to be fully repeated. The delegation noted with satisfaction that this decision proved that legal safeguards and appeal mechanisms worked efficiently and ensured that the right of all citizens to vote in conditions in line with democratic standards was vigilantly protected.

As a first overall comment, we can only give credit to the election administration of Berlin for its ability to learn from experience. The repeat elections we observed were well-organised by a highly decentralised but also a more coordinated administration. The errors in the preparation stage that had led to many irregularities on Election Day in 2021 were successfully prevented from reoccurring.

The delegation noted with satisfaction that in the pre-election period, contestants and voters overwhelmingly welcomed the decision of the Court and that the campaign was competitive and focused on issues of local relevance. Congress interlocutors expressed a high degree of confidence in the management of the elections and trust of the voters in the process remained rather unspoiled.

On the Election Day, six teams of Congress observers were deployed in 80 randomly selected polling stations in all 12 districts of Berlin. The Election Day was quiet, orderly and without major queues, incidents or anomalies. The delegation noted the significant improvements that were adopted for these elections including the provision of additional polling booths, incentives to build staff capacity and provision of extensive training in various forms. We observed procedures managed by a highly professional and committed staff, especially counting procedures, which were handled with diligence, rigour and speed.

At the same time, despite the overall positive assessment, the delegation also noticed several areas where there is still room for improvement. Ahead of the Election Day, the delegation noted the need to clarify the division of competences and responsibilities between the main administrators of elections in Berlin, especially with regard to the tasks of the Land Returning officer, the district Returning officers and their administrations. This specific point was noted as a key improvement required to avoid mistakes committed in the preparation of the elections in 2021.

On party and campaign finance, the delegation noted the absence of a spending limit for contestants and also the lack of a requirement to submit a dedicated campaign report. The threshold for public disclosure of private donations was also assessed as too high. These issues are not conducive to an even playing field between contestants, especially in a context of the re-run of elections placing an additional financial and organisational burden on political subjects and in particular on smaller parties.

The delegation also noted the lack of regulation related to gender quotas on lists or for directly elected mandates. Voluntary quotas are used by most parties and have proved quite successful at district level, but some parties still present excessively low number of women candidates to the House of representatives of Berlin.

On the Election Day, the delegation noted with concern that some procedures were not uniform and standardised across districts. For instance, ballot boxes were not always locked with temper-proof seals. The shape and colour of ballot boxes varied from one district to another, as well as polling station set up, which sometimes led to voters' identification being checked only after filling ballot papers. The delegation was also informed that transportation and storage of the voting materials was done differently between districts and represented a heavy burden for Chairpersons of polling stations. In addition, the lack of standardised training of Electoral Board members was also noted. Despite members being strongly invited to follow trainings, it seemed that this practice was not standardised between districts nor compulsory for all. In all polling station observers, voters were not asked to sign the register, which in the opinion of the delegation should be reconsidered.

In addition, Congress observers witnessed the limited accessibility of some polling stations, with Electoral Board members being asked to help voters using wheelchairs access the premises.

Finally, let me mention an issue of specific interest for the Congress: While public access is granted to all citizens to observe the voting and counting, the status and rights of domestic and international observers are not provided for by law and we believe this should be reconsidered.

Based on these observations and existing electoral standards, the draft recommendation invites the relevant authorities :

- To revise the legal framework to clarify the tasks and responsibilities of *Land* and District Returning Officers and their administrations and to entrust the *Land* Returning Officer with more coordination and oversight powers to enforce uniform procedures across districts;
- To consider the introduction of a standardised training for Election Board members and of further consistent safeguards on the Election Day, in particular on the use of uniform ballot boxes, preferably transparent, and tamper-proof seals, and on the signing of registers by voters;
- To strengthen the regulatory framework ensuring transparency and accountability of campaign and party finances
- To introduce a 40% gender quota regardless of political parties' internal rules;
- To pursue efforts to make all polling stations accessible to people with disabilities, regardless of other alternatives to in-person voting;
- And last but not least, to adopt legislation on the rights and status of election observers.

Finally, I would like to mention that given the short timeframe this report was adopted by the Monitoring Committee via written procedure in order to ensure its timely release, therefore I will be happy to take your questions and comments. I thank you for your attention and strongly encourage you to adopt the draft recommendation.