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The Congress of Local and Regional Authorities – fundamental reform and a new, dynamic approach to monitoring

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The Congress of Local and Regional Authorities – fundamental reform and a new, dynamic approach to monitoring

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1. Institutional status and role of the Congress within the Council of Europe

1.1. Mission and tasks

In its present form, the Congress of Local and Regional Authorities of the Council of Europe was established in 1994. It gives 318 elected representatives from local and regional authorities in the Council's 47 member states a political sounding board. It had a precursor in the Committee of Experts on Local Democracy, founded in 1961, and is based on the "Congress Charter", which was adopted by the member states in 1994¹ and amended in 2000, 2007 and 2011. The Committee of Ministers and the Parliamentary Assembly consult it on all matters pertaining to the powers or vital interests of local or regional authorities. It is the institutional counterpart of the EU's Committee of the Regions (CoR), which was brought into being by the Maastricht Treaty and also started work in 1994.

Some 10 years later, the Heads of State and Government decided, at their Warsaw Summit (16-17 May 2005), to continue promoting intergovernmental co-operation in the fields of democracy and good governance on all levels in partnership with the Parliamentary Assembly and the Congress. The Action Plan they adopted declares: "The Congress of Local and Regional Authorities must continue to promote local democracy and decentralisation".²

The Statutory Resolution and Charter of the Congress were last amended by the Committee of Ministers in a resolution of 19 January 2011,³ which takes account of the latest reform of the Congress, and confirms the role of local and regional authorities within the Council of Europe's institutional structures.

The Congress's tasks are to:⁴

- ensure participation of local and regional authorities in realisation of the ideal of European unity;
- represent and involve them actively in the Council of Europe's work;

¹ Statutory Resolution (94) 3 relating to the setting-up of the Congress of Local and Regional Authorities of Europe, adopted by the Committee of Ministers on 14 January 1994 at the 506th meeting of the Ministers' Deputies.

² Council of Europe Action Plan, adopted by the Warsaw Summit, Document CM(2005)80 final 17 May 2005, Section I.4.

http://www.coe.int/t/dcr/summit/20050517_plan_action_en.asp (1.3.2012).

³ Both in Statutory Resolution CM/RES (2011)2 of 19 January 2011;

[https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Res\(2011\)2&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Res(2011)2&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383) (1.3.2012).

⁴ Art. 2 of Statutory Resolution CM/Res(2011)2.

- submit proposals aimed at promoting local and regional democracy to the Committee of Ministers;
- promote co-operation, including cross-border co-operation, between local and regional authorities;
- maintain contact on matters for which it is responsible with international organisations as part of the Council of Europe's general external relations policy;
- work in close co-operation with national, democratic associations of local and regional authorities, with European organisations representing local and regional authorities, and particularly the EU's Committee of the Regions.

In Article 2 of the Congress Charter, the Committee of Ministers entrusted the Congress with specific operational and monitoring activities in connection with the European Charter of Local Self-Government and with local and regional elections.

"3. The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented.

*4. The Congress shall also prepare reports and recommendations following the observation of local and/or regional elections."*⁵

Monitoring and subsequent follow-up are accordingly one of the Congress's core activities and the main focus of its work. In its reports on local and regional democracy in member states and candidate countries, it examines the legal and political situation and makes proposals on further progress. Above all, it scrutinises action taken to implement the principles laid down in the European Charter of Local Self-Government.⁶

As well as monitoring the Charter, the Congress organises observation missions for local and regional elections, at the request of states. In both cases, it submits reports and recommendations to the Committee of Ministers. These are then forwarded to the governments concerned, and also the Parliamentary Assembly. In December 2010, with a view to implementing the recommendations, the Congress's Secretary General set up a special unit to promote activities carried out in co-operation with the member states and the Council of Europe's operational departments.

Important partners with which the Congress co-operates include the Council of Europe's Commissioner for Human Rights, the Conference of International Non-Governmental Organisations (INGOs) and the various intergovernmental working

⁵ Ibid.

⁶ European Charter of Local Self-Government, ETS No. 122 (European Treaty Series – see website of the Council of Europe's Treaty Office: <http://www.conventions.coe.int/?lg=en> (1.3.2012).

structures, such as the Committee of Ministers' rapporteur groups and the thematic steering committees of senior officials from the member states.

Unlike the EU's Committee of the Regions, the Congress is invited to all meetings of the Ministers' Deputies and their subsidiary bodies, at which – depending on the issues discussed – it is represented either by selected members or by its Secretary General. The President and Secretary General of the Congress also attend the annual ministerial sessions, and ministerial conferences relevant to its work.

In a reply to the Congress of 12 October 2011, the Committee of Ministers confirmed this institutional status, and also its readiness for increased political dialogue with the Congress: *"3. The Committee recalls that it holds regular exchanges of views with the President of the Congress, as well as with its Secretary General. These exchanges of views keep it informed of the state of preparation and results of the Congress's sessions and help it to monitor the progress of its work. Furthermore, members and representatives of the Congress directly contribute to the Council of Europe's intergovernmental activities by participating in conferences of specialised ministers as members of, or observers in, various bodies or committees to which the Committee of Ministers is responsible, such as its Rapporteur Groups and steering committees, like the CDLR, the CDMC, the CDMG, the CDMS and the CDEG. Moreover, they are occasionally invited to take part in Ministers' Deputies meetings at rapporteur group level. For example, the President of the Congress himself attended the meeting of the Rapporteur Group on Democracy on 13 January 2011, and the Chair of the Congress Monitoring Committee took part in the meeting of the Rapporteur Group on Human Rights on 17 March 2011. Conversely, the chairmanship of the Committee of Ministers participates in Congress sessions."*⁷

Outside the Council of Europe, the Congress has concluded co-operation agreements with the EU's Committee of the Regions, and works closely with European associations of regional and local authorities which have observer status with it. These include the Assembly of European Regions (AER), the Council of European Municipalities and Regions (CEMR), the Working Community of European Border Regions (AGEG), the Conference of European Regional Legislative Assemblies (CALRE) and the Conference of Presidents of Regions with Legislative Power (REGLEG), as well as many smaller or merely regional associations.⁸

1.2. A key role for national delegations

National associations of municipalities, towns, administrative districts, provinces and regions, or, in federal states, co-ordinating authorities like the Conference of Land Premiers or the Conference of Europe Ministers in Germany, the Conference of Regional Governors in Austria or the Conference of Cantonal Governments in Switzerland, play a key role in appointment of members to the Congress by their governments, and also help to define its two-year priorities. Frequently, too, their staff provide secretariat services for national delegations. In future, they will also

⁷ Reply by the Ministers' Deputies of 12 October 2011, CM/Cong(2011)Rec299 final.

⁸ A list of these associations can be found on the Congress website:
http://www.coe.int/t/congress/whoswho/associations-int_en.asp%20 (1.3.2012).

play a major part in securing and supervising their countries' compliance with Congress recommendations and resolutions, and in dialogue with their delegations to the Parliamentary Assembly and members of intergovernmental steering committees like the European Committee on Local and Regional Democracy (CDLR).

Recently, there has been a noticeable new trend in membership of the Chamber of Regions,⁹ where regional ministers or regional government representatives are being replaced by members of regional assemblies or parliaments. In the case of the twelve delegations from regions with legislative powers, there are only half as many government members as regional assembly or parliament members among the Congress members and substitutes (64 parliamentarians as opposed to 32 government members). All the delegates from Azerbaijan, Serbia, Spain and the United Kingdom are parliamentarians, as are 13 of the 14 German delegates. This involves a substantial loss of governmental expertise for the Congress, whereas the Committee of the Regions, which mainly consists of government representatives, gets more input on that level.

1.3. Focus, heart of the reforms

On its own initiative, the Congress set out to review and reorganise its work in 2008 – the first Council of Europe body to launch such an exercise. Having due regard to its mandate, it introduced new emphases and focused its activities on core aspects of the Council of Europe's work with a local and/or regional dimension, i.e. democracy, human rights and the rule of law. When defining its priorities for 2011-2012, it also reformed its political committees and Secretariat.

Thorbjørn Jagland, elected Secretary General of the Council in autumn 2009, also launched a comprehensive reform of the organisation's intergovernmental sector, the aim being to redefine its role, increase its impact and effectiveness by concentrating on essentials, and – above all – eliminate duplication with other international organisations. The changes included a two-year budget with clear emphases, new targets for steering committees, staff savings, and total restructuring of the secretariat responsible for intergovernmental initiatives. The Parliamentary Assembly followed the example, and reorganised its structures and working methods with effect from 1 January 2012.

As part of its reform programme, the Congress developed its links with other Council of Europe bodies, and expanded its co-operation activities. It focused on some of the intergovernmental sector's concerns and campaigns, e.g. action to improve the situation of Roma and stop sexual exploitation of children, and launched corresponding initiatives at local and regional level – all of this in addition to its statutory and monitoring activities.

The rapporteurs on reform, Halvdan Skard (Norway) and Günther Krug (leader of the German delegation), consulted all Congress members, and also allied associations, via questionnaire, reported regularly to the Bureau and Standing

⁹ See: http://www.coe.int/t/congress/Fonctionnement/Chambers/Regions_en.asp?mytabsmenu=2 (1.3.2012).

Committee, and eventually submitted proposals for changes in the Congress Rules of Procedure and Charter. These were fully endorsed by the Congress in several resolutions and (in the case of proposed changes to the Statutory Resolution and Charter) a recommendation to the Committee of Ministers.¹⁰

1.4. Focusing on essentials

The reform covered both political and thematic, and structural and organisational changes. The members decided to make their resolutions and recommendations more political, concrete and specific, and increase the emphasis on follow-up. Follow-up itself was expressly included among the duties of rapporteurs, who had previously regarded their job as finished once texts had been approved in plenary session. The thematic range of the Congress's activities has been reduced, and the focus is now on core aspects of the Council's work where it can make a unique contribution: promoting local and regional democracy, monitoring the European Charter of Local Self-Government, and observing local and regional elections. Its thematic activities will also target areas where it can contribute a local and regional dimension, e.g. human rights and the rule of law. These areas include the effects of migration and integration, inter-religious dialogue, the situation of Roma, participation of foreigners in public life, and political ethics and action to prevent and combat corruption at local and regional level – all of which are reflected in the tasks assigned to the three new committees (see below). Its brief also includes the promotion of transfrontier and inter-regional co-operation, and co-operation with the Association of Local Democracy Agencies (ALDA),¹¹ which it helped to found, and the Network of Associations of Local Authorities of South-East Europe (NALAS).¹²

1.5. Checklist/test grid

The Bureau of the Congress has adopted a checklist/test grid introduced by the Secretary General to ensure that new activities are in line with the Council's reform programme. The Bureau now examines all proposals for reports, recommendations, resolutions and events, and the originating committee or secretariat must specify their aim, and show that they have a local and regional dimension, and are consistent with the priorities of the Council of Europe and the Congress. They must also submit proposals on follow-up action, a timetable and details of the resources required.

2. The three new committees

The committees' working structures have been adjusted to match this new approach, and reflect the priorities set for 2011-2012. The number of committees

¹⁰ Resolutions 305 (2010) on the reform of the Congress; 309 (2010) on the reform of the Congress: structures and working methods; and 321 (2011) on the reform of the Congress of Local and Regional Authorities within the Council of Europe reform. Recommendations 290 (2010) on the reform of the Congress: structures and working methods; and 299 (2011) on the reform of the Congress of Local and Regional Authorities within the Council of Europe reform.

¹¹ See: <http://www.alda-europe.eu/newSite/> (1.3.2012).

¹² See: <http://www.nalas.eu/> (1.3.2012).

was reduced from four to three in October 2010, and their remit completely rethought. Previously, there had been three thematic committees (on culture and education, social cohesion, and sustainable development) and one institutional committee; now there are two institutional committees and one thematic committee.

2.1. The Monitoring Committee

The Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee for short) draws up a work programme, listing states to be monitored, and produces reports on the state of local and regional democracy. Every member state is subjected to general monitoring roughly every five years, but the Committee may also organise fact-finding missions to investigate specific complaints, or verify compliance with specific Charter provisions. It is responsible, too, for follow-up action on recommendations addressed to member states.

For the period from October 2010 to October 2012, Lars O. Molin (Sweden) was elected Chair, and Gudrun Mosler-Törnström (Austria), Francis Lec (France) and Alexander Uss (Russian Federation) were elected Vice-Chairs.

2.2. The Governance Committee

This committee is concerned with legal and political aspects of good governance. It makes proposals on developing Council of Europe legal instruments and recommendations in the field of local and regional democracy, and deals with all issues relevant to relations between various levels of government, and to local and regional governance. These include adequate funding of local and regional authorities, citizen participation, transfrontier and inter-regional co-operation, and developments likely to affect the future of democracy, including e-democracy. The committee also prepares positions for the Congress to adopt at sessions of the Council of Europe Conference of Ministers responsible for Local Government, which meets every two to three years. In this area, it receives substantial support from the European Committee on Local and Regional Democracy (CDLR), an intergovernmental committee of senior officials from national – and also, in the case of Belgium, Germany, Austria and Switzerland, regional – ministries of local government.

Karl-Heinz Lambertz, President of Belgium's German-speaking Community, was elected Chair in 2010, with Britt-Marie Lövgren (Sweden), Enes Özklarsi (Turkey) and Vyacheslav Rogov (Russian Federation) as Vice-Chairs.

2.3. The Current Affairs Committee

This committee discusses current political challenges for society with a local and regional dimension, and proposes specific ways of meeting them. The issues it covers – having regard to the Council of Europe's values, and to the priorities defined by the Committee of Ministers and the Conference of Ministers responsible

for Local Government – include social cohesion, intercultural dialogue, culture and sustainable development.

The committee also has the task of preparing debates on topical issues at plenary sessions of the Congress.

The Chair, Emin Yeritsyan (Armenia) is assisted by three Vice-Chairs, Barbara Toce (Italy), Farid Mukhametsin (Russian Federation) and Claudette Abela Baldacchino (Malta).

3. Congress priorities: local democracy and human rights

3.1. Broad consultation in determining priorities

The inclusive process of determining the Congress's priorities involved, not only its members, but also national associations of municipalities, towns and regions, and the European associations with which it works, or to which it has granted observer status. The Bureau was also influenced by the central principle behind reform of the Congress – concentration on core aspects of the Council of Europe's work with a local and regional dimension. The priorities for 2011 and 2012 adopted at the 19th plenary session on 27 October 2010¹³ provide a basis for the work of the two Chambers and the committees, and are designed to ensure that the Congress is more alive to the needs of local and regional authorities, more focused on practical results and utility, and better able to ensure definite follow-up action on its work.

3.2. A new approach and sustainability for monitoring

Up to 2010, three to five monitoring missions were carried out per year, but the setting-up of a separate monitoring committee in October of that year opened the way to implementation of the new monitoring priorities. Now, for example, states which have ratified the Charter are monitored every five years or so. By the end of 2011, 45 of the Council of Europe's 47 member states had in fact been monitored, Monaco and San Marino being the two exceptions.

Regular monitoring aims at better dialogue with the states concerned, and thus better implementation of the Congress's recommendations. Increased frequency – some 10-15 missions per year – should make it possible to transcend the old single-state vision of monitoring, and identify issues and areas of general interest, where the member states have similar problems or have devised new and effective solutions. This comparative approach will transform the monitoring process and, within a few years, produce fundamental conclusions on local democracy in Europe and its challenges. Within the Committee of Ministers, it will also make for more intensive dialogue between the Congress and the member states than is currently sparked by single-country reports.

¹³ Congress Resolution 310 (2010) on priorities of the Congress for 2011-2012, of 27 October 2010.

3.2.1. Benchmark function of the Charter and "Reference Framework"

The missions organised by the Monitoring Committee involve scrutiny of member states' implementation of the European Charter of Local Self-Government.¹⁴ The Reference Framework for Regional Democracy, adopted in 2009 by the Council of Europe Conference of European Ministers responsible for Local and Regional Government is not legally binding, but contains recommendations – and also serves as a benchmark.¹⁵

In a reply to the Congress of 19 April 2011,¹⁶ CM/Cong(2011)Rec282 final, the Committee of Ministers "*encourages the governments of member states to take account of the Reference Framework for Regional Democracy in connection with policies and reforms, as proposed in paragraph 8b. of the recommendation. It recalls that the Framework was prepared jointly by the Congress and the CDLR as 'a useful and practical reference for those considering institutional reforms and governance at the regional level, as well as for the Parliamentary Assembly and the Congress in their work'*".

The member states had failed to agree in previous years on a legally binding regional counterpart to the Charter of Local Self-Government, which is why the CDLR and the Congress produced instead a reference framework, containing numerous and far-reaching proposals on regional structures. It remains to be seen when the question of stronger legal guarantees for regional authorities can again be usefully raised.

Monitoring reports must take account of existing Congress recommendations and/or resolutions, and particularly recommendations addressed to the inspected country. They must also review the state of local and regional democracy in the light of other relevant Council of Europe texts which that country has ratified. These include the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144), the European Charter for Regional or Minority Languages (ETS No. 148), the Framework Convention for the Protection of National Minorities (ETS No. 157) and Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 206).

3.2.2. Monitoring – new rules

The Congress laid down rules on monitoring in Resolution 307 (2010), which made the selection of rapporteurs objective and took added steps to ensure their impartiality. No one may serve as rapporteur on the same country for more than five years, and the choice of rapporteurs must ensure that representation of the political

¹⁴ The text of the Charter and the state of ratifications can be accessed on the website of the Council of Europe's Treaty Office: <http://www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=122&CM=8&DF=14/12/2012&CL=ENG> (1.3.2012).

¹⁵ The Reference Framework was published as a document of the Utrecht ministerial conference: <http://https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1389907&SecMode=1&DocId=1490616&Usage=2> (1.3.2012).

¹⁶ See footnote 7.

groups and the members not registered with a political group in the Congress is balanced throughout each monitoring exercise. Rapporteurs may not be nationals of the monitored or a bordering state. In the EU's Committee of the Regions, co-ordination of this kind is left entirely to the political groups; in the Congress, however, it is the joint responsibility of the national delegations, the political groups and the Congress secretariat.

The Monitoring Committee draws up an annual work programme and selects states for monitoring. Two rapporteurs are appointed for each state – one from the Chamber of Local Authorities, one from the Chamber of Regions. If the monitored state has no regions, both are drawn from the Chamber of Local Authorities. Rapporteurs are given training to improve the quality of monitoring.

The co-rapporteurs are accompanied by a member of the Group of Independent Experts¹⁷ on the Charter and a member of the Secretariat. In accordance with a reform introduced by the Congress's Secretary General, the Bureau has adopted new guidelines on the composition, renewal and working methods of the Group of Experts, whose chief task is to advise the Congress on legal aspects of local self-government. Vacancies in the Group are advertised in all relevant university and other institutions, and members – one full and at least one alternate member for each state – are then appointed for a four-year term by the Secretary General of the Congress in consultation with the Bureau, the two Chambers and the Chair of the Group of Experts. Recognised experts in this field, they have the task of verifying the accuracy of the monitoring reports.

3.2.3. Comprehensive dialogue

Programmes for monitoring of the chosen states are prepared in consultation with their Permanent Delegations to the Council of Europe and national delegations. They include meetings with high-level representatives of all the political levels involved: national or (particularly in states where regions have legislative powers) regional ministers responsible for local and regional government, members of national or regional parliaments with responsibility for local and regional affairs, elected local and regional representatives, members of the relevant Congress delegations, presidents of national associations or co-ordinating bodies of regional and local authorities, and representatives of constitutional courts, courts of audit, ombudspersons, civil society and relevant experts. The inspectors' chief aim, in their talks with the mayors of differently sized and differently structured towns and municipalities, is to form as full a view as possible of the situation of the local and regional authorities in the national association, and of co-operation between them.

¹⁷ The Statute of the "Group of Independent Experts on the European Charter of Local Self-Government" was approved by the Bureau of the Congress on 16 September 2011: document CG/GIE(20)2. A list of the Group's members can be found on the Congress website: http://http://www.coe.int/t/congress/whoswho/compo-charte_en.asp (1.3.2012).

A draft report is prepared within six weeks of the mission, and sent for comment to the people consulted by the rapporteurs, who may decide to include their comments in the report or append them to it.

3.2.4. Discussion in committee and adoption in plenary session

The draft report, with proposals for a resolution (addressed to the Congress, and to local and regional authorities and their associations) and recommendation (addressed to the Committee of Ministers), are submitted to the Monitoring Committee, which discusses and finalises them, and then presents them to the full Congress. The programme for the visit, with a summary schedule of all meetings, is appended to the report. A further appendix contains information on action taken by local authorities, towns and regions to promote human rights. The aim here is not to monitor such action, but to highlight good practices and help countries to learn from one another. This section also contains comments by the Council of Europe's Commissioner for Human Rights on action by local and regional authorities in member states he has visited.

In accordance with the Congress's revised Rules of Procedure, which were finalised early in 2012, the committee discusses and adopts the report ("explanatory memorandum"), and also the draft recommendation and resolution. Previously, it adopted the recommendation only, while the report remained the rapporteur's responsibility. In committee, amendments to the report, and also the draft resolution and recommendation, may be tabled. In plenary session, however, only the resolution and recommendation are open to amendment – although written statements by members may be included in the record.

Once adopted in plenary session, the recommendation is sent to the Committee of Ministers for approval, and the resolution to the Monitoring Committee for action. For follow-up on the adopted reports, see 3.4. and 4 below.

3.2.5. The target – universal acceptance of the whole Charter

Unlike EU regulations, Council of Europe treaties are not immediately applicable in member states. Once signed, they must still be ratified by the signatories' national (and, in federal states, regional) parliaments. Moreover, Article 12 of the Charter is an "opt-in" clause, allowing states to choose the articles and sections they are willing to accept. As a result, since patterns of acceptance vary, standards of local self-government may also vary between the Charter states in practice.

The monitoring missions have shown¹⁸ that many states have substantially modified their systems of local self-government since ratifying the Charter, and that reservations made at the time of ratification have often been rendered unnecessary by these changes or later legislation. The Congress is accordingly trying to reduce the (already relatively small) number of reservations entered by the 33 states

¹⁸ Report of the Governance Committee, document CPL (21) 5: "Reservations and Declarations to the European Charter of Local Self-Government", Rapporteur Michael Cohen, Malta, 28 September 2011.

concerned,¹⁹ and is urging them to withdraw those reservations and accept more articles. The Committee of Ministers²⁰ has also called on them to reconsider their position, and the Congress will be making the same point in connection with monitoring missions.

The Congress wants all the Council of Europe's 47 member states to accept the whole Charter. At present, only two – Monaco and San Marino – have still to ratify, and discussion has also produced a decline in the number of non-accepted articles.

In recent years, Congress delegations have carried out monitoring missions, or the Congress has produced reports and recommendations on local and regional democracy, in the following member states:

Overview: Monitoring missions to member states from 2008 to 2011: reports, recommendations and resolutions.

Monitoring mission (delegation's visit)	Title of monitoring report	Recommendation or resolution (number, year adopted)
2008		
Greece	Regional democracy in Greece	REC 247(2008)
Bosnia and Herzegovina	Local and regional democracy in Bosnia and Herzegovina	REC 202(2008)
Belgium	Local democracy in Belgium: non-appointment by the Flemish authorities of three mayors	REC 258(2008) RES 276(2008)
Latvia	Local democracy in Latvia: the participation of non-citizens in public and political life at local level	REC 257(2008)
2009		
Turkey (2nd visit)		

¹⁹ Recommendation 314(2011), "Reservations and Declarations to the European Charter of Local Self-Government", Rapporteur Michael Cohen, Malta, 20 October 2011.

²⁰ Reply from the Committee of Ministers of 12 October 2011, CM/Cong(2011)Rec299 final, para. 5.

Monitoring mission (delegation's visit)	Title of monitoring report	Recommendation or resolution (number, year adopted)
Switzerland	Regional democracy in Switzerland	REC 285(2010)
Iceland	Local democracy in Iceland	REC 283(2010)
Russian Federation (1st visit)		
Belgium		
2010		
Montenegro	Local democracy in Montenegro	REC 203(2010)
Austria	Local and regional democracy in Austria	REC 302(2011)
Russian Federation (2nd visit)	Local and regional democracy in the Russian Federation	REC 297(2010)
Estonia	Local democracy in Estonia	REC 294(2010)
Turkey (3rd visit)	Local and regional democracy in Turkey	REC 301(2011)
Romania	Local and regional democracy in Romania	REC 300(2011)
Malta	Local democracy in Malta	REC 305(2011)
Serbia	Local and regional democracy in Serbia	REC 316(2011)
Latvia	Local and regional democracy in Latvia	REC 317(2011)
Slovenia	Local and regional democracy in Slovenia	REC 308(2011)
Bulgaria	Local and regional democracy in Bulgaria	REC 310(2011)
France (1st visit)		

Monitoring mission (delegation's visit)	Title of monitoring report	Recommendation or resolution (number, year adopted)
Finland	Local and regional democracy in Finland	REC 311(2011)
2011		
France (2nd visit)		
Bosnia and Herzegovina (2nd visit)	Local and regional democracy in Bosnia and Herzegovina	REC 324(2012)
Lithuania	Local and regional democracy in Lithuania	REC 321 (2012)
Czech Republic	Local and regional democracy in the Czech Republic	REC 319(2012)
Germany	Local democracy in Germany	REC 320(2012)
Republic of Moldova	Local and regional democracy in the Republic of Moldova	REC 322(2012)
Italy (1st visit)		
Former Yugoslav Republic of Macedonia		
Portugal	Local and regional democracy in Portugal	REC 323(2012)

3.3. Observing elections

3.3.1. New guidelines to increase objectivity and improve quality

The Preamble to the Charter of Local Self-Government proclaims that participation in the conduct of public affairs is one of the principles of democracy. In pursuance of Article 2(4) of its Charter, the Congress organises observation missions for local and regional elections, at the invitation of governments or electoral authorities. It made

expansion and improvement of the content, conduct and quality of these missions one of its priorities for 2010-2012, and detailed this aim in a separate resolution.²¹

Voluntary observers are recruited among the Congress's 636 members and alternates, and the Bureau puts missions together on this basis. Delegations must be balanced in terms of geography, representation of the political groups and the members not registered with a political group in the Congress, and gender. The Congress has adopted a code of conduct, based on international standards, for observers, and regularly provides training for them.

3.2.2. Involving the Committee of the Regions

On the strength of a co-operation agreement between them, the Congress invites the Committee of the Regions to participate in its election observation missions. The four political groups in the Committee nominate one member each, who is invited to attend the Congress's training seminars. So far, the Committee has accepted only invitations to observe elections in non-EU countries. In the light of experience in recent years, it has formulated its own guidelines for participation in observation missions. In this connection, its CIVEX committee²² and the Congress Bureau have discussed ways of ensuring that the CoR does not duplicate the Congress's work. While the Congress has a clear mandate to observe elections and make recommendations to the Committee of Ministers, the CoR has no such mandate and plays no part in co-operative follow-up action on those recommendations of the kind undertaken by the Congress at the Council of Europe.

3.3.3. Two missions

Several weeks before the election, a small delegation goes on a preparatory mission to the country for fact-finding talks with state and electoral authorities, groups standing for election, media representatives, and other locally active international organisations, the aim being to form a general picture of the political situation. In the days before and after polling day, a delegation of some 10-15 elected local and regional representatives goes to the country, and meets leading representatives of national, regional and local authorities, civil society and the media. On polling day itself, small groups of two to four observers visit various polling stations (some outside the capital), usually remaining until all the votes have been counted.

The observers announce their findings at a press conference – usually held jointly with other international observers, and particularly the OSCE delegation – on the evening of polling day or the next day. On returning, the rapporteur and the leader of the delegation prepare a report, with recommendations, which goes first to the Bureau and then to the full Congress for adoption. In the medium term, the report and recommendations will probably be sent to the Monitoring Committee too, but

²¹ Resolution 306 (2010): Observation of local and regional elections – Strategy and rules of the Congress, of 18 June 2010.

²² Cf. the document adopted by the Bureau of the CoR at its 135th meeting on 14 February 2012: "Future development of the CoR's participation in election observation missions", R/CdR 39/2012, section 8.

referring it to the Bureau has the advantage of permitting a rapid reaction, without waiting for one of the former's three annual meetings.

Once the Committee of Ministers has been involved, and the recommendations have been sent to the relevant authorities in the state concerned, dialogue begins within the Council of Europe Secretariat and also with the member states. This leads to bilaterally agreed activities, or an action programme/projects devised by the Council of Europe and funded by the EU or from voluntary contributions by states, foundations, etc. For examples, see 3.4. below.

3.3.4. Observing elections – a wealth of experience

Since 2001, Congress delegations have observed local and regional elections in the following states, and submitted reports or recommendations:

Albania: 2003, 2007 and 2011

Armenia: 2002, 2005, 2008, 2009

Azerbaijan: 2002, 2006, 2009

Bosnia and Herzegovina: 2002, 2004, 2007, 2008

Bulgaria: 2009

Croatia: 2001

Finland: 2008

Former Yugoslav Republic of Macedonia: 2004, 2005, 2009

Georgia: 2001, 2004, 2006, 2008, 2009, 2010

Moldova: 2002, 2003, 2005, 2006, 2007, 2008, 2010, 2011

Norway: 2011

Serbia: 2002, 2003, 2004

Slovakia: 2001

Ukraine: 2002, 2006, 2010

and also, outside the Council of Europe, Israel in 2008 and the Palestinian territories in 2005.

3.4. Follow-up action on recommendations

To ensure the work's lasting effects, the Congress has for some years been laying more emphasis on dialogue with the member states. The reforms carried out at the Council of Europe have resulted in markedly improved co-operation between the various players. Inter-secretariat co-ordination has been introduced, and the recommendations adopted by the Parliamentary Assembly and the Congress now have more impact on the Council's co-operation programmes, many of which are co-funded by the EU. Examples include the Council of Europe's action plan for Ukraine,²³ presented in Kyiv on 16 September 2011, which the Congress will be helping to implement, and bilateral projects of the kind launched following observation of the Albanian elections in spring 2011.

²³ Presented by the Secretary General, Thorbjørn Jagland, and the Foreign Minister of Ukraine, Kostyantyn Hryshchenko. Council of Europe press release DC 064(2011); the Action Plan can be consulted at: http://hub.coe.int/c/document_library/get_file?uuid=24875c00-6299-4c4f-9bd5-ad47a56d5f1e&groupId=10227 (1.3.2012).

On 16 September 2011, the Secretary General of the Congress submitted to the Bureau a framework document for co-operation activities,²⁴ which was given practical effect early in December in Congress contributions to action in Ukraine 2011-2014, Armenia 2012-2014, and also, under the Council of Europe's new neighbourhood policy, Morocco and Tunisia.²⁵

Political initiatives involving the rapporteurs, the leaders of national delegations to the Congress, and associations of regional and local authorities in the member states can also produce substantial results. Austria provides one practical example – see section 4 below.

The Bureau has decided that the Secretariat will henceforth submit annual progress reports on action taken on recommendations and resolutions adopted at plenary sessions of the Congress – further underlining the new role which rapporteurs will play, once such texts have been adopted.

3.5. Human rights – the local dimension

The local and regional dimension of human rights is new both as a priority of the Congress and as an element in its work programme.²⁶ It explains the Congress's decision to support the many initiatives taken by "Human Rights Cities", and append statements on the human rights situation at local and regional level to future monitoring reports. The hope here is that positive examples set by certain local and regional authorities will encourage others to follow suit. The aim is not to monitor human rights performance, but to document and publicise good practices. This initiative was expressly welcomed by Thomas Hammarberg, Council of Europe Commissioner for Human Rights. In its work on human rights at local and regional level, the Congress co-operates closely with the EU's Fundamental Rights Agency and the Committee of the Regions.

In its resolution on "developing indicators to raise awareness of human rights at local and regional level", adopted in plenary session on 20 October 2011,²⁷ the Congress decided to use appropriate data collection methods to examine the human rights situation at local and regional level, and identify the problems facing local and regional authorities in their daily work. On this basis, action plans to make local and regional authorities more aware of human rights, with the help of training programmes and exchange of information on good practices between elected representatives, are to be devised and incorporated into national planning processes.

²⁴ Updated version "Co-operation activities of the Congress of Local and Regional Authorities – Framework document prepared by the Secretariat", document CG/BUR(21)14 of 3 November 2011.

²⁵ Information document "Co-operation activities: Congress contribution to the Council of Europe programmes", document CG/BUR(21)12 of 25 November 2011.

²⁶ For detailed account, see: Kiefer, Andreas 2011: "Human Rights: Local and regional authorities in action" in Wolfgang Benedek, Florence Benoît-Rohmer, Wolfram Karl, Manfred Nowak (eds.): European Yearbook on Human Rights 2011, Vienna, pp. 483-495.

²⁷ Resolution 334 (2011), based on the report [CG\(21\)10](#), rapporteur Lars O. Molin.

3.6. Concentrating thematic activities

The Congress has decided to align its thematic activities on the priorities set by the Committee of Ministers in the two-year budget, and on the work programmes defined by the Committee's successive six-month chairmanships. Results so far include the recommendations on "Living together in 21st century Europe", put forward in May 2011 by a "Group of Eminent Persons", chaired by Joschka Fischer,²⁸ the holding of a "Summit of Mayors on Roma", and support for the Council of Europe's "One in Five" campaign against sexual exploitation of children.

4. Action by Austria on Congress recommendations

4.1. A constructive atmosphere during and after monitoring

The rapporteurs, Irene Loizidou (Cyprus), Chamber of Regions, and Marc Cools (Belgium), Chamber of Local Authorities, visited Austria in March 2010 for meetings with national, regional and local representatives, and their report²⁹ and recommendation³⁰ were adopted in plenary session in March 2011. The report, the first since Austria ratified the Charter in 1987, highlighted the very high standards it set, by comparison with other countries, in respect of local self-government and implementation of the subsidiarity principle.

In Recommendation 302 (2011), the Congress first analysed the legal, financial and political situation, and then made the following main proposals for action at federal and regional level:

- institutional reform of the federal system to clarify the division of powers, on the basis of the work of the Austrian Convention and more recent reform proposals;
- measures to facilitate inter-municipal co-operation, particularly across Land borders;
- better social conditions for mayors, to ensure that the office continues to attract both female and male candidates;
- more fiscal autonomy for municipalities and Länder;
- changes in the composition and functions of the Federal Council, enabling it to represent Land interests better;
- abolition of indirect federal administration and substitution of direct Land administration;

²⁸ On the Group and the report, see: <http://hub.coe.int/event-files/our-events/the-group-of-eminant-persons> (1.3.2012).

²⁹ Congress report CG(20)8: Local and regional democracy in Austria of 3 March 2011.

³⁰ Congress Recommendation 302 (2011): Local and regional democracy in Austria of 24 March 2011.

- a bigger role for the Austrian Association of Cities and Towns and the Austrian Association of Municipalities in negotiation of the Financial Equalisation Law;
- action to allow the Austrian Association of Cities and Towns and the Austrian Association of Municipalities to participate in agreements between the Federation and the Länder, as they already do in the “Consultation Mechanism” and the “Austrian Stability Pact”;
- action to limit the personal liability of mayors;
- better representation of women at local and regional level.

The first proposal, that a serious discussion of federal reform be launched, was taken up in May 2011 by Gottfried Kneifel, President of the Federal Council,³¹ and made public with the President of the Chamber of Regions, Herwig van Staa.

4.2. Facilitating inter-municipal co-operation

On the initiative of its President, the Federal Council submitted to the National Council, on 1 June 2011, a bill³² designed to give local authorities considerably more scope for co-operation. This was given effect by decision of the National Council on 6 July 2011 and, the Federal Council having approved it on 21 July, was promulgated on 29 July of that same year.³³

The constitutional restriction on the powers of associations of local authorities has been lifted, allowing local authorities, on the basis of Land legislation, to conclude agreements of all kinds among themselves – and jointly perform private-law and governmental functions. In addition, they now have the right to establish – with the consent of the Länder concerned – associations operating across Land borders. These changes implement another Congress recommendation.

4.3. Better social conditions for mayors

The third recommendation implemented by Austria concerns improved social protection for mayors: raising of the ceiling for additional income, and unemployment benefit for mayors.

³¹ Press release by the President of the Federal Council, Gottfried Kneifel, 13 May 2011, http://www.ots.at/presseaussendung/OTS_20110513_OT0224/kneifel-foederalismus-in-oesterreich-zu-wenig-oder-nicht-genug (1.3. 2012).

³² Federal Council Bill of 1 June 2011 on a constitutional act amending the Federal Constitutional Act to strengthen the rights of municipalities, “1213 der Beilagen zu den Stenographischen Protokollen des Nationalrates XXIV. Gesetzgebungsperiode”, and press release by the President of the Federal Council, Gottfried Kneifel, 1 June 2011, http://www.ots.at/presseaussendung/OTS_20110601_OT0223/bundesrat-will-gemeinden-engere-zusammenarbeit-ermoeglichen-gesetzesinitiative-des-bundesrats-geht-nun-an-den-nationalrat (1.3 2012).

³³ Austrian Federal Gazette (BGBl.) Part I, of 29 July 2011. 60th constitutional act amending the Federal Constitutional Act to strengthen the rights of municipalities, pp. 1-2.

Unlike civil servants, insured persons covered by the General Social Insurance Act (Allgemeine Sozialversicherungsgesetz - ASVG) are subject to strict rules on additional income. Persons taking early retirement may earn only €374 without losing their pension entitlement. With retroactive effect from 1 July 2011, mayors were exempted from this rule, and may now earn an additional 49% of the salary of a member of the National Council (€3,999 at the time the measure was decided). Mayors of large cities receive substantial salaries, and the new rule will not apply to them.

For the first time, too, mayors who leave office will be entitled, once continued salary payments have ceased, to unemployment benefit. Previously, mayors who, on leaving office, had already given up their normal occupation, were wholly unprotected. In future, they will receive unemployment benefit at a rate determined by their last occupation, even when they have not exercised it for some time.

4.4. Monitoring – a never-ending process

In approximately two-and-a-half years' time, the Congress will be initiating discussion between the rapporteurs and representatives of the Federal and Land governments of action taken to implement its recommendations. For this purpose, it invites the relevant ministers to attend a plenary session and report on success or failure in this area. Austria's turn will come around 2013, with the next monitoring exercise probably following in 2015-2016.

5. The outlook

The Congress's reform of its substance and structures in 2010-2011, has given it a higher profile. At its meeting in Kyiv³⁴ in November 2011, the Council of Europe Conference of Ministers responsible for Local and Regional Government committed itself to a programme of activities for joint implementation by the intergovernmental sector, the Congress and the Parliamentary Assembly in the next few years, and covering:

- the impact of the economic crisis on local government
- increased citizen participation at local and regional level
- multilevel governance in the Council of Europe area
- the local and regional dimension of human rights
- removal of obstacles to transfrontier co-operation.

The Congress approved this programme, and the Committee of Ministers followed suit early in 2012.

In October 2012, the membership of the Congress was renewed, this time for four years, instead of the previous two. The longer term is designed to ensure greater continuity, particularly in the rapporteurs' work. Previously, rotation in some of the

³⁴ The conference documents and declarations are available at: http://www.coe.int/t/dgap/localdemocracy/Ministerial_Conferences/Kyiv/default_en.asp (1.3.2012).

delegations, including the German delegation, led to the departure of members entrusted with special tasks.

At the plenary session in October, the new rule that at least one-third of the full and substitute members of every national delegation must belong to the under-represented sex, will take effect. The Congress is the only international institution to enforce a quota of this kind.

At the end of 2011, the Congress was under special pressure to make savings, and was required to shed a total of four posts, i.e. 10%, by the end of 2013. This reduction will probably lead to increased concentration on its core tasks. A new way ahead, particularly for co-operation activities after monitoring, might be increased funding of projects under EU programmes or Council of Europe action programmes.

The restructured committees and reorganised secretariat have proved themselves in the first 18 months, and now provide the basis needed for implementation of the Congress's priorities and the joint activities listed at the ministerial conference in Kyiv.

