

## 37th SESSION

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## 37th SESSION

# The role of local and regional governments in protecting internally displaced persons (IDPs)

Recommendation 437 (2019)<sup>1</sup>

1. The issue of displacement is a global phenomenon which has reached an unprecedented scale in recent years. In 2018 alone, 28 million people from 148 countries were internally displaced. However, despite the ever-growing number of internally displaced persons (hereafter “IDPs”) in the world, their plight sometimes tends to be overshadowed by the refugee and migration crisis.

2. An internally displaced person is, according to the 1998 UN Guiding Principles on Internal Displacement, someone who has been “forced or obliged to flee or to leave his/her home or place of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or man-made disasters, without crossing an internationally recognised State border”. They have the right to seek safety in another part of their country, to leave their country, to seek asylum in another country, the right to recognition everywhere as a person before the law, the right to healthcare, to education, to employment, to security, to liberty of movement, and the right to be protected against forcible return to, or resettlement in, any place where their life, safety, liberty and/or health would be at risk.

3. In Europe, over decades, more than 4 million people have been displaced inside their own countries due to armed conflicts and violence. Added onto the IDPs affected by earlier conflicts in Europe which include Azerbaijan, Armenia, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, North Macedonia, Russia and Turkey, more recently there have been 1.7 million IDPs in Ukraine due to the situation that arose following the illegal annexation of the Crimean Peninsula of Ukraine by the Russian Federation and the areas affected by foreign military intervention in the Eastern part of the country.

4. Alongside armed conflicts, heightened vulnerability and exposure to sudden-onset hazards are a real risk. Wildfires were a particularly visible expression of this (Greece) and as was the risk of being displaced by floods, particularly in cities (France). Globally, there have been 17.2 million new disaster displacements in 146 countries. In Europe, three quarters of the population are estimated to live in urban areas vulnerable to natural hazards. Consequently, for local and national governments in Europe, disaster displacement needs to be a component of risk reduction and response strategies. This is also in line with the United Nations Sustainable Development Goal 13 which calls for urgent action to combat climate change and its impacts.

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)09](#)), explanatory memorandum), co-rapporteurs: Marianne HOLLINGER, Switzerland (L, ILDG) and Oleksandr SIENKEVYCH, Ukraine (L, ILDG).

\* All reference to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

5. Internal displacements are, first and foremost, a human rights issue. They should be addressed as such. IDPs are currently facing administrative obstacles preventing their full inclusion. They also encounter issues regarding employment, housing, education, and health – to only cite a few. The access to these basic services is unequal, and IDPs are disproportionately affected. The authorities have a primary duty and responsibility to provide protection and humanitarian assistance to IDPs within their jurisdiction, and IDPs have the right to request and receive protection and assistance from these authorities.

6. In its Recommendation Rec(2006)6, the Committee of Ministers of the Council of Europe asked member States to make sure that IDPs are provided with the necessary documents to exercise their rights, and are properly informed. Even though they have been displaced, IDPs remain nationals of the state in which they live. Hence, they are entitled to the same human rights as other citizens, as enshrined in national, regional and international legislations.

7. A 2018 report adopted by the Parliamentary Assembly of the Council of Europe (PACE), reminded member States that the fundamental human rights of IDPs and their families should be kept in mind when relocating persons. PACE deplored the fact that the humanitarian situation of most IDPs in Europe had been negatively affected by the fact that underlying conflicts are protracted and by forced displacements, and underlined that the human rights and humanitarian needs of IDPs should be a central point in all international efforts to monitor and mediate those conflicts.

8. The Congress of Local and Regional Authorities of the Council of Europe (hereafter the “Congress”) issued a Human Rights Handbook for local and regional authorities in 2018, which sets out the rights of IDPs and the obligations of local and regional authorities to ensure these rights. The Congress acknowledged the crucial role of local and regional authorities in facilitating IDPs’ integration and participation in public and political life. More specifically, in its Recommendation 419, the Congress considered voting rights as an efficient tool for the integration of IDPs.

9. In light of the above, the Congress calls on member States of the Council of Europe to:

a. respect the rights of IDPs who should enjoy their rights as citizens of their countries but above all as human beings and assemble all resources to provide them with protection and humanitarian assistance in their new environments but also guarantee their right to return to their place of origin in safety and with dignity;

b. co-operate with local and regional authorities in the planification, implementation and follow-up of initiatives and policies regarding IDPs, making sure that the financial support allocated to local and regional authorities is transparent, fair, and based on declared needs;

c. raise awareness on the plight of IDPs and build a positive discourse regarding their situation in order to achieve social cohesion and prevent discriminatory discourses;

d. provide more flexible legislation that allows IDPs to fully exercise their voting rights as these are a natural starting point for successful integration in the life of their community;

e. provide legislative support to policy development aiming to improve the living conditions of IDPs by facilitating their access to housing as well as to other basic services and infrastructure such as health or education;

f. keep track of new displacements in order to know exactly how many IDPs live in a given area and adapt policies in consequence, creating a check-list in order to create an evidence base including different categories such as data and analysis, capacity and participation, and incentives and political will;

g. aim, at the international level, at a strong co-ordination with other member States and to share good practices regarding the situation internally displaced persons.

## 37th SESSION

# Fair distribution of taxes in transfrontier areas

## Potential conflicts and possibilities for compromise

### Recommendation 438 (2019)<sup>1</sup>

1. Europe's border regions are the laboratories of European integration. For 40 years, the Council of Europe has been in the forefront of developing this co-operation, changing the perception of Europe's internal borders from one of barriers to one of bridges, opportunities for co-operation that can and do benefit citizens on either side of the border. Against this backdrop, the need to ensure an equitable distribution of transfrontier worker tax revenues on both sides of the border stands out as one of the major challenges to such co-operation.

2. The free movement of labour across borders is one of the strengths of European co-operation, all the more important in the light of the fact that a third of Europe's citizens live in border areas. However, like any integration process, the free movement of labour leads to imbalances, particularly in terms of taxation.

3. Council of Europe member States generally apply the OECD rule that the worker pays tax at the place of work. The growth of cross-border working in recent years has highlighted the need for this principle to be accompanied by one of the fair distribution of this revenue, to the benefit of both the place of employment and the place of residence.

4. The European Union has no common policy on this, despite having underlined the desirability of establishing a common principle on cross-border taxation in a Commission Recommendation in 1993. In the absence of a common approach, the adaptation of legal structures to meet the needs of transfrontier working remains the responsibility of the authorities of each country, which has led to a multiplicity of bilateral agreements.

5. In many cases, systems of tax retrocession or financial compensation have been adopted to cover the excess of expenses (such as schools and infrastructure) borne by the place of residence. In other cases, no agreement has been concluded, leaving the local and regional authorities of the places of residence bearing costs much higher than the places of employment.

6. As a result, there are many situations in which the financing of public services in border areas is woefully inadequate as a result of this exclusive collection by the fiscal authority of the country of employment. This can cause serious tensions for the communities concerned and affect their ability to invest because of the budgetary pressure linked to demographic change exacerbated by the labour needs of the neighbouring country.

7. The risk of further aggravation of such unbalanced cross-border development is a challenge for European decision-makers. A line that divides rich and vibrant centres, concentrating jobs and wealth from suburban-dormitories, characterised by the impoverished communities is unsustainable in the long run. The unequal distribution of burdens and the benefits of employment can only weaken interregional links in the European continent and undermine territorial cohesion.

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)10](#), explanatory memorandum), Rapporteur: Karl Heinz LAMBERTZ, Belgium (R, SOC)

8. In this context, it is necessary to deepen and organise the debate on tax policy in cross-border areas, knowing that the place of taxation is less relevant than the need for co-operation and agreement between the authorities concerned, and identifying new solutions to this problem.

9. For this debate to yield results, substantial progress needs to be made to improve the knowledge and understanding of the issue, through extensive research and data gathering, based on common indicators.

10. Reconciling taxpayer expectations with the provision of sufficient resources for tax administrations will require a co-ordinated approach to avoid double taxation and allocate taxing rights on both sides of the borders.

11. In view of the above, the Congress,

*a.* Bearing in mind:

*i.* the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid Convention) of 21 May 1980, and its additional protocols (ETS Nos 106, 159, 169 and 206);

*ii.* Congress Resolution 363 (2013) on prospects for effective transfrontier co-operation in Europe;

*iii.* the report of the Foundation for the Economy and Sustainable Development of the Regions of Europe (FEDRE) on "The fair distribution of taxes and charges in cross-border areas" (December 2018) and the seminar it organised in October 2018 in Geneva, which brought together stakeholders of the targeted area;

*b.* concerned about the problems that local and regional authorities are facing in financing essential public services, including education, kindergartens, social housing and communication infrastructure in certain frontier areas;

*c.* convinced that stronger relations and partnerships between dynamic centres and areas of residence are important preconditions for the construction of virtuous business cycles, environmental performance, territorial cohesion and social sustainability in the Member States of the Council of Europe;

*d.* convinced of the viability of long-term cross-border strategies based on the sharing of the fruits of labour to develop common infrastructures;

*e.* concerned about the dynamics of tax competition between some member States and the need to ensure that certain regions and municipalities remain attractive places to live and work;

*f.* resolved to guarantee the principle of non-discrimination and to avoid double taxation;

*g.* recommends that the Committee of Ministers resolve to address this issue in its future work programme, by conducting a comprehensive survey of the issues concerned, including the need for systematic data collection and the development of common indicators on the intensity and direction of labour flows, demographic trends, community burdens and the consequences of different tax rates;

*h.* recommends that the Committee of Ministers invite the governments of its member States to:

*i.* promote co-development as a common goal, to promote economic growth, and to distribute the resulting tax revenues equitably and to transform them locally into improved quality of life;

*ii.* encourage the local and regional authorities of places of employment of transfrontier workers to contribute to the financing of the local public services used by these workers in their places of residence;

*iii.* support the technical, scientific or linguistic training of their border populations to enable them to make better use of cross-border job opportunities;

*iv.* create the necessary conditions to foster a multilateral tax dialogue in a more collaborative and co-ordinated framework, bringing together all levels of government;

*v.* standardise the conditions under which the charges are taken into account by the budget of the country benefiting from the labour taxation in favour of the territories of residence of the frontier workers (such as a percentage of the gross wages);

vi. harmonise the principles of burden-sharing between the countries which have borne the initial training costs of frontier employees and the countries which collect the labour tax of these employees, without having contributed to the cost of their training;

vii. harmonise the taxation conditions of frontier pensioners by fixing the place of residence, where the costs of aging are borne, as the place of taxation of pensions;

viii. support the development of Local Groupings of Cross-Border Co-operation (GLCTs) as a means of addressing these issues.





37th SESSION

## Local elections in Turkey and Mayoral re-run in Istanbul (31 March and 23 June 2019)

Recommendation 439 (2019)<sup>1</sup>

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

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

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

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

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

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

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

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

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

6. The official election campaign period began only ten days before the Election Day and ended at 18:00 on the day prior to the vote. Stricter regulations, notably with regard to the misuse of administrative resources, applied only during this ten day period. Different rules applied to the Government Ministers and members of Parliament compared to the President of the Republic. The President's presence in the campaigns was unregulated. In the campaign before the 31 March elections his image was prominently displayed.

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

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

9. Opposition parties, vis-à-vis the Congress Delegation, alleged that the Government was ensuring that members of the security forces were added to the voters' lists in various locations, predominantly in Kurdish areas, in an attempt to sway the vote.

10. Although the state of emergency had been lifted since the presidential and parliamentary elections held in June 2018, some of the emergency decrees were still resonating in the larger context of the 2019 local elections with repercussions on various sectors of society, including local self-government in Turkey. Further to the 31 March elections, some successful mayoral candidates were subsequently disqualified from taking office after they had been elected and the second placed candidates were promoted.

11. Legal amendments made in 2018 affected also the conduct of the local elections held in Turkey on 31 March and the mayoral repeat elections in Istanbul on 23 June 2019. This concerned, in particular, new rules according to which only civil servants can become Chairmen or Deputies of Ballot Box Committees (BBC). The required civil servant status of the BBC leadership required by law was decisive for the decision by the Supreme Election Council (SEC) to repeat the election in Istanbul.

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

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

14. The Constitution of Turkey generally provides for the right to freedom of expression, but also allows relatively broad restrictions on media in accordance with Anti-Terror and Internet Laws, as well as the Criminal Code containing extensive defamation provisions for offending the nation and the State, public officials and the President. This created an overall oppressive atmosphere for critics of the Government and critical journalists also in the context of the 2019 local elections.

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

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

*a.* enhance clarity of election legislation and harmonise all election-related laws in order to provide a cohesive framework for elections;

*b.* remove overly restrictive limitations of freedoms of association, assembly and expression in order to re-establish an environment fully conducive to genuinely democratic elections in line with Turkey's international commitments;

*c.* revise 2018 legal amendments affecting the conduct of elections, in particular the regulation on the status of civil servant required for Presidents and Deputies of Ballot Box Committees in the light of Opinion 926(2018) of the Council of Europe Venice Commission;

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

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

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

*g.* step-up training of members of Ballot Box Committees, including those nominated by political parties, on the electoral legislation and Election Day procedures as well as on the role and importance of domestic and international election observers present in the polling station;

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

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

*j.* pay further attention to the accuracy of voters' lists in line with Congress Resolution 378(2015);

*k.* pay attention also to the voting rights of migrants and IDPs in line with Congress Resolution 431(2018);

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

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

*n.* improve regulations on party and campaign financing, e.g. through setting a campaign expenditure ceiling, and introduce an effective oversight mechanism to ensure transparency, integrity and accountability, as recommended by the Council of Europe's Group of States against Corruption (GRECO);

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

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

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

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

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

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

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

## 37th SESSION

# Local and regional democracy in the Russian Federation

Recommendation 440 (2019)<sup>1</sup>

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:
  - a. Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;
  - b. Article 2, paragraph 3, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that “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”;
  - c. Chapter XVII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;
  - d. The guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;
  - e. Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;
  - f. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;
  - g. Congress Recommendation 297 (2010) on local and regional democracy in the Russian Federation;
  - h. the explanatory memorandum on local and regional democracy in the Russian Federation.
2. The Congress points out that:
  - a. the Russian Federation joined the Council of Europe on 28 February 1996. It signed the European Charter of Local Self-Government (hereafter “the Charter”) on 28 February 1996 and ratified it in full on 5 May 1998, with entry into force on 1 September 1998;
  - b. the Russian Federation has not signed 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. 207);

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<sup>1</sup> Debated and adopted by the Congress on 30 October 2019, 2nd sitting (see Document [CG37\(2019\)11](#), explanatory memorandum), co-rapporteurs: Jakob WIENEN, Netherlands (L, EPP/CCE) and Stewart DICKSON, United Kingdom (R, ILDG).

c. the state of local and regional democracy in the Russian Federation was the subject of a Congress monitoring report in 2010. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (Monitoring Committee) decided to examine the situation of local and regional democracy in Russia in the light of the Charter. It instructed Mr Jakob WIENEN (Netherlands, EPP/CCE) and Mr Stewart DICKSON (United Kingdom, ILDG) as co-rapporteurs to update the above-mentioned report on local and regional democracy in Russian Federation and submit it to the Congress. The delegation was assisted by Professor Dr Nikolaos-Komninos CHLEPAS, member of the Group of Independent Experts on the European Charter of Local Self-Government and by the Congress Secretariat;

d. the monitoring visit took place in two parts, from 23 to 25 October 2018 and from 5 to 7 March 2019 respectively. During both visits, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programmes of both visits are appended to the present report;

e. the co-rapporteurs wish to thank the Permanent Representation of the Russian Federation to the Council of Europe and all those whom they met during the visit for their readiness to assist the delegation and for the information they provided.

3. the Congress notes with satisfaction that in the Russian Federation:

a. the principle of local self-government is recognised both in the Constitution of the Russian Federation and in ordinary legislation;

b. the Constitutional Court of the Russian Federation applies the Charter's provisions in its case-law;

c. the legislation provides for a great variety of instruments of citizens' participation in local public affairs, such as public hearings and participatory budgeting, local referendums, councils of elders;

d. some positive changes have been introduced in response to Congress Recommendation 297 (2010) on local and regional democracy in the Russian Federation, such as the reduction of minimum numbers of members for registration of political parties, the registration of candidates supported by associations and groups and the re-introduction of direct election of governors in most of the federal subjects of the Russian Federation;

e. the respect of cultural and educational rights of different ethno-linguistic groups at regional and local levels in the Republics of Tatarstan and Chuvash could serve as an example of good practice with regard to preserving and protecting cultural diversity.

4. However, the Congress expresses its concern regarding:

a. the limited freedom of independent and opposition candidates to stand for local and regional elections, as a result of legal requirements for candidates to gather a considerable number of signatures in support of their candidatures and the introduction of a "municipal filter" of candidatures (i.e. endorsement by municipal councillors) at the level of federal subjects (Article 3.1-3.2);

b. a low share of public affairs under the own responsibility of local self-government, and a particularly problematic situation with Moscow municipalities which are deprived of basic functions and resources (Article 3.1);

c. the legal ability of governors to substitute mayoral direct elections with the system of appointment of heads of municipality which curtails the electoral right of residents and the disproportional role of governors in this process (through appointing 50% of selection board members) which undermines the political autonomy of local authorities (Articles 3.1, 3.2 and 7);

d. unclear division of competences and their sharing by several levels of government that causes overlapping of responsibilities and limits the local authorities' discretion to exercise their initiatives (Articles 4.2, 4.4);

e. upscaling of competences of communities, in particular of rural settlements and Moscow municipalities, to higher levels of government authorised on the basis of federal and *ad-hoc* regional legislations which has resulted, inter alia, in a multiple asymmetry between municipalities of the same type in different regions, the erosion of the core competence of rural communities in violation of the subsidiarity principle and the degradation of quality of service they can deliver in the interest of their citizens (Article 3.1, 4.3 and 4.4);

f. disproportional delegation of tasks to local authorities to the detriment of their own functions and local authorities' limited discretion to adapt the exercise of delegated powers to local conditions because of partial delegation of power with partial funding from a higher-level authority (Article 4.5, 9.2.);

g. the insufficient use in practice of existing mechanisms and procedures of consultation by some constituent entities (Article 4.6), notably on the allocation of redistributed resources (Article 9.6) and on the changes of local authorities' boundaries (Article 5);

h. the right of regions to determine internal administrative structures of local authorities which, in several regions, considerably restricts local organisational autonomy (Article 6.1);

i. the right of governors to dismiss mayors which undermines the principle of free exercise of functions by local elected representatives (Article 7.1);

j. the absence of a comprehensive and transparent system of administrative supervision and the risk of disproportional use by the Prosecutor's office of anti-corruption verification as a kind of a priori control over local authorities' decisions (Article 8.3);

k. inadequate financial resources available to local authorities, notably municipalities in Moscow city and rural areas (Article 9.1) and the tendency in some regions towards transferring to local authorities delegated tasks without commensurate funding (Article 9. 2).

5. In light of the above, the Congress requests that the Committee of Ministers invite the authorities of the Russian Federation to:

a. abolish the legal provision requiring considerable numbers of signatures as a precondition for registration of candidates and the "municipal filter" for candidatures at the level of constituent entities in order to guarantee equal access to electoral rights to independent and opposition candidates;

b. increase share local authorities' notably in Moscow and Saint Petersburg, in the regulation and management of public affairs;

c. amend the legislation to guarantee mayoral elections by voters;

*d.* clarify the delimitation of competences based on the subsidiarity principle and depart from the principle of shared competences so as to avoid overlapping of responsibilities and to enable local authorities to carry out all the functions assigned to them, especially in smaller settlements;

*e.* remove the legal provisions allowing for upscaling of municipal competences to guarantee local autonomy in the sphere of local government responsibility and consider, where necessary, an alternative of inter-municipal co-operation;

*f.* refrain from overloading the local level with those delegated tasks which can be better performed at the higher level of governance;

*g.* implement the existing legislative provisions on consultation of local authorities on all issues that concern them directly to ensure the conformity of the practice of consultation with Article 4.6, as well as Article 5 on boundary changes, notably when “town districts” are established in rural areas;

*h.* review the legislation to empower local authorities with the right to determine internal structures and to adapt them to local needs for effective management;

*i.* remove the legal provisions providing for dismissal of mayors by governors;

*j.* establish a comprehensive transparent system of administrative supervision, which may vary according to the different constituent entities of the Russian Federation, and clarify per law the limits of the anti-corruption control by Prosecutors in a way that will also ensure compliance with the principle of proportionality;

*k.* ensure that local authorities, notably municipalities in Moscow city and rural areas, dispose of adequate financial resources of their own and accompany the transfer to delegated tasks from higher level government by concomitant funding thus implementing the commensurability principle in practice;

*l.* further develop relevant legislation, notably on budgetary issues, mutual financing and privatisation to encourage the implementation in practice of independent initiatives of inter-municipal co-operation;

*m.* consider the possibility of creating an association of regions which would seek to promote the regional corporate interests in addition to representation of each region in the Federation Council;

*n.* sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

6. The Congress calls on the Committee of Ministers and the Parliamentary Assembly of the Council of Europe to take account of this recommendation on local and regional democracy in the Russian Federation and its explanatory memorandum in their activities relating to this member State.



## 37th SESSION

# The use of languages by local and regional authorities

Recommendation 441 (2019) <sup>1</sup>

1. The use of languages by local and regional authorities, and what they perceive to be undue restrictions on this use by central authorities, is an issue that has featured in several complaints that the Congress has received, in the course of its work in monitoring the implementation of the European Charter of Local Self-Government.

2. Given the importance of language for culture, communication and identity, the growing diversity of Europe's societies, spurred on by increasing mobility, migration and freedom of movement, presents a growing challenge for local and regional authorities in the conduct of their affairs.

3. For more than twenty years, the Congress has been working to support and sustain regional and minority languages, to improve mutual understanding, based on the principles of democratic participation, cultural diversity and social cohesion. In its 2017-2020 priorities, it reaffirms its commitment to this work.

4. Mindful of Article 4, paragraph 2 of the European Charter of Local Self-Government, namely that local authorities should have the right to exercise their initiative on any matter not excluded from their competence, the Congress believes that territorial authorities should be free to decide what languages to make use of in the conduct of their affairs and the provision of public services, and that language should not serve as a barrier or be used as a weapon, but rather serve as a tool for communication.

5. The Congress believes that linguistic diversity is an asset for Europe's towns and regions, to be valued and enhanced for the benefit of all, and that this will contribute to greater social cohesion and mutual understanding between language minority speakers and speakers of the official language(s).

6. Article 10 of the Council of Europe's European Charter for Regional or Minority Languages (ETS No. 148) provides valuable guidance for the use of regional or minority languages by local and regional authorities in public life, which deserve the attention of all local and regional authorities, irrespective of whether their national governments are Parties to the Charter.

7. The Congress therefore,

a. bearing in mind:

i. the Congress reports and recommendations adopted in the course of its work to oversee the implantation of the European Charter of Local Self-Government;

ii. the European Charter for Regional or Minority Languages (ETS No. 148);

iii. the Framework Convention for the Protection of National Minorities (ETS No.157);

iv. Congress Recommendation 286 (2010) and Resolution 301 (2010) - Minority languages: an asset for regional development;

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<sup>1</sup> Debated and adopted by the Congress on 31 October 2019, 3rd sitting (see Document [CG37\(2019\)17](#), explanatory Memorandum), Rapporteur: Andrew DAWSON, United Kingdom (R, ECR)

v. Congress Recommendation 410 (2017) and Resolution 424 (2017) on Regional and minority languages in Europe today;

b. Calls on member States of the Council of Europe to ratify the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities, if they have not yet done so;

c. Calls on member States of the Council of Europe to encourage and assist local and regional authorities to:

i. undertake detailed language assessments of the language needs of their citizens and other persons who use their public services;

ii. provide services to all linguistic minorities to ensure adequate access to public services and democratic bodies, as far as is reasonably possible;

iii. take inspiration from Article 10 of the European Charter for Regional or Minority Languages, in the conduct of their business and the provision of public services and to apply these provisions to all linguistic minorities on their territories, as far as is reasonably possible;

iv. where possible provide specific earmarked financial resources for provision of services in languages other than the official languages;

v. provide language training and recruit officials competent in the relevant languages;

vi. provide information about political rights and electoral information in the relevant languages;

vii. provide information about public services, such as health, education, employment services, unemployment benefits, in the relevant languages;

viii. provide information on taxes in the relevant languages;

ix. provide information on sanctions (such as local transport fines) in the relevant languages;

x. provide interpretation services to facilitate the participation of minority language speakers in local and regional council meetings;

xi. provide warning and security signs in the relevant languages;

d. Calls on member States of the Council of Europe to encourage the States Parties to the two aforementioned treaties to:

i. assess the gaps between their treaty obligations and the implementation in practice;

ii. avoid high numerical thresholds, ensure clear and consistent criteria;

iii. encourage the use of place-names in the relevant languages.

## 37th SESSION

# Local and regional democracy in Bosnia and Herzegovina

Recommendation 442 (2019)<sup>1</sup>

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 2, paragraph 3, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that “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”;

c. Chapter XVII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

d. the Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;

e. Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;

f. Congress Recommendation 324 (2012) on local and regional democracy in Bosnia and Herzegovina, Congress Recommendation 356 (2014) and Congress Resolution 369 (2014) on post-monitoring of local and regional democracy in Bosnia and Herzegovina;

g. the explanatory memorandum on local and regional democracy in Bosnia and Herzegovina.

2. The Congress points out that:

a. Bosnia and Herzegovina joined the Council of Europe on 24 April 2002 and signed and ratified the European Charter of Local Self-Government (hereinafter "the Charter") in full on 12 July 2002. The Charter entered into force in respect of Bosnia and Herzegovina on 1 November 2002;

b. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (hereinafter referred to as the Monitoring Committee) decided to examine the situation of local and regional democracy in Bosnia and Herzegovina. It instructed Ms Lelia HUNZIKER (Switzerland, SOC) and Ms Carla DEJONGHE (Belgium, ILDG), with the task of preparing and submitting to the Congress a report on local and regional democracy in Bosnia and Herzegovina. The delegation was assisted by Prof. Jens WOELK, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

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<sup>1</sup> Debated and adopted by the Congress on 31 October 2019, 1st sitting (see Document [CG37\(2019\)18](#), explanatory memorandum), co-rapporteurs: Lelia HUNZIKER, Switzerland (L, SOC) and Carla DEJONGHE, Belgium (R, ILDG).

c. The monitoring visit took place in two parts, from 20 to 22 November 2018 and from 19 to 21 February 2019, respectively. During the visit, the Congress delegation met the representatives of various institutions at all levels of government in Bosnia and Herzegovina. The detailed programme of both parts of the visit is appended to the explanatory memorandum;

d. The rapporteurs, aware of the specificity of the constitutional structure of Bosnia and Herzegovina, underline that the commitments entered into under the European Charter of Local Self-Government legally bind the State, but it is also and primarily the two Entities' (Federation of Bosnia and Herzegovina and Republika Srpska), and cantons' responsibility to ensure the Charter's implementation according to the distribution of competences regarding local government. The recommendations will therefore be addressed to Bosnia and Herzegovina as a member State of the Council of Europe, but the implementation thereof will also be a matter for the Entities and cantons;

e. The rapporteurs wish to thank the Permanent Representation of Bosnia and Herzegovina to the Council of Europe and all those whom they met during the visit.

3. The Congress notes with satisfaction that in Bosnia and Herzegovina:

a. local authorities enjoy freedom of association to promote and defend their interests;

b. sub-state authorities actively engage in international cross-border co-operation.

4. The Congress regrets, however, the little progress made in implementing its Recommendation (324) 2012 on local and regional democracy in Bosnia and Herzegovina and Recommendation 356 (2014) on Post-monitoring of local and regional democracy in Bosnia and Herzegovina. It expresses its particular concerns on the following issues:

a. the lack of progress in the implementation of the constitutional reforms at all levels of government which would aim to improve the system of local self-government throughout the country, as a consequence of a continuous political deadlock and rigidity of political system divided along ethnic lines;

b. the situation with local elections in Mostar which remains an important unresolved issue, depriving city residents of the right to choose their representatives at the local level (Article 3.2);

c. the lack of clarity in the assignment of responsibilities among various levels of government, combined with the non-respect of the principle of subsidiarity, notably in the Federation of Bosnia and Herzegovina as regards cantons and municipalities (Articles 4.2 - 4.4) which leads to overlapping of competences and the lack of accountability for task performance;

d. the shortcomings in the practice of consultation with local authorities on all matters that concern them directly, including on financial issues and relevant reforms (Article 4.6, 9.6);

e. the capping of employment at local level in Republika Srpska which limits local authorities' capacity to take into account local circumstances and administrative efficiency when organising own administrative structures and delivering services (Article 6.1);

f. financial resources of local authorities appear inadequate, undiversified and not commensurate with their responsibilities, and the tasks are delegated without concomitant funding (Article 9.1, 9.2, 9.4);

g. inefficiency of the equalisation systems which fail to smooth out economic disparities between rural and urban areas (Article 9.5);

h. local authorities' powers with respect to local taxes are relatively low to enable them to better balance and plan their budgets (Article 9.3);

i. although the local authorities have the right of recourse to judicial remedy, the non-implementation of constitutional court judgements in Bosnia and Herzegovina, including on local issues, undermines the effective enjoyment of this right;

*j.* the legislation does not sufficiently take account of a very specific situation of the city of Sarajevo (being capital of the State, the Federation of Bosnia and Herzegovina and Sarajevo Canton) and of Banja Luka (*de facto* capital of Republika Srpska but without special status) which curtails their authorities' capacity to fulfil the additional functions of capital cities legally and in practice;

*k.* the lack of inter-entity co-ordination and relevant institutional framework which is not conducive to strengthening co-operation between municipalities along the Inter-Entity Boundary Line;

*l.* local authorities in BiH work under a permanent electoral campaign with different kind of elections being held every two years which reduces the efficiency of their actions due to the political system divided along ethnic lines and the inflammatory rhetoric used which detracts from concrete local government issues.

5. In light of the foregoing, the Congress reiterates most of its previous recommendations from 2012 and 2014 and recommends that the Committee of Ministers invite the authorities of Bosnia and Herzegovina to:

*a.* introduce in the BiH Constitution the principle of local self-government to ensure the uniform respect of a minimum standard, at least, of local self-government throughout the country;

*b.* enhance the political dialogue with relevant authorities of all levels of governance involved to find a workable solution to resolve the electoral impasse in Mostar so that the city residents could vote in the next local elections, scheduled for October 2020;

*c.* revise the legislation to avoid overlapping of competences and ensure that the subsidiarity principle is applied in practice and, specifically in the Federation of Bosnia and Herzegovina, align the cantonal legislation with the Federal law on principles of local self-government;

*d.* ensure systematic consultation in practice on all matters that concern local authorities, notably financial resources and local self-government reforms, and consider the establishment, in the Federation of Bosnia and Herzegovina, of a Ministry for Local Self-Government as a federal institution and relevant interlocutor for all issues concerning local government;

*e.* revise, in consultation with the RS Association of Local Authorities, the legal prescription of capping the municipal employment in Republika Srpska so that local authorities have more discretion and flexibility to deal with overstaffing and to guarantee cost-efficient municipal administration, without being limited in their organisational autonomy;

*f.* revise the legislation on local finances to ensure that local authorities dispose of adequate and commensurate financial resources and ensure the transfer of delegated competences to lower levels of government are accompanied by concomitant financial resources;

*g.* review the currently used formula and distribution criteria in the equalisation systems to adjust them to a rapidly changing context by taking into consideration current demographic trends;

*h.* increase the local authorities' powers to decide on local sources of revenue to diversify them and strengthen local fiscal autonomy, notably of smaller municipalities (9.3, 9.5);

*i.* introduce necessary constitutional and legislative changes so that the specific situation of Sarajevo and Banja Luka, in terms of their status and competences, is duly taken into account in legislation and ensured in practice, to facilitate fulfilling the additional functions as capitals;

*j.* guarantee the implementation of the constitutional courts' decisions in general and on local self-government specifically, notably in the Federation of Bosnia and Herzegovina, to ensure the effectiveness of legal protection of local autonomy;

*k.* support and promote inter-municipal co-operation and the joint delivery of public services, notably across the Inter-Entity Boundary Line, and ensure that it is based upon legal guarantees;

*l.* consider grouping together the elections of a local nature (local elections and elections to Cantonal Assemblies) in line with Congress Recommendation 432 (2019) on the elections of the Cantonal Assemblies in the Federation of Bosnia and Herzegovina (7 October 2018);

*m.* consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

6. The Congress calls on the Committee of Ministers to take account of this recommendation on local and regional democracy in Bosnia and Herzegovina and the accompanying explanatory memorandum in its activities relating to this member State.

## 37th SESSION

# Verification of new members' credentials

### Resolution 445 (2019)<sup>1</sup>

1. In compliance with the Congress' Charter and *Rules and Procedures*, the countries listed hereafter have changed the composition of their delegation due to either the loss of mandate or the resignation of some members of the delegations of: Albania, Armenia, Austria, Belgium, Denmark, Germany, Ireland, Italy, Liechtenstein, Malta, Netherlands, North Macedonia, Poland, Russian Federation, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom.

2. At present there are 12 representative seats and 23 substitute seats vacant out of a total of 648 seats. The countries concerned – Belgium, Bosnia and Herzegovina, Denmark, France, Germany, Ireland, Italy, Malta, North Macedonia, Poland, Portugal, Romania, Russian Federation, Spain, Switzerland, United Kingdom – are invited to complete their delegation.

3. The rapporteurs on the verification of credentials propose that the Congress approve the credentials of the members of the national delegations appended to this resolution.<sup>2</sup>

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)02](#)), Rapporteur: Michail ANGELOPOULOS, Greece (L, EPP/CCE).

<sup>2</sup> Due to its size, the appendix to this resolution is not reproduced here. It is available online.





37th SESSION

## Request for Partner for Local Democracy status submitted by the Republic of Tunisia

Resolution 446 (2019)<sup>1</sup>

The Congress:

1. referring to its [Resolution 376\(2014\)](#) on the creation of the Partner for Local Democracy status in order to formalise relations between the Congress and the political authorities in the neighbouring countries, including the local and regional authorities and their representative associations;

2. considering:

a. the formal request for the status of Partner for Local Democracy, addressed on 6 May 2019 to the President of the Congress by the Minister of Local Affairs and the Environment of Tunisia and the President of the National Federation of Tunisian Towns (FNVT), in accordance with the procedure referred to in Rule 68 of the [Rules and Procedures of the Congress](#);

b. the participation of Tunisia in co-operation activities with the Council of Europe in the framework of the Neighbourhood Partnership since 2012;

c. the participation of Tunisia in several Council of Europe conventions and partial agreements;

3. decides:

a. to grant the Republic of Tunisia the status of Partner for Local Democracy in accordance with the forms and conditions of participation referred to in Rule 68.9 of the Rules and Procedures of the Congress;

b. to allocate 4 representative and 4 substitute seats to the delegation from Tunisia;

c. to invite Tunisia to appoint a Partner for Local Democracy delegation to be composed in accordance with Rule 68.8 of the Rules and Procedures of the Congress;

d. that the provisions of this resolution shall come into force with immediate effect.

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)06](#)), Congress Spokespersons on the South-Mediterranean Partnership: Piero FASSINO, Italy (L, SOC) and Constance DE PELICHY, France (L, EPP/CCE).



**37th SESSION**

## **Revision of the Congress Rules and Procedures**

Resolution 447 (2019)<sup>1</sup>

1. The rapporteurs on the Rules and Procedures propose several modifications aimed at improving the clarity and transparency of the Congress Rules and Procedures.
2. The Congress adopts the proposed changes to the Rules and Procedures, as appended, which will be incorporated into the Rules and Procedures of the Congress and enter into effect immediately after adoption.

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)20](#)), co-rapporteurs : Liisa ANSALA, Finland (L, ILDG), Harald SONDEREGGER, Austria (R, EPP/CCE), Tamar TALIASHVILI, Georgia (R, SOC).

## Revisions of the Congress *Rules and Procedures*

### DEFINITIONS

**“representative”** means a delegate nominated as a representative (as opposed to “substitute”) by a member State in its national delegation. A representative is a full member of the plenary, of a chamber and of a committee;

### CHAPTER II – MEMBERSHIP OF THE CONGRESS AND ITS CHAMBERS

#### Rule 1 – Appointment of national delegations [...]

2. The Bureau of the Congress must examine each official procedure (or modification) submitted to the Secretary General of the Council of Europe and must report to the Congress, in the resolution on verification of credentials and official procedures, as to whether it meets the requirements set out in Articles [...] of the Charter as well as in these Rules.

#### Rule 3 – Term of office and general qualifications for membership

(new 4.) The partial renewal of a delegation must reflect the latest election results at the relevant local or regional level in accordance with Rule 3.7. These results should be communicated to the Congress secretariat at the same time as the list of new members. Members who have not lost their domestic mandate remain members of the Congress.

6. Where a member State wishes to nominate a delegate who does not hold a specific local or regional authority mandate resulting from direct elections but who is politically responsible to a directly elected assembly and who can be individually dismissed, it must bring this to the attention of the Secretary General of the Congress and must specify the offices and conditions of dismissal of the delegate concerned. In order to be accepted, each mandate must be included in the reference list of mandates. This is the list of all local and regional mandates which are considered to be in accordance with the Congress’ rules on delegations and is regularly updated by the Bureau of the Congress. [...]

#### Rule 5 – Representatives and substitutes

*[Paragraph 6 is deleted.]*

#### Rule 8 – Honorary membership

1. Upon request by a member of the Bureau of the Congress, a head of a national delegation or a president of a political group, the Bureau may confer the title of honorary member upon former delegates to the Congress or its predecessor bodies who have shown outstanding commitment to the Congress and have been:

- a. President of the Congress or president of a chamber; or
- b. vice-president of the Congress for at least two full mandates; or
- c. chair of a committee or president of a political group or for at least two full mandates; or
- d. a member for at least fifteen years (not necessarily consecutively).

(new 2.) Upon proposal of the President of the Congress and the presidents of the two chambers, the Bureau may confer the title of honorary member upon a former delegate who has served for at least one mandate and in that time has made an exceptional contribution to the Congress.

## **CHAPTER V – PRESIDENCY OF THE CONGRESS AND CHAMBERS**

### **Rule 14 – Entitlement to stand for presidencies and vice-presidencies**

1. Candidates for the posts of President of the Congress or president or vice-presidents of either chamber must be representatives to the Congress. Substitutes may not be candidates for these posts.

### **Rule 15 – Election procedures**

6. Where there is more than one candidate, the Congress or chamber votes by secret ballot which may be electronically. In the case of a non-electronic secret ballot, two tellers per ballot box, chosen by lot, are to observe the counting of the votes cast. If no candidate receives more than half of the votes cast, an additional round or rounds shall take place until one candidate has achieved more than half of the votes cast. At each round the candidate who has received the least number of votes shall be eliminated. In the event of a tie between several candidates in the final round, lots shall be drawn.

9. If more than one representative from the same national delegation is a candidate to be vice-president of the same chamber, only the one with the highest number of votes can be declared elected. In the event of a tie between several candidates, lots shall be drawn.

### **Rule 16 – Term of office**

(new 5.) An outgoing President of the Congress can participate in the Bureau and Statutory Forum, without voting rights, during the Bureau mandate which immediately follows his or her term of office.

6. Where there is more than one vacant position of vice-president in the same chamber to be filled, election takes place in accordance with Rule 15.6. In the event of a tie between several candidates in the final round, lots shall be drawn.

## **CHAPTER VI – BUREAUX OF THE CONGRESS AND CHAMBERS**

### **Rule 18 – Constitution of the bureaux**

1. No member of the Bureau of the Congress may at the same time:

- a. be the president or the 1st vice-president of a political group;
- b. be a chair or 1st vice-chair of a committee; or
- c. act as rapporteur or head of a delegation during election observation exercises.

3. The outgoing President of the Congress, the presidents of the political groups and the chairs of the committees participate in the meetings of the Bureau of the Congress without voting rights. Chairs of committees may be replaced at such meetings by the 1st vice-chair of the committee concerned. Presidents of political groups may be replaced by their 1st vice-president, subject to the limitation set forth in Rule 12.4.

### **Rule 19 – Bureau procedure**

3. The Secretariat of the Congress draws up the agendas which are submitted to the bureaux for adoption. The draft agenda of a bureau meeting and all documents related to items on the agenda must be made available to participants in the bureau at least seven days before the date of the meeting. An item may be considered if this deadline has not been met, provided that more than half of the members of the bureau present agree.

7. Except for the President and the chamber presidents, who may be accompanied by two advisors, Bureau members and participants<sup>2</sup> may be accompanied to bureau meetings by no more than one advisor who must not be under the authority of any national government for the purposes of this work. If a Bureau member or participant is unable to participate in a meeting, their advisor may attend the meeting without the right to speak.

#### **(new Rule 21) – Appointment and duties of Bureau rapporteurs**

The Bureau must appoint, from among its members, two co-rapporteurs for each report it wishes to bring before the Congress for examination. Rule 54 applies to these rapporteurs.

### **CHAPTER VIII – PROCEDURE DURING SESSIONS**

#### **Rule 23 – Agreement of agenda**

1. The Bureau of the Congress, upon the proposal of a draft drawn up by the Secretariat, approves a draft sessional agenda for each session, coordinating the chambers' sittings in accordance with Article 9 of the Charter.

(new 6.) Reports under Rules 24.3, 102.2 and 103.1 must be included on the agenda and made available to delegates at least 30 days before the first sitting of the session at which they are to be considered.

#### **Rule 30 – Speaking arrangements**

5. The order of deliberations in the debate on a draft text is: presentation by the rapporteur or co-rapporteurs, opening of debate to the floor, reply of rapporteur or co-rapporteurs to the debate, close of the debate (and vote on amendments, if any, followed by vote on the text, possibly amended).

6. Speaking time for delegates is limited as follows:

- a. Single rapporteurs presenting reports: 10 minutes;
- b. Co-rapporteurs presenting reports: six minutes each;
- c. Single rapporteurs replying to debates: five minutes;
- d. Co-rapporteurs replying to debates: three minutes each;
- e. Chairs of committees replying to debates (at their request): three minutes;
- f. Other speakers (except on personal statements; on setting the agenda; on any procedural question or on amendments): three minutes;
- g. Speakers on personal statements; on setting the agenda; on any procedural question or on amendments or sub-amendments: one minute.

7. Depending on the available time, the president may decide that speaking time will be reduced or that not all those who have entered their name on the speakers' list may speak. In case not all speakers may speak, the president should allocate the speaking time according to a fixed procedure that reflects the size of political and national groups and delegations in a fair manner.

#### **Rule 31 – Voting arrangements**

2. [...] Votes are decided by electronic voting or, if this is not possible:
- c. by roll-call, if one-sixth of the delegates present and entitled to vote request this, or the president so decides (if necessary having ascertained whether a quorum is present).

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<sup>2</sup> Presidents of the political groups, chairs of the committees and outgoing President of the Congress.

### **Rule 33<sup>3</sup> – Quorum**

1. Business may be transacted whatever the number of delegates present who are entitled to vote, but a vote by standing or by roll call is not valid unless one sixth of those present and entitled to vote take part.

### **Rule 34<sup>4</sup> – Amendments and sub-amendments**

11. During the course of a debate oral amendments as an alternative to previously tabled amendments may only be proposed by the rapporteur(s). During examination of the oral amendment only the following may speak: one rapporteur and one speaker against.

### **Rule 40 – Provisional President**

1. When a President of the Congress is to be elected at a session which is not a renewal session, the outgoing President presides until the results of the election have been announced.<sup>5</sup>

5. A provisional president must leave the chair as soon as the results have been announced and the newly-elected president is ready to preside.

## **CHAPTER X – COMMITTEES**

### **Rule 43 – Constitution and role of committees**

2. The terms of reference, detailing the responsibilities and role of these committees must be approved by the Bureau and adopted by the Congress. The work programme of each committee must be adopted by the Bureau.

### **Rule 44 – Setting up of other committees**

2. The terms of reference detailing the responsibilities and role of such committees must be approved by the Bureau and adopted by the Congress. The work programme of these committees must be adopted by the Bureau.

### **Rule 46 – Membership of committees**

2. A representative may be assigned a seat on only one committee except in the case of national delegations where the number of representatives is less than the number of committees. The appointments shall be notified to the Congress secretariat by the head or secretary of the national delegations..

3. Where a delegation does not assign representatives to committees, individual representatives of the delegation may ask the President of the Congress for permission to participate as a representative on an ad hoc basis in a committee of their choice until such a time as their national delegation has distributed its seats.

4. Each national delegation must assign substitutes to replace the representatives for each committee. The number of substitutes so assigned must be the same as the number of representatives which that delegation appoints to the committee. A substitute in a delegation may be assigned as a substitute to only one committee except in the case of national delegations where the number of representatives is less than the number of committees.

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3 Rules 25, 29, 32-34 and 38-39 on procedure during Congress sessions apply to each chamber *mutatis mutandis*.

4 Rules 25, 29, 32-34 and 38-39 on procedure during Congress sessions apply to each chamber *mutatis mutandis*.

5 This applies to chambers and committees, unless the outgoing president is candidate for the Presidency of the Congress in which case the vice-president or vice-chair who is next in order of precedence – and who is not a candidate for elections in that chamber or committee – shall preside.

5. If a representative of a committee is not able to attend a meeting of a committee, he or she must notify the secretariat of his or her national delegation who must:
  - a. appoint one of the committee's substitutes for the whole of the meeting; and
  - b. immediately inform the committee secretariat.
6. The substitute:
  - a. must come from the same national delegation;
  - b. exercises the same powers as the representative he or she replaces for the period of the replacement (except that if he or she replaces the chair or vice-chair of a committee, he or she may not perform any of the functions exercised by the chair or vice-chair by virtue of those offices).
7. All representatives of a committee may participate in all committee proceedings and have unrestricted voting rights

#### **Rule 47 – Election of chairs and vice-chairs of committees**

1. Every committee must elect from among its representatives a chair, as well as a 1st, 2nd, 3rd, 4th and 5th vice-chair.
 

(new 2.) These elections must take place during the opening sitting of the renewal session, and at the opening sitting of the session taking place two years after a renewal session. Every representative of the committee, or duly mandated substitute, is entitled to vote in these elections.
2. Nominations for the elections provided for under Rule 47.1 must be sent to the Secretary of the committee not later than 18.00 on the day before the meeting at which the election is to take place.
 

(new 5.) The committee shall first vote for its chair, by a secret, uninominal ballot (which may be held electronically) and immediately after this election shall vote for its 1st vice-chair under the same procedure.
4. Where there is one candidate to be chair or 1st vice-chair, he or she is declared chair or 1st vice-chair without proceeding to a ballot unless a ballot is requested by at least 10 representatives from at least four national delegations or their duly designated substitutes in accordance with Rule 46.4. Where a ballot is requested, it shall be held immediately, be secret and provide for votes in favour, votes against and abstentions.
5. Where there is more than one candidate, the decision is made by secret ballot, which may be electronically. In the case of a non-electronic secret ballot, two tellers per ballot box, chosen by lot, are to observe the counting of the votes cast. If no candidate receives more than half of the votes cast, an additional round or rounds shall take place until one candidate has achieved more than half of the votes cast. At each round the candidate who has received the least number of votes shall be eliminated. In the event of a tie between several candidates in the final round, lots shall be drawn.
7. As soon as a committee has elected its first vice-chair, it must elect by secret ballot, its remaining four vice-chairs. An election must take place even if there are fewer than four candidates. A committee member may vote for up to four candidates but must vote for at least three, using a single ballot paper. The four remaining vice-chairs are to be declared elected in order of precedence according to the number of votes each receives, except that no candidate may be declared elected 4th or 5th vice-chair if four persons of the same gender as that candidate have already been elected as chair or vice-chairs of that committee.
10. No chair of a committee may at the same time:
  - a. be a member of the Bureau of the Congress;
  - b. be the president of a political group; or
  - c. act as rapporteur in a monitoring exercise or head of delegation for an election observation.



### **Rule 49 – Time, frequency and nature of meetings**

3. Committee meetings are public, though the committees may decide, on an ad hoc basis, whether a meeting or part of it is to be held *in camera*. Committees may hold hearings which are open to all members, the public and the press.

### **Rule 52 – Voting and quorum**

2. The quorum of a committee is one sixth of the number of representatives present.

### **Rule 53 – Procedure**

3. When the chair of a committee is to be elected at a non-renewal session the outgoing chair presides until the results have been announced and the newly elected chair is ready to preside. (See Rule 40.1)

4. Until the chair of a committee is elected during a renewal session, the duties of the chair are discharged by the oldest representative present, and no discussion may take place unless it is concerned with the election of the chair.

### **Rule 54 – Appointment and duties of rapporteurs**

1. [...] Co-rapporteurs appointed for thematic reports where it is necessary to reflect both the local and regional dimensions of the issue should, as far as possible, be from:

- a. different chambers;
- b. different national delegations.

3. Any representative of a committee, or substitute duly assigned to that committee, may present his or her candidature for the position of rapporteur on a given subject to the secretariat of the committee for the attention of the chair. The chair of the committee shall verify the conformity of the candidates' profile to ensure that there is a fair distribution of rapporteurships between the two chambers, the political groups and non-affiliated members, genders and national delegations. The chair shall notify the appointments to the committee at its next meeting.

(new 4.) Upon express derogation by the chair of the committee, a representative who is not a member of the committee may be appointed rapporteur.

7. A rapporteur is responsible for the preparation and presentation of his or her report for approval by the committee and for adoption by the Congress or a chamber or the Statutory Forum between two sessions.

### **Rule 55 – Reports from committees**

1. The terms of reference of all reports to be prepared by a committee, with the exception of reports following election observations and electoral assessments missions or for fact-finding missions, shall be agreed upon by the committee prior to presentation to the Bureau of the Congress for its approval. The terms of reference shall specify whether the report is for adoption or for information and whether it will be examined in the plenary or the chambers.

(new 2.) Terms of reference shall also include the political objective, the relevance to the priorities of the Council of Europe and the Congress, proposed follow-up after adoption or approval, as well as the timeline and implementation requirements of the report.

2. The final report of a committee must comprise one or more draft texts and an explanatory memorandum, except in the case of reports provided for under Rule 55.9.

7. Committees may present information or interim reports which do not contain a draft text for the attention of the Congress or a chamber.

## **Rule 56 – Common positions**

4. It is for the Bureau, or for the three presidents as provided for under Rule 19.6, to decide whether the common position is to be included in the draft agenda of the Congress or of a chamber as a draft declaration.

## **Rule 58 – Applicability of committee rules**

Rules 46 to 55 which apply to committees also apply to working groups, however, a working group does not elect vice-chairs, but, in the absence of its chair, may appoint another member of the working group to chair it for that meeting.

## **CHAPTER XII – CONGRESS THEMATIC SPOKESPERSONS**

### **Rule 59 – Appointment and role**

(new 2.) Bureau members may not be thematic spokespersons.

## **CHAPTER XIII – CODE OF CONDUCT OF CONGRESS MEMBERS<sup>6</sup>**

### **Rule 64 – Type of sanctions or disciplinary action**

2. [...]

a. Temporary sanctions

Deprivation of the right to: [...]

- stand as a candidate for President of the Congress or president or vice-president of a chamber or for chair or vice-chair of a committee;

## **CHAPTER XV – SPECIAL STATUS**

### **Rule 67 – Special guest delegations**

1. The Congress may, on request, grant special guest status to delegations from local and regional authorities in European non-member States.

2. Any request for special guest status must be made in writing and sent, no later than three months before a Congress session, to the President who must submit this request to the Bureau of the Congress. The formal request must:

a. contain an explicit reference to the aspiration of the applicants to uphold, respect and promote at all levels of government the values and principles of the Council of Europe, and a commitment to base the activity of their delegation on the principles of the European Code of Conduct for all Persons Involved in Local and Regional Governance and of the Code of Conduct of Congress members, and

b. stipulate the procedure for consulting associations of local and/or regional associations in the process of appointing members of the delegation.

4. With regard to the composition of a special guest delegation:

a. the number of seats is laid down by the Bureau of the Congress on a case-by-case basis;

b. it consists of representatives and substitutes holding a local or regional mandate in accordance with Article 2 of the Charter;

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<sup>6</sup> This rule complements the conduct to be respected by the members of the Congress during a monitoring mission (Chapter XV) and/or an election observation mission (Chapter XVI).

- c. it respects, as far as possible, the principles laid down in the Charter and the Congress's Rules and Procedures, in particular with regard to equitable geographic and political representation and gender provisions (at least one representative of the under-represented sex should be included among the representatives and one among the substitutes);

#### **Rule 68 – Partner for Local Democracy status**

4. The formal request shall contain an explicit reference to the aspiration of the applicants to uphold, respect and promote at all levels of government the values and principles of the Council of Europe, and a commitment to: [...]
- c. base the activity of their delegation on the principles of the European Code of Conduct for all Persons Involved in Local and Regional Governance and on the Code of Conduct of Congress members;
9. The forms and conditions of participation in the work of the Congress and of its chambers and committees of delegations with Partner for Local Democracy status are as follows:
  - a. members may sit in all sessions of the Congress or its chambers and in meetings of the Statutory Forum, without the right to vote. Representatives or, in their absence, substitutes may speak subject to the president's consent. They may not table amendments but may table proposals as well as memoranda, though their names shall not be taken into account when counting the number of signatures required. They may, at their own expense, submit documents relating to the different items on the Congress agenda;
  - b. members may participate in all committee meetings without the right to vote. Representatives or, in their absence, substitutes may speak with the authorisation of the committee chair and may make proposals concerning the draft agenda;

### **CHAPTER XVI – OTHER TYPES OF PARTNERSHIP<sup>7</sup>**

#### **Rule 70 – Granting, renewing, suspending or withdrawing partnership status**

2. A partnership status is granted for a renewable period of five years. After the first five-year period the status is automatically renewed unless it has come to the Bureau's attention that this status should be suspended or withdrawn.

#### **Rule 75 – Guest Observers**

1. The Bureau of the Congress may, on an *ad hoc* basis, take a decision to grant "guest observer" status, for a renewable period of five years, to associations representing local and/or regional authorities from territories without a national delegation to the Congress, or who are non-European, and which do not fulfil the criteria set out in Rules 72-74. After the first five-year period the status is automatically renewed unless it has come to the Bureau's attention that this status should be suspended or withdrawn.

### **CHAPTER XVII – ORGANISATION OF THE MONITORING PROCEDURES OF THE CONGRESS**

#### **Rule 78 – General provisions**

1. The rules under this chapter define the arrangements for organising procedures for monitoring the commitments of Council of Europe member States which have signed and ratified the European Charter of Local Self-Government ETS No. 122 with the aim of achieving the objective set forth in the aforementioned resolution.
3. The Monitoring Committee shall submit to the Bureau of the Congress for adoption its work programme containing, in particular, the timetable of visits to monitor the application of the Charter.

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<sup>7</sup> Rules 69, 70 and 71 apply to all three partnership status.

### **Rule 80 – Composition of a monitoring delegation**

1. A monitoring delegation shall comprise two rapporteurs, either one from the Chamber of Local Authorities and one from the Chamber of Regions or two from the Chamber of Local Authorities as appropriate, as well as one consultant, and one or more members of the Congress secretariat. The delegation is generally accompanied by interpreters to facilitate communication between speakers of the language of the country in question and the delegation, whose working language is English or French.

3. The rapporteurs shall be appointed from among the representatives or substitutes of the Monitoring Committee of the Congress who put forward their names as candidates.

### **Rule 82 – The monitoring visit programme**

1. The Congress secretariat shall organise the visit. It shall draw up the programme with the rapporteurs in conjunction with the head and secretary of the national delegation to the Congress of the country to be monitored, the national associations of local and regional authorities where applicable, and the co-ordinating bodies of federate entities. The country's Permanent Representation to the Council of Europe shall be regularly kept informed during the drawing up of the programme.

## **CHAPTER XVIII – PRACTICAL ORGANISATION OF ELECTION OBSERVATION MISSIONS**

### **Rule 87 – General provisions**

2. The Congress may decide not to deploy an observation mission following an invitation, if the latter arrives too late to ensure a meaningful observation process. An official invitation should be received by the Congress at the latest 60 days prior to the Election Day.

(new 3.) The Congress may also decline an invitation in case of continuing uncertainty regarding the organisation of the elections or possible security risks in deployment areas.

(new 5.) The Congress examines the whole election environment including elements which are key for the functioning of democratic elections such as the political landscape, the legal framework, the role of the media, the financing of the parties and the election campaign or any other elements of possible relevance for the elections.

### **Rule 88 – Delegations, reports and co-operation with international observer institutions**

1. The Congress secretariat will send a call for interest, including the application form,<sup>8</sup> to the e-mail addresses of all Congress members. Secretaries and heads of national delegations will receive a copy. Any Congress members who express their interest in taking part in the mission and send back the form by a given deadline will be considered. Candidatures from members of national associations whose associations agree to cover their costs shall also be taken into consideration.

4. A delegation shall comprise the Congress members determined under Rule 88.3 and one or more members of the Congress secretariat as well as a consultant in electoral matters. The delegation is generally accompanied by interpreters to facilitate communication between speakers of the language of the country in question and the delegation, whose working language is English or French.<sup>9</sup>

15. The report will be drawn up by the rapporteur with the assistance of the Congress secretariat and the consultant in electoral matters. It should reflect the opinion of the members of the entire delegation. The report must be comprehensive, noting positive and negative factors, distinguishing between significant and insignificant factors. It should identify patterns that could have an impact on the integrity of the election process and on the authenticity of the vote.

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<sup>8</sup> See Appendix IV

<sup>9</sup> In meetings of the delegation with strategic Congress partners in the field, notably OSCE/ODIHR (the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe), the working language is English.

## **CHAPTER XIX – IMPLEMENTATION OF THE POST-MONITORING/POST-ELECTORAL POLITICAL DIALOGUE**

### **Rule 89 – General provisions**

The present rules define the arrangements for organising the post-monitoring and post-electoral political dialogue with all levels of government of the Council of Europe member States, with the aim of achieving the objective set forth in the aforementioned resolution, namely to pursue a political dialogue with national authorities of member States in order to implement the Congress recommendations addressed to the authorities.

## **CHAPTER XX – SECRETARIAT AND BUDGET**

### **Rule 95 – Secretary General of the Congress**

3. The Secretary General of the Congress is elected in accordance with the following procedure:
  - h. Elections for the post of Secretary General must be by secret ballot (which may be held electronically) even where there is only one candidate, in which case the ballot must provide for votes in favour, votes against and abstentions.

## **CHAPTER XXI – MISCELLANEOUS**

### **Rule 98 – Official languages**

3. Chairing of Congress and chamber sessions, as well as Statutory Forum, committee and bureau meetings, must be done in an official language.

### **Rule 99 – Working languages**

The working languages of the Congress shall be those of the Member States which are major contributors to the Council of Europe budget, without prejudice to the provisions of Article 12 of the Statute of the Council of Europe, provided that the necessary appropriations for their funding are entered in the Congress' budget.

### **Rule 102 – Revision of the Congress Charter**

1. The Congress may submit proposals to amend the Charter to the Committee of Ministers for decision.
2. The Bureau of the Congress may submit to the Congress proposals to amend the Charter. These proposals must be included in a sessional agenda and made available to delegates 30 days before the session.

## APPENDIX III – Guidelines for the funding of political groups from the Congress budget

### *Preamble:*

*The Congress fully recognises the important role played by its political groups in particular for the promotion of democratic dialogue and pluralism.*

*Political groups contribute to structuring and enriching the work of the Congress through the variety of opinions and views they put forward, in particular when the Congress is debating or adopting texts.*

*Furthermore, when elections are held in the various Congress bodies, political groups contribute to fair electoral competition among candidates from different political parties.*

*In this spirit, the Bureau of the Congress, whilst fully respecting the autonomy of the Congress political groups, has adopted the following Guidelines and has endorsed an Administrative Arrangement model which clarify the funding of political groups from the Congress budget and obligations stemming from these texts.*

2. Each year, once the overall Congress budget is approved by the Committee of Ministers of the Council of Europe, the Secretary General of the Congress shall allocate an amount for the functioning of all existing political groups. He/she shall inform the Bureau of the Congress of this allocation. In addition, he/she shall make provision for funds to cover the interpretation costs for group meetings during the Congress sessions into the official and working languages.

3. This amount – apart from the interpretation costs for group meetings during the Congress sessions – shall be allocated to the groups existing at the beginning of a given year.

8. The political groups shall use the allocation from the Congress exclusively for their functioning and in particular for the following expenses:

- expenditure of secretariat staff (salaries, insurance)
- administrative expenses (office postage, telephone, office supplies)
- group meetings, missions, interpretation costs (other than those covered by the Congress on the occasion of Congress sessions) and translation costs.

10. The political groups shall transmit to the Secretary General of the Congress of the Council of Europe, preferably before the end of the Congress Spring session, a request for payment signed by the president of the political group together with: [...]

11. By signing the Administrative Arrangement, each political group commits itself to revise if necessary, its statutes, at the latest by 31 March, in order to ensure full coherence with the financial regulations of the Council of Europe and to comply with the guidelines and in particular with the specific criteria listed above. Payment shall only be made once the statutes in force comply with these guidelines.

## 37th SESSION

# The role of local and regional governments in protecting internally displaced persons (IDPs)

Resolution 448 (2019)<sup>1</sup>

1. The issue of displacement is a global phenomenon which has reached an unprecedented scale in recent years. In 2018 alone, 28 million people from 148 countries were internally displaced. However, despite the ever-growing number of internally displaced persons ((hereafter “IDPs”) in the world, their plight sometimes tends to be overshadowed by the refugee and migration crisis.

2. An internally displaced person is, according to the 1998 UN Guiding Principles on Internal Displacement, someone who has been “forced or obliged to flee or to leave his/her home or place of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, without crossing an internationally recognized State border”. They have the right to seek safety in another part of their country, to leave their country, to seek asylum in another country, the right to recognition everywhere as a person before the law, the right to healthcare, to education, to employment, to security, to liberty of movement, and the right to be protected against forcible return to, or resettlement in, any place where their life, safety, liberty and/or health would be at risk.

3. In Europe, over decades, more than 4 million people have been displaced inside their own countries due to armed conflicts and violence. Added onto the IDPs affected by earlier conflicts in Europe which include Azerbaijan, Armenia, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo\*, North Macedonia, Russia and Turkey, more recently there have been 1.7 million IDPs in Ukraine due to the situation that arose following the illegal annexation of the Crimean Peninsula of Ukraine by the Russian Federation and the areas affected by foreign military intervention in the Eastern part of the country.

4. Alongside armed conflicts, heightened vulnerability and exposure to sudden-onset hazards are a real risk. Wildfires were a particularly visible expression of this (Greece) and as was the risk of being displaced by floods, particularly in cities (France). Globally, there have been 17.2 million new disaster displacements in 146 countries. In Europe, three quarters of the population are estimated to live in urban areas vulnerable to natural hazards. Consequently, for local and national governments in Europe, disaster displacement needs to be a component of risk reduction and response strategies. This is also in line with the United Nations Sustainable Development Goal 13 which calls for urgent action to combat climate change and its impacts.

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)09](#), explanatory memorandum), co-rapporteurs: Marianne HOLLINGER, Switzerland (L, ILDG) and Oleksandr SIENKEVYCH, Ukraine (L, ILDG).

\* All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo

5. Internal displacements are, first and foremost, a human rights issue. They should be addressed as such. IDPs are currently facing administrative obstacles preventing their full inclusion. They also encounter issues regarding employment, housing, education, and health – to only cite a few. The authorities have a primary duty and responsibility to provide protection and humanitarian assistance to IDPs within their jurisdiction, and IDPs have the right to request and receive protection and assistance from these authorities.

6. In its Recommendation Rec(2006)6, the Committee of Ministers of the Council of Europe asked member States to make sure that IDPs are provided with the necessary documents to exercise their rights, and are properly informed. Even though they have been displaced, IDPs remain nationals of the State in which they live. Hence, they are entitled to the same human rights as other citizens, as enshrined in national, regional and international legislations.

7. A 2018 report adopted by the Parliamentary Assembly of the Council of Europe (PACE), reminded member States that the fundamental human rights of IDPs and their families should be kept in mind when relocating persons. PACE deplored the fact that the humanitarian situation of most IDPs in Europe had been negatively affected by the fact that underlying conflicts are protracted and by forced displacements, and underlined that the human rights and humanitarian needs of IDPs should be a central point in all international efforts to monitor and mediate those conflicts.

8. The Congress of Local and Regional Authorities of the Council of Europe (hereafter the “Congress”) issued a Human Rights Handbook for local and regional authorities in 2018, which sets out the rights of IDPs and the obligations of local and regional authorities to ensure these rights. The Congress acknowledged the crucial role of local and regional authorities in facilitating IDPs’ integration and participation in public and political life. More specifically, in its Recommendation 419, the Congress considered voting rights as an efficient tool for the integration of IDPs.

9. In the light of the above, and with a view to protecting IDPs’ rights and addressing their precarious situation, the Congress invites local and regional authorities of the member States of the Council of Europe and their national associations, to:

*a.* promote the welfare of internally displaced persons and protect their freedoms and rights, providing them with equal access to basic services and infrastructure as local residents on the one hand and recognise their right to return to their places of origin and to their homes or places of habitual residence, in safety and with dignity on the other;

*b.* acknowledge that IDPs form a heterogeneous group with varying needs and adapt their approach depending on the target group, keeping such needs in mind when developing policies and initiatives, with particular emphasis on women and vulnerable groups such as unaccompanied minors and the elderly;

*c.* raise awareness among the host populations regarding the plight of IDPs and draw attention to the fact that even if the arrival of IDPs might put a burden on local resources in the short-term, their presence can also be an opportunity for host communities;

*d.* take appropriate action to fight prejudice against IDPs, prevent violence, promote inter-cultural understanding and ensure social cohesion and provide psychological assistance to IDPs when necessary;



*e.* co-operate with civil society organisations, academics and the private sector, in order to come up with innovative solutions to forced displacement and the needs it engenders in areas such as housing, education, health care, employment and financial assistance, and in particular co-operate with private owners and housing associations to tackle the housing issue, providing solutions such as integrating reception centres into already existing residential areas, thereby facilitating IDPs' access to social services and accelerating their inclusion;

*f.* foster and facilitate IDPs' participation in public and political life by establishing consultative bodies and/or by creating spaces for associations of IDPs to communicate with councilors, NGOs etc. and by protecting them from intimidation and violence which would impede their voting rights;

*g.* create mechanisms of consultation so that IDPs can share their experience and invest in the establishment of a pan-European network of local and/or regional authorities in order to deal with protracted displacements;

*h.* co-operate with other levels of governance in the organisation of initiatives, from the planning phase to implementation and evaluation;

*i.* keep track of new displacements in order to know exactly how many IDPs live in a given area and adapt policies in consequence, creating a check-list in order to create an evidence base including different categories such as data and analysis, capacity and participation, and incentives and political will.



## 37th SESSION

# Fair distribution of taxes in transfrontier areas

## Potential conflicts and possibilities for compromise

Resolution 449 (2019)<sup>1</sup>

1. Transfrontier working, the free movement of labour across borders, is a vital aspect of European co-operation and integration, all the more so given that a third of Europe's citizens live in border areas. The Council of Europe, including the Congress, has for many years been a pioneer in developing this co-operation, working to change Europe's internal borders from barriers to bridges, opportunities for co-operation to improve the quality of life for citizens on both sides of the border.

2. But while progress has been made on many of the obstacles to such co-operation, the issue of the equitable distribution of transfrontier worker tax revenues on both sides of the border remains to be solved.

3. While Council of Europe member States generally apply the OECD rule that the transfrontier worker pays tax at the place of work, the growth of transfrontier working in recent years has highlighted the need for this practice to be accompanied by the fair distribution of this revenue, on both sides of the border, to benefit both the place of employment and the place of residence.

4. The European Union has no common policy on this, despite having affirmed the need to establish a common principle on cross-border taxation in a Commission Recommendation as long ago as 1993. In the absence of a common approach, the response to this problem remains the responsibility of the authorities of each country, which has led to a multiplicity of bilateral agreements.

5. In some cases, systems of tax retrocession or financial compensation have been adopted to cover the excess of expenses (such as schools and infrastructure) borne by the place of residence. In other cases, no agreement has been concluded, leaving the local and regional authorities of the places of residence bearing costs much higher than the places of employment.

6. As a result, there are regions in which the financing of public services in border areas is woefully inadequate, as a result of this exclusive collection by the fiscal authority of the country of employment. This can cause serious tensions for the communities concerned and affect their ability to invest because of the budgetary pressure linked to demographic change exacerbated by the labour needs of the neighbouring country.

7. The risk of further aggravation of such unbalanced cross-border development is a challenge for European decision-makers. A line that divides rich and vibrant centres, concentrating jobs and wealth from suburban-dormitories, characterised by the impoverished communities in some regions, is unsustainable in the long run. The unequal distribution of burdens and the benefits of employment can only weaken interregional links on the European continent and undermine territorial cohesion.

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<sup>1</sup> Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)10](#), explanatory Memorandum), Rapporteur: Karl Heinz LAMBERTZ, Belgium (R, SOC)

8. In this context, it is necessary to deepen and organise the debate on tax policy in cross-border areas, accepting that the place of taxation is less relevant than the need for co-operation and agreement between the authorities concerned, and identifying new solutions to this problem.

9. For this debate to yield results, substantial progress needs to be made to improve the knowledge and understanding of the issue, through extensive research and data gathering, based on common indicators.

10. In view of the above, the Congress,

a. Bearing in mind:

i. the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid Convention) of 21 May 1980, and its additional protocols (ETS Nos 106, 159, 169 and 206);

ii. Congress Resolution 363 (2013) on prospects for effective transfrontier co-operation in Europe;

iii. the report of the Foundation for the Economy and Sustainable Development of the Regions of Europe (FEDRE) on "The fair distribution of taxes and charges in cross-border areas" (December 2018) and the seminar it organised in October 2018 in Geneva which gathered stakeholders of the targeted area;

b. concerned about the problems of financing essential public services, including education, kindergartens, social housing and communication infrastructure in certain frontier areas;

c. convinced that stronger relations and partnerships between dynamic centres and areas of residence are important preconditions for the construction of virtuous business cycles, environmental performance, territorial cohesion and social sustainability in the member States of the Council of Europe;

d. convinced of the viability of long-term cross-border strategies based on the sharing of the fruits of labour to develop common infrastructures;

e. concerned about the dynamics of tax competition between Member States and the need to ensure that certain regions and municipalities remain attractive places to live and work;

f. resolved to guarantee the principle of non-discrimination and to avoid double taxation;

g. invites the local and regional authorities of places of residence of transfrontier workers in Council of Europe to:

i. support the technical, scientific or linguistic training of their border populations to enable them to make better use of cross-border job opportunities;

ii. abolish barriers to cross-border mobility;

iii. take into account the evolution of teleworking, which can reduce mobility, by studying the measures that should be taken in order to make it attractive for both employees and companies;

h. Invites the local and regional authorities of places of employment of transfrontier workers in Council of Europe member States to:

i. promote co-development as a common goal, to promote economic growth, and to distribute the resulting tax revenues equitably and to transform them locally into improved quality of life;

ii. contribute to the financing of the local public services used by these workers in their places of residence;

i. Invites national associations to support research in this area, including data collection and the development of common indicators.

## 37th SESSION

# Local elections in Turkey and Mayoral re-run in Istanbul (31 March and 23 June 2019)

Resolution 450 (2019)<sup>1</sup>

1. Further to the observation of the 2019 local elections in Turkey, carried out by the Congress of Local and Regional Authorities based on the invitation from the State authorities, dated 22 February and 20 May 2019, the Congress refers to:

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

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

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

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

3. It welcomes the report on the observation of the 2019 local elections in Turkey stating that both polling days were orderly and well-managed overall by largely competent electoral staff and proceeded by a competitive and dynamic campaign.

4. The Congress endorses the assessment of the report on local elections in Turkey and Mayoral re-run in Istanbul (31 March and 23 June 2019) requiring different improvements including the following aspects: harmonisation of all election-related laws; transparency and consistency of decision-making of the election administration at all levels, in particular, the SEC (Supreme Election Council) and its institutional independence; effective regulations on campaign periods, on party and campaign financing and related to the misuse of administrative resources during campaigning; freedom of expression and related undue restrictions based on anti-terror legislation and defamation provisions, media plurality and critical journalism; transparent and impartial complaints and appeals procedures; the organisational and practical side of elections, notably the status of civil servants required for Presidents and Deputies of Ballot Box Committees; the merger and move of polling stations on security grounds; the use of mobile ballot boxes to support voters with impaired mobility and other disabilities; and the accreditation of domestic and international election observers in local elections.

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<sup>1</sup> Debated and adopted by the Congress on 30 October 2019, 1st sitting (see Document CG37(2019)14, explanatory memorandum), rapporteur: Andrew DAWSON, United Kingdom (R, ECR).

5. Considering the issues drawn to the Congress' attention by interlocutors with regard to the decision taken by the SEC on 6 May 2019 to repeat the Istanbul Metropolitan Mayor election on 23 June, and with regard to the denial of the mayoral mandate for successful HDP candidates in the south-east of the country, the Congress will commission a member of its Group of Independent Experts on the European Charter of Local Self-Government (GIE) to carry out an analysis in view of a possible request for legal Opinion of the European Commission for Democracy through Law (Venice Commission) on the constitutionality of these decisions and their compliance with general principles of rule of law.

### 37th SESSION

## Congress resolution to endorse the Principles on the Protection and Promotion of the Ombudsman Institution (“The Venice Principles”)

Resolution 451 (2019)<sup>1</sup>

The Congress of Local and Regional Authorities of the Council of Europe,

1. Referring to the “Principles governing the institution of the Ombudsman/Ombudsperson at local and regional level” (1999); its Recommendation 61 (1999) and Resolution 80 (1999) on the role of local and regional mediators/ombudsmen in defending citizens’ rights, its Recommendation 159 (2004) on regional ombudspersons as an institution in the service of citizens’ rights, its Recommendation 309(2011) and Resolution 327 (2011) “The office of Ombudsperson and local and regional authorities”,
2. Noting that there are presently Ombudsman Institutions in more than 140 States worldwide, at the national, regional or local level, with different competences,
3. Reiterating that the Ombudsman institution is an essential element of good governance, a valuable safeguard for protecting the individual against administrative abuses and an important instrument for supervising public authorities and fostering public confidence in local and regional administrations,
4. Stressing that as an addition to the right of access to justice through the courts, the entitlement of sub- national authorities to file an complaint before the Ombudsperson strengthens the legal protection of local autonomy laid down in Article 11 of the Charter and hence contributes to upholding the principle of the rule of law,
5. Emphasising the importance of dialogue with the Ombudsmen in member States of the Council of Europe in the context of its activities to monitor the implementation of the European Charter of Local Self-Government and to promote human rights at local and regional level,
6. Having examined the “Principles on the Protection and Promotion of the Ombudsman Institution (“The Venice Principles”) adopted by the European Commission for Democracy through Law “The Venice Commission” at its 118th Plenary Session (Venice, 15-16 March 2019) which contain a set of guidelines to ensure the proper functioning of Ombudsman institution at all levels as an important element in a State based on democracy, the rule of law, respect for human rights and fundamental freedoms and good governance,
  - a. Welcomes the adoption of the Venice Principles by the Venice Commission and their subsequent endorsement by the Committee of Ministers at the 1345th Meeting of the Ministers’ Deputies (Strasbourg, 2 May 2019);
  - b. Endorses the Venice Principles as a relevant international reference text listing the legal principles essential to the establishment and proper functioning of Ombudsman Institutions at all levels of democratic governments;

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<sup>1</sup> Debated and adopted by the Congress on 30 October 2019, 2nd sitting (see Document [CG37\(2019\)15](#)), rapporteur: Harald BERGMANN, Netherlands (L, ILDG).

c. Calls upon its Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee) to promote the Venice Principles among relevant interlocutors during its visits when monitoring the situation of local and regional democracy in member States of the Council of Europe.



## 37th SESSION

# Revised Code of Good Practice for Civil Participation in the Decision-making Process

Resolution 452 (2019)<sup>1</sup>

The Congress of Local and Regional Authorities of the Council of Europe (hereafter “the Congress”),

1. Referring to Recommendation (2007)14 of the Committee of Ministers of the Council of Europe which recognised “the essential contribution made by NGOs to the development and realisation of democracy and human rights, in particular through the promotion of public awareness, participation in public life and securing the transparency and accountability of public authorities”;

2. Noting the adoption in 2009 by the Conference of INGOs of the Council of Europe (hereafter “the Conference”) of a Code of Good Practice for Civil Participation in the Decision-making Process, a document which laid out the rationale, framework and the means for enhanced civil participation and which received support from both the Congress and the Parliamentary Assembly of the Council of Europe;

3. Recalling that the Congress was willing to promote the Code and use it in its own work and adopted in 2015 its Resolution 385 on “Fostering active citizenship by building partnerships with civil society” in which it asked the Conference of INGOs to revise the Code to keep the content up-to-date;

4. Convinced that the implementation of the Code will contribute to United Nation’s Sustainable Development Goals No. 11, making cities and human settlements resilient and sustainable, No. 16, promoting peaceful and inclusive societies for sustainable development and providing access to justice for all and building effective, accountable and inclusive institutions at all levels and No.17, revitalising the global partnership for sustainable development;

5. Having held joint meetings with the Conference of INGOs in 2018 and 2019 to discuss revisions that needed to be implemented and which have subsequently led to the attached updated version of the Code;

a. welcomes the adoption of the revised Code by the Standing Committee of the Conference at its meeting of 24 June 2019 and takes note that the Conference will be asked to adopt it at its plenary session in October 2019;

b. calls upon its members to endorse the Code of Good Practice for Civil Participation in the decision-making process, as revised, and to promote its implementation by local and regional authorities in member States of the Council of Europe.

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<sup>1</sup> Debated and adopted by the Congress on 30 October 2019, 2nd sitting (see Document [CG37\(2019\)16](#)), appendix), rapporteur: Thomas ANDERSSON, Sweden (R, ILDG).



## 37th SESSION

# The use of languages by local and regional authorities

### Resolution 453 (2019)<sup>1</sup>

1. One of the features of the growing diversity of Europe's towns and regions is an increasing linguistic diversity. As a result, Europe's local and regional authorities find themselves confronted with more and more language issues in the conduct of their affairs and the provision of public services.
2. The Congress itself has language issues regularly brought to its attention, as the body entrusted with assessing the application of the European Charter of Local Self-Government. More and more local authorities are asserting the right to make and apply their own language decisions and policies, according to their own needs, and as a result find themselves in disagreement with higher level authorities.
3. This has prompted the Congress to look more closely at how local and regional authorities can and should approach language issues raised by their citizens. The main reference text for the Congress for this is the European Charter for Regional or Minority Languages, which in 2018 celebrated twenty years of entry into force, and which has its own monitoring mechanism, the Committee of Experts of the European Charter for Regional or Minority Languages.
4. Article 10 of this Charter provides valuable guidance for the use of regional or minority languages by local and regional authorities in public life, which deserve the attention of all local and regional authorities, irrespective of whether their national governments are Parties to the Charter.
5. But whereas the Charter restricts its application to languages which have been present in a territory for over a hundred years, local and regional authorities have to provide services according to the current demographic profile of their citizens. Language is primarily a tool for communication, and local and regional authorities should be free to use non-official languages in the conduct of their work, if this will enable them to better communicate with a target group.
6. Since each town and city has its own specific demographic profile, in order to provide the most effective services, it should carry out a detailed assessment of the language needs of its citizens and other persons who use its public services.
7. The Congress believes that linguistic diversity is an asset for Europe's towns and regions, to be valued and enhanced for the benefit of all, and that this will contribute to greater social cohesion and mutual understanding between language minority speakers and speakers of the official language(s).

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<sup>1</sup> Debated and adopted by the Congress on 31 October 2019, 3rd sitting (see Document [CG37\(2019\)17](#), explanatory Memorandum), Rapporteur: Andrew DAWSON, United Kingdom (R, ECR)

8. The Congress therefore:

a. bearing in mind:

- i. the Congress reports and recommendations adopted in the course of its work to oversee the implantation of the European Charter of Local Self-Government;
- ii. the European Charter for Regional or Minority Languages (ETS No. 148);
- iii. the Framework Convention for the Protection of National Minorities (ETS No.157);
- iv. Congress Recommendation 286 (2010) and Resolution 301 (2010) - Minority languages: an asset for regional development;
- v. Congress Recommendation 410 (2017) and Resolution 424 (2017) on Regional and minority languages in Europe today;

b. Considering that local and regional authorities are at the forefront of the provision of public services and interaction with the citizens and residents in their territories;

c. Invites the local and regional authorities of Council of Europe member States to:

- i. undertake detailed language assessments of the language needs of their citizens and other persons who use their public services;
- ii. provide services to all linguistic minorities to ensure adequate access to public services and democratic bodies, as far as is reasonably possible;
- iii. take inspiration from Article 10 of the European Charter for Regional or Minority Languages, in the conduct of their business and the provision of public services and to apply these provisions to all linguistic minorities on their territories, as far as is reasonably possible;
- iv. where possible provide specific earmarked financial resources for provision of services in languages other than the official languages;
- v. provide language training and recruit officials competent in the relevant languages;
- vi. provide information about political rights and electoral information in the relevant languages;
- vii. provide information about public services, such as health, education, employment services, unemployment benefits, in the relevant languages;
- viii. provide information on taxes in the relevant languages;
- ix. provide information on sanctions (such as local transport fines) in the relevant languages;
- x. provide interpretation services to facilitate the participation of minority language speakers in local and regional council meetings;
- xi. provide warning and security signs in the relevant languages.