

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 306 (2010)¹ Observation of local and regional elections – strategy and rules of the Congress

1. The rights of citizens to vote – and to be elected – at periodic, genuine democratic elections are internationally recognised human rights. Genuine democratic elections cannot be achieved unless a wide range of other human rights and fundamental freedoms can be exercised without discrimination. They serve to resolve peacefully the competition for political power within a country. They are part of a process to establish democratic governance. Like other human rights and like democracy in general, they cannot be achieved without the protection of the rule of law.

2. The rights of citizens to exercise their democratic choice in a universal, equal, free, secret and direct suffrage is, above all, the grounding of political participation at territorial level that is enshrined in the preamble to the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, adopted in November 2009 (“...the right to participate in the conduct of public affairs is one of the democratic principles that are shared by all member states of the Council of Europe”).

3. Election observation – as a matter of concern for international organisations – has become widely accepted and plays an important role in providing accurate and impartial assessments about the nature of electoral processes. It has the potential to enhance the integrity of electoral processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving processes. It can promote public confidence, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic development.

4. The practice of observing elections in the Council of Europe began after the fall of the Berlin Wall in 1989, as part of the application process of a number of new democracies. With the objective of supplementing the work done by the Parliamentary Assembly regarding national and presidential elections, the Congress – as guardian of territorial democracy – was charged with observing local and regional elections. Since 1990 the Congress has carried out almost 100 election observation missions in Europe and, occasionally, beyond (e.g. in Israel in 2008).

5. Having regard to:

a. the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

b. the Convention for the Protection of Human Rights and Fundamental Freedoms;

c. the European Charter of Local Self-Government and/or its Additional Protocol on the right to participate in the affairs of a local authority;

d. Statutory Resolution (2007) 6 of the Council of Europe Committee of Ministers on the Congress of Local and Regional Authorities, defining observation of local and regional elections as one of the priorities of the Congress’ action;

e. the Code of Good Practice in Electoral Matters (2002) of the Council of Europe Venice Commission, to its Declaration of Principles for International Election Observation (2004);

f. Congress Recommendation 124 (2003) on “the Code of Good Practice in electoral matters”;

g. Congress Resolution 233 (2007) on “co-operation between the Congress and national associations of local and regional authorities”;

h. Congress Resolution 274 (2008) on “Congress policy in observing local and regional elections”.

6. The Congress underlines the importance of election observation at local and regional level and its complementarity to the political monitoring process of the European Charter of Local Self-Government which constitutes the cornerstone of local democracy in Europe. The specific role of local and regional elected representatives as observers of territorial votes contributes to the legitimacy and to the credibility of the electoral process at local and regional level.

7. It stresses that the state and conditions of territorial electoral processes are assessed by Congress members – by locally and regionally elected political representatives of 47 Council of Europe member states – on a peer-to-peer basis.

8. It notes that, in principle, observation of local and regional elections should not be limited to certain countries. In accordance with the above-mentioned complementarity of election observation to the political monitoring process of the European Charter of Local Self-Government, monitoring of territorial elections is relevant with regard to the entire family of Council of Europe member states.

9. The Congress affirms its interest in observing local and regional elections specifically in those countries where the political monitoring process revealed shortcomings and/or issues of concern with regard to territorial democracy.

10. The Congress will only organise an election observation mission following the invitation of the authorities of the country concerned.

11. With regard to those countries where the Congress’ political monitoring process revealed certain weaknesses concerning territorial democracy, the Congress will adopt an active attitude and express its interest in being invited by those authorities to observe local or regional elections.

12. The reports arising from Congress election observation missions make it possible to assess the situation before

polling day within the given political and societal context, to form an opinion on legal conditions, on the organisation of the poll and to describe relevant occurrences on polling day as well as on the days that follow the vote. Congress election observation reports also help to keep track of the progress made by Council of Europe member states with regard to the development of local democracy, by applying standards that are adjusted to the social and cultural context of the country.

13. To make an accurate assessment of the conduct of the election, it is not enough to evaluate the organisational framework of elections. With a view to achieving this goal, the Congress decides to adopt a policy for the widening of the scope of observation of local and regional elections in Council of Europe member states. It is necessary to examine the whole process as well as conditions which are essential for the functioning of democracy and for genuinely democratic elections, in particular:

- a. the political system of the country (history and political culture, governmental organisation, party system, functioning of the opposition);
- b. the legal conditions (constitution, electoral code);
- c. the role of the media (freedom of expression, media freedom, media pluralism, protection of journalists);
- d. the financing of the parties and of the election campaign;
- e. the election campaign (fairness, visibility, media coverage, election rallies, voter education);
- f. the post-election situation (formation of the local/regional government, role attributed to the opposition, functioning of the system of appeal, coverage by the media).

14. With regard to a pertinent follow-up to the recommendations and resolutions that arise from the observation of local and regional elections, the Congress is of the opinion that a post-observation assistance procedure should be put in place with the focus on:

- a. mandating of relevant Congress bodies, notably the Institutional Committee, with the supervision of the implementation of recommendations and resolutions arising from observation reports. If no progress is achieved after one year, the Congress can decide to request, if applicable, an opinion of the Venice Commission, and to ask the Parliamentary Assembly to consider the issue under the monitoring process. The Congress should be regularly updated on the follow-up of this process;
- b. organising specific co-operation programmes to address the major issues that have been raised during the election observation mission; such programmes should involve local and regional representatives and governmental bodies from countries concerned as well as other European countries willing to share their *acquis* and expertise on local and regional democracy.

15. The Congress, aware of its institutional responsibility within the Council of Europe for consistently organising high-quality election observation missions according to

recognised international standards, will continue to ensure that Congress members who take part in such missions will benefit from specialised training sessions.

16. In the same way as it strengthened its co-operation with national associations, in its agreement with the EU Committee of the Regions regarding co-operation “in favour of local and regional democracy, decentralisation and self-government in Europe, and to guarantee national and European authorities’ respect for established local and regional responsibilities”, the Congress invites the Committee of the Regions to join the Congress delegation on its election observation missions after receiving the invitation of the state in which the election observation takes place.

17. At the invitation of the Chair of the Commission for Citizenship, Governance, Institutional and External Affairs (CIVEX) of the Committee of the Regions, the Congress also attends training sessions on the monitoring of local and regional elections organised by the Committee of the Regions for its members. In continuing and intensifying the co-operation between the Congress and the Committee of the Regions, it has been decided to add weight to the observation missions jointly carried out by both bodies.

18. Reciprocity will be guaranteed when the report is presented to the Congress and to the Committee of the Regions, as both the rapporteur of the Congress and a representative of the Committee of the Regions will be invited to each debate of the report.

19. Rules for arranging Congress election observation missions are appended to the present resolution.

20. A code of conduct for Congress observers is appended to the present resolution.

Appendix I: Rules for the practical organisation of Congress observation missions

Preparation of missions

1. In light of the above, the Bureau of the Congress decides to send a letter to the authorities of the country in which such a vote is scheduled, expressing interest in observing local or regional elections. Following the invitation letter from the country, the Bureau decides on the scale of the observation operation (pre-election mission, actual observation mission, follow-up procedure). The Congress is free to emphasise one, two or all three steps.

2. If no Bureau meeting is scheduled between the date of reception of the invitation letter to observe the elections and the day of the vote, the Congress President will take the necessary decisions, after consultation with the Presidents of the Chambers.

3. A draft observation programme will be drawn up by the Congress secretariat. The permanent representative of the country concerned, the head and the secretary of the national delegation to the Congress will be duly informed. In general, the Congress secretariat will provide for a regular correspondence with all the relevant stakeholders.

4. The Congress secretariat must ensure high-quality information for the members of the election observation delegation.

Composition of delegations

5. The Congress secretariat will send an appeal to interested parties, including the application form, to the web addresses of all Congress members. Secretaries of national delegations will receive a copy. Congress members who express their interest in taking part in the mission and send back the form within a given deadline will be taken into account. Candidatures from members of national associations whose associations agree to cover their costs shall also be taken into consideration.

6. The delegations taking part in Congress election monitoring missions shall be adopted by the Bureau of the Congress in accordance with the principles set out in the aforementioned resolution.

7. Congress observation delegations will include between 5 and 20 members. The composition of delegations is determined according to an appointment system taking into account a balanced representation of the different political groups of the Congress (including non-registered members), gender balance and a fair geographical representation and also taking into account the chronological order of candidacies put forward by Congress members.

8. In order to ensure a meaningful participation in the work of the mission, the candidate's language skills will be taken into consideration. In addition, experience in election observation and participation in training sessions are amongst the criteria.

9. Candidates for the pre-election mission are also expected to be available for the actual election observation mission. In addition, candidates for election observation missions are expected to be present at the final press conference, normally scheduled for the day following election day. The head of the delegation and the rapporteur in charge of the report shall participate in the final press conference.

10. Observation delegations should not include Congress members from countries with special relations with the country where elections are going to be monitored.

11. To enhance the mission's public profile, the Congress Bureau will appoint a head of delegation. In the absence of such a decision, the President of the Congress will determine the appointment.

12. A rapporteur who will be in charge of the drafting and presentation of the report, will be appointed by the Bureau or by the President of the Congress.

13. The rapporteurs of the Institutional Committee for the country where elections are monitored shall be *ex-officio* members of the election observation delegation, but shall not have the right to act as heads or rapporteurs of the election observation delegation.

Reports, resolutions and recommendations

14. The report will be drawn up by the rapporteur with the support of the Congress secretariat. All members of the

delegation, including the members of the EU Committee of the Regions, will be consulted. 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 genuineness of the vote.

15. The report must also take account of resolutions and recommendations previously adopted by the Congress, specifically those arising from monitoring reports with regard to the country concerned.

16. In pursuance of the Rules of Procedure of the Congress and its Chambers, the report shall be submitted to the Bureau/Standing Committee of the Congress for approval and then to the Congress for adoption at its plenary (or Chamber) sessions within an appropriate time-limit.

17. In pursuance of Article 2-5 of the aforementioned Statutory Resolution, recommendations are transmitted to the Council of Europe Committee of Ministers.

18. The recommendations should also be transmitted to the authorities of the country concerned and to the head and secretary of the national delegation to the Congress.

19. In addition, the report and its recommendations will be transmitted to interested Council of Europe bodies, notably the Venice Commission, the Human Rights Commissioner, GRECO, etc.

Visibility of Congress election observation missions

20. In order to inform the media about the preliminary assessment of the Congress election observation delegation, a Congress press conference – chaired by the head of the Congress delegation or his/her representative – will be held the day following election day, *ante meridiem*, in conformity with the professional requirements of the media.

21. If the Congress is not the only international institution to observe local or regional elections, the President of the Congress – in consultation with the Secretary General of the Council of Europe – shall decide if the Congress should form part of an IEOM (international election observation mission). This implies – according to standard procedure – a joint press conference on the day following election day and a joint preliminary statement. If a Bureau meeting is scheduled in due time, the Congress President will consult the Bureau on this issue.

22. If the decision is taken to form a “joint IEOM” together with other international organisations, all related activities (press conferences, drafting of media releases or political statements) have to be carried out in compliance with Congress requirements (the corporate identity of the Congress mission has to be retained, the specific role and nature of Congress observers should be highlighted, the scale of Congress operations must not be reduced and political messages by the Congress must not be distorted).

23. With regard to preliminary statements made jointly with other international organisations, the head of the Congress delegation should decide – in consultation with the secretariat – if Congress amendments should be introduced on the

spot, or if the Congress delegation should join the preliminary statement on the proviso that amendments will be drawn up by the rapporteur and made available within the next five working days.

Appendix II: Code of conduct for Congress observers

Members of Congress election observation missions should always stress that the rights of citizens to vote (and to be elected) at periodic, genuinely democratic elections are internationally recognised human rights. In particular, they should comply with the following rules:

- a.* to respect the sovereignty of the host country and to respect human rights and fundamental freedoms of its people at the same time;
- b.* to respect the laws of the host country (and to follow lawful instructions from the country's governmental, security or electoral authorities);
- c.* to note if laws, regulations and actions of state/governmental/electoral officials unduly burden or obstruct the exercise of election;
- d.* to protect the integrity of the election observation mission (to follow the instructions of the mission's leadership, to attend the required training sessions, briefings, debriefings, to fully dedicate themselves to the observation mission, to read the background material provided, to become familiar with the election law and with other relevant rules and regulations);
- e.* to maintain strict political impartiality at all times (to avoid expressing or showing any bias or preference in

relation to national authorities, political parties, candidates, issues, etc.);

f. to avoid obstructing the election process (to take note of significant problems, irregularities, fraud, etc. – but not to intervene, not to give instructions to election officials, political party representatives or other observers);

g. to ask questions of election officials, political party representatives and other observers (without obstructing the election process);

h. to maintain accuracy of observations and professionalism in drawing conclusions (observations should be comprehensive, noting positive and negative factors, distinguishing between significant and insignificant factors; observations should identify patterns that could have an impact on the integrity of the election process);

i. to keep a well-documented record of the observation (in particular by using the Election Evaluation Guide provided by the Venice Commission and the questionnaire);

j. to refrain from making comments to the media or in public before the final statement of the mission (possible requests from the media have to be clarified with the mission's leadership);

k. to co-operate with other international election observers, notably with observers from other Council of Europe bodies.

1. Debated and adopted by the Standing Committee on behalf of the Congress on 18 June 2010 (see Document CG(18)18, rapporteur I Micallef, Malta (L, EPP/CD)).