

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Resolution 306 (2010)REV<sup>1</sup> 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 citizens' rights to exercise their democratic choice in a universal, equal, free, secret and direct suffrage is the most important foundation of political participation at local and regional level and this 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 (CETS No 207), which was opened for signature in November 2009 and entered into force in June 2012: "... 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 making recommendations for improving processes. It can reinforce 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 of Local and Regional Authorities of the Council of Europe – as guardian of local and regional democracy – was charged with observing local and regional elections. Since 1990 the Congress has carried out more than 100 election observation missions in Europe and, occasionally, beyond.

5. The Congress refers to:

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

*b.* the Convention for the Protection of Human Rights and Fundamental Freedoms, also referred to as the European Convention of Human rights (ETS No. 5);

*c.* the European Charter of Local Self-Government (ETS No. 122) and its additional protocol on the right to participate in the affairs of a local authority;

*d.* the Statutory Resolution CM/Res(2011)2 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto, adopted by the Council of Europe Committee of Ministers, defining observation of local and/or regional elections as one of the priorities of Congress action;

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

*f.* its Recommendation 124 (2003) on the Code of Good Practice in electoral matters;

*g.* its Resolution 233 (2007) on the observation of elections – co-operation between the Congress and national associations of local and regional authorities;

*h.* its 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 monitoring of implementation of the European Charter of Local Self-Government which constitutes the cornerstone of local democracy in Europe.

7. The Congress refers to the specific role of local and regional elected representatives as observers of local and regional elections and stresses:

*a.* that this contributes to the legitimacy and credibility of electoral processes at local and regional level;

*b.* that the state and conditions of electoral processes at the local and regional level are assessed by local and regional elected political representatives of the 47 Council of Europe member States on a peer-to-peer basis.

8. The Congress notes that, in principle, observation of local and regional elections shall not be limited to certain countries. In accordance with the above-mentioned complementarity of election observation to the monitoring of implementation of the European Charter of Local Self-Government, observation of local and regional elections is relevant with regard to the entire family of Council of Europe member States.

9. It affirms its interest in observing local and regional elections, in particular in those countries where the monitoring

process revealed shortcomings and/or issues of concern with regard to local and regional democracy.

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

11. With regard to those countries where the Congress' monitoring process revealed certain weaknesses with regard to local and regional democracy, the Congress will adopt an active attitude and express its interest to be invited by those authorities to observe local and/or regional elections.

12. The Congress, in order to make an accurate assessment of the conduct of elections, is of the opinion that it is not enough to evaluate the organisational framework of elections. With a view to achieving this goal, the Congress decided in 2010 to adopt a strategy for the widening of the scope of observation of local and regional elections in Council of Europe member States. It examines the whole election environment including elements which are key for the functioning of democracy and for genuinely democratic elections, notably:

a. the political landscape of the country (historical background, political system, electoral system);

b. the legal framework (constitution, laws, electoral code);

c. the role of the media (freedom of expression, media pluralism);

d. the financing of the parties and of the election campaign;

e. the election campaign (visibility, media coverage, balance, voter education);

f. the post-election situation (formation of the local/regional government, role attributed to the opposition, follow-up of complaints and appeals);

g. any other elements of possible relevance for the elections.

13. The Congress is of the opinion that, in accordance with the "Rules of the Congress of Local and Regional Authorities of the Council of Europe for the practical organisation of election observation missions" specified in the present resolution, with regard to a pertinent follow-up to the recommendations that arise from the observation of local and regional elections, a post-observation procedure may be put into place in certain cases.

14. The Congress and the Parliamentary Assembly of the Council of Europe will exchange, on a regular basis, every two years, the conclusions of election observation reports in accordance with the decision taken at the 43rd Meeting of the Council for Democratic Elections (Venice Commission).

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 its members who take part in such missions will benefit from specialised training.

16. In the same way as it strengthened its co-operation with national associations, the Congress may invite the Committee of the Regions of the European Union to join the Congress delegation on its election observation missions after receiving the invitation of the State in which the election observation takes place. Reciprocity between both institutions will be guaranteed when the report is presented to the Congress and the Committee of the Regions, as both the rapporteur of the Congress and a speaker of the Committee of the Regions will be invited when the report is debated.

17. In the interest of complementarity between the Congress and other international institutions involved in election observation, co-operation will be maintained and strengthened with the Election Observation Mission (EOM) of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) when the latter is observing local and/or regional elections in a country which invited the Congress to observe such elections.

18. In pursuance of Congress Resolution 353 (2013)REV on Congress post-monitoring and post-observation of elections: developing political dialogue, the Monitoring Committee of the Congress examines and adopts the report following an election observation mission and approves the resolution and recommendation for adoption at the following session of the Congress (or of its chambers).

19. In pursuance of the above-mentioned Congress Resolution 353 (2013)REV, at the request of the Congress Monitoring Committee, the Bureau of the Congress may propose to national authorities to whom the Council of Europe Committee of Ministers addressed a Congress recommendation on observation of local and/or regional elections, a post-election observation procedure which comprises different steps, according to the aforementioned resolution.

20. In pursuance of Article 2, paragraph 5, of the Statutory Resolution CM/Res(2011)2, Congress recommendations shall be transmitted as appropriate to the Parliamentary Assembly and/or the Council of Europe Committee of Ministers, as well as to European and international organisations and institutions. The recommendations shall also be transmitted to the head and the secretary of the national delegation to the Congress. In addition, the reports and recommendations will be made available to interested Council of Europe bodies, notably to the Venice Commission.

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In order to implement the present resolution, the Congress adopts the following rules for the practical organisation of Congress election observation missions and the Code of Conduct for Congress Observers.

#### **A. Rules of the Congress of Local and Regional Authorities of the Council of Europe for the practical organisation of election observation missions**

1. Following an invitation by the authorities of a country to observe local and/or regional elections, the Congress Bureau decides on the acceptance of the invitation and on the scale of the operation (assessment mission, pre-election mission,

observation mission). The Congress is free to emphasise the different steps. In the absence of a Bureau meeting, the Congress President will take the necessary decision, after consultation with the presidents of the chambers.

2. The Bureau of the Congress may also decide to send a letter, expressing interest in observing local or regional elections, to the authorities of the country in which such a vote is scheduled, in particular in countries where the monitoring process revealed shortcomings and/or issues of concern with regard to local and regional democracy, as well as, on the contrary, cases of innovation or good practice.

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 ensure regular correspondence with all the relevant stakeholders, in particular with the head of the Council of Europe outpost, in countries where such an office does exist.

4. The Congress secretariat must ensure that high-quality information is provided to the members of the election observation delegation.

5. The Congress secretariat will send a call for interest, including the application form, to the email addresses of all Congress members. Secretaries 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.

6. Based on candidatures received within the given deadline, the Secretary General of the Congress will propose a draft delegation, including the delegation's leadership, normally involving between 5 and 20 members.

7. 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, 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 (in at least one of the official languages of the Council of Europe) will be taken into consideration. In addition, experience in election observation and participation in training sessions are amongst the criteria.

9. Adequate language skills (in at least one of the two official languages of the Council of Europe), conversation techniques and capacities in political dialogue, as well as experience in election observation and monitoring activities and participation in training sessions of the Congress, are criteria for the appointment of the head of delegation.

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

11. Members taking part in a pre-election visit are expected to also be available for the election observation mission.

12. The rapporteurs of the Monitoring 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 head/rapporteur of the election observation delegation.

13. On the basis of the proposal provided by the Congress Secretary General, the Bureau will decide on the membership of the delegation, including the head of delegation and rapporteur (both functions can be carried out by the same person), in accordance with the aforementioned principles. In the absence of a Bureau meeting, the President of the Congress, in consultation with the presidents of the chambers, will take the necessary decisions.

14. In order to inform the media about the preliminary conclusions of the Congress election observation delegation, a press conference – chaired by the head of the delegation – will be held the day following the Election Day. Members of a Congress election observation delegation are expected to be present at this press conference.

15. If the Congress is not the only international institution to observe local or regional elections in the respective country, an IEOM (international election observation mission) may be formed together with such institutions, notably with the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR). This implies – according to standard procedure – a joint press conference on the day following the Election Day and a joint preliminary statement. However, if, after an election, a joint final assessment cannot be agreed on by the IEOM, the Congress reserves itself the right to hold – if necessary – its own press conference, making public its own assessment.

16. If a joint IEOM is formed 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 profile 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).

17. The report will be drawn up by the rapporteur with the assistance of the Congress secretariat. 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.

18. The report must also take account of resolutions/recommendations previously adopted by the Congress, including those arising from monitoring reports with regard to the country concerned, as well as relevant opinions and recommendations from other Council of Europe bodies and international organisations and institutions.

## B. Code of Conduct for Congress Observers

1. Congress members taking part in election observation missions have to have signed the Congress' Declaration of Principle (see Resolution 340(2012) of the Congress). They shall avoid, in the accomplishment of such missions, conflicts between any actual or potential financial or any other interests, on a professional, personal or family level, in connection with the country concerned by such an election observation. If a member is unable to avoid such a conflict of interest it should be made known to the Congress secretariat. Any gifts or similar benefits of a value in excess of 200 euros that a member has accepted in the last 24 months from the authorities of the country concerned shall also be registered with the secretariat. During such missions, Congress members shall avoid any situation that could appear to be a conflict of interest or receiving an inappropriate payment or gift.

2. 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 namely to:

*a.* respect the sovereignty of the host country and to respect the human rights and fundamental freedoms of its people at the same time;

*b.* respect the laws of the host country (and to follow lawful instructions from the country's governmental, security or electoral authorities);

*c.* note if laws, regulations and actions of State/governmental/electoral officials unduly burden or obstruct the election process;

*d.* protect the integrity of the election observation mission (to follow the instructions of the Congress' delegation leadership, to attend the required training sessions, briefings and debriefings, to fully dedicate themselves to the observation mission, to read the background materials provided, to become familiar with the legal framework for elections and with other relevant rules and regulations);

*e.* 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.* avoid obstructing the election process (to take note of significant problems, irregularities, fraud, etc., but not to intervene, nor to give instructions to election officials, political party representatives or other observers);

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

*h.* 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.* keep a well-documented record of their observations (in particular by using the Election Evaluation Guide provided by the Venice Commission (CDL-AD(2006)021) and the questionnaire);

*j.* refrain from making statements/declarations to the media, via social networks or in public on conclusions drawn from the observation before the final statement of the mission (possible requests from the media have to be clarified with the Congress' delegation leadership); statements/declarations as described should not contradict the overall final assessment of the elections;

*k.* co-operate with other international election observers, notably with OSCE/ODIHR; it should be pointed out that English is the de facto working language of OSCE/ODIHR election observation missions.

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1. Debated and adopted by the Congress on 30 October 2013, 2nd Sitting (see Document CG(25)13, explanatory memorandum); rapporteur: Lars O. Molin, Sweden (L, EPP/CCE).