

## STATUTORY FORUM

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Report  
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## Revision of the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe

### Provisions relating to ethics

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#### Summary

The rapporteurs propose streamlining and simplifying the provisions on ethics, including mandatory declarations for Congress members, duties and obligations, the regime for accepting gifts, the disciplinary procedure and a separate Code of Conduct for Congress members.

<sup>1</sup> L: Chamber of Local Authorities / R: Chamber of Regions  
EPP/CCE: European People's Party Group in the Congress  
SOC/G/PD: Group of Socialists, Greens and Progressive Democrats  
ILDG: Independent and Liberal Democrat Group  
ECR: European Conservatives and Reformists Group  
NR: Members not belonging to a political group of the Congress

## **DRAFT RESOLUTION**

The Congress,

1. taking into account the need to streamline and rationalise the ethics provisions including the mandatory declarations for members of the Congress, duties and obligations, the regime for acceptance of gifts, the disciplinary procedure and to provide for a separate Code of Conduct for Congress members;
2. taking into account the comments by the rapporteurs on the Rules and Procedures, who have proposed to the Bureau to modify the Congress Rules and Procedure;
3. adopts the amendments to the Rules and Procedures<sup>[2]</sup> and the Code of Conduct of Congress members, as appended.

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<sup>[2]</sup> As adopted by the Congress at its 31st Session, on 21 October 2016 (Resolution 409 (2016)) and revised by the Congress at its 32nd Session, on 30 March 2017 (Resolution 418 (2017)), 34th Session, on 27 March 2018 (Resolution 426 (2018)), 35th Session, on 7 November 2018 (Resolution 436 (2018)), 37th Session, on 29 October 2019 (Resolution 447 (2019)), and its Statutory Forum, on 28 September 2020 (Resolution 454 (2020)).

<b>Annexe 1 - Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe<sup>2</sup></b>	
<b>Provisions relating to ethics</b>	
<b>Current text</b>	<b>Text after revision</b>
<p>Rule 6 – Verification of credentials</p> <p>[...]</p> <p>5. All delegates are required to sign the statement below concerning the aims and basic principles of the Council of Europe:</p> <p style="padding-left: 40px;">“The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress.” (Statute of the Council of Europe, Chapter I, Article 1.a)</p> <p style="padding-left: 40px;">“Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.” (Statute of the Council of Europe, Chapter II, Article 3)</p> <p style="padding-left: 40px;">“I the undersigned, ..., hereby affirm and state that I will subscribe to these aims and basic principles of the Council of Europe.”</p> <p>6. Delegates must also sign the declaration of interest (Rule 67), in order to be entitled to enjoy speaking and voting rights and to have</p>	<p>Rule 6 – Verification of credentials</p> <p>[...]</p> <p><b>[Removed]</b></p> <p>6. Delegates must <b>submit</b> a declaration of interest <b>stating that they have no interests, of an economic, commercial or financial</b></p>

<sup>2</sup> As adopted by the Congress at its 31st Session, on 21 October 2016 (Resolution 409 (2016)) and revised at its 32nd Session, on 30 March 2017 (Resolution 418 (2017)), 34th Session, on 27 March 2018 (Resolution 426 (2018)), 35th Session, on 7 November 2018 (Resolution 436 (2018)), 37th Session, on 29 October 2019 (Resolution 447 (2019)), and its Statutory Forum, on 28 September 2020 (Resolution 454 (2020)).

<p>their expenses relating to participation in Congress proceedings reimbursed.</p> <p>7. Delegates whose credentials the Bureau of the Congress proposes should not be ratified may provisionally sit with the same rights as other delegates until the Congress has ruled on the matter. However, such delegates may not take part in any vote relating to the verification of credentials or of the official appointment procedures. If, following the vote by the plenary session those delegates' credentials have not been ratified, they are not considered members of the Congress and may not take part in proceedings.</p> <p>8. It is the responsibility of every head of national delegation to verify that the statement and declaration of interest referred to in this Rule have been signed<sup>3</sup> by every member of his or her delegation.</p> <p>Rule 7 – Non-conformity with Council of Europe principles</p> <p>1. If it is brought to the attention of the Bureau of the Congress that a delegate has said, written or done anything that may be incompatible with the aims and basic principles of the Council of Europe, it must consider the matter as soon as possible.</p> <p>2. If the Bureau finds, following due process, that the delegate's written or oral statement or action is contrary to the aims and basic principles he or she has committed himself or herself to in accordance with Rule 6.5, it may decide upon a disciplinary course of action (Rule 69) or, in accordance with Rule 70.3, make a proposal in the form of a draft resolution to the Congress.</p>	<p><b>nature, nor do any members of their family, which might have the potential to pose a conflict of interest, and include all relevant interests. They must also sign the Code of Conduct of the members of the Congress. Failure to do so will result in the delegate not enjoying speaking and voting rights nor defrayal of expenses relating to participation in Congress proceedings.</b></p> <p>7. Delegates whose credentials the Bureau of the Congress proposes should not be ratified may provisionally sit with the same rights as other delegates until the Congress has ruled on the matter. However, such delegates may not take part in any vote relating to the verification of credentials or of the official appointment procedures. If, following the vote by the plenary session those delegates' credentials have not been ratified, they are not considered members of the Congress and may not take part in proceedings.</p> <p><b>8. The Secretary General of the Congress shall inform the Bureau at the earliest possible occasion of any failures to comply with Rule 6.6.</b></p> <p>[Removed]</p>
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<sup>3</sup> On-line validation via the Congress' database is equivalent to a "signature" for the purposes of this rule.

3. The decision of the Bureau has immediate effect, except in cases of dismissal where the provisions of Rules 70.3 and 70.4 apply. The decision shall be published as an official document within one working day and be forwarded to the member concerned.

#### CHAPTER XIV – CODE OF CONDUCT OF CONGRESS MEMBERS<sup>4</sup>

##### Rule 65 – General conduct and commitments

1. Members of the Congress must respect the values and standards of the Council of Europe, in particular those outlined in Rule No. 1327 of 10 January 2011 on awareness and prevention of fraud and corruption, and the general principles of ethics and conduct outlined in this Rule and refrain from any action or declaration which would cause damage to the reputation and integrity of the Congress or its members.

2. Members must commit themselves to the goals and principles of the Council of Europe (Rule 6.5).

3. In exercising their duties as members of the Congress, members must:

- a. carry out their duties responsibly, with integrity honesty and impartiality;
- b. act solely in the interests of the Congress and the Council of Europe and not serve private interests;

#### CHAPITRE XIV - DUTIES AND OBLIGATIONS OF THE MEMBERS OF THE CONGRESS, BREACHES THEREOF, DISCIPLINARY PROCEDURE AND SANCTIONS<sup>6</sup>

##### Rule 65 – Duties and obligations of the members of the Congress

1. **In the exercise of their duties, the members of the Congress shall undertake to comply with the principles and rules set out in the Code of Conduct for members of the Congress appended to these Rules and Procedures.**

2. **Members of the Congress shall uphold the goals and principles of the Council of Europe as enshrined in the Statute of the Council of Europe and in particular those in Article 1.a and Article 3.**

3. In exercising their duties as members of the Congress, members **of the Congress shall:**

- a. carry out their duties responsibly, with integrity, honesty and impartiality;
- b. **neither seek nor accept instructions from any person, group or institution other than the Congress;**

<sup>4</sup> This rule complements the conduct to be respected by the members of the Congress during a monitoring mission (Chapter XVIII) and/or an election observation mission (Chapter XIX).

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

<p>c. use resources made available to them responsibly and in the interests of the Congress and the Council of Europe;</p> <p>d. use information with discretion, and not make personal use of information acquired confidentially in the course of their duties;</p> <p>e. inform the President of the Congress of any pressure brought to bear against them or against any other Congress member.</p>	<p><b>c. neither seek nor accept any reward, payment other than defrayal of expenses, or distinction in connection with the exercise of their duties;</b></p> <p><b>d. refrain from any act that may incur a conflict of interest, adversely affect their neutrality or be seen to do so and declare any relevant interests which may affect their neutrality;</b></p> <p><b>e. act solely in the interests of the Congress and the Council of Europe and not serve private interests;</b></p> <p><b>f. use resources made available to them responsibly and in the interests of the Congress and the Council of Europe;</b></p> <p><b>g. use information with discretion, and not make personal use of information acquired confidentially in the course of their duties;</b></p> <p><b>h. inform the President of the Congress of any pressure brought to bear against them or against any other Congress member.</b></p>
<p>Rule 66 – Gifts and other advantages</p> <p>1. Under no circumstances shall a delegate request or accept from a State, an institution, or a natural or legal person any advantage, direct or indirect, offer of fees, gift, favour, invitation or excessive act of hospitality, which would be likely to influence the position of the delegate in the performance of their duty as a member of the Congress.</p> <p>2. A delegate may, exceptionally, accept a gift or advantage only if:</p>	<p>Rule 66 – Gifts and other advantages</p> <p>1. Under no circumstances shall a member request or accept from a State, an institution, or a natural or legal person any advantage, direct or indirect, offer of fees, gift, favour, invitation or excessive act of hospitality, which would be likely to influence the position of the member in the performance of their duty as a member of the Congress.</p>

<p>a. the value does not exceed 100 euros; and</p> <p>b. refusing it would be considered contrary to the good practice in the relevant cultural context.</p> <p>3. All gifts accepted in accordance with Rule 66.2, or accepted in error, of a value exceeding 100 euros shall be handed in to the Congress. They shall be kept on the premises of the Secretariat of the Congress and duly entered into the Congress Gift Register.</p> <p>4. As derogation from Rules 66.1 and 66.2, the President of the Congress and the presidents of the chambers may accept gifts whose value exceeds 100 euros. Such gifts will be entered into the Congress Gift Register and shall be kept on the premises of the Secretariat of the Congress.</p>	<p>2. A member may, exceptionally, accept a gift or advantage only if <b>refusing it would be considered contrary to the good practice in the relevant cultural context.</b></p> <p>3. All gifts accepted in accordance with Rule 66.2 <b>with a value of 100 euros or more shall be handed in to the Secretariat of the Congress which will ensure that they are promptly entered into the Council of Europe Gift Register.</b></p> <p>4. <b>[Removed]</b></p>
<p>Rule 67 – Declaration of interests and conflicts of interest</p> <p>1. All members must sign a written undertaking<sup>5</sup> that they:</p> <p>a. have no interests, of an economic, commercial or financial nature, nor do any members of their family, which might have the potential to pose a conflict of interest;</p> <p>b. shall neither seek nor accept instructions from anybody other than the Congress (no government, governmental or non-governmental organisation, no pressure group or individual);</p> <p>c. shall not accept any reward, payment, distinction or gift in connection with the exercise of their duties;</p> <p>d. shall refrain from any act that may incur a conflict of interest, adversely affect their neutrality or be seen to do so.</p>	<p>Rule 67 – <b>[Removed]</b></p>

<sup>5</sup> See also Rule 6.6.

<p>2. All relevant interests should be mentioned in any reports or other documents proposed by the delegate in question.</p> <p>3. Failure to declare such relevant interests must be examined to determine the circumstances behind this non-declaration. The procedure to be followed shall be, mutatis mutandis, that which is detailed in Rule 68.5.</p> <p>Rule 68 – Submission of allegations of breach of the Congress Code of Conduct</p> <p>1. If it is brought to the attention of the Bureau of the Congress that a delegate has said, written or done anything that may be in breach of any part of the Congress’ Code of Conduct it must consider the matter as soon as possible.</p> <p>2. The dedicated online form should be used to submit all allegations of misconduct or breach of the Code of Conduct. It should be sent to the Secretary General of the Congress or submitted online together with the requisite documentary evidence.</p> <p>3. All documents and information concerning alleged misconduct or breach of the Code of Conduct shall be considered confidential until the procedure has come to an end and the final decision has been taken by the Bureau or by the Congress.</p> <p>4. Documentary evidence includes written or printed documents, newspapers, audio and video files, etc.</p>	<p>Rule 67 - <b>Allegations of breaches of the duties and obligations of the members of the Congress</b></p> <p>1. <b>Allegations of misconduct or breaches of the duties and obligations provided in Rule 65 by members of the Congress or of the Code of Conduct appended to the Rules and Procedures should be submitted to the Secretary General of the Congress directly or using the online form together with the necessary documentary evidence. Such information shall be treated confidentially.</b></p> <p>2. <b>The Secretary General will bring such allegations immediately to the attention of the Bureau which will consider the matter as soon as possible in accordance with the procedure set out in Rule 68.</b></p> <p>3. <b>In case of urgency, the President of the Congress, in consultation with the presidents of the chambers, may consider the matter in accordance with the procedure set out in Rule 68 and report to the bureau at its next meeting.</b></p>
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<p>5. The procedure followed by the Bureau of the Congress for breach of the Code of Conduct by a delegate shall be as set out below:</p> <ol style="list-style-type: none"> <li>a. the Bureau shall examine the evidence as soon as possible after the alleged breach has been brought to its attention;</li> <li>b. the case shall be presented by the Secretary General of the Congress and must be supported by written or documentary evidence;</li> <li>c. the delegate must be informed by the Bureau that a procedure for breach of the Code of Conduct has been instigated and given the opportunity to reply to the allegation in writing. If the delegate has not responded within the space of 4 weeks the case shall be examined nevertheless at the following Bureau meeting;</li> <li>d. the Bureau may invite the delegate to appear before it. If the delegate has not responded to the invitation within the space of 4 weeks, the case shall nevertheless be examined. The delegate may request an interview with the Bureau;</li> <li>e. if the Bureau finds, following due process, that the delegate's action is in breach of the Code of Conduct it may decide upon a disciplinary course of action in accordance with Rule 69;</li> <li>f. decisions shall be voted on by secret ballot and by a simple majority of the votes cast;</li> <li>g. the delegate concerned is not present during Bureau deliberations or voting concerning his/her case;</li> <li>h. the decision of the Bureau has immediate effect except in cases of dismissal where the provisions of Rules 70.3 and 70.4 apply. The decision shall be published as an official document within the following working day and be forwarded to the member concerned.</li> </ol> <p>6. In the case of voluntary resignation of the delegate concerned from his or her elected office or appointed position within the Congress, the Bureau shall determine, in view of the nature of the allegations, whether the procedure should be terminated.</p>	<p><b>Rule 68 – Disciplinary procedure</b></p> <ol style="list-style-type: none"> <li><b>1. The Bureau shall examine the allegation and evidence as soon as possible after the alleged breach has been brought to its attention.</b></li> <li><b>2. The case including the evidence shall be presented by the Secretary General of the Congress.</b></li> <li><b>3. The Bureau will inform the member of the Congress concerned of the procedure underway and give the member the possibility to reply to the allegation and request to appear before the Bureau in writing within 4 weeks.</b></li> <li><b>4. The Bureau will then examine the case and may invite the member to appear before it. If the member of the Congress has not responded to the invitation within the space of 4 weeks, the case shall nevertheless be examined. The member may request an interview with the Bureau.</b></li> <li><b>5. Following due process, the Bureau will deliberate and decide by secret ballot by a simple majority of the votes cast whether there was or not a breach of the duties and obligations provided in Rule 65; the member of the Congress concerned cannot be present during Bureau deliberations or voting.</b></li> <li><b>6. Where the Bureau decides that there was a breach of the duties and obligations provided in Rule 65 it will decide upon a sanction in accordance with Rule 69.</b></li> <li><b>7. The decision of the Bureau will have immediate effect except in cases of termination of a mandate where the provisions of Rules 70.3 and 70.4 apply. The decision shall be published as an official document within the following working day and be forwarded to the member concerned.</b></li> </ol>
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<p>Rule 69 – Type of sanctions or disciplinary action</p> <p>1. The Bureau shall decide upon the appropriate sanction or disciplinary action for each case on an ad hoc basis.</p> <p>2. Disciplinary action may range from temporary to permanent withdrawal of all or part of a delegate’s prerogatives as Congress member or holder of an elected office or appointed position.</p> <p>a. Temporary sanctions: deprivation of the right to:</p> <ul style="list-style-type: none"> <li>- speak in committee/in session/in the Bureau;</li> <li>- table or sign an amendment, a proposal (Rule 28) or a memorandum (Rule 29);</li> <li>- be appointed rapporteur or Congress spokesperson;</li> <li>- be appointed member of a monitoring or election observation delegation;</li> <li>- 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;</li> <li>- represent the Congress or any of its committees;</li> <li>- participate in one or more sessions (not exceeding the current Congress mandate).</li> </ul> <p>b. Permanent sanctions</p>	<p>8. <b>In the case of voluntary resignation from the Congress or an appointed position within the Congress of the member concerned, the Bureau shall determine, in view of the nature of the allegations, whether the procedure should be terminated.</b></p> <p>Rule 69 – <b>Sanctions</b></p> <p>1. <b>Sanctions may range from temporary to permanent withdrawal of all or part of a delegate’s prerogatives as Congress member or holder of an elected office or appointed position.</b></p> <p>2. Temporary sanctions <b>consist in the deprivation of one or several of the following rights:</b></p> <ul style="list-style-type: none"> <li>- <b>to</b> speak in committee/in session/in the Bureau;</li> <li>- <b>to</b> table or sign an amendment, a proposal (Rule 28) or a memorandum (Rule 29);</li> <li>- <b>to</b> be appointed rapporteur or Congress spokesperson;</li> <li>- <b>to</b> be appointed member of a monitoring or election observation delegation;</li> <li>- <b>to</b> 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;</li> <li>- <b>to</b> represent the Congress or any of its committees;</li> <li>- <b>to</b> participate in one or more sessions <b>of</b> the current Congress mandate.</li> </ul> <p><b>The Bureau shall determine the duration of the temporary sanction.</b></p> <p>3. Permanent sanctions <b>are the following:</b></p> <ul style="list-style-type: none"> <li>- withdrawal from a monitoring, fact-finding or election observation mission concerned by infringement of the Code of Conduct;</li> </ul>
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<ul style="list-style-type: none"> <li>- withdrawal from a monitoring, fact-finding or election observation mission concerned by infringement of the Code of Conduct;</li> <li>- contribution and name of the person concerned struck from a report prepared after the monitoring, fact-finding or election observation mission concerned;</li> <li>- barring from future participation in any missions of a similar nature as rapporteur or member of the delegation;</li> <li>- withdrawal of a delegate's specific rapporteurship or spokesperson status;</li> <li>- loss of elected office or appointed position within the Congress;</li> <li>- termination of a member's Congress mandate;</li> <li>- loss of the status of honorary member.</li> </ul> <p>Rule 70 – Disciplinary action – procedure</p> <p>1. In the case of temporary measures, the Bureau shall determine the duration of application or the date of the Bureau meeting at which the case shall be re-examined with a view to the lifting or extension of such measures.</p> <p>2. Where an urgent decision needs to be taken, and does not directly concern them, the President of the Congress, in consultation with the presidents of the chambers, may take this decision and report back at the following Bureau meeting. The provisions of Rule 68.5.g apply.</p>	<ul style="list-style-type: none"> <li>- contribution and name of the person concerned struck from a report prepared after the monitoring, fact-finding or election observation mission concerned;</li> <li>- barring from future participation in any missions of a similar nature as rapporteur or member of the delegation;</li> <li>- withdrawal of a delegate's specific rapporteurship or spokesperson status;</li> <li>- loss of elected office or appointed position within the Congress;</li> <li>- termination of a member's Congress mandate;</li> <li>- loss of the status of honorary member.</li> </ul> <p><b>The decision to terminate a member of the Congress' current mandate shall be presented to the Congress in the form of a draft resolution not subject to amendment.</b></p> <p>Rule 70 – <b>Special measures concerning termination of the mandate of the Congress, and chamber presidents and vice-presidents and committee chairs and vice-chairs</b></p> <p>[Removed]</p>
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<p>3. If the Bureau has determined that the severity of the breach of the Code of Conduct constitutes grounds for dismissal from the delegate's current mandate as Congress member the Bureau's proposal shall be presented to the Congress in the form of a draft resolution not subject to amendment.</p> <p>4. If the Bureau has determined that the severity of the breach of the Code of Conduct constitutes grounds for dismissal from the delegate's current elected office, if that delegate is:</p> <ul style="list-style-type: none"><li>a. the President of the Congress or a President of a chamber he/she shall chair no further meetings of that body until the Bureau proposal, presented to the Congress in the form of a draft resolution, not subject to amendment, has been adopted or rejected. The provisions of Rule 17.7 shall apply in the interim;</li><li>b. vice-president of a chamber he/she shall leave the meeting and attend no further bureau meetings (plenary or chamber), nor shall he/she replace the President of the Congress or of his/her chamber in the chair during sessions;</li><li>c. chair of a committee, he/she shall chair no further meetings of that body.</li></ul> <p>5. A president of the Congress who has been dismissed or who has resigned as a result of a procedure instituted under Rule 68 shall not be granted the title of outgoing President of the Congress.</p>	<p><b>1. If the decision to terminate the current mandate of a member of the Congress concerns the President of the Congress, the President of a chamber or the chair of a committee, the person concerned shall neither attend nor chair any meetings of that body until the disciplinary procedure is completed and the draft resolution provided for in Rule 69.3 has been voted on. The provisions of Rule 17.7 shall apply in the interim.</b></p> <p><b>2. If the decision to terminate the current mandate of a member of the Congress concerns the vice-president of a chamber, the person concerned shall not attend any bureau meetings nor replace the President of the Congress or of a chamber until the disciplinary procedure is completed and the draft resolution provided for in Rule 69.3 has been voted.</b></p> <p><b>3. A president of the Congress who has been dismissed or who has resigned as a result of a disciplinary procedure shall not be granted the title of outgoing President of the Congress.</b></p>
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**APPENDIX ... - CODE OF CONDUCT OF CONGRESS MEMBERS**

1. The purpose of this Code is to provide a framework of reference for members of the Congress of Local and Regional Authorities of the Council of Europe in the discharge of their duties.
2. It outlines general principles of behaviour which the Congress expects of its members. By adhering to these standards members can maintain and strengthen the openness and accountability necessary for trust and confidence in the Congress.
3. The Code applies to members in all aspects of their public life relevant to their duties as members of the Congress. Its provisions complement the obligations on members of the Congress to abide by the rules of conduct provided in the Rules and Procedures, as well as resolutions of the Congress and decisions of the Congress organs relating to members' conduct and discipline.
4. The application of this Code shall be a matter for the Congress.
5. Guidance on all matters covered by this Code and situations which may arise from its application may be sought from the Secretary General of the Congress who is responsible for ensuring its promotion.
6. While performing their mandate as members of the Congress, they shall:
  - a. carry out their duties responsibly with integrity and honesty;

	<ul style="list-style-type: none"><li>b. take decisions solely in the public interest, without being bound by any instructions that would jeopardise members' ability to respect the present code;</li><li>c. not act in such a way as to bring the Congress into disrepute or tarnish the Congress' image;</li><li>d. use the resources available to them responsibly;</li><li>e. not use their public office for their, or anyone else's, private gain;</li><li>f. declare any relevant interests relating to their public functions and take steps to resolve any conflicts arising in a way that protects the public interest;</li><li>g. promote and support these principles by leadership and example;</li><li>h. undertake to comply with the rules set out hereafter.</li></ul> <p>7. Members shall respect the values of the Council of Europe and the general principles of behaviour of the Congress and not take any action which would cause damage to the reputation and integrity of the Congress or its members.</p> <p>8. Members shall avoid conflicts between any actual or potential economic, commercial, financial or other interests on a professional, personal or family level on the one hand, and the public interest in the work of the Congress on the other, by resolving any conflict in favour of public interest; if the member is unable to avoid such a conflict of interests, it shall be disclosed.</p> <p>9. Members shall draw attention to any relevant interest in accordance with the Congress Rules and Procedures.</p> <p>10. No member shall act as a paid advocate in any work of the Congress.</p>
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**11. Members shall not promise, give, request or accept any fee, compensation or reward intended to affect their conduct as members, particularly in their decision to support or oppose any motion, report, amendment, written declaration, recommendation, resolution or opinion. Members shall avoid any situation that could appear to be a conflict of interests and shall not accept an inappropriate payment or gift.**

**12. Members shall not use their position as a member of the Congress to further their own or another person's or entity's interests in a manner incompatible with this Code of Conduct.**

**13. Members shall use information with discretion, and in particular shall not make personal use of information acquired confidentially in the course of their duties.**

**14. Members shall inform the President of the Congress of any pressure put upon them or against any other Congress member.**

**15. Where, in the course of their duties as members of the Congress, they are presented with a gift they should refuse as it might influence or might be seen as likely to influence their position in the performance of their duty as a member of the Congress. They may exceptionally accept the gift if refusing it would be reasonably considered contrary to the good practice in the relevant cultural context. In such cases, where the gift has a value of 100 euros or more it should be handed to the Secretariat of the Congress which will ensure that it is promptly entered into the Council of Europe Gift Register.**

**16. Members shall ensure that their use of expense claims, allowances, facilities and services provided by the Council of Europe is strictly in accordance with the relevant regulations laid down on these matters.**

	<p><b>17. Members undertake to sign a copy of this Code of Conduct upon taking up their mandate in the Congress.</b></p> <p><b>18. Implementation of this Code is the responsibility of the Bureau of the Congress, in accordance with the powers and responsibilities granted to it by the Rules and Procedures. Any breaches thereto will be dealt with in accordance with the procedure provided by the Rules and Procedures.</b></p>
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## EXPLANATORY MEMORANDUM

### INTRODUCTION

1. The ethics regime of the Congress is set out in different provisions of the Rules and Procedures, namely :

- Rules 6 providing for two mandatory declarations : on upholding Council of Europe principles and on conflicts of interest,
- Rule 7 providing for a redress procedure in respect of the first declaration on upholding Council of Europe values,
- Rule 65 concerning the general conduct and commitments of Congress members,
- Rule 66 concerning gifts,
- Rule 67 detailing the conflict of interest declaration,
- Rule 68 providing for disciplinary procedures for breaches of the general conduct and commitment by Congress members,
- Rule 69 providing for the sanctions regime, and
- Rule 70 providing additional information in respect of the temporary sanctions, urgent cases and cases involving the top authorities of the Congress.

2. It should be noted that there is no separate Code of Conduct of Congress Members. Instead, Chapter XIV of the Rules and Procedures covering Rules 65-70 is entitled *Code of Conduct of Congress Members* and covers, in addition to the duties and obligations of the members, also the disciplinary procedure and sanctions regime.

3. Other provisions make a cross reference to the Code of Conduct of Congress members including those relating to Guest delegations (Rule 72.2.a) and delegations with Partner for Local Democracy status (Rule 73.4.c), and require adherence to the values, principles and objectives of the Council of Europe (Rule 74.1) or specific measures to prevent the conflict of interest (Appendix III, Article 9 and Guidelines for the funding of political groups from the Congress budget, Article 9 and related standard Administrative Arrangement (Articles 3(c) and (h) and Article 6).

4. The current situation poses problems: of a conceptual, systematic and compliance nature which will be described below. They concern the:

- a. mandatory declarations,
- b. duties and obligations of Congress members,
- c. gifts regime,
- d. disciplinary and sanctions regime, and the need for a separate Code of Conduct of Congress members.

5. It is therefore necessary to revise the existing rules with a view to clarifying and simplifying them, streamlining procedures and ensuring compliance. For pedagogical and transparency reasons, it is also necessary to provide for a separate Code of Conduct for Congress Members setting out the duties and obligations and expected conduct of Congress members when performing official duties on behalf of the Congress.

#### a. Mandatory declarations

6. Rule 6 concerning the verification of credentials, provides for two mandatory declarations for the members of the Congress. However, it should be noted that the Charter itself does not refer to any such declarations in the context of the verification of credentials.

7. The first declaration requires committing to the goals and principles of the Council of Europe as enshrined in the Statute of the Council of Europe (Rule 6.57).

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*7 All delegates are required to sign the statement below concerning the aims and basic principles of the Council of Europe: "The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress." (Statute of the Council of Europe, Chapter I, Article 1.a)*

8. The second one concerns conflicts of interest (Rule 6.6) and its content and the procedure for failure to comply with this obligation is later set out in detail in Rule 67. In this respect, Rule 6 further provides that delegates who fail to submit their declaration of interest are not entitled to enjoy speaking and voting rights or have their expenses relating to participation in Congress proceedings reimbursed.

9. Rule 6 does not contain specific provisions concerning the failure to submit the first declaration concerning the goals and principles of the Council of Europe. This is a lacuna in the Rules and Procedures.

10. Moreover, Rule 6 does not provide a direct link between the two above-mentioned declarations and the approval of credentials<sup>8</sup>.

11. Rule 6 assigns to the heads of national delegations the responsibility to ensure that the above-mentioned declarations are submitted by every member of the respective delegation.

12. In practical terms, to date, roughly half of the members of the Congress have not presented the first declaration and an even smaller fraction have presented the second. This is problematic because as stated above failure to submit the declaration of conflict of interest results in the Congress member not acquiring full rights (including speaking, voting and defrayal of expenses) and points to a problem with the application of the rule.

13. In view of the above it is necessary to consider whether the current regime should be maintained.

14. On the one hand, the first declaration concerning upholding Council of Europe principles could be integrated in the general rule concerning Duties and obligations of Congress members (currently Rule 65) where it logically belongs. This would have the additional advantage of reducing the number and processing of mandatory declarations.

15. Moreover, Rule 7 provides for a redress procedure for failure to uphold Council of Europe principles which refers to the sanction regime in Rule 69. This procedure is to a certain extent analogous and connected with the one provided for in Rule 68 and therefore should be covered by that rule particularly if as stated above the commitment to uphold Council of Europe principles would be integrated in Rule 65.

16. On the other hand, the second declaration concerning the conflicts of interest is an essential element in an ethics regime and therefore should be maintained. Its content, currently in Rule 67, should be integrated in the core provision on duties and obligations of Congress members. This would increase coherence and streamline the disciplinary procedures since a single one, the one in Rule 68 would be used for all breaches of duties and obligations without the need for a separate provision in Rule 65.

## **b. Duties and obligations of Congress members**

17. Rule 65 entitled *General conduct and commitments* provides for the duties and obligations of Congress members.

18. Paragraph 1 provides that they must respect the values and standards of the Council of Europe<sup>9</sup> and the general principles of ethics and conduct outlined in this very rule and refrain from any action or declaration which would cause damage to the reputation and integrity of the Congress or its members.

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*Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I." (Statute of the Council of Europe, Chapter II, Article 3)*

*I the undersigned, ..., hereby affirm and state that I will subscribe to these aims and basic principles of the Council of Europe."*  
8 However, Rule 6.7 provides that delegates whose credentials the Bureau proposes should not be ratified may provisionally sit with the same rights as other delegates until the Congress has ruled on the matter. However, such delegates may not take part in any vote relating to the verification of credentials or of the official appointment procedures, and if the credentials are not ratified, they are not considered members of the Congress and may not take part in proceedings

9 On this particular aspect, the Rules refers to Rule No. 1327 of 10 January 2011 on awareness and prevention of fraud and corruption.

19. Paragraph 2 refers again to the goals and principles of the Council of Europe in the sense of the above-mentioned mandatory declaration on upholding Council of Europe principles provided for in Rule 6.5.

20. Most importantly, paragraph 3 sets out the duties and obligations of Congress members in the performance of their duties as members of the Congress, namely to :

- a. *carry out their duties responsibly, with integrity honesty and impartiality;*
- b. *act solely in the interests of the Congress and the Council of Europe and not serve private interests;*
- c. *use resources made available to them responsibly and in the interests of the Congress and the Council of Europe;*
- d. *use information with discretion, and not make personal use of information acquired confidentially in the course of their duties;*
- e. *inform the President of the Congress of any pressure brought to bear against them or against any other Congress member.*

21. This paragraph contains the core of the Code of Conduct of Congress members.

22. In view of the above consideration, this rule should be streamlined to avoid repetitions between paragraph 1 and 2, integrate the content of the mandatory declaration concerning upholding Council of Europe principles and complete the list of duties and obligations in respect of conflicts of interest and to take into account the gift regime provided for in Rule 67. It should also serve as the core of the Code of Conduct for Congress Members (see e) below).

### **c. Gifts regime**

23. Rule 66 provides the regime for gifts and other advantages for Congress members.

24. Paragraph 1 sets the general principle that Congress members should not request advantages<sup>10</sup> under any circumstances from any natural or legal person, which would be likely to influence the position of the delegate in the performance of their duty as a member of the Congress. This formulation poses the question of whether such advantage could be accepted if it would not be likely to influence the position of the delegate in the performance of their duty as a member of the Congress.

25. Paragraph 2 provides as an exception that such advantage could be accepted if its value is less than 100 euros and refusing it would be considered contrary to the good practice in the relevant cultural context.

26. Paragraph 4 provides an additional exception where the advantage exceeds 100 euros, for the President of the Congress and the presidents of the chambers. No reference is made to other personalities of the Congress such as the presidents of the committees.

27. In contradiction to the above-mentioned exceptions, paragraph 3 provides for the cases where despite the general rule set out in paragraph 1 and the exception in paragraph 2, a Congress member has accepted an advantage of more than 100 euros, either willingly or by mistake, providing that it should be handed to the Congress Secretariat so that it is entered into the Gift Register and kept in the official premises of the Congress. The same applies to the President of the Congress and the presidents of the chambers when accepting gifts over 100 euros.

28. In view of the above, it appears necessary to simplify and streamline the gift regime for members of the Congress including all the personalities of the Congress so as to provide:

- the general rule that gifts should not be requested or accepted unless refusing them would be considered contrary to the good practice in the relevant cultural context and hence detrimental to the image of the Congress, and that
- where a gift is accepted in pursuance of the above-mentioned justification:
  - If it is less than 100 euros the Congress member may keep it, and

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<sup>10</sup> Defined as: any advantage, direct or indirect, offer of fees, gift, favour, invitation or excessive act of hospitality.

- If its more than 100 euros the Congress member shall hand it over to the Congress Secretariat so that it is entered into the Gift Register and kept on the official premises of the Congress.

#### **d. Disciplinary procedure**

29. The disciplinary procedure for breaches of the duties and obligations of the members is provided in Rules 68 and the sanctions in Rule 69 and partly in Rule 70.

30. Rule 68 is entitled *Submission of allegations of breach of the Congress Code of Conduct* although it covers not only the submission of allegations but also the disciplinary procedure at large.

31. It provides that the allegation should be sent to the Secretary General of the Congress or submitted online, together with the requisite documentary evidence which shall be considered confidential until the end of the disciplinary procedure.

32. The procedure is carried out by the Bureau as soon as possible and the case presented by the Secretary General. The Congress member concerned is informed of the case and given four weeks to reply to the allegation. The Bureau then considers the case. The Congress member concerned may come before the Bureau at its request or at the members' own request and the Bureau then decides, following due process, by secret ballot and by a simple majority of the votes cast whether there has been a breach or not and if there has been, what the sanction will be. The decision has immediate effect except where the gravest sanction – termination of the Congress mandate – is imposed as it requires approval by the Congress via a resolution. The decision shall be published as an official document within the following working day and be forwarded to the member concerned. In the case of voluntary resignation, the Bureau may decide to terminate the procedure.

33. Importantly, by exception, Rule 70 paragraph 2 provides that in case of urgency, instead of the Bureau, the President of the Congress, in consultation with the presidents of the chambers may carry out the disciplinary procedure and decide. In such cases, the President will report to the Bureau at its next meeting.

34. Rule 70 paragraph 4 also regulates the situations where the person incriminated is a personality of the Congress, but only in the cases of the gravest sanction: dismissal from the member's current elected office. Nothing is said where the other sanctions are concerned nor more generally where such personalities are incriminated. This constitutes a lacuna which can be filled *ratio legis* by inferring that where a member of the Bureau is incriminated, he or she shall not participate in the disciplinary procedure other than under the conditions provided for as an incriminated member of the Congress.

35. More specifically, Rule 70 paragraph 4 provides, in the cases of dismissal or termination of office, that if the person incriminated is the President of the Congress, of a chamber or a committee, or a vice-president of a chamber he or she shall chair no further meetings of that body until the end of the procedure. Interestingly, only in the case of a vice-president of a chamber does the rule say that he or she shall leave the meeting. Nothing is said about whether the other personalities in case of incrimination must leave the meeting, but this lacuna can be filled by analogy inferring that the same applies to the other personalities.

36. Rule 69 provides the sanctions regime, which consist of the temporary or permanent withdrawal of all or part of a delegate's prerogatives as Congress member or holder of an elected office or appointed position.

37. The gravest sanction is the termination of a member's Congress mandate which takes the form of a draft resolution not subject to amendment which needs to be adopted by the Congress as provided in Rule 70 paragraph 3. In such cases, where the sanction concerns the president of the Congress or more generally where the president of the Congress resigned as a result of a disciplinary procedure Rule 70 *in fine* provides that he or she shall not be granted the title of outgoing President of the Congress.

38. In view of the above, it is necessary to streamline the provisions of Rules 68, 69 and 70 so as to establish clearly the disciplinary regime and sanctions regime, fill in gaps and ensure coherence, this

concerns namely the cases where personalities of the Congress are incriminated and bringing all the provisions relating to the procedure and to the sanctions under their respective heading. The content of Rule 70 in particular should be included in the relevant provisions regarding procedure and sanctions.

#### **e. Code of Conduct for Congress Members**

39. The Congress Charter provides in Article 14.c that the Congress adopts its own Rules and Procedures which shall provide for: a code of conduct defining the ethical behaviour and respect of the values and standards of the Council of Europe expected of its members as well as procedures to respond to non-compliance. It assigns to the Secretary General of the Congress the responsibility to ensure that members are aware of the code of conduct.

40. Currently Chapter XIV of the Rules and Procedures covering Rules 65-70 is entitled *Code of Conduct of Congress Members* and covers, in addition to the duties and obligations of the members, also the disciplinary procedure and sanctions regime.

41. The generally agreed policy regarding codes of conduct is that they should be self-standing and not included as provisions of other texts, particularly of a procedural nature. They should generally be of an informative and pedagogic nature and focus on the values and principles of the institution and the expectations on its members. In this way, they protect the members and the organisation and contribute to an inclusive and ethical culture. Failure to follow a code of conduct can have negative consequences and they should be addressed appropriately including by disciplinary channels but that should not be the focus or indeed included in detail in such codes which are not a comprehensive solution on their own. Codes of Conduct are prevalent in the public and private sector. In the Council of Europe, in addition to the European Code of Conduct for all Persons involved in Local and Regional Governance adopted by the Congress in 2018 (Resolution 433) several examples can be cited including the Model Code of Conduct for Public Officials adopted by the Committee of Ministers in 2000<sup>11</sup> and more recently the *Code of Conduct for the members of the Parliamentary Assembly*<sup>12</sup>

42. It should also be noted that studies of codes of conduct show that their effective implementation must be part of a learning process that requires training, consistent enforcement, and continuous measurement/improvement. Simply requiring members to read and undersign the code is not enough to ensure that they take ownership of it and remember its contents. In this respect the Congress Charter tasks the Secretary General of the Congress with the responsibility to ensure that members are aware of the code of conduct.

43. In view of the above, it is necessary to devise a separate Code of Conduct based inter alia on the provisions contained in Rule 65 as proposed to be revised and other relevant models in the Council of Europe.

44. This Code could be appended to the Rules and Procedures or adopted by a separate resolution calling upon members to take note of it and ensure that they follow it in relation to the tasks they carry out on behalf of the Congress or more generally in the implementation of their Congress mandate. Moreover a provision should be included in Rule 65 stating in the exercise of their duties, the members of the Congress shall undertake to comply with the principles and rules set out in the Code of conduct of the Congress members appended to the Rules and Procedures.

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<sup>11</sup> Recommendation No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials, adopted by the Committee of Ministers at its 106<sup>th</sup> Session on 11 May 2000.

<sup>12</sup> See Resolution 1903 (2012) and Resolution 2182 (2017) and Compendium of provisions in force on 1 July 2019 at <http://www.assembly.coe.int/LifeRay/APCE/pdf/Procedure/CodeOfConduct-EN.pdf>.