

13th European Conference of Electoral Management Bodies

Friday, 15 April 2016, 14:00-15:30 – special event:

“25 years of international election observation”

Draft Speaking Notes – Secretary General of the Congress

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Ladies and gentlemen,

Dear Andreas,

thank you for this opportunity to speak, in the framework of this conference, about the observation of elections at the local and regional level. The 13th European Conference of Electoral Management Bodies was the moment to share expert knowledge and experiences of institutional representatives on new technologies. I appreciate that this special event gives us the chance to highlight also the political dimension of electoral activities in the Council of Europe.

The Parliamentary Assembly – for which you have carried out many important missions – and the Congress of Local and Regional Authorities are the two political assemblies of the Council of Europe, mandated by the Committee of the Ministers to observe elections in their respective fields. Election observation by international organisations has become widely accepted as key barometer of the democratic development of a country. In order to protect Europe’s electoral heritage and to be ready for innovation, observers need to be informed, independent and impartial. To ensure proper follow-up to the recommendations drafted by

the observers, their reports need to be accurate, fair and of high quality. I will cover these aspects in more detail later.

As far as the Congress is concerned, our institutional responsibility includes the observation grassroots' elections as part of our mission to evaluate the situation of local and regional democracy in Europe. Based on this specific mandate, we have organised some hundred missions over the last 15 years – mainly in Council of Europe member states and occasionally beyond, such as in the Palestinian territories in 2008.

As it is the case for many other activities, the Congress has been working in complementary and good collaboration with other key actors in the electoral field, notably the Parliamentary Assembly, the Council of Europe Venice Commission, the EU Committee of the Regions and OSCE/ODIHR. The most recent example for this co-operative character is the enlarged Congress' mission to observe the local elections in Ukraine on 25 October 2015. For the first time, 11 members of the Parliamentary Assembly joined the Congress' delegation, together with members of the EU Committee of the Regions; - making it the largest ever observer delegation organised by the Congress involving 57 observers from 25 countries.

In total, the Congress organised four electoral missions in 2015 – in the Autonomous Territorial Unit of Gagausia (MOL), in the Republic of Moldova, in Albania and Ukraine. On an average, the Congress is able to finance between three and five such mission per year. The scope of our missions depends very much of the political context of the respective vote and the interest expressed by a state in the deployment of a Congress' delegation.

Congress' observers are locally or regionally elected representatives from the 47 member countries of the Council of Europe. Many of them are experienced themselves in the

practical organisation of elections in their own municipalities. Thus election observation at international level is a possibility for them to share experiences and compare the different systems in use in Europe. This is a win-win-situation for both the observer and the country in which elections are being held, an opportunity to look beyond one's own nose and a chance to learn from each other. Once they are back in their home country, the discussions with local and regional stakeholders and the information collected on the spot are a source of inspiration for Congress' members.

In order to ensure election observation on a democratic basis, the Congress has established a set of rules for the composition of its delegations which refer to a balanced representation of the different political groups, a fair geographical representation and gender balance. Of course, in our specific case, we are striving also for a balanced participation of members of both the Local Chamber and the Chamber of the Regions. Normally, our delegations are composed of five up to 20 Congress' members and two to five members of the EU Committee of the Regions with whom we have signed a co-operation agreement.

In 2010, the Congress made a major step forward in terms of systematisation of its electoral activities and adopted a proper election observation strategy in its Resolution 306. Through Resolution 353, adopted in 2013, the way was paved towards a more systematic follow-up to the recommendations. In October 2015, the revised Congress' rules and procedures brought into focus targeted activities in the framework of the post-electoral dialogue. During the Fact-finding Mission carried out from 24 to 26 February 2016 in Albania, the Congress, for the first time, engaged in such a post-electoral dialogue, further to the local elections held in June 2015. This is a novelty in the field of elections, complementing existing tools of the Congress to assess the situation of grassroots' democracy.

The progressive structuration of election observation in Congress' reference texts went together with a better organisation of its missions in the field. Over the last ten years, the Congress has been achieving significant progress: it refined its methodology through systematic political and legal briefings for the Congress' observers and the continued incorporation of international standards; it increased co-operation with strategic partners, notably the Council of Europe Venice Commission and OSCE/ODIHR; and it professionalised the whole observation process through collaboration with academics and electoral experts who are supporting the Rapporteurs of the Congress with the drafting of the reports and recommendations further to an election observation.

This is of particular importance in respect of our co-operation with the Council for Democratic Elections of the Venice Commission and the implementation of its Code of Good Practice in Electoral Matters. Reports and recommendations adopted by the Congress systematically refer to such standards thus contributing to the coherence of the Council of Europe related activities.

A concrete sign of the recognition of the efforts of the Congress to further fine-tune its electoral activities was the election of the Dutch member of Congress, Jos Wienen, as new Chair of the Council for Democratic Elections in March 2015, thus succeeding Andreas Gross in this function. The Council being one of the well-established European interfaces to discuss electoral matters, the current chairmanship enables the Congress to foster co-operation, exchange of know-how between strategic partners and tackle horizontal problems and new challenges.

Considering this mandate as a mission to look into the future, the Congress, in addition to the country-specific observations and reports, has developed a strategy to better address

problems identified during electoral missions which are of broader relevance. Such recurring horizontal issues include, in particular:

- the accuracy and quality of voters' lists;
- the professionalisation and de-politicisation of the electoral administration at all levels;
- the situation of independent candidates;
- voting rights of internally displaced residing legally for a certain time in municipalities away from their homes in local elections, and – in a similar but still different sense for refugees and migrants residing legally, as well as,
- the misuse of administrative resources during electoral campaigns.

With regard to the latter, only recently, the Venice Commission has adopted Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes. This issue has been increasingly discussed during election observations and remains very complex. It is of high importance at local and regional level because of the closeness of such resources to potential beneficiaries. It is, of course, also linked to the fight against corruption and the ability of voters to make informed choices. Therefore, the Congress is currently preparing a report on misuse of administrative resources and the role of local and regional elected representatives and civil servants. It will be adopted at the 31st Congress Session in October this year and constitutes, at the same time, a contribution to the Congress' general theme in 2016 – “Ethics and transparency at local and regional level”.

The recurring issue of quality of voters' lists has been dealt with by the Congress in form of a horizontal report adopted at the 28th Congress Session in March 2015. Also in this case,

concrete experiences during observation missions have made us aware of potential electoral fraud related to voters who remain on electoral lists although residing – *de facto* – abroad. From Congress' perspective, a genuine link between a voter and the municipality in which he (or she) casts the ballot at local level is crucial. This is rooted in our conviction that local questions should be decided by the electorate actually residing in a specific municipality. The Congress is committed to raise this issue with all its interlocutors in order to achieve progress in this respect – and did it, for example, during the Fact-finding Mission in Albania in February.

Against the background of the current refugees' crisis, the Congress is also considering to look more closely into the question of voting rights at local level of internally displaced people, refugees and migrants. The situation of IDPs in Ukraine who were not allowed to vote in the 2015 local elections, is a concrete example and underlines the degree of urgency.

Let me now come back to important components of electoral observation processes and according policies developed by the Congress:

- Firstly, I should like to talk about the experiences, skills and behaviour of international election observers.
- Secondly, this is about the reports stemming from our observations and the implementation of recommendations.

Access to up-dated country files, practical information and regular training are major tools of the Congress to improve the performance of its observers in the field. Particular emphasis is being placed on ethics while observing, in particular in respect of impartiality, conflict of

interest and non-acceptance of inappropriate gifts or invitations. A new Congress' Guide on observation of local and regional elections has been produced and it contains a list of "dos and don'ts" for observers. Thorough preparation prior to a mission and systematic feedback after a mission, at post-electoral briefings and through forms, are preconditions of successful observation of elections and constitute the basis of high-quality reports and meaningful recommendations to member states.

As I said, the Congress attaches great attention to the follow-up of its election observation missions and to the implementation of recommendations emerging from such observations. As a consequence, and in complementarity to the political monitoring process of the European Charter of Local Self-Government, it has introduced a procedure to open a post-electoral dialogue. In co-operation with state authorities, political forces, national associations of local and regional self-government and other relevant stakeholders, the Congress highlights specific issues detected during election observations and offers support to work on suitable solutions. This will also be ensured by the continued participation of the Congress in post-electoral conferences organised by the Directorate General of Democracy of the Council of Europe.

All in all, we can acknowledge that many member states have made considerable progress over the last years to ensure free and fair electoral processes. The professionalisation of the electoral administration and the drafting of electoral laws in line with international standards are major achievements in this respect. However, there is still room for improvement in respect of key elements of the process, notably the further de-politicisation of the administration and the elimination of inconsistencies in the legislation.

Moreover, media freedom is a key condition of fair and free elections. During many missions, the Congress has observed that the role of media to inform citizens is being challenged by oligarch structures and insufficient legislation on transparency of media ownership. This is a threat to independent journalism and deprives voters of their right to make an informed choice based, not least, on unbiased media content.

Criteria to stand in elections and, in particular, the possibility of independent candidates to compete in electoral processes are also crucial. At local level, this entails a fair representation of communities and should allow candidates to run in elections without the political and financial support of the political establishment.

The question of financing of electoral campaigns and political parties has been covered by the Venice Commission through the Code of Good Practice in the field of Political Parties. However, the implementation of standards on financial reporting is in many countries still very poor. It also intersects with other issues already mentioned – notably the misuse of administrative resources in electoral processes.

In many countries the progress achieved in electoral matters is also a consequence of regular observation of elections at all levels of government. This can be a source of pride for us and remains, at the same time, our duty and mission. The Congress, in co-operation with our strategic partners, is committed to continue supporting those countries who are interested in welcoming international observer delegations on their territory. It is our duty to prepare our observers in the best possible way. It is our mission to draft, based on concrete observations, meaningful recommendations which can contribute to the consolidation of electoral processes on the path towards genuine democracy at local and regional level.