

The Congress of Local and Regional Authorities



21st SESSION

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Procedures for monitoring the obligations and commitments entered into by the Council of Europe member states in respect of their ratification of the European Charter of Local Self-Government (ETS No. 122)

Resolution 307 (2010) Revised ¹

1. The European Charter of Local Self-Government is the authoritative legal instrument guaranteeing respect for a minimum of rights forming the first European platform for local self-government.

2. The Congress refers to its Resolution 31 (1996) on Guiding principles for the action of the Congress when preparing reports on local and regional democracy in member states and applicant states.

3. It also recalls the Committee of Ministers' Statutory Resolution CM/Res(2007)6², which stipulates that it is for the Congress to monitor implementation of the Charter by the countries having ratified it, and states, *inter alia*, that:

"2-3. The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented (...)

2-5. Recommendations and opinions of the Congress shall be sent as appropriate to the Parliamentary Assembly and/or the Committee of Ministers as well as to European and international organisations and institutions. Resolutions and other adopted texts which do not entail possible action by the Assembly and/or the Committee of Ministers shall be transmitted to them for their information."

4. The Congress monitoring procedure is a crucial tool for checking that Council of Europe countries which have ratified the European Charter of Local Self-Government honour their commitments. In addition to checking in respect of states' commitments, the procedure makes it possible to establish open and constructive dialogue between the Congress and the national, local and regional authorities of member states, via impartial and independent co-rapporteurs appointed on the basis of objective criteria.

5. The Congress believes it necessary to organise these monitoring procedures on a regular basis in each member state which ratified the European Charter of Local Self-Government. Given the ever-changing nature of local and regional democracy, it believes that it should be possible to organise these visits at least once every five years.

¹ Adopted according to the tacit adoption procedure (Rule 25 of the Rules of Procedure) by the Congress on 19 October 2011 (see document [CG\(21\)15](#)).

² Statutory Resolution (2007– excerpts from Article 2.



6. The Congress stresses how important it is for the Council of Europe to ensure that the commitments entered into by all its member states are fully honoured.

7. Pursuant to the aforementioned texts, the Congress must ensure that it monitors the commitments entered into by the member states having ratified the European Charter of Local Self-Government and/or its Additional Protocol on the right to participate in the affairs of a local authority³ (hereinafter "the Charter").

8. Furthermore, pursuant to Resolution 299 (2010), the Reference Framework for Regional Democracy will be taken into consideration.⁴

9. Alongside the monitoring effort, the Congress will promote, in as much as they entail obligations in respect of local and regional authorities, the European Convention on Human Rights (ETS No. 5) and the revised European Social Charter (ETS No. 163).

10. To achieve the above objectives, the Bureau shall decide to organise monitoring in one or more given countries, either because of a particular situation requiring clarification regarding application of the Charter or in order to update a report on the situation of local and/or regional democracy. It shall instruct the Monitoring Committee to make arrangements for the monitoring of the honouring of these commitments in that/those countries. Monitoring is also intended to check the content of any notifications made by the state pursuant to Article 12 of the Charter when depositing their instrument of ratification and, where applicable, explore with the authorities the possibility of ratifying, at a later date, the article(s) to which their notification related.

11. The monitoring visits must focus on the situation of local and regional democracy, except in countries which have no regional structures.

12. On the basis of a list of candidates, the Monitoring Committee shall appoint two co-rapporteurs from among its members (one full member or alternate from its Chamber of Regions and one full member or alternate from its Chamber of Local Authorities). Appointment of the co-rapporteurs shall comply with Article 2 of the rules governing the organisation of Congress monitoring procedures, appended to the present resolution.

13. The Congress believes that, in the interest of ensuring compliance with the criteria of independence and impartiality of the co-rapporteurs, which are the very keys to the effectiveness of a monitoring mission, a co-rapporteur's mandate may not exceed five years and they may not be tasked with monitoring the same country for the five years following that initial period.

14. For the sake of the smooth running of the monitoring procedure, the committee may decide to extend the mandate of one of the co-rapporteurs, where there are grounds and if it is possible, for six months at the most, in particular to enable the co-rapporteur to present a report already entered on the agenda of a Congress part-session.

15. For the purposes of the present resolution, the mandate of co-rapporteurs shall commence on the date of their appointment.

16. By decision of the Monitoring Committee, the delegation shall be assisted by a consultant drawn from the Group of Independent Experts on the European Charter of Local Self-Government or by an independent consultant who has specialist knowledge of the country to be visited and substantial knowledge of the Charter and of local and regional democracy issues in Council of Europe member states.

³ "The Charter" shall be taken to mean the European Charter of Local Self-Government (ETS No. 122) including its Additional Protocol (CETS No. 207).

⁴ See the Final Declaration adopted by the European Ministers responsible for Local and Regional Government on 17 November 2009 in Utrecht (Netherlands) within the framework of their 16th Council of Europe Ministerial Conference. It should be noted that the Reference Framework does not constitute a standard-setting instrument.

17. The monitoring delegations shall meet, *inter alia*, with the ministers responsible for local and regional authorities, parliamentarians, local and regional elected representatives, officials of the competent authorities and also associations representing local and regional authorities and representatives of civil society.⁵
18. The report must be drafted, as far as possible, within six weeks following the visit.
19. The report on the situation of local and regional democracy in a country to which a monitoring visit or fact-finding visit has been made shall be drafted by the co-rapporteurs in collaboration with the consultant and the secretariat.
20. It must also take into account the recommendations and/or resolutions previously adopted by the Congress, particularly recommendations addressed to the country visited. The report shall also take into consideration the political context in which the monitoring visit took place and examine the situation of local and regional democracy in the light of other relevant Council of Europe texts⁶ ratified by the country in question.
21. Once validated by the co-rapporteurs, the draft report shall be sent to the authorities of the country concerned, with whom the delegation had previously met, so that they may respond and send back their comments. The co-rapporteurs may decide to publish those comments in an appendix to their report.
22. The report shall be accompanied by a draft recommendation and if necessary a draft resolution.
23. Pursuant to Rule 42-5 of the Rules of Procedure of the Congress and its Chambers,⁷ draft reports, recommendations and, where applicable, resolutions, shall be submitted for adoption to the Monitoring Committee, and then for adoption by the Congress at a plenary session or a session of the Chambers.
24. Pursuant to Article 2-5 of the Statutory Resolution mentioned above, the recommendation shall be transmitted to the Committee of Ministers and to the Parliamentary Assembly.
25. Rules governing the organisation of Congress monitoring procedures are appended to the present resolution.

Appendix

Rules governing the organisation of Congress monitoring procedures pursuant to Resolution 307 (2010)

Pursuant to Resolution 307 (2010), the purpose of the present rules is to define the arrangements for organising procedures for monitoring the commitments of Council of Europe member states having signed and ratified the European Charter of Local Self-Government⁸ with the aim of achieving the objective set forth in the aforementioned resolution.

1. The monitoring procedure

The monitoring procedure shall be carried out every five years in each Council of Europe member state having signed and ratified the European Charter of Local Self-Government. It shall comprise four phases:

⁵ See in this connection the rules governing the practical arrangements for organising Congress monitoring visits (appended to the present resolution).

⁶ Such as the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144), the European Charter for Regional or Minority Languages (ETS No. 148), the Framework Convention for the Protection of National Minorities (ETS No. 157), Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (CETS No. 206), etc.

⁷ As revised by the Congress at its 15th Plenary Session on 28 May 2008 (Resolution 256 (2008)) and supplemented by the Standing Committee on 2 December 2008 (Resolution 273 (2008)).

⁸ ETS No. 122.

- a. the monitoring visit;
- b. examination of the report by the Congress and adoption by that body of a recommendation. If the co-rapporteurs think it necessary, they may propose a draft resolution for adoption by the Congress;
- c. transmission to the Committee of Ministers for debate and subsequent transmission to the authorities of the country concerned;
- d. an invitation issued to the authorities of the country concerned to address the plenary session of the Congress or the session of one of its Chambers between two monitoring procedures.

2. The co-rapporteurs

- 2.1. Two rapporteurs shall be appointed: one co-rapporteur for regional questions and one co-rapporteur for local questions in the case of a report focusing on the situation of local and regional democracy, and two co-rapporteurs for local questions in the case of a report focusing solely on local democracy;
- 2.2. The co-rapporteurs shall be appointed from among the Full or Alternate members of the Monitoring Committee of the Congress who put forward their names as candidates;
- 2.3. Upon express derogation by the chair of the committee, a member of the Congress who is not a member of the Monitoring Committee may be appointed as co-rapporteur;
- 2.4. The co-rapporteurs must be appointed in a manner that ensures a balanced representation of the political groups and the group of members not registered with a political group of the Congress;
- 2.5. Candidates for monitoring exercises may be appointed for only one monitoring exercise at a time;
- 2.6. The co-rapporteurs must not be nationals of the country concerned by the monitoring procedure, or a bordering country or a country which has a particular relationship with the country to be monitored;
- 2.7. The maximum duration of the rapporteurs' mandate shall be five years, dating from their appointment;
- 2.8. A co-rapporteur's mandate may exceptionally be extended for a maximum of six months, on grounds of the timetable for the presentation of the monitoring report at a Congress session.

3. Monitoring visits

3.1. Number of visits

The monitoring procedure shall comprise one visit to the country concerned. Should they think it necessary, the co-rapporteur may make a second visit subject to the Bureau's agreement.

3.2. The delegation

The delegation participating in the monitoring visits shall comprise the two co-rapporteurs assisted by one/two representatives of the Congress secretariat and a consultant drawn from the Group of Independent Experts on the European Charter of Local Self-Government or by an independent consultant who has specialist knowledge of the country to be visited and substantial knowledge of the Charter and of local and regional democracy issues in Council of Europe member states.

3.3. Preparation of the visit

3.3.1. The visit shall be prepared by the Congress secretariat in conjunction with the national, regional and local authorities, and also the national association(s) of local and regional authorities.

3.3.2. The secretariat shall draw up a draft programme in conjunction with the co-rapporteurs.

3.3.3. The draft programme shall be communicated to the permanent representative to the Council of Europe of the country concerned and to the secretary of the country's delegation to the Congress. The Congress secretariat shall inform the permanent representation of the country concerned and also the secretary of its national delegation to the Congress of correspondence with the authorities.

3.3.4. The visit programme shall make provision for meetings with the authorities responsible for questions of local and regional democracy or dealing with these questions, and also with the officials of the administrations concerned, notably:

- the minister(s) responsible for local and regional authorities;
- members of parliament (national and/or regional) – particularly those responsible for local or regional issues;
- local and regional elected representatives, including the Congress delegation, the mayor of the capital city and mayors of small and medium-sized municipalities;
- the president of the Constitutional Court;
- the national, regional and/or local ombudsman;
- a specialist on questions linked to the application of the Charter in the country concerned;
- associations representing local and regional authorities;
- representatives of civil society from non-governmental organisations and trade unions of the country visited.

Generally speaking, the co-rapporteurs might meet any individual whom they consider useful to interview for their task.

3.3.5. The secretariat shall provide the rapporteurs with the most comprehensive information possible on the country visited.

3.3.6. The consultant shall contribute to the preparation of the visit by drawing up a concise list of questions to be broached concerning problems linked to the application of the Charter. This list shall also include the questions raised during the previous visit to the country. The consultant shall also take into account any notifications made by the state when depositing their instrument of ratification of the Charter and the current political context.

3.3.7. The list of topics which the delegation wishes to broach shall be sent, at least one week prior to the visit, to the permanent representation to the Council of Europe of the state concerned, and to the talking partners listed in the programme.

3.4 Running of the visit

3.4.1. A working meeting of the delegation shall be organised prior to the series of meetings scheduled in the programme, *inter alia* to enable the co-rapporteurs to check with the secretariat and the consultant that they have all the necessary information concerning their talking partners and the substantive topics they are to broach with the authorities during the visit.

3.4.2. In the course of their scheduled meetings, the co-rapporteurs will hold talks with the country's political authorities, mentioned in paragraph 3.3.4. The consultant and the secretariat may speak on such occasions, with the rapporteurs' permission.

3.4.3. A meeting of the delegation members shall be organised on the spot by the secretariat at the end of the visit in order to assess the information gathered and the overall running of the visit.

4. Preparation of the report, recommendation and resolution

4.1. The report shall be drafted, as far as possible, within a maximum of six weeks following the visit.

4.2. The report on the situation of local and regional democracy in a country to which a monitoring visit or fact-finding visit has been made shall be drafted by the co-rapporteurs in collaboration with the consultant and the secretariat.

4.3. It shall also take account of the recommendations and/or resolutions previously adopted by the Congress, particularly recommendations addressed to the country visited. The report must also take into consideration the political context in which the monitoring visit took place and examine the situation of local and regional democracy in the light of other relevant Council of Europe texts ratified by the country in question.⁹

4.4. Once validated by the co-rapporteurs, the draft report shall be sent to the authorities of the country concerned, with whom the delegation had previously met, so that they may respond and send back their comments. The co-rapporteurs may decide to publish those comments in an appendix to their report.

4.5. The report shall be accompanied by a draft recommendation and if necessary a draft resolution.

5. Adoption of and follow-up to recommendations

5.1. Pursuant to Rule 42-5 of the Rules of Procedure of the Congress and its Chambers,¹⁰ the preliminary draft report, recommendation and, where applicable, resolution, shall be submitted to the Monitoring Committee for examination and adoption.

5.2. The draft report, recommendation and, where applicable, resolution shall be presented by the co-rapporteurs and examined by the Congress with a view to their adoption within the framework of its session or the sittings of the Chambers.

5.3. Pursuant to Article 2-5 of the Statutory Resolution, the recommendation shall be transmitted to the Committee of Ministers for debate and transmission to the authorities of the state concerned and to the Parliamentary Assembly.

5.4. Implementation of the recommendation shall be followed up by the member states concerned and by the Congress as well as the intergovernmental entities of the Council of Europe competent in the area of local and regional democracy, *inter alia* within the framework of the ongoing dialogue established with the authorities during the visit.

⁹ Such as the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144), the European Charter for Regional or Minority Languages (ETS No. 148), the Framework Convention for the Protection of National Minorities (ETS No. 157), Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (CETS No. 206), etc.

¹⁰ As revised by the Congress at its 15th Plenary Session on 28 May 2008 (Resolution 256 (2008)) and supplemented by the Standing Committee on 2 December 2008 (Resolution 273 (2008)).