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Monitoring of the application of the European Charter of Local Self-Government in the United Kingdom

Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee)

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Summary

The present report is the second monitoring report since the country ratified the Charter in 1998. It follows the remote monitoring meetings carried out from 21 to 23 June 2021. The report welcomes the adoption of the Cities and Local Government Devolution Act 2016 that has empowered the Secretary of State to introduce directly elected mayors for English regions comprised of two or more councils. It also welcomes the publication by the UK government of a Levelling Up White Paper that would focus its new investment programmes on local partners and communities across the UK to face common challenges shared by them. Moreover, it refers positively to a legislative initiative that has been taken by the Scottish Parliament to incorporate the European Charter of Local Self-Government into Scottish law.

The rapporteurs however express concern, inter alia about the fact that the principle of local self-government is not explicitly recognised in the UK's domestic legislation, and that local authorities' capacity to perform local tasks effectively is limited in practice due to the overregulation that narrows local scope of action, a rather heavy supervision by higher-level authorities and significant local government dependence on national funding. The report also stresses that local authorities are limited in their ability to raise and spend financial resources freely and lack adequate and commensurate funding, and that the practice of consultation on financial resources does not fully satisfy the requirements of Article 9.6 as regards the manner in which such consultation is conducted.

Consequently, they call the UK authorities to, among other things, explore all possible legal venues in order to recognise the principle of local self-government in domestic law, and enhance local authorities' fiscal capacity to allow the costs of service delivery to be met and render local authorities' finances more buoyant. It also encourages them to initiate a reform of the system of local government funding to bring the situation in conformity with Article 9, that would incorporate the principles of adequacy and commensurability of local financial resources into law and provide more room to local authorities to decide on spending priorities. The rapporteurs ask UK authorities to guarantee that consultation on local funding take place in a timely manner

1. 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 Liberal and Democratic Group
 ECR: European Conservatives and Reformists Group
 NR: Members not belonging to a political group of the Congress

before a final decision is made and local authorities have sufficient time and possibilities to contribute meaningfully to the consultation process.

Lastly, UK authorities are invited to ratify 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).

RECOMMENDATION 474 (2022)²

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 1.b, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that “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 the effective implementation of the principles of the European Charter of Local Self-Government.”;

c. Chapter XVIII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

d. the Congress priorities set up for 2021-2026, in particular priority 6b that concerns the quality of representative democracy and citizen participation;

e. the Sustainable Development Goals (SDG) of the United Nations 2030 Agenda for Sustainable Development, in particular Goals 11 on sustainable cities and communities and 16 on peace, justice and strong institutions;

f. Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;

g. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;

h. Recommendation 455(2021) Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and election observation missions (reference period 2017-2020);

i. Congress Recommendation 353 (2014) on local and regional democracy in the UK;

j. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in the UK.

2. The Congress points out that:

a. The United Kingdom (UK) joined the Council of Europe on 5 May 1949, signed the European Charter of Local Self Government (ETS No. 122, hereinafter "the Charter") on 3 June 1997 and ratified it on 24 April 1998. It made a declaration to the effect that it intends to confine its scope to the following categories of authorities: in England, county councils, district councils and London borough councils and the Council of the Isles of Scilly; in Wales, to all councils constituted under Section 2 of the Local Government (Wales) Act 1994 and in Scotland, to all councils constituted under Section 2 of the Local Government (Scotland) Act 1994. The Charter entered into force in the UK on 1 August 1998;

b. The UK has signed but not ratified 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);

c. The Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (hereinafter referred to as Monitoring Committee) decided to examine the situation of local and regional democracy in the UK in the light of the Charter. It entrusted Vladimir PREBILIC, Slovenia (L, SOC/G/PD) and Magnus BERNTSSON, Sweden (R, EPP/CCE), with the task of preparing and submitting to the Congress a report on the monitoring of the application of the European Charter of Local Self-Government in the UK;

2. Debated and adopted by the Congress on 24 March 2022, 3rd sitting (see Document [CG\(2022\)42-18](#), explanatory memorandum), corapporteurs: Vladimir PREBILIC, Slovenia (L, SOC/G/PD) and Magnus BERNTSSON, Sweden (R, EPP/CCE)

d. The remote monitoring meetings took place from 21 to 23 June 2021. On this occasion, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the meetings is appended to the explanatory memorandum;

e. The UK being made up of four nations which retain territorial and cultural distinctions of their own, the recommendations will be addressed to the UK as a CoE member State, but the implementation thereof will be subject to the powers and responsibilities of the UK and of the devolved administrations of Scotland, Wales and Northern Ireland according to the distribution of competences regarding local government.

3. The co-rapporteurs wish to thank the Permanent Representation of the UK to the Council of Europe and all those whom they met during the visit.

4. The Congress notes with satisfaction that in the UK:

a. The adoption of the Cities and Local Government Devolution Act 2016 has empowered the Secretary of State to introduce directly elected mayors for English regions comprised of two or more councils;

b. The UK Government has committed to publishing a Levelling Up White Paper that would focus its new investment programmes on local partners and communities across the UK to face common challenges shared by them;

c. a legislative initiative has been taken by the Scottish Parliament to incorporate the European Charter of Local Self-Government into Scottish law.

5. The Congress notes, however, that several shortcomings raised in its Recommendation 353(2014) have yet to be addressed and expresses its concerns on the following issues:

a. the principle of local self-government is not explicitly recognised in the UK's domestic legislation to be fully respected in practice;

b. although local authorities have general competences set out in law, their capacity to perform local tasks effectively is limited in practice due to the overregulation that narrows local scope of action, a rather heavy supervision by higher-level authorities and significant local government dependence on national funding;

c. administrative supervision over local authorities' tasks is being exercised with regard to expediency and in practice does not always respect the principle of proportionality;

d. local authorities are limited in their ability to raise and spend financial resources freely and lack adequate and commensurate funding. Central government has significant oversight in how local authorities are funded and how these funds are spent, and the financial equalisation mechanism is not sufficiently transparent and predictable;

e. the practice of consultation on financial resources does not fully satisfy the requirements of Article 9.6 as regards the manner in which such consultation is conducted;

f. local authorities do not have a legal possibility to protect the right to local self-government to satisfy the requirements of Article 11 read in conjunction with Article 2;

g. the declaration made by the UK Government at the time of ratification of the Charter confining it to certain categories of local authorities has not been updated given present-day realities. The Charter does not apply to the Greater London Authority and local authorities in Northern Ireland.

6. Considering the foregoing, the Congress requests that the Committee of Ministers invite the UK authorities to:

a. explore all possible legal venues in order to recognise the principle of local self-government in domestic law;

b. initiate a reform of the system of local government funding to bring the situation in conformity with Article 9. The reform should, inter alia, aim to incorporate the principles of adequacy and commensurability of local financial resources into law, ensure their application in practice, and provide more room to local authorities to decide on spending priorities;

- c.* enhance local authorities' fiscal capacity to allow the costs of service delivery to be met and render local authorities' finances more buoyant;
 - d.* guarantee that consultation on local funding take place in a timely manner before a final decision is made and local authorities have sufficient time and possibilities to contribute meaningfully to the consultation process;
 - e.* ensure that the administrative supervision over local authorities is limited to the control of legality that keeps the intervention in proportion to the importance of the interests that it intends to protect;
 - f.* take appropriate legal measures to make the Charter a judicially enforceable legal instrument so that local authorities can have recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as provided in Article 11 read in conjunction with Article 2;
 - g.* reconsider the UK declaration made on 14 April 1998 on the scope of the Charter in the light of the categories of authority currently in place and extend its application to the Greater London Authority and local authorities in Northern Ireland;
 - h.* ratify 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).
7. The Congress calls on the Committee of Ministers and the Parliamentary Assembly of the Council of Europe to take account of this recommendation on the monitoring of the European Charter of Local Self-Government in the UK and the accompanying explanatory memorandum in their activities relating to this member State.

EXPLANATORY MEMORANDUM

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1. INTRODUCTION: AIM AND SCOPE OF THE VISIT, TERMS OF REFERENCE

1. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulates that “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 the effective implementation of the principles of the European Charter of Local Self-Government”.

2. The United Kingdom (UK) joined the Council of Europe on 5 May 1949. It signed the European Charter for Local Self-Government (ETS No. 122, hereafter “the Charter”) on 3 June 1997 and ratified it on 24 April 1998. It made a declaration to the effect that it considers itself bound by all the paragraphs of Part 1 of the Charter, but intends to confine its scope to the following categories of authorities: in England, county councils, district councils and London borough councils and the Council of the Isles of Scilly, in Wales, to all councils constituted under Section 2 of the Local Government (Wales) Act 1994 and in Scotland, to all councils constituted under Section 2 of the Local Government (Scotland) Act 1994. According to the United Kingdom’s understanding, the term “local authority” does not include local or regional bodies, such as police authorities, which, because of the specialist functions for which they are responsible, are composed of both elected and appointed members. The Charter does not apply to local authorities in Northern Ireland (not included in the 1998 declaration on the Charter’s application), nor to the parliaments and assembly of, Scotland, Wales, and Northern Ireland.

3. The United Kingdom signed (but has not yet ratified) the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144) on 5 February 1992 and 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).

4. A first review was carried out in the United Kingdom in 1997 and 1998, resulting in Recommendation 49 (1998) of the Congress about local and regional democracy in the United Kingdom of 28 May 1998. A second review took place in 2013, resulting in Recommendation 353 (2014).

5. The present report relates to the (remote) meetings of the Congress delegation in the United Kingdom from 21 to 23 June 2021. Mr Vladimir PREBILIC (Slovenia, SOC/G/PD) and Mr Magnus BERNTSSON (Sweden, EPP/CCE) were appointed as co-rapporteurs on local democracy. They were assisted by Dr Linze SCHAAP, CEO to the Northern Audit Office (Netherlands), member of the Group of Independent Experts on the European Charter of Local Self-Government, as well as by the Congress Secretariat. The Congress delegation met with members of the national delegation of the United Kingdom to the Congress, Members of the UK House of Commons, Welsh Parliament (Senedd), and the Northern Ireland Assembly, and officials of various government departments. They met representatives of the Local Government Association (LGA), the Northern Ireland Local Government Association (NILGA), the Convention of Scottish Local Authorities (COSLA) and the Welsh Local Government Association (WLGA). They also met with experts and local government representatives from the Greater London Authority and London Assembly, Edinburgh City Council, Cardiff City Hall, and Belfast City Hall. The detailed programme is appended hereto.

6. The rapporteurs wish to thank the Permanent Representation of the United Kingdom to the Council of Europe and all those whom they met during the visit for their readiness to assist the delegation and for the information they so willingly supplied. They also thank the United Kingdom delegation to the Congress and all the associations of local authorities for contributing to the organisation and smooth running of the remote visit.

2. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK³

7. The United Kingdom is a monarchy, with sovereignty vested in parliament and without a written, codified constitution. It is a “devolved” (in many countries called “decentralised”) state consisting of nations. As of today, Scotland, Wales and Northern Ireland each have their own parliament or assembly. England, however, did not benefit from the nation-based devolution introduced in 1997 and, as a result, it is governed by the UK parliament and the UK government. At first sight, the UK resembles a federation, but it is not. In a federal (or even confederal) system, the constituent parts have autonomy and sovereignty (although not in absolute

3. Main sources for this section: Sandford M. (2021), “Local government in England: structures: House of Commons Library Briefing Paper Number 07104”, available at <https://researchbriefings.files.parliament.uk/documents/SN07104/SN07104.pdf>, accessed 22 January 2022; Himsworth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury; and personal communications from the UK members of the Group of Independent Experts on the Charter.

amounts). In the UK, “parliamentary sovereignty” has remained untouched by devolution, and, as a result, the UK parliament might reverse devolution and abolish the devolved institutions, such as the various parliaments and assemblies.⁴

8. The UK’s devolution is asymmetric. Each UK nation has a different form of devolution and varying degrees of power. Devolution took place in three of the four nations, that is to Scotland, Wales and Northern Ireland, and not in England. Powers have also been devolved to metropolitan areas in England. There is also a devolution deal in place with Cornwall, giving this rural authority, a greater say over public sector funding and promoting local decision-making in many public services. Scotland, Wales and Northern Ireland possess legislative and executive powers, while the Mayor of London and the English Metro Mayors have only executive powers, which the London Assembly and the Combined Authorities can scrutinise. The legislative framework for the devolution in the three nations consists of amended acts (the Scotland Act 1998, the Government of Wales Act 2006, and the Northern Ireland Act 1998). In addition, several non-statutory agreements between the UK government departments and the devolved institutions exist.

9. The division of competences between the UK Parliament and the devolved legislatures (Scotland, Wales and Northern Ireland) is organised by the distinction between “devolved” and “reserved” areas and excepted matters in Northern Ireland only (see Table 1).⁵ In addition, for Northern Ireland there are transferred matters (and for Northern Ireland, it should be noted that reserved has a different meaning). The devolved legislatures can pass laws that relate to devolved (transferred) matters but reserved (and excepted) matters are for the UK Parliament. Although the UK Parliament still has legislative powers in relation to devolved matters, but for primary legislation it does not normally use such powers without the explicit consent of the devolved body concerned.

10. The courts and, ultimately, the UK Supreme Court (UKSC), determine the interpretation and application of the devolution statutes, including matters of competence. The UK Parliament built some mechanisms into the legislative process “to ensure that references to the UKSC are kept to a minimum: the Minister in charge of a bill has to state that its provisions are within competence; similarly, the Presiding Officer/Speaker must state their view regarding its competence; while there is then an interval of up to four weeks between its passing and submission for Royal Assent in which devolved or UK law officers can refer the Bill to the Supreme Court on grounds that it is beyond competence”.⁶

11. Policies regarding local government structures, funding, responsibilities, and the like, are not reserved areas, and they are, consequently, the responsibilities of the devolved legislators.⁷ In view of the rapporteurs, some of the reserved areas also need local government attention (making bylaws, implementing national policies).

12. Table 1 provides an overview of reserved areas.

Table 1. Reserved areas per nation

Scotland	Wales	Northern Ireland
General reservations		Excepted areas
<ul style="list-style-type: none"> ▪ Aspects of the constitution, including the Crown, the Union, the UK Parliament, the existence of the (criminal) High Court of Justiciary and the existence of the (civil) Court of Session. ▪ Registration and funding of political parties ▪ International relations, including with territories outside the UK and the European Union, international development, and the regulation of international trade ▪ Home Civil Service ▪ Defence of the realm; Treason 	<ul style="list-style-type: none"> ▪ Constitution, single legal jurisdiction of England and Wales, tribunals ▪ Political parties ▪ Foreign affairs, etc. ▪ Public service ▪ Defence 	<ul style="list-style-type: none"> ▪ Constitution; Royal succession ▪ International relations; international treaties ▪ Defence and armed forces; national security ▪ Nationality, immigration, asylum ▪ Elections ▪ Nuclear energy ▪ UK-wide taxation; currency ▪ Conferring of honours
Specific reservations*		Reserved areas

4. Torrance D. (2020), “Introduction to devolution in the UK”, UK House of Commons, Westminster.

5. In the case of Northern Ireland called “transferred” and “reserved and excepted”, respectively.

6. Torrance D. (2019), “Reserved matters in the United Kingdom: Briefing Paper Number CBP 8544”, UK House of Commons, Westminster.

7. Himsworth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury.

<ul style="list-style-type: none"> ▪ Head A – Financial and Economic Matters (fiscal – except devolved taxes – economic and monetary policy, currency, financial services and markets, money laundering). ▪ Head B – Home Affairs (misuse of drugs, data protection and access to information, elections to the House of Commons, firearms – except air weapons – entertainment, immigration and nationality, scientific procedures on live animals, national security, official secrets and terrorism, betting, gaming and lotteries, emergency powers, extradition, lieutenancies and access to non-Scottish public bodies). ▪ Head C – Trade and Industry (business associations, insolvency, competition, intellectual property, import and export control, sea fishing outside the Scottish zone, consumer protection, product standards, safety and liability, weights and measures, telecommunications, postal services, research councils, designation of assisted areas, industrial development, and protection of trading and economic interests). ▪ Head D – Energy (electricity, oil and gas, coal, nuclear energy and energy conservation). ▪ Head E – Transport (road transport, marine transport, and air transport). ▪ Head F – Social Security (non-devolved social security schemes, child support and pensions). ▪ Head G – Regulation of the Professions (architects, health professions and auditors). ▪ Head H – Employment (employment and industrial relations, health and safety, non-devolved job search and support). ▪ Head J – Health and Medicines (xenotransplantation, embryology, surrogacy and genetics, medicines, medical supplies and poisons, welfare foods). ▪ Head K – Media and Culture (broadcasting, public lending right, government indemnity scheme and property accepted in satisfaction of tax). ▪ Head L – Miscellaneous (judicial remuneration, non-Scottish public body equal opportunities, control of weapons, Ordnance survey, time, outer space, and Antarctica). 	<ul style="list-style-type: none"> ▪ Head A – Financial and Economic Matters (fiscal – except devolved taxes – economic and monetary policy, currency, financial services and markets, dormant accounts). ▪ Head B – Home Affairs (elections, nationality and immigration, national security and official secrets, interception of communications, communications data and surveillance, crime, public order and policing, anti-social behaviour, modern slavery, prostitution, emergency powers, extradition, rehabilitation of offenders, criminal records, dangerous items, misuse of and dealing in drugs or psychoactive substances, private security, entertainment and late night refreshment, alcohol, betting, gaming and lotteries, hunting, scientific and educational procedures on live animals, lieutenancies, charities and fundraising). ▪ Head C – Trade and Industry (business associations and business names, insolvency and winding up, competition, intellectual property, import and export control, consumer protection, product standards, safety and liability, weights and measures, telecommunications and wireless telegraphy, post, research councils, industrial development, protection of trading and economic interests, assistance in connection with exports of goods and services, water and sewerage, Pubs Code Adjudicator and the Pubs Code, Sunday trading). ▪ Head D – Energy (electricity, oil and gas, coal, nuclear energy, heat and cooling, energy conservation). ▪ Head E – Transport (road transport, rail transport, marine and waterway transport, air transport, transport security and other matters). ▪ Head F – Social Security, Child Support, Pensions and Compensation (social security schemes, child support, occupational and personal pensions, public sector compensation, armed forces compensation, etc.). ▪ Head G – Professions (architects, auditors, health professionals and veterinary surgeons, employment, employment and industrial relations, industrial training boards, job search and support). ▪ Head J – Health, Safety and Medicines (abortion, xenotransplantation, embryology, surrogacy and genetics, medicines, medical supplies, biological substances etc, welfare foods, health and safety). ▪ Head K – Media, Culture and Sport (media, Public Lending Right, Government Indemnity Scheme, property accepted in satisfaction of tax, sports grounds). ▪ Head L – Justice (the legal profession, legal services and claims management services, legal aid, coroners, arbitration, mental capacity, personal data, information rights, public sector information, public records, compensation for persons affected by crime and miscarriages of justice, prisons and offender management, family relationships and children, gender recognition, registration of births, deaths and places of worship). ▪ Head M – Land and Agricultural Assets (registration of land, registration of agricultural charges and debentures, development and buildings). ▪ Head N – Miscellaneous. 	<ul style="list-style-type: none"> ▪ Firearms and explosives ▪ Financial services and pensions regulation ▪ Broadcasting ▪ Import and export controls ▪ Navigation and civil aviation ▪ International trade and financial markets ▪ Telecommunications and postage ▪ Foreshore, seabed ▪ Disqualification from assembly membership ▪ Consumer safety; Intellectual property
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Source: Torrance D. (2019), “Reserved matters in the United Kingdom: Briefing Paper Number CBP 8544”, UK House of Commons, Westminster.

*In Scotland no Head I, in Wales no heads H nor I.

2.1 Local government system (constitutional and legislative framework, reforms)

13. Local government is a devolved matter and since devolution in the late 1990s, local government in each part of the UK has developed differently. This implies that depicting the UK’s system of local government is a complicated matter as unlike other European states it is not a system but four. For example, the devolved governments are accountable to the devolved legislatures for their tax and spending decisions. This includes

deciding on the kinds and amounts of funding to provide to local authorities in Scotland, Wales and Northern Ireland. Local Government powers and competences, electoral law and their very existence rests on the Devolved legislatures and for England in the UK Parliament.

14. The degree of decentralisation within each home nation is different: in Scotland, Wales and Northern Ireland there is only one type of local authority since 1996 whereas arrangements in England are very diverse and continuously changing: Counties, Districts, urban unitary councils, London Boroughs and more recently the creation of the Mayor of London and English Metro Mayors which unlike Devolution in the home countries does not include legislative powers: the Mayor of London and the English Metro Mayors have only executive powers, which the London Assembly and the Combined Authorities can scrutinise.

England⁸

15. As mentioned above, in England, there are district councils (lower-tier), county councils (upper-tier), unitary councils, and London boroughs councils (single-tier), the GLA, combined authorities and certain other authorities. Besides, about 10,000 parish and town councils exist across England. District and county councils have distinct, though overlapping, functions. In some cases, “unitary authorities” (sometimes called “borough” or “city” councils⁹) carry out all local government functions, instead of district and county councils. In addition, there are fire and rescue authorities, as well as Police and Crime Commissioners (PCCs). Such PCCs are directly elected, and they have the power to take on responsibility for fire and rescue in their area. Separate Fire and rescue authorities do not always exist however, as County Councils in some places can be the fire and rescue authorities for their area. Unitary authorities are either district councils which also have county council functions or county councils which also have district council functions. District authorities can also have a ceremonial title of being a borough or a city council. In some metropolitan areas, however, the directly elected mayors are responsible for both functions (for instance in Greater London and Greater Manchester). The Local Government and Public Involvement in Health Act 2007 allows for the creation of joint (i.e. waste) authorities. Combined authorities also exercise local government functions, notably transport functions, including passenger transport, and do so rather than their constituent councils.

16. At the moment, there are 331 local councils (i.e. authorities) across England: 24 County Councils (upper-tier), 181 District Councils (lower-tier), 32 London Boroughs (unitary), 36 Metropolitan Boroughs (unitary), 58 Unitary authorities (known only as “unitary”). The City of London Corporation and Isles of Scilly are distinct councils in their own right and are often not included in the total of English councils because of their distinctive nature. These figures change as mergers and abolitions of councils take place.

17. The then Secretary of State for Housing, Communities and Local Government¹⁰ has announced the abolition and merger of 20 local authorities in three county areas of England, to be replaced by four new unitary councils in 2023.

18. Within England, an asymmetric kind of regionalisation is developing by the creation of regional bodies in some metropolitan areas. The Greater London area has had a governing body for a long time (but not continuously), at present the Greater London Authority, with its own directly elected Mayor and Assembly. In addition, under the Local Democracy, Economic Development and Construction Act 2009, combined authorities have been established in metropolitan areas. These are a cooperative structure of two or more local authorities with a directly elected mayor (or a city region mayor). The kind of decentralisation (“devolution”) of responsibilities to these combined authorities differs from that to the devolved administrations in Scotland, Wales, and Northern Ireland (see point 8). The Greater London Authority and the combined authorities lack legislative powers, and their mayors have executive powers as well as some powers of their own.

19. The Combined Authorities are a co-operative structure of a number of local authorities. The directly elected combined authority mayors (“Metro Mayors”) chair a mayoral combined authority (MCA) formed of the leaders of the councils across the area that has decided to come together to establish a combined authority. According to the UK Government, its goal was to rebalance the economy and empower local government by strengthening local leadership and institutions. The establishment of mayoral combined authorities enabled central government to devolve powers and funding away from Whitehall so that they are exercised at the right spatial geography. 41% of residents in England are now served by directly elected city

8. Sandford M. (2021), available at <https://researchbriefings.files.parliament.uk/documents/SN07104/SN07104.pdf>, accessed 22 January 2022; Wilson D. and Game C. (2011) *Local Government in the United Kingdom*, Palgrave MacMillan; Institute for Government (2021), “Metro mayors”, available at www.instituteforgovernment.org.uk/explainers/metro-mayors, accessed 20 January 2022.

9. Some district councils are also called “borough” or “city” councils.

10 As of 18 September 2021, the title changed to the Secretary of State for Levelling up, Housing and Communities.

region mayors – including almost 62% in the North. The present statutory basis for devolution to the MCAs was created by the Cities and Local Government Devolution Act 2016. The establishing of MCAs and the depth and kind of decentralisation are the result of negotiations between the UK Government and the local leaders in the regions. Not every aspect is negotiable, though, as the “UK government made the introduction of metro mayors a prerequisite before any substantial allocation of powers or additional budgets”.¹¹ The Greater Manchester Combined Authority was the first deal (2014). Slightly less than 50% of England’s population now live in areas with some form of mayoral devolution deal. The precise details of the powers and budgets devolved varies between the different areas.¹² Mayors usually hold powers over spatial planning, regional transport, the provision of skills training, business support services, and economic development. Many of these can be exercised only with the agreement of the other members of their MCA.¹³

20. According to the UK Ministry of Housing, Communities and Local Government¹⁴. “Metro mayors are playing a key role in the UK Government’s levelling up agenda, and Ministers have expressed their commitment to devolving power to people and places”.

Scotland¹⁵

21. In Scotland, local government takes the form of unitary authorities.

22. The number of Scottish local authorities is 32. With an average population of 175,000 inhabitants, they are the largest in Europe, responsible for 1/3 of public expenditure and are Scotland’s largest employer (10% of the workforce).

23. The legislative responsibility for Scottish local government mainly lies with the Scottish legislature, as local government is not a reserved matter. Also, almost none of the functions discharged by local authorities are reserved matters. This does not mean, of course, that the UK Parliament is disabled from legislating in these areas; and exceptionally, and with the benefit of a legislative consent motion in the Scottish Parliament, it will do so.

24. Scottish local authorities’ main responsibilities are education, social care, roads and transport, economic development, housing and planning, environmental protection, waste management, and cultural and leisure services. Their powers are partly mandatory duties, partly permissive duties and partly regulatory duties. Certain services they deliver together with other public bodies through a Joint Board or Joint Committee or by working together with a given Scottish region such as in developing Regional Transport Partnerships, various joint bodies for the Highlands and Islands, the South of Scotland, particularly around economic development or increasingly within city-regional scale such as the Clyde Valley around Glasgow, a process partly stimulated by the so-called City-Regional Deals model being adapted to Scotland by bringing together the UK and Scottish Governments and the concerned local authorities. Sometimes, collaboration is mandatory, occasionally with other public sector organisations operating in local area (health boards, enterprise, police and fire bodies). The Public Bodies (Joint Working) (Scotland) Act 2014 contains a requirement for National Health Service Boards and local authorities to work together to deliver integrated health and social care services through Health and Social Care Partnerships.¹⁶ Furthermore the Community Planning Partnerships (CPPs) is a requirement since the Local Government (Scotland) Act 2003 whereby each Local Authority is required to form a partnership with the other public bodies and civic organisations operating in the area (enterprise agencies, health, police, transport) to jointly develop coordinated policies adapted to that area.

25. Scotland also has ‘community councils’ but these are not strictly intramunicipal bodies, unlike in other countries (freguesias in Portugal, or frazioni in Italy). Instead, they serve as non-executive, consultative organs consisting of local people. This is now complemented by a range of legally binding powers such as

11. Institute for Government (2021), “Metro mayors”, available at www.instituteforgovernment.org.uk/explainers/metro-mayors, accessed 20 January 2022.

12. See Copus C., Roberts M. and Wall R. (2017), *Local Government in England: Centralisation, Autonomy and Control*, Palgrave Macmillan, Basingstoke.

13. Institute for Government (2021), “Metro mayors”, available at www.instituteforgovernment.org.uk/explainers/metro-mayors, accessed 20 January 2022.

14. now called Department for Levelling Up, Housing and Communities

15. Main source (and quotes from): Himsworth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury.

16. At the time of writing, the Scottish Government has started a consultation on a proposed reform of the entire healthcare system; including the introduction of Community Health and Social Care Boards as the local delivery bodies for the National Care Service; see Scottish Government (2021), “A National Care Service for Scotland: consultation”, available from www.gov.scot/publications/national-care-service-scotland-consultation, accessed 20 January 2022. The Convention of Scottish Local Authorities (COSLA) called this “an attack on localism”; see COSLA (2021), “COSLA Response to Consultation on National Care Service”, available from www.cosla.gov.uk/news/2021/cosla-response-to-consultation-on-national-care-service, accessed 20 January 2022.

the Communities Empowerment Act 2015, the Islands Act 2018, Community Planning Partnerships and other legal instruments that involve and empower local communities below the 32 Scottish Local Authorities. During the consultation procedure COSLA informed that over the last few years, however, Scotland has experienced the centralisation of previously local services such as police, fire, rescue and emergency services and quite possibly social care (as proposed in the 2021 Feeley Review) in the near future moving what is one of the largest municipal services to a National Care Service, accountable to Scottish ministers and not to Local Authorities as at present.¹⁷

Wales

26. Local government in Wales consists of 22 unitary authorities (“county councils” or “county borough councils”). In addition, “community councils” exist (and are more-or-less equivalent to parish and town councils in England). Besides such councils, there are fire and rescue authorities, National Park Authorities and Police and Crime Commissioners (PCCs). The latter are directly elected and have the power to take on responsibility for fire and rescue in their area.

27. The Local Government and Elections (Wales) Act 2021 sets out the process of creating corporate joint committees (CJCs) (“regional partnerships”) in four regions (South West Wales, South East Wales, Mid Wales and North Wales) either through Welsh Government instigation or local authority applications. The Welsh Government then used the powers under this Act to establish 4 CJCs. They comprise the leaders of the constituent local authorities and will have duties in relation to strategic land use planning and transport planning and powers in relation to economic well-being. Local authorities in Wales developed the CJC proposals alongside the Welsh Government to put in place a vehicle to enable more effective regional working in key functional areas at a scale that makes sense, and as a preferred option to mergers.

Northern Ireland

28. In Northern Ireland, only district councils exist, which are not equivalent to parish and town councils. There are both a single fire and rescue service and a single police service.

29. Northern Irish district councils have fewer responsibilities and functions than their counterparts in the other parts of the United Kingdom. They lack responsibilities for the provision of social care, education, roadbuilding and housing, as those are carried out by Northern Irish national government departments.

Local responsibilities and powers

30. Local government powers within each of the UK nations are not listed in a single local government act, but “tend to be conferred in quite specific terms and this means that the legal authority for most local authority functions is contained in statutes which deal with a particular functional area”.¹⁸ Each municipality legal service regularly compiles a document with the duties and powers entrusted to the Local Authority.

31. UK local government lacked a power of general competence. Prior to the Localism Act 2011, English local government had a well-being power under the Local Government Act 2000. According to the UK Government, when it was introduced, it was intended to be a power of first resort which would give local authorities the assurance that any action they took, provided it was not expressly prohibited or restricted, was lawful if it promoted the economic, environmental, or social well-being of the local authority area. However, this power subsequently proved to be limited, and was repealed, with the introduction of the general power of competence (GPC) in England under section 1 of the Localism Act.

32. In Scotland (based on section 20 of the Local Government in Scotland Act 2003 (LG(S)A 2003), local authorities have the power to do anything that a local authority considers is likely to promote or improve the well-being of its area and/or persons within that area. The Local Government and Elections (Wales) Act 2021 provided for a general power of competence for local authorities in Wales.

33. And as stated above, the Localism Act 2011 gave English local government a power of general competence. However, as experts have noted, it is not a robust competence, as it has been restricted both by the UK government departments and courts, and the same act introduced more powers for the Secretary of State to intervene in local government and to oversee or even control local government activity. During the consultation procedure, the UK government argued that restrictions are applied by statute and are very limited (one statutory instrument has been made in relation to charging taxes for rubbish tips). The GPC is

17. Scottish Government, 2021, Independent Review of Adult Care in Scotland.

18. Himsforth C.M.G. and O'Neill C.M. (2021), *Scotland's Constitution and Practice*, Bloomsbury.

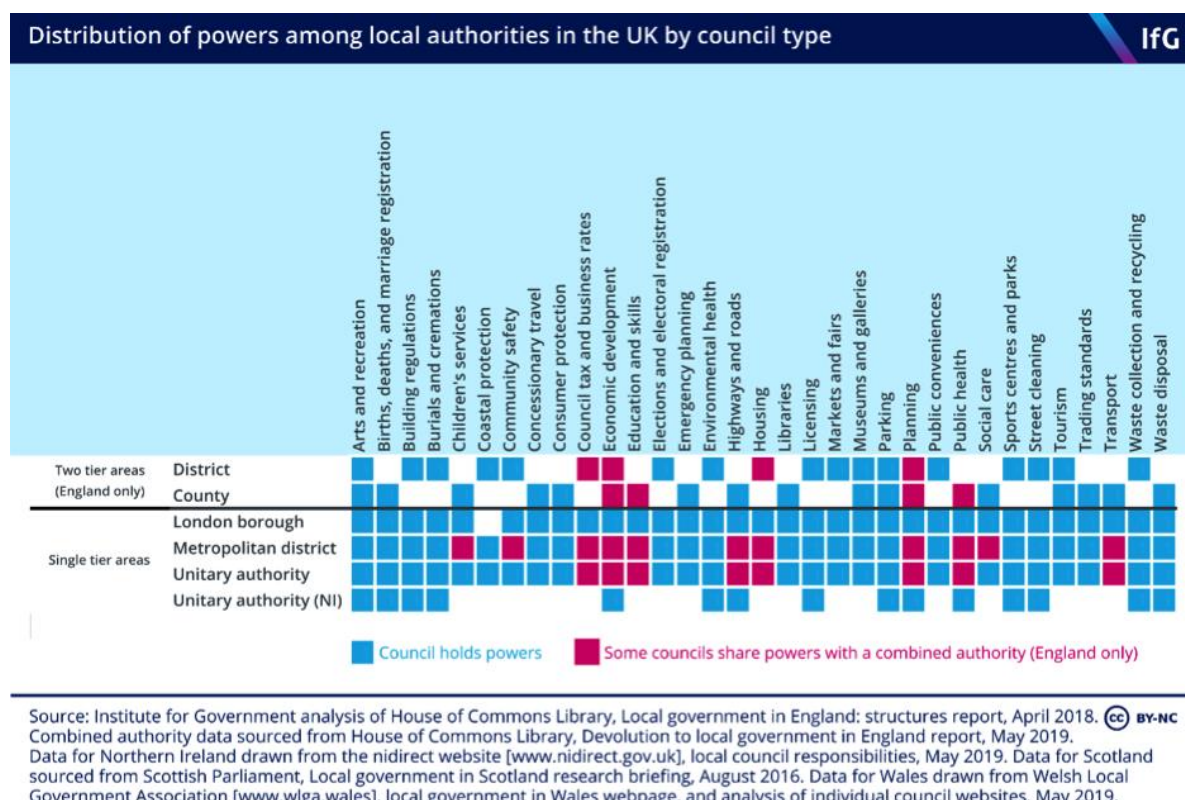
limited by existing statute; that is to say if a law prevents a council from doing something it cannot rely on the GPC to circumvent this. As for the intervention of the secretary of state, it has been underlined that this only occurs in certain, exceptional, circumstances where a council is failing in their duty of best value and it is deemed that intervention is necessary and expedient. In practice even in these very limited circumstances the approach adopted under the legislation has been to appoint commissioners to exercise certain functions rather than these being exercised by the Secretary of State.

34. In this respect the rapporteurs note that the UK Government generally has legal powers to intervene in the running of individual English local authorities. The Secretary of State or appointees may even take over any local functions or the running of entire local authorities under certain circumstances.

35. In Wales, Welsh Ministers can intervene in specific circumstances – if an authority is failing (or likely to fail) to meet the performance requirements set out in the Local Government and Elections (Wales) Act 2021 and if they have already sought to offer support (unless the urgency of the situation means seeking to provide support would not be appropriate). It is not therefore a power of general competence as experienced across Europe where such powers exist.

36. Local powers are listed in Table 2.

Table 2 Local powers



Local democracy

37. The following persons are entitled to cast a vote in local government elections:¹⁹ those who are (a) registered to vote²⁰ (b) at an address in the area they want to vote in, (c) aged 18 or over on the day of the election (16 or over in Scotland and Wales), (d) not legally excluded from voting, (e) a British, Irish, European Union (EU) or a qualifying Commonwealth citizen, or a citizen of another country living in Scotland or Wales who has permission to enter or stay in the UK, or who does not need permission. People who live in two different local authority areas may be registered and vote in both areas.

38. Standing as a candidate is possible for those who are British citizens or citizens of the Commonwealth or European Union, at least 18 years old, registered to vote in the area or have lived, worked, or owned

19. UK Government (n.d.), "Types of election, referendums, and who can vote: Local government", available from www.gov.uk/elections-in-the-uk/local-government accessed 20 January 2022. An expert informed the rapporteurs that it now says "foreign citizen" instead of "EU citizen".

20. Registration recently changed from the head of the household to individual..

property in the place in question for at least 12 months before an election. Candidates need to be nominated by 10 electors for the district concerned. No forfeitable deposit is required.²¹

39. Northern Ireland has its local councils elected every four years. In Wales, local councils are now elected for 5 years (as set from 2022 in the Local Government and Elections (Wales) Act 2021) like in Scotland (the amended Scottish Elections (Reform) Act 2020 put local elections on a five-year cycle).²² In England, the frequency varies by the type of local authority. In addition, some councils have “whole-council” or “all-out” elections, while others have chosen different patterns, such as partial elections.²³

40. The local electoral system in England and Wales is the single plurality system (“first past the post”); local elections in Scotland and Northern Ireland use the single transferable vote (STV). In Wales, Local Authorities may choose to adopt STV for elections. The area of every local authority is divided in electoral districts (called “divisions” in county councils and “wards” in all other councils). County divisions are single-member; other councils’ wards can be single- or multi-member, depending on population size.²⁴

41. Voter turnout at recent elections in the UK is given in Table 3.

Table 3. UK voter turnout

Election	Voter turnout
UK General elections (2019)	67.3%
Scottish Parliament (2021)	63.5%
Welsh Parliament (2021)	46.5%
Northern Ireland Assembly (2017)	64.0%
Local elections, England	
▪ London boroughs (2018)	38.9%
▪ Unitary councils (2019)	33.2%
▪ County councils (2017)	34.8%
▪ Metropolitan (2019)	30.5%
▪ District councils (2019)	33.8%
Local elections, Scotland (2017)	41.8%
Local elections, Wales (2017)	46.0%
Local elections, Northern Ireland (2019)*	52.7%

Source: UK House of Commons (2021), “Turnout at elections”, House of Commons Library.

* The Electoral Office for Northern Ireland (2019), “Elections 2019”, available at www.eoni.org.uk/Elections/Election-results-and-statistics/Election-results-and-statistics-2003-onwards/Elections-2019 accessed 20 January 2022.

42. Once elected, councillors may become executive or non-executive members. The main differences between those two roles are that executive councillors make and execute council decisions for which they are accountable to their non-executive colleagues who, in turn, may hold executive councillors to account and scrutinise those councillors’ work.²⁵ In England, the local executive, since the Local Government Act 2000 (as amended in 2011), may take on several forms: “mayor and cabinet executive” (a directly elected mayor who appoints several councillors to the cabinet), “leader and cabinet executive” (an executive leader appointed by the council, and a number of councillors appointed to the cabinet by either the leader or the council), and (in smaller shire districts only) a somewhat altered traditional committee system without an executive body. The Localism Act 2011 opened a reformed committee system to all councils in England should they choose to adopt such a system.

43. There will be 16 councils with a directly elected mayor from May 2022 when Croydon elects its first mayor, and from April 2023, there will be 15 as Copeland’s mayoralty will be abolished as part of local government reorganisation in Cumbria. Citizens may petition to hold a referendum on introducing or on abolishing a directly elected mayor for their council.

44. Scotland, like other Northern European systems, did not witness a similar development, and has long been organised under a committee system, whereby “many councils have modified their structures to produce a form of ‘Cabinet’ decision-making. Powers are formally exercised by an executive committee of senior councillors, with other committees assuming a more advisory or scrutinising role”. Each Local Authority has a ceremonial civic head (Provost or Lord Provost) and a Leader, which is the *primus inter pares* among

21. Local Government Association (n.d.) “Becoming a councillor”, available at www.local.gov.uk/be-councillor/becoming-councillor, accessed 20 January 2022.

22. Himsworth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury, p.407.

23. Wilson D. and Game C. (2011) *Local Government in the United Kingdom*, Palgrave MacMillan.

24. *ibid.*

25. *ibid.*

the governing majority (since 2007 usually a coalition due to the use of Single Transferable Votes in multi-member sub-municipal constituencies of 2-3 councillors) with the Leader exercising the fact of the role of a mayor by virtue of his or her commanding majority of the Council. As in the rest of the UK the head of the administration is Chief Executive has comparatively wider executive powers compared with many European countries that operate under a mayor-in-council system.²⁶

45. All English councils (except those with a somewhat modified committee system) must have overview and scrutiny committees. Wales also requires the creation of at least one overview and scrutiny committee and a governance audit committee. Overview may concern policy development and review, investigating the work of outside bodies, and performance management and review. Scrutiny mainly entails scrutinising decisions before they are made or implemented, and afterwards. These special committees are to be supported by scrutiny officers, quite often organised as a scrutiny support unit.

2.2 Status of the capital city

46. There is no special status for London due to its function as the capital of the United Kingdom and England. Likewise, Edinburgh, Cardiff and Belfast do not have a particular status but they host most of the Devolved institutions and are the largest centre of economic activity.

47. The metropolitan character of London has, however, led to early distinct forms of governance compared to the rest of the country. The first elected local government for London was the London County Council (LCC, 1889-1965) which was followed by the Greater London Council (GLC, 1965-1986). While both were conceived as a strategic tier of London local government, the GLC was considerably larger than the LCC, taking in areas from county councils surrounding London. The LCC consisted of what are the now the 12 inner London boroughs and the creation of the GLC added another (20 outer) London boroughs to the area covered by the strategic authority for London. It covered all-purpose London Boroughs, with some ad hoc joint arrangements in housing and education. Following the abolition of the GLC in 1986, its powers were dispersed between the boroughs (housing, education in inner London), central government (transport) and some joint arrangements (planning and waste). The 1998 referendum paved the way for the resumption of this strategic tier in 2000 using the old GLC boundaries.

48. The Greater London Authority (GLA), however, does not provide direct services like its predecessor. It is primarily a strategic body, working with the 32 London Boroughs and the City of London. It does exercise a range of functions (in transport, policing, planning, fire and rescue, housing, and economic development), but is not a local authority for most purposes. It has indirect powers over the Metropolitan Police and London Fire Brigade and the Mayor of London controls Transport for London. The GLA consists of the directly elected Mayor of London and the 25-member elected London Assembly. There are fewer seats than London Boroughs, as it was a specific intention of the assembly's creation that the members would be London-wide representatives and not representatives of the boroughs. Fourteen Assembly members are elected by constituency, eleven are London-wide.

2.3 Legal status of the European Charter of Local Self-Government

49. The UK has not incorporated or transposed the Charter into national law to give it legal effect since it ratified the Charter in 1997. The position of the UK Government is that as a dualist state the UK does not directly incorporate international commitments in the domestic law, with the exception of the European Convention of Human Rights. The UK Government claims that their domestic law is compliant with their obligations and the spirit of the Charter.

50. The Scottish Parliament sought to legislate to incorporate the Charter in Scottish Legislation and passed a relevant Bill in March 2021. The UK Government referred this legislation to the UK Supreme Court to consider whether two provisions of the Bill were outside the legislative competence of the Scottish Parliament. The UK Supreme Court judgment found that both provisions referred would be outside the legislative competence of the Scottish Parliament.²⁷ The result of this judgement is that the Bill cannot proceed in its current form and the next steps are for the Scottish Parliament to consider.

51. During the consultation procedure, the UK Government clarified this situation: the reference took no issue with the Scottish Parliament's decision to incorporate the Charter into Scots law. The reference took issue with the Scottish Parliament overstepping the limits of competence in the method it chose to incorporate the Charter and in particular the powers conferred upon Scottish courts which the Supreme Court agreed would

26. Himsworth C.M.G. and O'Neill C.M. (2021), *Scotland's Constitution: Law and Practice*, Bloomsbury, p.410.

27. UKSC (2021), Case ID: 2021/0080, available from www.supremecourt.uk/cases/uksc-2021-0080.html, accessed 20 January 2022.

undermine the sovereignty of the UK Parliament. The referral to the Supreme Court ruling made very clear that it was the method of incorporation that was outside competence.²⁸

2.4 Previous Congress reports and recommendations

52. In its most recent report concerning the UK, in 2014, the Congress noted with satisfaction that:

- a. local government in the United Kingdom, in general, complies with the obligations taken under the Charter and that the situation has improved since the United Kingdom ratified the Charter in 1998, notably through the devolution process which brought the powers related to local government under the responsibility of the devolved entities;
- b. the Localism Act 2011, by introducing a “general power” for local authorities, greater freedom to decide their internal arrangements and appoint their own auditors, has taken an important step in the direction of incorporating principles related to local government into domestic legislation;
- c. a successful partnership approach has been adopted in Scotland, Wales and Northern Ireland that facilitates consultation with local authorities in matters concerning them;
- d. the local government associations in the United Kingdom play an important role, gathering representatives from local authorities from different political backgrounds, giving local government an overarching voice and negotiating with the central government and with the devolved governments, although in many cases it is informal and not based upon legal guarantees.

53. The Congress however also expressed concern over several aspects:

- a. “the Constitutional or legislative recognition and entrenchment of (the right to) local self-government does not exist in the United Kingdom (including in Scotland), and that the introduction of a general power for local authorities does not go far enough in satisfying the spirit of the Charter;
- b. while legal duties for local authorities to be consulted do exist and are used in practice, the ways and the timeframe for consultation seem to be controversial, the time frame depending on the concrete subject, and in particular on the nature and the possible impact of a proposal;
- c. local authorities do not have adequate financial resources, are under severe constraints as a consequence of cuts and indebtedness, and are faring worse than other public sectors and the national government in weathering the effects of the economic crisis (despite the very welcome government reform of 2013, localising business taxes in England and Wales but not in Scotland), all of which contribute to a situation that raises issues under Article 9 of the Charter;
- d. the status of elected councillors does not fully correspond to their responsibilities and the low turnouts at local elections indicate the necessity to strengthen the democratically elected institutions as well as the role of elected office holders who are the backbone of the local government system;
- e. local authorities do not have sufficiently prominent leadership and co-ordinating functions vis-à-vis other service providers within their local area, although they manage a considerable share of public affairs and services and represent the local community in important issues beyond that, such as planning and licensing;
- f. oversight through extensive reporting duties and active involvement in local affairs by various ministries of the central government poses considerable limits on local authorities’ discretion to manage local affairs, although it must be said that significant steps have been taken by the Government to reduce centralised performance assessments.”

54. This assessment led to the following set of recommendations:

- a. “explore the constitutional and practical issues around the possibility of formalising the principles and mechanics of the relationship between central and local government, in the light of the Charter, the arguments developed by both local elected representatives, their associations and the Political and Constitutional

28. The formal issue at stake is the following: “Whether certain provisions of two Bills passed by the Scottish Parliament in March 2021 (the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill) are outside the legislative competence of the Scottish Parliament.” <https://www.supremecourt.uk/cases/uksc-2021-0080.html>

Reform Committee of the House of Commons and the devolved parliaments where applicable for a more codified approach;

b. develop more institutionalised, uniformly time-framed and legally guaranteed consultation arrangements for local government, taking into account the necessity or opportunity for local authorities to consult their local population, at least regarding important issues, and in this regard, consider the partnership approach and the co-operation experiences in Scotland, Wales and Northern Ireland for the relations between central government and English local authorities;

c. reduce the financial burden of local authorities, particularly in England (where local government has powers without sufficient funding to implement them, a situation which curbs local authorities' freedom of action and decision making considerably) but also in the other entities of United Kingdom, further developing a diversified base of local revenue to cope with the services they provide;

d. re-evaluate the work of executive councillors so that their status corresponds better to their responsibilities, with a view to improving the engagement of citizens and particularly the younger generation who might be discouraged by the economic disadvantages of full-time council work;

e. give elected representatives of local government leadership and co-ordinating functions vis-à-vis other service providers within their local area;

f. carry out the oversight of local government in a manner to ensure that the involvement of the controlling authorities is kept in proportion to the importance of the interests which it is intended to protect as set by Article 8, paragraph 3, of the Charter;

g. review, in the near future, United Kingdom's declaration in the light of the current situation as this refers in part to authorities which do not exist anymore and do not include the Greater London Authority and Northern Ireland;

h. consider the ratification of 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) and the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159)."

3. HONOURING OF OBLIGATIONS AND COMMITMENTS: ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY ON THE BASIS OF THE CHARTER (ARTICLE BY ARTICLE)

3.1 Article 2 – Constitutional and legal foundation for local self-government

Article 2

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

55. This article requires that the principle of local self-government be recognised at the legislative level, by acts of parliament or equivalent, preferably in the constitution. As a result, according to the Contemporary Commentary on the Charter²⁹, the Charter should not only be a judicially enforceable legal instrument (Article 11) but also a guide for the legislature and possibly for amending the constitution. The recognition of the principle needs to be more than a formality.

56. As the United Kingdom does not have a written, codified constitution, the rapporteurs acknowledge the impossibility of a constitutional recognition of the principle of local self-government. Alternative arrangements in accordance with the Charter could be to incorporate the Charter's principles or the entire Charter in domestic law. As the UK is a member of Council of Europe and, as such, signed and ratified the Charter, it is the responsibility of the UK to ensure that the rights contained in the Charter, such as the right to local self-government, must be given effect in domestic legislation.

57. As previously stated, the UK Government pointed to its constitutional position as a dualist state that it does not directly incorporate international commitments in the domestic law, with the exception of the European Convention of Human Rights. The UK Government pointed out that its internal system requires

29. The contemporary commentary on the explanatory report to the European Charter of Local Self-Government adopted by the Congress Statutory Forum on 7 December 2020, at <https://rm.coe.int/contemporary-commentary-by-the-congress-on-the-explanatory-report-to-t/1680a06149>.

that all domestic law be compatible with the UK international obligations and commitments. Therefore, it considers that that their domestic law is compliant with their obligations and the spirit of the Charter articles, as set out in the Charter itself.

58. The rapporteurs have taken note of this position and would like to point to the following.

59. It is important to remind that monitoring the application of the Charter in the CoE member States is based on the principle that all State parties to the Charter must be treated equally notwithstanding their dualist or monist legal tradition. Under the monitoring procedure, the rapporteurs verify whether the Charter is respected, that is whether the State party complies both with the spirit and the letter of the Charter. Compliance with the Charter means more than (implicit) compliance with its spirit.

60. The rapporteurs consider that having ratified the Charter, the UK must ensure that the principles and provisions of the Charter are fully applicable under domestic law across the whole country.

61. In this respect, the rapporteurs remind that in its previous report in 2014 the Congress already concluded that “Constitutional or legislative recognition and entrenchment of (the right to) local self-government does not exist in the UK. Nor are the principles expressly incorporated into domestic legislation. By introducing a “general power” for local authorities, the Localism Act 2011 has taken an important step into this direction in England, but the Charter requirements are not completely satisfied in terms of compliance”.

62. The rapporteurs have observed no legislative changes that would allow them to conclude that the principle of local self-government has since been expressly translated (recognised) into national legislation to satisfy the requirement of Article 2.

63. During the consultation procedure, the LGA pointed out that the UK is still on a journey towards greater compliance and that full compliance with this Article would represent a historic shift in the UK’s constitutional arrangements.

64. In view of the rapporteurs, the UK should explore all possible legal venues (at the level of the UK and devolved legislations) to ensure that the right to local self-government and other principles set out in the Charter are afforded protection.

65. In this respect, the rapporteurs would like to refer to the Scottish Parliament attempt to incorporate the Charter to give it effect in the Scottish jurisdiction. The understanding of the rapporteurs is that the devolved legislatures can transpose the Charter in devolved legislation in order to give it full effect.

66. In this connection, several interlocutors underscored the necessity of the Charter’s recognition in domestic law. Indeed, the absence of a clear legislative foundation for local self-government bears the risk for local powers to be limited by ordinary legislation, as the actual scope, degree and extent of local self-government accross the UK is entirely attributed to the discretion of the legislator. Also, local authorities do not have a legal basis for challenging central government decisions regarding their autonomy (self-government) when they consider the latter to be in breach of the Charter.

67. Given the above mentioned, the rapporteurs cannot but repeat, with regret, the conclusion already reached in the 2014 Congress report about the absence of recognition of the principle of local self-government in domestic legislation (both at the UK and devolved legislations). Therefore, the situation in the UK is not in compliance with Article 2 of the Charter.

3.2 Article 3 – Concept of local self-government

Article 3

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

3.2.1 Article 3.1

68. As the Contemporary Commentary on the Charter argues, there are no absolute indicators for assessing compliance with Article 3, paragraph 1. At the same time, the following key elements should be considered when analysing its application.

- “right and ability”: formulating a mere formal right without the necessary means will not suffice to comply with paragraph 1,
- “regulate and manage”: local authorities’ positions will have to be more than acting as agents of higher authorities, and have powers to regulate and make political choices,
- “substantial share of public affairs: a range of responsibilities with the possibility of drawing up and implementing appropriate and relevant local public policies; no limitation to secondary tasks or routine duties,
- “under their own responsibility”: political accountability to the local citizenry.

69. As has been mentioned above, local councils in England, Scotland and Wales (unlike in Northern Ireland) have responsibilities in the areas of social care, education, transport, housing, waste collection, etc.,³⁰ which, in the rapporteurs’ opinion, indicates a relative importance of the share of local competences in the UK.

70. According to data published by the Organisation for Economic Co-operation and Development (OECD) in 2019,³¹ subnational government expenditure in the UK amounted to 24.2% of total public expenditure and to 10% of the gross domestic product (GDP), while the subnational government expenditure across the OECD accounted for 40.4% of total public expenditure and for 16.2% of GDP. Social protection and education were the two largest spending items for subnational governments in the UK. Together, they represented 63% of subnational expenditure, compared to 39% in the OECD area.

71. The rapporteurs noted that a power of general competence accorded to English local government by the Localism Act 2011, assessed during the previous monitoring visit as a very positive development, has been limited in practice, since local authorities can only carry out functions already regulated by statute. Their discretion is also restricted both by the UK government departments and courts, as the same act simultaneously introduced more legal powers for the Secretary of State to intervene in local government and to supervise local activities. As indicated in point 29, the Secretary of State or appointees may take over any local functions or the running of entire local authorities. The Welsh Government has the same strong powers to intervene in local self-government where local authorities are failing to meet the performance requirements set out in the Local Government and Elections (Wales) Act 2021. In the rapporteurs’ view, this may restrict local authorities’ capacity to manage local affairs under their own responsibility and in the interest of local populations.

72. During the consultation procedure, the LGA noted that the Localism Act 2011 was recognised by the previous monitoring report as an important step forward in introducing a “general power” for local authorities. The LGA however also pointed out that the application of this general power has been limited in practice.

73. Furthermore, when assessing compliance with Article 3.1, it is important to remember that local authorities cannot regulate “a substantial share of local affairs” effectively if they do not have resources necessary to perform their tasks. Such entities would have the legal “right” but would lack the real “ability” to act as required by the Charter.

74. As for the ability to act, it is therefore relevant to take into account the paragraphs setting the local authorities’ right “to adequate financial resources of their own” (Article 9.1), “commensurate with their responsibilities” (Article 9.2), composed “in part at least” of “local taxes and charges of which, within the limits of statute, they have the power to determine the rate” (see Article 9.3).

75. As explained further in the report on the assessments of the UK’s compliance with Article 9, the UK local authorities have limited access to adequate financial resources of their own, which are not commensurate with their responsibilities, and the restrictions on their local tax-levying powers do not satisfy the requirements laid down in the Charter. It therefore appears to the rapporteurs that the UK local authorities cannot perform their tasks effectively to meet the requirement of Article 3.1.

30. Institute for Government (n.d.), “Local government”, available at www.instituteforgovernment.org.uk/explainers/local-government, accessed 20 January 2022.

31. OECD (2019), *Regions and Cities at a Glance 2018 – United Kingdom*, available at www.oecd.org/cfe/UNITED-KINGDOM-Regions-and-Cities-2018.pdf, accessed 20 January 2022.

76. Given the above, the rapporteurs conclude that the UK partially complies with Article 3.1.

3.2.2 Article 3.2

77. Article 3, paragraph 2, states that local self-government must be democratic, by means of representation. Members of local representative organs (councils, assemblies) are to be elected in free elections, by secret ballot on the basis of direct, equal, universal suffrage. Direct democracy may play a complementary (rather than subsidiary) role, as the Congress' Contemporary Commentary argues. The primacy of the directly and universally elected council or assembly means that such bodies take the most relevant decisions and that there should be tools to make the executive body accountable to this organ. The minimum that is necessary for the "responsibility" requirement to be met is the introduction of a system of effective supervision of the executive by the assembly, allowing for regular scrutiny of the executive's activities.

78. For the assessment of the UK's compliance with Article 3.2, the rapporteurs refer to section 2.1 of this report for the basic relevant information on elections, council terms, voter turnout, and distinct councillors' roles. In addition, it should be noted that the UK Government has current concerns about the probity of the postal vote system and that the UK Government is exploring the introduction of voter identification for all elections it is responsible for.

79. All English councils (except those with a somewhat modified committee system) must have overview and scrutiny committees. Overview may concern policy development and review, investigating the work of outside bodies, and performance management and review. Scrutiny mainly entails scrutinising decisions before they are made or implemented, and afterwards. Those special committees are to be supported by scrutiny officers, quite often organised as scrutiny support units. But, as one expert informed the rapporteurs, this is not applied consistently across English local government and scrutiny is always under-resourced compared to the executive.

80. In practice, overview and scrutiny turn out to be problematic roles. The main cause for this is that non-executive councillors belonging to the majority group find it difficult to publicly hold their (usually senior) party colleagues in the executive to account. This is a barrier to sound overview and scrutiny because, as the LGA stated: "scrutiny councillors need to be committed to making the function work and to developing the conditions necessary for working effectively with the council's executive and officers, and any other relevant partner organisations. It is also important that scrutiny is seen as impartial and stays separate from party politics."³² In reality, to quote one expert: "the dominance of English local government by the three main national UK-wide parties, holding around 88% of all seats, means that party loyalty and party antagonisms often hinder the scrutiny process".

81. According to LGA, scrutiny plays an important part in the local democratic process, but it is not the only part. Regardless of the local governance model, the full council is still responsible in law for setting the budget; for agreeing the main policy direction; for deciding the constitutional framework of the council; and for scrutinising the executive in depth.

82. The rapporteurs conclude that local elections are free, by secret ballot on the basis of direct, equal, universal suffrage. They also observe that "a system of effective supervision of the executive by the assembly, allowing for regular scrutiny of the executive's activities" exists. As a result, they conclude that the UK complies with Article 3.2.

3.3 Article 4 – Scope of local self-government

Article 4

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
3. Public responsibilities shall generally be exercised, in preference, by those authorities who are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be

32. Local Government Association (2017), "A councillor's workbook on scrutiny". See also Copus C. (2004), *Party Politics and Local Government*, Manchester University Press.

- allowed discretion in adapting their exercise to local conditions.
6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

3.3.1 Article 4.1

83. This first paragraph regarding the scope of local self-government leaves room for interpretation as to what exactly are the “basic powers and responsibilities” of local authorities. What is clear, as the Congress’ Contemporary Commentary argues, is that such powers and responsibilities are to be prescribed by the constitution or by statute, to ensure predictability, permanence and protection for the benefit of local self-government. The only exception to this rule the Charter allows for is the assignment (“attribution”) of specific tasks not already included in the national legal framework for local government by administrative regulation, with the condition that this must be an exceptional mechanism. This article calls for a systemised description of powers and responsibilities in statutes or even in the constitution, per country.

84. None of the UK municipal jurisdictions have a systemised description of powers and responsibilities of local government in statutes. Several pieces of sectoral legislation have conferred upon local government a range of powers. Powers may change at will, and they may differ between local authorities and types of local authorities (for instance in England, in the case of negotiated over devolved powers to combined authorities). To quote one of the interlocutors, “individual local authorities legal services have to compile list of the specific powers applicable to them”.³³

85. During the consultation procedure, the LGA recognised and expressed its support to the flexibility provided for within the UK’s legislative system. An underpinning principle of their argument for further devolution is that while all local authorities should be provided with the opportunity to take on new powers, it should be down to the discretion of local leaders to determine those aspects that they wish to take responsibility for.

86. The rapporteurs conclude that the UK complies with Article 4.1 because local governments’ basic powers and responsibilities are described by statute, albeit not in a systematic way.

3.3.2 Article 4.2 / 4.3 / 4.4 / 4.5

87. The four paragraphs 4.2, 4.3, 4.4, and 4.5 are linked via several shared concepts: “full and exclusive”, “discretion”, and “localness”. Paragraph 4.2 focusses on local government initiatives, whereas paragraphs 4.3 and 4.4 concern attributed tasks, and paragraph 4.5 addresses delegated powers. In the UK context, where local authorities only very recently gained a (rather restricted) general competence, it is hardly feasible to make a distinction between locally initiated and nationally or regionally attributed tasks, when assessing “full and exclusive”, “discretion”, and “localness”. The rapporteurs therefore decided to carry out an integrated assessment of the UK’s compliance with those four paragraphs.

88. Since the Localism Act 2011, local authorities in England have had a general competence and this can be seen as conferring to them a wider margin of appreciation in law. In practice, this turns out to be a limited competence, as it can only be used to do what is not already covered by any other statute. Consequently, local authorities can carry functions already regulated by statute with limited discretion. In addition, the rapporteurs observed a high amount of local financial dependence on national government. As was the case at the time of the previous assessment (2014), guidelines and directives from national ministries are frequent.

89. On the issue of subsidiarity, during the consultation procedure, the LGA noted that responsibilities should be passed to local authorities unless there is an overwhelming reason to hold those powers at a national or sub-national level. In practice this is also true within the context of local or parish councils where principal councils have established a wide-ranging programme of decentralisation working with these authorities, where they exist, and their communities to transfer powers closer to people.

90. In Scotland,³⁴ the Local Government in Scotland Act 2003 (LG(S)A 2003) created (in its section 20) a general competence for local government, that is “a new power to do anything which a local authority considers is likely to promote or improve the well-being of its area and/or persons within that area”. In addition, local authorities were obliged to maintain and facilitate a planning and provision process of public

33. For instance, in the case of Glasgow City Council this runs into 166 Statutory Duties and Powers, conferred by one or several pieces of UK or Scottish Legislation, which its legal service has compiled into a summary document running into 237 pages. Glasgow City Council, 2020, A Guide to Glasgow City Council’s Statutory Duties and Powers.

34. Himsforth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury, p.408.

services (called a “leadership role”) and to secure “best value”, that is, the “continuous improvement in the performance” of their functions (LG(S)A 2003, section 1). Further restrictions of the application of this general power stem from this 2003 Act obliged local authorities to work collaboratively with other local as well as national bodies operating in the same local area by way of Community Planning Partnerships. This trend has continued with the Public Bodies (Joint Working) (Scotland) Act 2014 that integrated local social services with those of health boards of the National Health Service and with Community Empowerment (Scotland) Act 2015 that required municipalities to devolve assets, such as land and buildings, to community groups, but also to better involve them public decision-making including participatory budgeting.³⁵ The outcomes of such partnerships as well as the Local Outcome Improvement Plan (LOIP) that each local authority is required to prepare, must be in accordance with “national outcomes” determined by the Scottish Ministers most recently via the 2018 National Performance Framework, which in turn aims to localise the UN Sustainable Development Goals.³⁶

91. In Wales, the Local Government and Elections (Wales) Act 2021 gives local authorities a general power of competence as well as “new tools and powers to deal with some of the many challenges facing the sector”.³⁷ At the same time, this act enables local authorities to establish corporate joint committees (CJCs), to exercise specified functions. The power for Welsh Ministers to instigate the exercise of functions by a CJC in a limited number of areas could be seen as restricting the free application of local authority competences.

92. In Northern Ireland, it seems the traditional ultra vires regime still rules. The Northern Irish Government published an (extensive) list of local authority responsibilities and an overview of areas where local councils do not have responsibilities.³⁸

93. The rapporteurs heard from many interlocutors that the UK context does not generally provide for the delegation of powers from a central or regional authority in a manner found in other European countries and therefore Article 4.5 (that aims to safeguard local self-government in the case of higher-level authorities delegating new tasks to local authorities) doesn’t apply to the UK context.

94. The rapporteurs conclude the UK complies with Articles 4.2 and 4.3, as general competences do exist nowadays. They however conclude that the UK is in violation of Article 4.4, considering the restrictions imposed on local authorities with respect to locally initiated activities. As the assessment of the UK’s compliance with Article 8 (supervision over local authorities) and Article 9 (local funding) will show, national interference in local policies (by rather heavy and unspecified supervision) and local dependence on national funding are significant. To quote one of the interlocutors: “the UK remains one of the most centralised countries (...), with central government prescribing and closely monitoring the actions of local government in many areas. (...) as even where local authorities have competences over certain areas, this is often limited or controlled by the imposition of duties from central government setting out how services should be delivered.”

3.3.3 Article 4.6

95. Higher-level government is expected to consult local authorities on the planning and decision making in all matters that concern the latter. The Congress’ Contemporary Commentary sets out three basic factors to assess compliance with this article:

- local authorities should be able to obtain full information on decisions and policies that concern them directly, and this information should be available at the initial stage of the decision-making process;
- local authorities should have the possibility of expressing their opinion on decisions and policies before these become legally binding documents;
- local authorities should have the time and ability to prepare recommendations or alternative drafts and submit them for consideration.

England

96. The UK Ministry of Housing, Communities and Local Government informed the rapporteurs that in England, many mechanisms for consulting local government exist, some of which have a legal foundation

35. Scottish Government, Future of Participatory Budgeting in Scotland: framework, 30 August 2021.

36. Scottish Parliament, 2018, Report on the Consultation on the Scottish Government’s Draft National Outcomes, Local Government and Communities Committee, 7th Report.

37. Welsh Parliament (2021), “Under pressure: how are local government services changing?”, available at <https://research.senedd.wales/research-articles/under-pressure-how-are-local-government-services-changing> accessed 21 January 2022.

38. NI Direct (n.d.), “Local councils: Responsibilities of local councils”, available at www.nidirect.gov.uk/articles/local-councils#toc-1 accessed 21 January 2022.

(consultation on the core spending power; consultation in matters of council mergers and of establishing combined authorities). The ministry also pointed out the UK Government's consultation principles guidance and the "new burdens" doctrine.³⁹

97. During the consultation procedure, the UK government underlined that according to the new burdens doctrine, UK Government departments are required to engage with local government as part of the new burdens process. New burdens assessments are not approved until relevant local government actors have been consulted and their views documented. There are also meetings scheduled by the responsible UK Government department with the Local Government Association (England) to discuss new burdens issues.

98. The position of the LGA as a key player in representing the interests of local authorities and lobbying the UK Government on bills seems to be unquestioned. It works to influence and set the political agenda on the issues that matter to councils, so they can deliver local solutions to national problems. It is, however, one of the many organisations lobbying for their respective interests. Or, as put by one interlocutor: "(...) any 'needs' of local governments are a result of lobbying on each issue in a crowded atmosphere of lobbying by all stakeholders on all policy areas".

99. The Greater London Authority expresses some satisfaction with its position: "Despite some challenges, productive working relationships exist at all levels between the Greater London Authority and Government Ministers and Officials, and the [UK] Government frequently consults with us on matters relating to London."

100. During the consultation procedure, the UK Government underlined that there is a wide range of other mechanisms for engagement, both formal and informal, leading to co-design and ongoing policy discussion and development. Local authorities are also specified in statute as consultees. As examples were provided the following sections of the pieces of legislation:

- from the Domestic Abuse Act 2021 that requires the Secretary of State to consult local authorities on regulations to make provision about the preparation and publication of strategies in respect of support provided by those authorities to victims of domestic abuse,
- the Local Transport Act 2008 requires the Secretary of State to consult representatives of local authorities when making regulations to limit the actions of sub-national transport bodies;
- Local Government, Planning and Land Act 1980, which requires the Secretary of State to consult such associations of authorities to whom section 2 above applies as appear to him to be concerned, and any such authority with whom consultation appears to him to be desirable;
- Section 5(7)(a) and (b) of the Localism Act 2011 requires the Secretary of State to consult such local authorities and representatives of local government as he
 - considers appropriate when making regulations under sections 5(1), (2), (3) or (4)
 - to remove or change statutory provisions that prevent or restrict use of the
 - general power or which overlap with the general power of competence conferred
 - by section 1 of that Act, or to restrict what a local authority may do under the
 - general power or to make its use subject to conditions
- and the Local Government Act 1999 that requires the Secretary of
 - State when issuing guidance under Part 1 of that Act to best value authorities
 - generally, or to or in respect of one or more particular best value authorities, to
 - consult the authorities concerned or persons appearing to him to represent them.

101. The LGA informed the rapporteurs during the consultation procedure, that throughout the COVID-19 pandemic councils and their representatives worked together with national government through a variety of formal and informal channels testing new policies regarding public health and business continuity, supporting community resilience and, subsequently the vaccine rollout. More recently, during the development of the Levelling Up White Paper, the LGA has seconded staff to Central Government to work on the development of this policy, convened roundtables with political representatives from across English local government and brought local authority chief executives together to test the detail of new proposals.

39. UK Government (2018), "New burdens doctrine: guidance for government departments", available at www.gov.uk/government/publications/new-burdens-doctrine-guidance-for-government-departments, accessed 21 January 2022.

Scotland

102. According to the Scottish Minister for Social Security and Local Government, “ensuring that local government’s voice be heard is firmly rooted in the Scottish Government’s policy development process”. It mentions a partnership approach and sound procedures, routines, and “full and timely engagement with COSLA (as the political negotiator) on substantive matters across all areas that concern local government”. COSLA told a partly different story, highlighting that it “is not recognised by law as the voice of Local Government in Scotland”. It agrees with the Department that government consultation happens quite often but “usually in a rather ad hoc way”. One expert informed the rapporteurs that many statutes do require consultation though.

103. The rapporteurs conclude that Scottish Government often consults Scottish local authorities and, usually, COSLA, and does so on a statutory basis if defined within a specific piece of legislation. But they also consider that there is no general legal arrangement of local authorities being consulted on matters that concern them.

Wales

104. According to the Welsh Minister for Finance and Local Government, there is a commitment under the local government scheme that as soon as practicable, and within the constraints of proper confidentiality, the Welsh Government will consult the representative associations of Welsh local government (that is the Welsh Local Government Association, One Voice Wales and bodies and representatives of the police, fire and rescue, and national park authorities) on all matters of common concern affecting local government (with the exception of matters relating to national security and proposals which affect only particular authorities). The UK Wales Office’s interlocutor offered examples of co-operation between national offices and Welsh local authorities and underscored that the former support the latter in many ways. During the consultation procedure, the delegation was informed that the statutory Partnership Council for Wales brings together representatives of Local Government, Welsh Government other public sector and third sector bodies. The Senedd Cymru Committees regularly invite representatives of local government to provide evidence.

105. The WLGA informed the rapporteurs that the Welsh Government has guidelines for the length of consultations, with most major exercises allowing 12 weeks. The Welsh Government summarises and reports the consultation responses received. WLGA observed some successes in instances where local authorities’ responses have helped to influence outcomes.

106. The rapporteurs conclude that consultation takes place, that practical guidelines exist and that responses by local authorities and/or the WLGA can be successful. A number of individual pieces of Welsh legislation include an express requirement to consult with the representatives of local government, for example, section 4 of the Local Government Act 1986. Nevertheless, the rapporteurs did not see a formalised right of local authorities to be consulted.

Northern Ireland

107. Northern Ireland Assembly committees regularly invite representatives of local government to provide evidence, as the assembly interlocutor informed the rapporteurs. The Department for Communities adds that it “has a range of fora through which it liaises with and consults with local authorities on matters which concern them (...) in addition to statutory consultation with Councils which the Department undertakes in connection with new policies or legislation.”

108. The interlocutors of the Northern Ireland Local Government Association recognised that the Northern Irish Executive does consult local authorities, but also stated that there is no legal procedure for consultation.

109. The rapporteurs conclude that in Northern Ireland local governments are consulted, although there is no legal duty for the UK Government to consult local authorities.

General

110. During the discussions with interlocutors, the rapporteurs did not hear of any serious complaints regarding consultation processes although some concerns were expressed on the level of continuity and predictability of consultation since consultation of local authorities and their representative associations is of a rather ad hoc character.

111. In general, consultation of local authorities takes place in practice. Moreover, during the consultation procedure, pieces of relevant legislation requiring consultation were provided to the delegation by the UK Government.

112. Therefore, the rapporteurs conclude that the UK generally complies with Article 4.6.

3.4 Article 5 – Protection of local authority boundaries

Article 5

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

113. It is deemed a mandatory procedural requirement that no change in local boundaries may be adopted without consultation, which must take place at a timely stage before a final decision on the matter is made (cf. Congress' Contemporary Commentary). The three basic conditions for sound consultation as formulated with respect to Article 4.6 apply to Article 5 as well. In this case, however, local "communities" are to be consulted, including citizens and local civil society in general and not just the local authorities concerned. So, full information should be available at the initial stage of the decision-making process; local communities should have the possibility of expressing their opinion on decisions and policies before these become legally binding documents, and they should have the time and ability to prepare recommendations or alternative drafts and submit them for consideration.

114. At present, local authority boundaries are being changed only in England. The rapporteurs noted that, in some parts of the UK, reorganisation of subnational government has taken a different route. In Wales, regional partnerships of local authorities have emerged, and the Local Government and Elections (Wales) Act 2021 introduced a power to establish corporate joint committees (CJCs) in some regions, comprising the leaders of the constituent local authorities. They will have duties in relation to strategic land use planning and transport planning, and powers in relation to economic well-being. In England, there is a movement towards the creation of Combined Authorities ("Metroregions", most of which have a directly elected mayor). In time, such plans and developments may influence local authority boundaries, but they are not relevant in the present assessment of the UK's compliance with Article 5.

115. In England, according to the Ministry of Housing, Communities and Local Government, every boundary change requires a parliamentary decision. The ministry also stated that there is no obligation, nor even pressure, for local authorities to merge. Councils may produce proposals; proposals need local consultation. The ministry "welcomes everyone's views".

116. Other interlocutors shared relevant information. The UK Government has set out guidance for applications for new local authorities in England in transition from two tier to a single tier unitary local government – for example, on minimum population size (300 000 inhabitants). This does restrict the ability of a local area to truly self-determine boundaries and local government structure. It is also clear that the initiative may also be taken at the national level. Some recent examples were brought to the rapporteurs' attention of areas being invited to propose a single tier of local government. They were asked to submit an outline proposal within a month and a full proposal within two months. It should be noted that such proposals were expected to improve local government and service delivery, provide greater value for money, generate savings, provide stronger strategic and local leadership and be sustainable structures. In addition, they must also consider: local government structures and how they will achieve such requirements; evidence and analysis to support and explain the outcomes they will achieve; the impact on other local boundaries and geography, including police and fire and rescue authority boundaries and include the views of the relevant Police and Crime Commissioners/Fire authorities; and any wider context around promoting economic recovery and growth, including future devolution deals and Mayoral Combined Authorities. During the consultation procedure, the UK Government clarified that the invitation is a formal part of a process of continual dialogue between central and local government in England, the invitation follows many discussions between concerned area and central government and brings clarity to areas who have been exploring local initiatives for change to local governance arrangements.

117. There are no provisions for local referendums on mergers. Examples exist of the Secretary of State trying to prevent a referendum when local authorities organise one. Where there have been local mergers held in England on boundary changes, each one has returned a "no" vote – sometimes overwhelmingly – against retaining smaller local government, but the rapporteurs heard that in each case the government did not act on the votes and imposed larger unitary councils against the wishes of the voters.

118. During the consultation procedure, the UK government argued that any proposals on boundary changes must be made by one or more democratically elected councils. Decisions on whether to implement a proposal for restructuring local government are based on three criteria: 1) whether the proposal will improve service delivery and local government, 2) whether it has support in the round across the area and 3) whether it has a credible geography. Those are cumulative criteria to be met.

119. The UK Government has also underlined that it can make a boundary change only where the Local Government Boundary Commission for England has undertaken a review and recommended the change.

120. During the consultation procedure, the LGA confirmed that in England the Local Government Boundary Commission is responsible for boundary reviews, and local authorities can propose coming together to form a combined authority. Changes to boundaries require consultation with the local authorities involved.

121. The interlocutors informed the rapporteurs that, in Scotland, at present, no plans to change municipal boundaries exist.

122. Over the last decades, in Wales, several proposals to reform local government, including changes in local authority boundaries, have been on the agenda. At present, no such plans exist. Instead, as the Welsh Local Government Association informed the rapporteurs, the Local Democracy and Boundary Commission is systematically reviewing electoral areas within each local authority and levels of representation in each ward, in line with a statutory 10-year review programme. As per the consultation: “there is some consultation involved but ultimately it is [the] Welsh Government that takes the decisions on local authorities and ward boundaries”.⁴⁰ There is a statutory process set out in the Local Democracy Act 2013 which involves the Commission undertaking almost two years of process and consultation with a principal council before it produces its final recommendations. There is then a further minimum six-week consultation period before the Minister can make a decision on the recommendations and the Minister’s power to make any amendments to the final recommendations are limited to a very narrow set of criteria set out in the Act.

123. In Scotland, though the size and powers of the 32 local authorities -already the largest in Europe on average by population, and some of them the largest by geographical area as well, including Highland Council, has been a matter for policy and academic debate, proposing either by cutting their number by half, arguing efficiency grounds, or to triple their number, to improve their democratic representativeness, the main political direction of travel has privileged improving services and empowering communities within existing municipal structures, as extensively discussed in the ‘Local Governance Review’ led by the Scottish Government and COSLA.⁴¹

124. In Northern Ireland, there are no plans to change local authority boundaries. There is, however, an independent institute, the Local Government Boundaries Commissioner (LGBC). Its role is “to review and make recommendations in respect of the number, boundaries and names of local government districts and the number, boundaries and names of the wards into which each district is divided”. Consultation is one of the activities the LGBC undertakes as part of the reviewing and recommending processes. It is too soon to evaluate those activities and their results.⁴²

125. In light of the above mentioned, the rapporteurs conclude that the situation in the UK, seems to be compliant with Article 5.

3.5 Article 6 – Appropriate administrative structures and resources

Article 6

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

40. National Assembly for Wales - Senedd Research (2018) “Public service reform in post-devolution Wales: a timeline of local government developments”, available from <https://senedd.wales/media/e2lak1h/18-050-web-english.pdf>, accessed 21 January 2022.

41 Scottish Government & COSLA, [Local governance review: joint statement](#) – 18 March 2021.

42. LGBC (n.d.), “Welcome to the Local Government Boundaries Commissioner for Northern Ireland”, available from www.lgbc-ni.org.uk, accessed 21 January 2022.

3.5.1 Articles 6.1 and 6.2

126. This article sets out several standards for translating formal local autonomy into local authorities' powers to decide over the ways in which they prefer to organise their internal processes. According to the Congress' Contemporary Commentary, "determining their own internal administrative structures" (paragraph 1) implies having the powers to:

- decide on their internal local organisation;
- establish independent bodies, such as local companies or agencies, to improve the delivery of local services;
- conclude agreements with other local authorities (assessed under Article 10);
- establish subordinate units and structures (such as municipal districts) to ensure that their responsibilities are discharged as effectively as possible.

127. The Congress' Contemporary Commentary also formulated the indicators for assessing the compliance with paragraph 2:

- discretion and freedom of each and every local authority to determine, in particular, the conditions of service of employees (i.e., defining and implementing their own human resources policy);
- power to hire their own staff, that is, high-quality staff, based on merit and competence, and set employee remuneration;
- adequate training opportunities for employees;
- adequate career prospects for employees.

128. The rapporteurs noted that local authorities in all UK nations can freely determine their own internal administrative structures. The pay and terms and conditions of employment for local government employees are determined by the National Joint Council (NJC) for Local Government Services. This is part of the support the LGA offers local authorities. In 1997, this NJC "agreed a national framework with potential for local modification to suit local service requirements".⁴³ COSLA and NILGA exercise the same role in their respective jurisdictions.

129. The rapporteurs did not hear of any dissatisfaction from the local elected representatives they met regarding local authorities' powers to regulate their administrative structures and resources nor about any inadequacy of the conditions of service of local government employees.

130. Given the above, it can be concluded that the UK complies with both paragraphs of Article 6.

3.6 Article 7 – Conditions under which responsibilities at local level are exercised

Article 7

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

3.6.1 Article 7.1

131. According to the Congress' Contemporary Commentary, Article 7.1 seeks to ensure that citizens are free to serve as elected representatives and are not prevented from holding political office owing to financial or material considerations. Nobody should be deterred from standing for election at a local level; once elected, local councillors should not be prevented from effectively discharging their duties.

132. The question of adequacy of monetary compensation for the time spent in office will be considered further, in light of the assessment of Article 7.2 in section 3.6.2 below.

133. At the meetings, local government interlocutors did not express overall dissatisfaction regarding freedom to exercise their functions. However, they pointed to a (potential) threat that the time-consuming

43. LGA (n.d.), "Local government services", available at www.local.gov.uk/our-support/workforce-and-hr-support/local-government-services, accessed 22 January 2022.

workings of codes of conduct for councillors⁴⁴ may pose in this respect. For example, in England, formulating such a code and deciding over alleged conduct breaches is the duty and responsibility of every single local authority. No higher authority may interfere.⁴⁵ Local codes, however, must use criteria set out in the Localism Act 2011 and in line with the “Nolan principles” for public life. Scotland, Wales and Northern Ireland each have their own national codes of conduct for councillors. In Scotland and Northern Ireland, allegations are scrutinised by national institutions, whereas in Wales this is left to the local authorities themselves (except for serious alleged breaches of the code). The Standards Commission for Scotland is an independent body that handles complaints on the behaviour of Councillors of the potential breach of Councillors’ Code of Conduct.

134. During the consultation procedure, the UK Government underlined that it is for local authorities to determine their own procedures for investigating alleged breaches of the code of conduct. In the vast majority of cases, this involves the formation of a Standards Committee to investigate claims and where appropriate recommend sanctions; these sanctions must then be agreed by full council.

135. Given the above, the rapporteurs conclude that the UK generally complies with Article 7.1.

3.6.2 Article 7.2

136. This paragraph mentions four criteria to assess a country’s compliance (cf. Congress’ Contemporary Commentary):

- appropriate compensation for expenses incurred in the exercise of the office, which implies that remuneration should reflect the workload and that remuneration schemes for mayors (or other elected executive positions) may differ from those for ordinary elected representatives;
- “where appropriate”, compensation for loss of earnings incurred by the local representative in discharging their duties for the local authority;
- “remuneration for work done”, that is, a proper salary (or the like) for the job;
- finally, social welfare protection (e.g., health insurance, pension fund contributions) based on the same principles as for elected representatives at the national level.

137. Regarding the exact allowances and setting them, there is variation across the UK. In England, this is a decision to be taken by the local authorities. Scotland and Wales have established a standard basic allowance and Northern Ireland has a maximum basic allowance for councillors.

138. In England, the rapporteurs heard multiple complaints concerning remuneration. Some interlocutors stated that the allowances did not reflect councillors’ workload. A consulted expert informed the rapporteurs that the present remuneration schemes deters those in full-time work from standing for council. The Greater London Authority serves as an exception. The elected members (mayor and assembly members) are remunerated in such a way that they can fulfil their role full-time. In addition, they may claim expenses (these are all published for reasons of transparency). The rapporteurs were informed that, since January 2018, there is a Master Trust Pension Scheme; councillors can join this on a voluntary basis.

139. During the consultation procedure, the LGA underlined that in England the law provides for councillors to receive an allowance for their role in their local authority, which broadly covers compensation for loss of earnings.

140. During the consultation procedure, the UK Government pointed out that it is ultimately for the individual local authority to determine an appropriate scheme of allowances. Local authorities must establish an Independent Remuneration Panel to provide recommendations as to their scheme of allowances. The Panel can, and should, take into account ‘workload’. A local authority can also make provision for ‘special responsibility allowances to reflect the increased workload associated with leadership roles. The vast majority of local authorities make provision for expenses in their scheme of allowances.

141. In Scotland, the government sets the standards of councillors’ allowances. The basic salary of a councillor is currently £18 604 (this is said to be based on an assessment of the work burden anticipated for an average councillor and to represent around 75% of the average Scottish wage). Council leaders and senior councillors receive higher amounts (depending on which council band the council is in). In addition,

44. Overview: Sandford M. (2020), “Local government standards in England - House of Commons Library Briefing Paper Number 05707”, available at <https://researchbriefings.files.parliament.uk/documents/SN05707/SN05707.pdf> accessed 22 January 2022.

45. “If either a complainant, or the councillor against whom a complaint has been made, is unhappy with the way in which the local authority resolves the complaint, there is no higher authority to which they may appeal.” (ibid.).

all councillors can claim reimbursement of allowance and expenses incurred in undertaking their duties. Since 2017, councillors' basic salaries have increased annually in line with the percentage increase in the median annual earnings of public sector workers in Scotland. Women are underrepresented among Scotland's councillors, with 29% of all councillors being women, compared to 51% of the population. COSLA reports the development of a family leave policy for elected members. The current situation is that elected members have no legal right to parental leave, which may discourage some people from standing for election and the salary is not commensurate for what is very often a full-time job. The Scottish Government and COSLA are working together to identify the range of factors that are barriers to local elected office.

142. In Wales, there is an Independent Remuneration Panel for Wales –an independent statutory body responsible for determining the remuneration for elected members of principal councils, national park authorities, fire and rescue authorities, and community and town councils in Wales.⁴⁶ It has set a basic salary for elected members of principal councils (£14 368 in 2021/2022) and a differentiated scheme of salaries for various kinds of elected members, per size category (numbers of inhabitants). Elected members may claim reimbursement for travel and subsistence costs where these have arisen as a result of undertaking official business or approved duties. In addition, they are entitled to receive compensation for necessary additional costs for the care of dependent children and adults. No provision exists for members of local government to receive resettlement grants/payments if they lose office, but this matter is currently being explored. The WLGA interlocutors informed the rapporteurs about the WLGA's long-standing position that the vital role local representatives play "is not adequately recognised and they are not adequately remunerated, especially compared to other elected representatives". Elected members are also entitled to statutory family absence for parental leave.

143. In Northern Ireland, a maximum allowance is set by the Northern Irish Executive (currently £15 486 per year). Maximum allowances are also set for carers' dependants, travel, special responsibilities and subsistence.

144. The rapporteurs conclude that the UK generally complies with the second paragraph of Article 7. However, the rapporteurs note that the situation with financial compensation should be improved in Scotland and Wales, including as regards social welfare protection that should be based on the same principles as for elected representatives at the national level.

3.6.3 Article 7.3

145. The issue at stake in this paragraph (the Congress' Contemporary Commentary) is to prevent potential conflicts of interest and to involve a commitment that prevents local representatives from discharging their duties for the local authority in a professional way. Restrictions on holding elected office should be as limited as possible and set out in national laws, which means they should apply to all levels of government. Finally, the wording of the paragraph implies that it is not recommended to simultaneously hold more than one office at the same or at different levels of government or in public enterprises.

146. No local elected position is a formal barrier to standing as a candidate for the UK House of Commons or the devolved parliaments/assembly.⁴⁷ It is possible to have dual mandates, for instance combining being an MP with the office of an elected Metro Mayor, member of the Greater London Assembly, or councillor.

147. The rapporteurs conclude that the UK generally complies with Article 7.3, as restrictions on holding elected office are limited, set out in national laws, and apply to all levels of government. On the other hand, dual mandates are widely permitted,⁴⁸ which may lead to conflicts of interest as national (party) considerations may easily stand in the way of local duties.

46. Welsh Government (n.d.), "Independent Remuneration Panel for Wales", available at <https://gov.wales/independent-remuneration-panel-wales>, accessed 22 January 2022.

47. The Electoral Commission (2018) "UK Parliamentary general election. Guidance for candidates and agents. Part 1 of 6 – Can you stand for election?", available at www.electoralcommission.org.uk/sites/default/files/2019-07/UKPGE-Part-1-Can-you-stand-for-election.pdf accessed 22 January 2022; Scottish Parliament (2021), "MSPs with dual mandates"- SPICe Fact Sheet, available at www.parliament.scot/-/media/files/spice/factsheets/msps/msps-with-dual-mandates-02-june-2021.pdf accessed 22 January 2022. Some dual mandates at the national level are not permitted, that is, between the House of Commons and the Northern Ireland and Welsh legislatures (between the House of Commons and the Scottish Parliament, they still are): see House of Commons Library (2017) Members of Parliament holding dual mandates Parliamentary Information List Number 04101, available at <https://researchbriefings.files.parliament.uk/documents/SN04101/SN04101.pdf> accessed 22 January 2022.

48. And widely present in England, as an expert informed the rapporteurs: "Councillors can sit, simultaneously, on any level of local government – parish, district and county and it is not unusual for a councillor to sit on all three levels – though not the norm. If a councillor is elected to parliament they are 'expected' to resign from their council – but many do not, simply not stand at the next council election. There are many members of both the Houses of Commons and Lords who are councillors.

3.7 Article 8 – Administrative supervision of local authorities' activities

Article 8

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

3.7.1 Article 8.1

148. "Administrative supervision" means "any form of intervention in the decision-making process of a local entity by which a higher administrative level explicitly or tacitly approves, clears, agrees, suspends or annuls a proposal or a final decision, rule or plan approved by a local entity" (the Congress' Contemporary Commentary).

149. Compliance with this first paragraph of Article 8 is established, if

- such supervision and the exact methods of supervision are provided for by the constitution or by statute (legality principle);
- supervisory authorities strictly comply with the procedures established by law for the exercise of such supervision (time, manner, competence, etc.).

150. As highlighted in the Congress' Contemporary Commentary, the following principles and guidelines should govern administrative supervision: the activities subject to supervision should be clearly specified by law; compulsory automatic administrative supervision should be limited to activities of a certain significance; administrative supervision should normally take place after the exercise of the competences (a posteriori); a priori administrative supervision should be kept to a minimum and normally be reserved for delegated competences; and the law should define the time limit or period granted for the supervisory authority to perform the supervision; in the case of a priori supervision, absence of a decision by the supervisory authority within a specified time should mean that the planned activity may take effect.

England

151. The UK Ministry of Housing, Communities and Local Government informed the rapporteurs of the following (referring to official documents).⁴⁹ Based on the Local Government Act 1999, "the Secretary of State has powers to inspect and intervene in an authority if [they are] concerned that it is failing in its 'best value' duty. In particular, section 15 of this Act states that the Secretary of State is entitled 'to take any action which [they consider] necessary or expedient to secure its [the authority's] compliance with the requirements' of the best value duty." The supervision may even go as far as taking over all or some of the functions of the authority. The practice has been to use the latter powers to nominate commissioners to take over some or all of an authority's functions.

152. In addition, the ministry told the rapporteurs that "the Secretary of State can also intervene on a non-statutory basis". During the consultation procedure, the UK Government noted that at the moment of consultation there were 2 non-statutory interventions by the Department for Levelling up, Housing and Communities out of 331 councils and these interventions are set out via directions to keep them to a minimum. Other departments do have powers of intervention such as the Department for Education in relation to children's services.

153. The UK government also underlined that there is transparency when intervention takes place on a non-statutory basis and on the terms of that action. In Croydon and Nottingham the Secretary of State has appointed an Improvement and Assurance Panel and Board, whose Terms of Reference and quarterly reports are published. The Councils have welcomed the action and the additional support that this non-statutory intervention provides. In Wirral and Peterborough, the UK Government has asked the councils to set up improvement arrangements (following a review prompted by their request for exceptional financial support) and they have done so.

49. Ministry of Housing, Communities and Local Government (2020), "Accounting Officer System Statement", available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932359/MHCLG_Accounting_Officer_System_Statement_2020.pdf, accessed 22 January 2022.

154. The rapporteurs would like to remind that any intervention on non-statutory basis obviously questions the application of the legality principle (even if – and this seems to be undisputed - such measures are considered to be of last resort) and should be avoided.

Scotland

155. Information from the Scottish Minister for Social Security and Local Government revealed the following. The Local Government (Scotland) Act 1973 (section 211) contains a provision “for circumstances where a complaint is made, or Ministers consider that a local authority has failed to fulfil a statutory duty. Ministers may then, if they so wish, arrange to hold a public inquiry and, if the inquiry finds the authority to have failed, have the power to issue a direction to the authority requiring it to remedy the default.”

156. The ministry also informed the rapporteurs that the Accounts Commission “is the public spending watchdog for local government, helping to ensure that public money is spent properly, efficiently and effectively. It is responsible for the financial and Best Value audit of all local authorities. Audit Scotland supports the Accounts Commission and can consider correspondence it receives raising concerns about the organisations it audits, as information that can help it in its audit work, rather than as complaints.”⁵⁰

157. COSLA added that councils’ external audit is compulsory and that the Accounts Commission is only one of the many audit and scrutiny bodies. It also stated that the scope of supervision of the latter and its supporting agency, Audit Scotland, “is much greater than mere financial audit (...). In addition to the annual reports for each local authority Audit Scotland (...) provides detailed reports on specific topics such as value for money, performance of individual policies managed by local government such as skills or local authorities.”

Wales

158. The Welsh Minister for Finance and Local Government informed the rapporteurs that “the Local Government and Elections Act (Wales) 2021 provided for new performance arrangements with a focus on self-assessment and peer review, not ministerial oversight. The arrangements are being co-designed with local government.” According to the WLGA, “generally, [local authorities] are left to make their own decisions and administer the funding received via the Revenue Support Grant. Specific Grants have been used by [the Welsh Government] to try and direct [local authority] spending”. The Welsh Government notes that specific grants (which can only be used for the specified purpose) are often used at the development stage of an activity and can be subsequently transferred into the unhyphenated Revenue Support Grant.

Northern Ireland

159. The Northern Ireland Department for Communities observed having “very few oversight/supervision powers”. Such powers are set out by the Local Government Act (NI) 2014 (Control of councils by Northern Ireland Departments). This act creates powers for any Northern Irish department (a) to require a council to make reports and returns and provide information in relation to the exercise of its functions specified in a direction to that department, (b) to instigate an inquiry or an investigation into the administration of any statutory provisions relating to the functions of any council or any committee or sub-committee of a council, (c) to intervene in the operation of a council if the department is satisfied following an inquiry or investigation that a council has failed to discharge any of its functions (this intervention may take the form either of a direction requiring the council to take certain actions within a specified timeframe, or – if such a direction is not complied with – to arrange for the exercise of those functions other than by the council); and (d) to direct a council not to take an action that would be incompatible with any international obligation, or to require it to take any action for the purpose of giving effect to an international obligation.

160. During the consultation procedure, the LGA informed the delegation that the powers to carry out the administrative supervision of local authorities have been properly laid down in statute. Local authority services are also regularly inspected by regulatory bodies for legal compliance and efficiency (e.g. CQC, Ofsted). While there is a clear statutory code for supervision, these additional inspections combine to form a complex administrative ecosystem. It appears to the rapporteurs that this system seems to be rather unique in Europe.

50. In 2014, the expectation was that the Accounts Commission in Scotland would be abolished in 2014. Apparently, it has not been the case. Audit Scotland is the agency that supports the work of both the Accounts Commission that oversees local authorities as well as the Auditor General for the Scottish Government and other public bodies.

161. Considering the above, the rapporteurs conclude that the situation in England, Scotland and Northern Ireland is compliant with Article 8.1 since the supervision has a legal basis and the law establishes the procedures for the supervisory authorities.

162. As regards Wales, the rapporteurs welcome the discussed development in Wales, but they refrain from formulating a conclusion regarding compliance with Article 8.1 at present, as it is still too early to assess how the new arrangements will function in practice.

3.7.2 Article 8.2

163. According to the Congress' Contemporary Commentary, this paragraph proclaims a general preference for checks on legality over checks on expediency, the former being the only checks that, in general, comply with the Charter. Administrative supervision based on expediency should be limited to the tasks that higher-level authorities (the supervisory bodies) have delegated to local authorities. Intervention because of the necessity of co-ordination is allowed for, as is co-decision making.

164. The rapporteurs observe that almost all local government's tasks are of the attributed kind, as meant in Article 4.1 of the Charter. That is, they are competences attributed by statute, leaving room for local policy making, rather than a delegated (mandatory) local execution of supranational services. Nevertheless, in general, UK supervision is being exercised with a view to expediency (cf. supervision over "value for money"; as if accounting for that to the local communities were insufficient). Considering the rather heavy supervision in most parts of the UK regarding expediency, the rapporteurs conclude that the situation in the UK is not compliant with Article 8.2.

3.7.3 Article 8.3

165. The main indicator for assessing the compliance with this paragraph is (the Congress' Contemporary Commentary) that the supervisory authority should intervene only to the extent necessary, and proportionately to the importance of the interests it intends to protect, that is, considering the relevance of the public interest at stake or the seriousness of the legal violation allegedly committed by the local authority.

166. National departments have their own supervisory systems to oversee services run by local authorities. They all publish statements that explain providing any other grants to local authorities, and relevant legislation and regulation in relation to delivery of those services, including the Department for Education (DfE), Department of Health & Social Care (DHSC), Department for Transport (DfT) and Department for Business, Energy & Industrial Strategy (BEIS).⁵¹ LGA, for instance, explicitly stated that "central government has authority to intervene when it perceives a council to be failing in its duties but treats this as a last resort, which is compliant with the requirement of proportional supervision of local authorities' activities under Article 8". On the other hand, it also observed "(...) central government having significant oversight in how local authorities are funded and how these funds are spent".

167. In Scotland, COSLA witnessed "very strict external supervision provided by a range of national bodies, namely Audit Scotland". It stated that this body's scope of supervision goes beyond financial audit and that its agency Audit Scotland "provides detailed reports on specific topics such as value for money, performance of individual policies managed by local government such as skills or local authorities". The interlocutors for the Scottish Minister for Social Security and Local Government, underscored the independence of the national bodies with specific responsibilities in relation to local authorities (Scottish Public Service Ombudsman, Accounts Commission, Audit Scotland, Standards Commission, and Commissioner for Ethical Standards in Public Life in Scotland). The Local Government (Scotland) Act 1973 (section 211) does provide for circumstances where a complaint is made, or ministers consider that a local authority has failed to fulfil a statutory duty. Ministers may then, if they so wish, arrange to hold a public inquiry. If the inquiry finds the authority to have failed, ministers have the power to issue a directive to the authority, requiring it to remedy the default. In addition, the Inquiries Act 2005 allows Scottish ministers to set up an inquiry where it appears that particular events have caused public concern, or there is public concern that particular events may have occurred. Such interventions are "incredibly rare and, in the main, are unlikely to occur other than in the most serious of cases, for example", as the ministry concluded.

51. Ministry of Housing, Communities and Local Government (2020), "Accounting Officer System Statement", available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932359/MHCLG_Accounting_Officer_System_Statement_2020.pdf, accessed 22 January 2022.

168. In Wales and Northern Ireland, the rapporteurs did not hear similar worries. They conclude that the UK partially complies with Article 8.3, because in practice the proportionality principle of supervision over local authorities in England and Scotland is not always respected.

3.8 Article 9 – Financial resources

Article 9

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
5. The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

3.8.1 Article 9.1

169. This first paragraph establishes basic principles in the area of finance: local authorities have a right to their own financial resources and they should be free to decide how to spend those resources. Such “own resources” need to be adequate. Local authorities' fiscal capacities can be achieved by incorporating the principle of adequate financial resources in the constitution or the law and by relying on inclusive consultation procedures between associations of local authorities and central government based on memorandums of understanding (the latter to be assessed with paragraph 6).

170. In the UK, deciding over local government resources is a devolved matter, but the UK Government retains some powers which can be used to provide direct funding to local government in Scotland, Wales and Northern Ireland under specific circumstances or for specific purposes. An example of this is the Industrial Development Act 1982 (sections 7 and 8) and more recently, the UK Internal Market Act 2020 (sections 50 and 51).

England

171. In England, local government financial resources essentially encompass council tax⁵², retained business rates, and several key government grants (such as the un-ringfenced revenue support grant), apart from charges. Government grants form about half of local resources, as do local taxes; Table 4 shows the breakdown. Some grants are grants meant for particular services or functions, and some of those are earmarked for specific services. The council tax (a domestic property tax) is a local matter, but it is limited by considerable restrictions. Councils can offer discretionary council tax discounts, where they consider them appropriate. Council may set their schemes for CT reduction/support. The UK Government sets a threshold on tax increases each year. Authorities are required to hold a referendum if their council tax rise for 2021-22 is more than 5%, of which 3% must be for social care – so, it is ringfenced. If the authority is not a social care authority, then council tax can only rise by 2% without a local referendum. The business rates are a local tax, within strict boundaries set by the UK Government. The “rateable value” of premises (above which businesses must pay taxes) is decided by the national “Valuation Office Agency” (property valuations are reviewed and updated every five years and from 2023 this will be every three years). The UK Government decides which businesses must pay business rates and which are entitled to a discount; the funding is collected locally but the central government decides how it is allocated among councils.⁵³ There is a

52. Unlike in many other countries, there is no tourist tax in the UK.

53. Studdert J. (2021), “Local Government Explained Part 3 How are councils funded?”, available at www.newlocal.org.uk/articles/council-finance-explained, accessed 25 January 2022.

continuing debate about re-localising the business rates in England and allowing councils to retain all, or a proportion of their own business rates. Currently, the system is centralised and there seems to be no haste at the centre to re-localise business rates.

Table 4. Breakdown of local government resources

Resource	% (2019/20)
General government grant ("core council grant")	17
Specific ("ringfenced") grants	34
Council tax	32
Retained income from business rates	17

172. The Ministry of Housing, Communities and Local Government (MHCLG)⁵⁴ bears the main supervision responsibilities, the Treasury supports the department's oversight of the financial sustainability of local government.

173. The Local Government Finance Settlement (LGFS) is the determination of funding to local government (to be approved by the House of Commons). The Spending Review process sets out the total amount of money the UK Government plans to spend on departments and public services, including local government. The rapporteurs were informed that this LGFS is the mechanism through which the UK Government sets out the allocation of central government resources to local authorities in England, and the level of locally retained business rate income. In providing this resource, funding baselines for each authority are determined by an assessment of the relative needs of areas, including measures of deprivation, according to the MHCLG.

174. Interlocutors from central government departments informed⁵⁵ the rapporteurs that, through the most recent LGFS, the UK Government has made available an increase in core spending power in England, from £49 billion in 2020/21 to up to £51.2 billion in 2021/22, a 4.6% increase in cash terms, and that "this recognised the resources councils need to meet their pressures and maintain current service levels." During the consultation procedure, the UK government updated the rapporteurs that this Settlement makes available an additional £3.5 billion to councils, including funding for adult social care reform. This is an increase in local authority funding for 2022/23 of over 4% in real terms which will ensure councils across the country have the resources they need to deliver key services. In total, the UK government expects Core Spending Power to rise from £50.4 billion in 2021/22 to up to £53.9 billion next year.

175. The LGA stated that "local authorities are limited in their ability to raise and utilise financial resources freely, with central government having significant oversight in how local authorities are funded and how these funds are spent." It also mentioned a huge increase in the number of small grants "which are often very specific, short-term, and competitively assessed". During the consultation procedure, the UK Government pointed out that ringfences are usually introduced for new funding streams rather than ringfencing previously un-ringfenced funding.

176. The LGA calls for sustainable long-term funding and clarity about how local services will be funded in the next few years and beyond. A consulted expert adds that most of the funding received from the centre is ringfenced for specific uses, so councils cannot use that funding as they see best. A significant amount of central funding goes directly to schools.

177. During the consultation procedure the LGA reiterated that local authorities are limited in their ability to raise and utilise financial resources freely, with central government having significant oversight in how local authorities are funded and how these funds are spent.

178. The rapporteurs observe that, at first sight, English local government resources are "financial resources of their own", to a considerable degree, as only one third of local resources are earmarked. A more thorough look, however, leads to the conclusion that the core council grant is partly earmarked as well and, moreover, that local government taxes are local almost by name only (due to the nationally set restrictions – some of which are set per local authority – mentioned above). The rapporteurs therefore conclude that, with respect to English local government, the UK does not comply with Article 9.1.

⁵⁴ Now the Department for Levelling Up, Housing and Communities.

⁵⁵ This information can also be found online - <https://www.gov.uk/government/news/government-announces-new-funding-boost-for-councils>.

Scotland

179. The local finance system in Scotland resembles the English one, as local resources consist of charges for local government services, grants by the Scottish Government, and local taxation (“council tax”). The Scottish Government annually publishes a Local Government Finance (Scotland) Order, which gives information about the general grant. The grants are designed and calculated to reflect the needs of local authorities.⁵⁶ The most important criteria are the population and the local tax-raising capacity. This block grant forms about 85% of local government expenditure and has three parts:⁵⁷

1. A general revenue grant (formerly known as the revenue support grant): its size is calculated considering the amount needed for a standard service level and the sum of resources obtained from national non-domestic rates and council tax. The Scottish Government determines the exact amount per local authority (using “grant-aided expenditure” calculations and projections and indicators such as population, pupil numbers, and deprivation).
2. Specific revenue grants: these specific grants are also set by the government and are meant to fund the execution of national policies. They are earmarked/ringfenced. Examples from 2018/19 are specific grants for Gaelic, the Pupil Equity Fund, the early learning and childcare expansion, and criminal justice social work.
3. Non-domestic rates income: this is generated locally, but set and pooled centrally, and is distributed back to local authorities.

180. COSLA calculated that in 2019/20, funding from the Scottish Government accounted for 77% of net revenue expenditure, council tax for 20%. It observes that Scottish local authorities are highly dependent on national government for resources. They also point to the lack of statutory protection of local government funding and are of the opinion that Scottish local government has “significantly less ability to raise and control resources locally compared with the rest of Europe”. Furthermore, and although this has changed for 2022/23, for the previous 8-9 years Local Authorities have not been able to set their local Council Tax either because it had been frozen or in some instances because the Scottish Government has capped the level of increase that councils could set. Finally, it perceives increasing amounts of funding via specific grants (“ringfenced for specific purposes”).

181. The rapporteurs observe that the larger part of local income stems from national grants, acknowledging that some parts of the grants are general and that those, to quote a scholar, “notionally at least, may be spent in accordance with a council’s own priorities.”⁵⁸ Others, however, are earmarked and leave little room to be called “financial resources of their own”. Local taxes account for only about 20%. The rapporteurs therefore conclude that, with respect to Scottish local government, Article 9.1 has not been complied with.

Wales

182. Welsh local funding contains four major sources:⁵⁹

- A general (“un-hypothecated”) grant: this revenue support grant comes from the Welsh Government and accounts for 43% (2019/20) of gross revenue expenditure.
- Specific (“ringfenced and hypothecated”) grants: these account for 26% of gross revenue expenditure (2019/20).
- Council tax, a local tax on residents: local authorities set the rates (on a property’s rateable value set in 2003); the Welsh Government determines the ratios between the charges applied to different bands. This tax accounts for 18% of gross revenue expenditure (2019/20).
- Non-domestic (business) rates: a tax collected by local authorities, pooled by the Welsh Government and redistributed among local authorities alongside the revenue support grant. It accounts for 13% (2019/20) of gross revenue expenditure.

183. According to the Welsh Minister for Finance and Local Government, the council tax and the non-domestic rates form most significant portion of local authorities’ own income. Decisions on the level of council tax are made by local authorities.

56. Himsworth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury.

57. Scottish Government (n.d.), “Local government: Local government revenue”, available at www.gov.scot/policies/local-government/local-government-revenue, accessed 25 January 2022.

58. Himsworth C.M.G. and O’Neill C.M. (2021), *Scotland’s Constitution and Practice*, Bloomsbury.

59. Cardiff University (2021), “Local government & the Welsh budget: Outlook and challenges for the next Welsh Government”, available at http://www.cardiff.ac.uk/data/assets/pdf_file/0009/2513619/lgf_outlook_2021_7.pdf, accessed 25 January 2022.

184. The Welsh Local Government Association (WLGA)⁶⁰ points to local authorities having suffered from austerity measures, because of which “several discretionary [local authority] functions ceased in that period or services were outsourced/assets transferred”. It also suggests that local authorities might play more significant roles in addressing huge current societal challenges, if only they had the funding to do so.

185. The rapporteurs observe that grants from national government in Wales are more of the general kind than those in England, in particular. The reliance on central grants is also greater.⁶¹ On the other hand, local taxation is less significant, and, in Wales as in England and Scotland, partly restricted by national (Welsh) government. The rapporteurs therefore conclude that, with respect to Welsh local government, the Article 9.1. has not been complied with.

Northern Ireland

186. According to the Institute for Government⁶², funding local government in Northern Ireland differs from the rest of the UK. The larger part consists of income from district rates (a property tax, accounting for 70%), grants from the Northern Ireland Executive (8%) and fees for services (22%). The figures provided by the Northern Ireland Department for Communities show that “all the local authorities have considerable usable reserve balances”. The district rates are capped; the Northern Irish Government sets a maximum capital valuation for a domestic property.⁶³

187. The rapporteurs did not receive any contrary indicators during the monitoring meetings, nor found any afterwards.⁶⁴ So, Northern Ireland, to some extent, is the UK’s odd one out, although here, too, national government constrains the use of local taxes. The rapporteurs conclude that, with respect to Northern Ireland, Article 9.1 has been partially complied with.

3.8.2 Article 9.2

188. Revenues and mandatory tasks of local authorities should be balanced to ensure that the financial resources available to those authorities are satisfactory in comparison to the tasks assigned to them by law (cf. Congress’ Contemporary Commentary). Also, new tasks assigned or transferred to local authorities must be accompanied by the corresponding funding or source of income to cover the extra expenditure.

England

189. As was discussed in the case of Article 9.1, the main instrument for calculating local government funding is through the Local Government Finance Settlement, which determines funding baselines for every authority by an assessment of the relative needs of areas, including measures of deprivation. In addition, national department interlocutors also – univocally – point out the “New Burdens” doctrine. This forces all government departments to assess new burdens on local government and to engage with relevant local stakeholders, “to ensure local government receives the funding they need to deliver new activities”.⁶⁵ They also mention several “devolution deals” and the accompanying transfer of funding to the directly elected mayor in such regions. One expert provided further information on the latter and stated that there is no autonomy over taxation levels and that there are no new taxation or spending powers for combined authorities and their elected mayors.

190. Interlocutors for local government observe several flaws in the financial system. They mention inadequate funding of attributed tasks, significant cutbacks, and medium- and longer-term uncertainties. The LGA calculated a predicted funding gap of several billion pounds by 2024/25. Some interlocutors even observe national political preferences in funding local government. Part of the funding is to be obtained by competitive bidding, which allegedly is easier for richer authorities to win. Some bids seem to need a sign-off from MPs.

60. WLGA (2019), “Resourcing local services 2020-21: All our communities rely on local government”, available at www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=2476, accessed 25 January 2022.

61. Institute for Government (n.d.), “Local government: What does local government do?”, available at www.instituteforgovernment.org.uk/explainers/local-government, accessed 25 January 2022.

62. Institute for Government (n.d.), “Local government: What does local government do?”, available at www.instituteforgovernment.org.uk/explainers/local-government, accessed 25 January 2022.

63. NI Direct (n.d.), “A guide to rates: How rates bills are calculated”, available at www.nidirect.gov.uk/articles/how-rates-bills-are-calculated, accessed 25 January 2022.

64. By searching for them on the Northern Ireland Local Government Association website, available at www.nilga.org

65. The main reason for this doctrine is to prevent council tax from increasing; see Department for Communities and Local Government (2011), New burdens doctrine. Guidance for government departments, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5960/1926282.pdf, accessed 25 January 2022.

191. During the consultation procedure, the government highlighted that bids provided a detailed application form and were assessed impartially by officials against four critical components: value for money, strategic fit, deliverability and characteristics of place.

192. The rapporteurs consider that the general mechanism for allocating resources over local authorities (LGFS - determining the funding baselines) and the “New Burdens” doctrine have positive aspects. They also observe that, in practice, the results of those efforts are not sufficient. In addition, much funding is nowadays allocated via ad hoc deals and competition. The rapporteurs cannot consider this is sound mechanism for ensuring that local government funding will be commensurate with the responsibilities provided for by the constitution and the law. That leads them to conclude that, with respect to England, the situation is in breach of Article 9.2.

Scotland

193. In Scotland, too, attention is being paid to new burdens on local government finances resulting from a transfer of tasks. As the Scottish Minister for Social Security and Local Government states, the new burdens policy “requires any new statutory function which imposes a new financial burden on local authorities to be fully funded”. The ministry informed the rapporteurs that the way to determine the amount of any additional funding and its distribution between local authorities is the subject of negotiation between the Scottish Government and COSLA officials together with local authority Directors of Finance and that final recommendations needed ultimate approval from Scottish Government ministers and COSLA political leaders.

194. COSLA interlocutors point out the projected budget gaps (estimated by auditors at £185 million for 2020/21, prior to Covid-19 costs). They declare that “demand for local services has long outpaced the available funding”.

195. The rapporteurs consider that the general mechanism for allocating resources among local authorities (indicators for the general revenue grant) and the new burdens goal (fully funding new financial burdens) have positive aspects. They also observe that, in practice, the results of those efforts are not sufficient (considering the projected funding gap), and that, regarding new burdens, additional funding seems to be the result of negotiations between national and local government (including COSLA), rather than of sound and non-partisan calculation of the costs of new tasks assigned or attributed to local governments.⁶⁶ The rapporteurs do not consider this to be a mechanism for ensuring that local government funding will be commensurate with the responsibilities provided for by the constitution and the law. That leads them to conclude that, the situation in Scotland does not comply with Article 9.2.

Wales

196. The Welsh Minister for Finance and Local Government informed the rapporteurs that when legislation assigns or delegates new tasks to local government, such a bill is accompanied by a regulatory impact assessment that sets out the financial and other impacts of the proposed legislation, and that this is subject to both stakeholder consultation and scrutiny through the Senedd.

197. The WLGA interlocutors acknowledge that they agreed with the Welsh Government “several years ago” that any new responsibilities or requirements on local government should be met with adequate resources: regulatory impact assessments must be undertaken for any new legislation, to identify cost implications. But they also state that “the [revenue support grant] settlement is a rather opaque process”. To illustrate this opinion, they argue that the overall settlement could be reduced in any year, effectively cancelling out any notional “increase” in the settlement to deal with these new responsibilities.

198. The rapporteurs were informed that pressures on local government are real (according to a report received by the finance sub-group (a joint Welsh Government and WLGA meeting); by 2023/24 will increase to £821 million).

199. The latter, combined with the observation that the regulatory impact assessments are not sustainable, leads the rapporteurs to conclude that, with respect to Wales, Article 9.2 has not been complied with.

Northern Ireland

66. See, for instance, Scottish Government (2018), “Scottish Public Finance Manual”, available at www.gov.scot/publications/scottish-public-finance-manual/local-government-finance/local-government-finance, accessed 25 January 2022.

200. The Northern Ireland Department for Communities presented what happened when functions (i.e., parking and planning) were transferred to local government in 2015. A transferred functions grant was established, to be paid by the Department for Communities. In general, so the department stated, “funding is reviewed by departments if and when functions are transferred to councils.”

201. Considering the compliance with Article 9.1, the information provided by the Northern Ireland Department for Communities, and the lack of counter-indications, the rapporteurs conclude that the UK, with respect to Northern Ireland local government, the situation complies with Article 9.2.

3.8.3 Article 9.3

202. Tax-levying power is considered a key part of local authorities’ financial autonomy, whether it concerns general taxes (such as property taxes) meant to cover the set of local government expenses, or taxes meant as payments for specific local services (see in this respect A contemporary commentary by the Congress on the explanatory report to the European Charter of Local Self-Government). It is mandatory to derive “at least” part of local government’s resources from local taxes and charges. In addition, local authorities must be entitled to determine the rate (that is, “within the limits of statute”). Central government controls over local taxation should be aimed solely at preventing excessive debt among local authorities and helping them to cope with their financial situation.

203. In all parts of the UK, local government has tax-levying powers. All the sub-national governments (and the UK Government in the case of England) set framework for local taxation (for instance, by deciding on the way to determine property values, setting a threshold on tax rate increases, or setting the rates).

204. The rapporteurs note that in Scotland and Wales, local taxation reforms are being discussed.

205. Considering that local government is at least partly funded by local taxes and that the aim of the restrictions on local taxes by national and sub-national government is not to prevent debt among local authorities or to help them to cope with their financial situation, but to limit excessive tax increases and to promote ideas about “value for money”, the rapporteurs conclude that the UK partially complies with Article 9.3.

3.8.4 Article 9.4

206. The financial systems need to be “sufficiently diversified”, implying (the Congress’ Contemporary Commentary) that local authorities’ finances should not be based solely on taxes or transfers and should be bolstered by all possible sources of local income. They also have to be “buoyant”; they should allow local finances to rise to meet the costs of the delivery of services, i.e., local finances should be able to adapt to new circumstances, needs and macroeconomic scenarios and be sufficient to cover service delivery. The latter can be measured as an equal development of prices for service delivery and of transfers from higher levels of government, the freedom to adapt tax rates to inflation, and new financial resources covering additional costs imposed on local government by higher-level authorities (assessed according to Article 9.2).

207. Local government funding in all four UK nations consists of local taxes, various grants, as well as sales, fees and charges. The second indicator for compliance with this fourth paragraph of Article 9 is “buoyancy”. On this point, the rapporteurs found their assessment on the considerations formulated above. It stems from the exchange of views with some interlocutors during the remote meeting that the UK lacks a sustainable and predictable framework for funding local government. Only part of the national grants is calculated by applying objective criteria. Specific grants are set by national governments (albeit after consultation) and may change every year, some funds are only available for some regions (the English devolution deals, for instance), and local taxation is restricted.

208. In this respect, it appeared to the rapporteurs from their discussion that local government has little financial freedom to adapt to new circumstances, needs and macroeconomic scenarios and the funding system does not provide any guarantee that national governments will grant such freedom. Local government funding is not systematic. The rapporteurs conclude that the UK’s financial systems of local government funding are diversified, but also that most of the resources are restricted by national governments and that they are far from being buoyant.

209. It seems to the rapporteurs that the situation in the UK does not comply with Article 9.4.

3.8.5 Article 9.5

210. This paragraph deals with the necessity of financial equalisation in favour of financially poorer authorities. This may take different forms (the Congress' Contemporary Commentary), usually involving a system of transfers to the poorer authorities. The Charter also calls for transparent and predictable financial equalisation mechanisms that must respond to changes in the economic climate and that do not limit poorer local authorities' spending discretion.

211. The most visible equalisation mechanism⁶⁷ is in the calculations of the general grants (known as the revenue support grants in England and Wales and as the general revenue grant in Scotland). Relative needs (for instance, deprivation, population growth, pupil numbers) are taken into account when determining the grants per local authorities. In England, additional equalisation takes place with some of the specific grants to local authorities, which, according to the Treasury, have included equalisation components in their allocation methodology to account for the varying ability of local authorities to raise revenue. Contrary to this, as local interlocutors underscore, the present use of competitive funding and tenders may make local resources increasingly dependent on central government priorities and running the risk of political interference. In Wales, the redistribution of business rates is said to have an element of equalisation. According to the WLGA, some businesses are also eligible for business rate relief and local authorities can grant hardship relief to businesses when in the interests of the local community. At the same time, the council tax is, as the WLGA stated, "generally regarded as a regressive tax".

212. During the consultation procedure, the UK Government refuted the allegation that there has been any political interference. It added that here is an objective and carefully constructed index of priority places for the Levelling Up Fund (a competitive fund) to target funding to places most in need of the kind of investment that the LUF provides. The index uses metrics such as GVA per hour, unemployment rate, average journey times and commercial vacancy rates, amongst others. For round one, the majority of successful projects from the LUF went to places judged most in need (category 1 places in LUF parlance).

213. In view of the rapporteurs the situation presents a mixed picture. Financial equalisation does occur, but opposite tendencies and risks exist as well. It appears to them that what is required, but lacking, is a transparent and predictable financial equalisation mechanism. The rapporteurs therefore conclude that the UK partially complies with Article 9.5.

3.8.6 Article 9.6

214. Under Article 9.6 (the Congress' Contemporary Commentary), consultation of local authorities and, preferably, their national associations is a compulsory procedure, to be enshrined in national legislation and that has to take place in a timely manner before a final decision is made. Such consultation must cover the decision, the way a decision is made and the criteria for doing so. Sufficient time must be available for consultation based on adequate information provided to local authorities.

215. The assessment of compliance with this paragraph partly overlaps with the one made for Article 4.6. It is also more stringent, as Article 9.6 requires a legal foundation and specifies which topics should be part of the consultation.

216. The rapporteurs observed that, in general, consultation with local authorities takes place. It appears also that the legal foundation in England of consultation over the core spending power exists. However, the rapporteurs found that the Local Government Finance Act 1988 (sections 78 and 78A) does not contain a legal duty to consult local authorities and/or their representative associations. Section 78, subsection 5 of the very act states that the Secretary of State "shall consult such representatives of local government as appear to [them] to be appropriate". They also observe that the time available for such consultation is rather short; four weeks, sometimes including the Christmas break⁶⁸ or other public holiday periods.

67. The rapporteurs refrain from discussing equalisation between the four UK nations. They were informed that the Barnett formula determines the level of UK Government spending on public services in Scotland, Wales, and Northern Ireland and sets the budgets of the devolved administrations. The resulting per capita spending is as follows: England: £9 604 (3% below the UK average), Scotland: £11 566 (17% above the UK average), Wales: £10 929 (10% above the UK average), and Northern Ireland £11 987 (21% above the UK average). House of Commons Library (2021), "Public spending by country and region", available at <https://commonslibrary.parliament.uk/research-briefings/sn04033>, accessed 25 January 2022.

68. For example, see MHCLG (2021), "Provisional local government finance settlement 2021-22 consultation: summary of responses", available at www.gov.uk/government/consultations/provisional-local-government-finance-settlement-2021-to-2022-consultation/outcome/provisional-local-government-finance-settlement-2021-22-consultation-summary-of-responses, accessed 25 January 2022.

217. Occasionally, a specific legal foundation exists (England and Wales), sometimes practical guidelines (Wales). But this practice does not fully meet the requirements meant in Article 9.6. The rapporteurs therefore conclude that the UK only partially complies with this sixth paragraph of Article 9.

3.8.7 Article 9.7

218. Paragraph 9.7 formulates a clear preference for unconditional, non-earmarked grants from higher-level authorities to local and regional authorities. The allocation of specific grants should be based on objective, transparent criteria justified by spending needs and criteria for the allocation of general grants should be specified by law and be predictable.

219. The rapporteurs assessed the UK's compliance with this seventh paragraph of Article 9 with using first paragraph. They concluded that, in England, about one third of local resources consist of earmarked grants, that the core council grant is significantly smaller than the sum of the earmarked grants and that this general grant is partly earmarked as well. In Scotland and Wales, the general grants are more general than the English one, and a smaller part of local resources is formed with specific grants. The latter also holds for Northern Ireland, where national grants form only 8% of local government resources.

220. The conclusion is that with respect to England, Article 9.7 has not been complied with, with respect to Scotland and Wales it has been partially compliant, and compliant with with respect to Northern Ireland.

3.8.8 Article 9.8

221. The Charter formulates having access to the national capital market as a right, but (the Congress' Contemporary Commentary) a restricted one. The law may establish requirements, procedures, criteria, limits or ceilings concerning local authorities' financial activities. Such restrictions should be aimed to prevent excessive debt among local and regional authorities and ensure their financial viability and liquidity.

222. Local authorities in England, Wales and Northern Ireland have access have access to the Public Works Loans Board - PWLB (lending via the Treasury) but they can borrow from any willing lending. They tend to borrow from PWLB as they charge low rates.

223. The Treasury provides loans to local authorities to undertake capital projects through the Public Works Loans Board (and, since 2021, the UK Infrastructure Bank, an additional borrowing source for infrastructure to achieve net-zero emissions or support regional and local economic growth). As the Treasury informed the rapporteurs, legislation (the Local Government Act 2003, in particular) sets out that local authorities can borrow and invest for any of their functions, in line with prudent financial management. Restrictions are set: all borrowing must be affordable (i.e., local authorities must be able to service and repay the debt from revenue), local budgets need to be balanced each year, borrowing is only acceptable against revenue streams, not assets.

224. Scottish local authorities are entitled to borrow money (Local Government (Scotland) Act 1973). The purposes for which they may borrow are limited (Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016), especially: capital expenditure of the local authority (including grants to third parties in specific circumstances), temporary borrowing and lending for cash management purposes, and loans to other statutory bodies as set out in the Regulations. If a local authority wishes to borrow money for other purposes, it needs the consent of Scottish ministers.

225. Local interlocutors did not mention any specific issues concerning local authorities' access to the capital market. The English Local Government Association even considered the arrangements in the 2003 Local Government Act "a major step in freeing local government from centrally imposed borrowing controls and the Government placing genuine trust and reliance in local government's ability to manage its own affairs according to the sector's own professional standards".

226. As the restrictions fall within the parameters set out in Article 9.8, the rapporteurs conclude that the UK complies with Article 9.8.

3.9 Article 10 – Local authorities' right to associate

Article 10

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for the protection and promotion of their common

- interests and to belong to an international association of local authorities shall be recognised in each State.
3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

3.9.1 Article 10.1

227. The Charter (cf. Congress' Contemporary Commentary) grants local authorities a general right to co-operate with one another to deliver local services or discharge their responsibilities and to create separate organisations for those purposes. The procedures, requirements and steps that must be followed for the latter should be regulated by national (or regional) legislation.

228. All over the UK, local authorities have statutory powers that allow for co-operation. Such co-operation may take several forms: informal co-operation (of neighbouring authorities or with authorities elsewhere in the country) to share best practice and promote innovation; formal, contractual arrangements to provide joint services and administrative functions; or formal legislative measures where two or more councils come together in a merger to form a new municipality. In England, local authorities may also come together as constituent members of a combined authority. The latter requires approval by the national government and is contingent on conditions like the creation of a mayoral role to oversee the combined authority.

229. The rapporteurs were presented several examples of inter-local co-operation in all parts of the UK and conclude that the UK complies with Article 10.1.

3.9.2 Article 10.2

230. The second paragraph within Article 10 entitles local authorities to associate nationally and internationally for the promotion of common interests.

231. Local authorities in each of the constituent parts of the UK are represented by their respective local government associations (the LGA, the WLGA, COSLA and NILGA) as well as other regional forums and interest groups (e.g. Core Cities, London Councils). With respect of international engagement, the Local Government Overseas (Assistance Act) 1993 enables them to operate internationally as they do on an individual basis and through their respective national association in the Council of Europe, the EU, the UN System and international umbrella organisations.

232. The rapporteurs conclude that the UK complies with Article 10.2.

3.9.3 Article 10.3

233. This paragraph formulates local authorities' right to start and engage in transnational co-operation. Domestic legislation may establish steps, procedures or requirements concerning the exercise of such a right, unless such requirements seriously limit the possibility of fruitful transfrontier co-operation. When transnational co-operation threatens to overlap or conflict with the conduct of foreign affairs, then consultation and negotiation are the ways to solve this.

234. Many interlocutors gave examples of local authorities co-operating internationally. Some concerned twinning, others civic relationships, city networks, and even having overseas offices. Transnational co-operations appear to be bilateral or multilateral, and sometimes are co-operations of the national local government associations.

235. The rapporteurs conclude that the UK complies with Article 10.3.

3.10 Article 11 – Legal protection of local self-government

Article 11

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

236. Article 11 demands local authorities have access to either a properly constituted court of law or an equivalent, independent, statutory body (the Congress' Contemporary Commentary). The courts will then have to protect, on the one hand, the "free exercise" of local authorities' powers; on the other hand, the principles of local self-government "as are enshrined in the constitution or domestic legislation". Compliance with Article 11 only exists if such judicial remedies are made possible. As the Congress' Contemporary

Commentary declares, it is not enough for local authorities to be granted the right to bring legal actions in a court of law in the same manner as any other legal entity to defend its private rights or property.⁶⁹

237. The latter right exists throughout the UK. Local authorities may legally challenge the decisions of the UK Government and other organisations exercising functions of a public nature in the courts. An actual example is challenging the legality of the government's decision to expand Heathrow Airport on various grounds affecting their functions and inhabitants, including traffic and air and noise pollution. Another example is the application to the High Court to ask whether Schedule 12 of the Local Government Act 1972 could be read as allowing an updating interpretation (and so allowing for an extended possibility of having remote council meetings). A local authority in Northern Ireland challenged the national government's use of a conversion factor to calculate the wealth factor in calculating the rates support grant.

238. However, as already concluded in the previous Congress report, "although the UK has ratified the Charter without any reservation, the Charter's principles are neither expressly nor specifically incorporated in legislation. The principles are neither directly applicable nor can local authorities refer to the Charter in case of judicial review. Courts might use the Charter, as should the legislator, as an aid to interpretation regarding domestic legislation in local affairs".

239. It is difficult for the rapporteurs to see how the UK courts may give full legal effect to the provisions of the Charter when it is not expressly incorporated into domestic law or the devolved legislations.

240. The Charter is not part of UK domestic law, nor are its principles (as was concluded when considering Article 2). So, as the LGA rightfully stated, it cannot be relied upon by councils as a source of substantive rights (as noted in the Congress' 2014 report).

241. The rapporteurs conclude that The right to local self-government is not recognised in the domestic legislation and cannot receive effective protection in the UK courts.

242. UK local authorities do not have adequate recourse to a judicial remedy within the meaning of Article 11 read in conjunction with Article 2.

4. OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL AND REGIONAL SELF-GOVERNMENT

4.1 Brexit

243. On 1 January 2021, the United Kingdom left the European Union. This may or may not impact local government in the country. During the monitoring meetings, the rapporteurs gathered opinions and expectations, recognising that it is far too soon to draw conclusions.

244. Most spokespersons mentioned opportunities presented by Brexit. Many legal powers were transferred from the EU to the UK. The final location of such powers is an open issue. Most interlocutors hope that quite a few will be de-centralised to regional and local governments. EU structural funds will be replaced with a domestic successor. It remains to be seen what the effects will be. Further devolution might increase the asymmetric character of the UK, if the UK follows the same pattern as it did prior to Brexit. That is, (a) different devolution arrangements for Scotland, Wales, and Northern Ireland, (b) no devolution to England (nor a referendum over this issue), and (c) only partial devolution (to metropolitan areas only) within England. During the consultation procedure COSLA has informed the rapporteurs that in 2018 the UK Government committed to the UK Parliament to consult local government, namely via the four national associations, in repatriation of EU powers⁷⁰ but this has largely not happened: this concerns the creation of UK-wide Common Frameworks to deal with repatriated powers that cannot be directly devolved to each part of the UK, the replacement of EU funds by an UK wide alternative, the creation of new UK-wide powers on the internal market, subsidy rules. These issues are all encompassed by the UK Internal Market Act 2020 and subsequent legislation.

245. Another example of centralisation tendencies share by some interlocutors with the rapporteurs is the UK Government's Internal Market Act. The Scottish and Welsh Parliaments refused to consent to this, as it

69. The interpretations of the requirements meant in this article were slightly different in the Congress' previous monitoring report on the UK.

70 Statement to Parliament by the Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth).

“centralises control in Westminster, fundamentally undermines devolution and threatens the common frameworks process, which was established, equally, by all four nations of the UK to manage the regulatory impacts of EU Exit”. This very act allegedly has “the effect of making any decision agreed at local (...) level subject to challenge if perceived as a barrier to intra-UK trade”. It has given the UK Government “the power to spend in areas of devolved competence, including economic development (...) a competitive bidding process has been put in place with decisions being made by UK government”. “New Common Frameworks” (for some of the transferred powers) have been negotiated by the UK Government and the devolved administrations. Local government was “consulted like any stakeholder once both central and devolved governments had agreed them”.

246. The rapporteurs express their concern at the examples that were mentioned during the meetings of the UK Government centralising after Brexit and rolling back devolution. But it is too early to have a clear picture and draw conclusions on the consequences of the Brexit for local government.

4.2 Covid-19 pandemic

247. The pandemic obviously had, and still has, significant impact on all government levels, and certainly on local governments. What the longer-term impact of the crisis will be is uncertain.

248. The rapporteurs gratefully received plenty of detailed information from several interlocutors on local and national measures meant to fight the pandemic. In this section, however, the rapporteurs refrain from presenting and discussing all that information, as to do so would be too far-reaching and distracting from the purpose of this section. Instead, they mention developments and arrangements emerging over the pandemic that possibly have general effects on local government, be it their position, responsibilities, funding, organisation or functioning, and/or on intergovernmental relations.

249. All interlocutors agree that the pandemic significantly impacted local government funding in two ways: by reducing their revenues and by obliging them to spend more on care, social issues and the local economy. The various national governments tried to compensate for all this. The UK Government provided (partially general/“un-ringfenced”) grant funding to English local governments and to the devolved administrations of Scotland, Wales and Northern Ireland, to combat the additional costs of local response to the pandemic and the reduced income. The devolved administrations, in turn, provided additional funding to their local governments. Budgets are set on an annual basis and thus lead to financial uncertainty. And some of the funds meant for social and economic recovery are competitively awarded.

250. The Ministry of Housing, Communities and Local Government collected monitoring information on the impact of the pandemic on English local authority finances, which has helped guide central government policy. The ministry stated the data are collected on a voluntary, rather than mandatory, basis. Similar arrangements exist in Scotland, Wales and Northern Ireland because COVID-19 policies are almost entirely Devolved, even more than in properly federal states in Europe.⁷¹

251. Local authorities were given new powers to enable them to act quickly in response to local outbreaks. This included measures to restrict the operation of premises, prohibit events from taking place and restrict access to public outdoor places. The LGA underscores that local authorities also gained some responsibilities informally through greater collaboration between central and local government. According to the LGA, councils played a clear and effective leadership role in their locations, as new services were created quickly from scratch and new forms of financial support to businesses were administered quickly. “only councils had the legitimacy to bring together private and public partners to transform services and deliver for their communities.”

252. National departments and local government associations both underscore the importance of joint working by national and local government, as that “enabled [them] to move quickly and flexibly to ensure essential services remained available and the most vulnerable protected.”

253. All such developments may have a positive impact on local self-government in the UK. National governments may discover that local governments are essential in fighting huge crises, such as the Covid-19 pandemic, and may grant them a stronger position in the fabric of government. In addition, they may see the relevance of sound and predictable local government funding. But it remains uncertain what the medium- and long-term impact on local government will be. The pandemic may serve as a turning point towards a new

71. Vampa, D. 2021. COVID-19 and Territorial Policy Dynamics in Western Europe: Comparing France, Spain, Italy, Germany, and the United Kingdom. *Publius: The Journal of Federalism*, 51(4), 601-626.

area of localism in the UK, but the UK's past and present performance – as assessed in this report – makes the rapporteurs cautious.

4.3 Strengthening subnational government?

254. The UK Government has committed to publishing a Levelling Up White Paper in 2021,⁷² (delayed to 2022) replacing the previously long-promised devolution white paper, which will not now be produced. The Levelling Up White Paper, as the UK government claims, will set out how new policy interventions will improve livelihoods across the country as it recovers from the pandemic. This will include the government's plans for strengthening local accountable leadership. It may also prelude more council mergers and larger local government.

255. The Ministry of Housing, Communities and Local Government informed the rapporteurs that the UK Government's levelling-up agenda is placing local partners and communities across England, Wales, Scotland and Northern Ireland at the heart of its new investment programmes. Communities across the UK share common challenges and opportunities and the UK Government is determined to address these in collaboration with local leaders and partners. It wants local authorities to help it bring together expertise and best practice on challenges which are shared by local authorities across the UK, including the local action that is needed to respond to climate change. To facilitate this, the ministry is developing structures for more regular engagement and positive communication with local authorities from across the UK.

256. In spring 2021, the UK Government announced new, UK-wide funds aimed at levelling up communities across the UK replacing the EU Structural Funds by an equivalent amount⁷³

257. The LGA understand the announced Levelling Up White Paper as "a major opportunity to progress the devolution agenda in England and enhance the leadership role that councils have demonstrated so well during the pandemic."

258. The future will reveal whether local self-government in the UK will benefit from such kinds of de-centralisation.

5. CONCLUSIONS AND RECOMMENDATIONS

259. Since local government in the UK is a devolved matter and devolution has been asymmetric, different UK nations have seen different developments in local self-government and, as a result, there is a variation in the degree of compliance with the Charter among the nations. This is undoubtedly challenging to depict the UK as having a single system of local government.

260. Based on the findings of the remote meetings, the rapporteurs have noted some positive developments in the UK, such as the adoption of the Cities and Local Government Devolution Act 2016 and expressed commitment to publishing a Levelling Up White Paper. At the same time, they have also observed that several issues with the application of the Charter that had been identified during the previous monitoring visit in 2014 remain outstanding.

261. The situation in the United Kingdom does not meet the requirements set out in Articles 2 and 3.1, as the principles of local self-government are still not recognised in domestic law, local authorities cannot rely on the Charter as a source of substantive rights and cannot perform their tasks effectively, since financial resources available to them do not meet the requirements of the Charter.

262. The rapporteurs concluded on non-conformity or partial compliance with most of the paragraphs of article 9.

263. The situation in the United Kingdom does not comply with paragraph 4 of Article 4, which provides for local authorities' genuine political discretion when performing their powers and responsibilities. General competences exist nowadays, but in practice they are accompanied by restrictions imposed on local authorities with respect to attributed activities, by rather heavy supervision (of expediency), and by significant local government dependence on national funding.

72. UK Government (2021), "Government to publish Levelling Up White Paper", available from www.gov.uk/government/news/government-to-publish-levelling-up-white-paper, accessed 25 January 2022.

73. Brien, P. 2021. The UK Shared Prosperity Fund. House of Commons Library, 25 November.

264. It appears to the rapporteurs that, in England and Scotland, national government supervision over local authorities does not meet the requirements stipulated in Articles 8 in terms of limiting supervision to legality control and respecting the proportionality principle.

265. Given that the European Charter of Local Self-Government and its principles are not incorporated in domestic law, local authorities in the United Kingdom do not have a legal possibility to have their self-government rights protected as required by Article 11. The latest attempt by the Scottish Parliament to incorporate the Charter into law has not yet been successful, as the UK Supreme Court pronounced the Scottish Parliament not to have competence with regard to two very specific sections of the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

266. By decision of the UK Government, the Charter does not apply to local government in Northern Ireland. The rapporteurs however see no reasonable justification to maintain this reservation.

267. There is a variety of self-governing and consultative bodies at the subnational level in the UK, in addition to those to which the scope of the Charter was confined. Examples of such bodies are: the Greater London Authority; combined authorities such as corporate joint committees; parish, town, and community councils; fire and rescue authorities; police authorities. While it is understandable that the UK decided not to include in the scope of the Charter's application such specialised bodies as police authorities, it is unclear why the UK Government does not review their declaration, given present-day realities, to extend the scope of application of the Charter, for instance, to the Greater London Authority and local authorities in Northern Ireland.

268. The United Kingdom has signed but not ratified 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).

269. Based on the above-mentioned findings and conclusions, the rapporteurs recommend that the authorities of the United Kingdom expressly recognise the principle of local self-government in domestic law (UK legislation and devolved legislations), ensure that local authorities have an effective right to self-government as formulated in Article 3.1 and the right to recourse to a judicial remedy to secure free exercise of their powers and respect for such principles of local self-government as meant in Article 11 read in conjunction with article 2.

270. The rapporteurs also see the to guarantee a genuine "general competence" for local government in practice, prevent over-regulation of local government activities by higher-level authorities and provide more room to local authorities to decide on spending priorities.

271. The rapporteurs are of the opinion that a consultation procedure on financial resources should also be brought about, in conformity with Article 9.6, in particular as regards the need to guarantee that consultations take place in a timely manner before a final decision is made and that local authorities have enough time to meaningfully contribute to consultation process.

272. Furthermore, to satisfy the requirements of Article 8 in all four UK nations, there appears to be a need to limit national government supervision over local authorities to checks on legality. Finally, it is important to make sure that the supervisory authorities intervene only to the extent necessary and proportionate to the importance of the interests they intend to protect, that is, considering the relevance of the public interest at stake.

273. As for local authorities' financial resources, the rapporteurs consider that a significant reform of the system of local government funding is needed to bring the situation into conformity with Article 9. Such a reform should aim to incorporate the principle of adequacy of financial resources in the law, ensure its application in practice and enhance local authorities' fiscal capacity. It should rely on inclusive consultation procedures between associations of local authorities and central government on local funding.

274. It is important to make sure that local authorities' finances are sufficiently diverse and "buoyant" to allow meeting the costs of service delivery. This could be achieved by allocating commensurate transfers from higher levels of government, and more local-level freedom to adapt tax rates to inflation.

275. The rapporteurs recommend that the Congress organise a post-monitoring effort to stimulate the UK to take the necessary actions as soon as possible and to assist the UK where necessary.

276. The rapporteurs suggest updating and expanding the scope of the Charter to local authorities in Northern Ireland and to the Greater London Authority.

277. Finally, they invite the authorities of the United Kingdom to ratify 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).

APPENDIX – Programme of the Congress monitoring visit to the United Kingdom

**MONITORING OF THE APPLICATION OF THE EUROPEAN CHARTER
OF LOCAL SELF-GOVERNMENT**

UNITED KINGDOM

21-23 June 2021

PROGRAMME OF THE REMOTE MEETINGS

Congress delegation

Rapporteurs

Mr Vladimir PREBILIC

Rapporteur on local democracy
Chamber of Local Authorities, SOC/G/PD⁷⁴
Member of the Monitoring Committee of the Congress
Mayor of Kocevje
Slovenia

Mr Magnus BERTSSON

Rapporteur on regional
democracy Chamber of Regions,
EPP/CCE
Member of the Monitoring Committee of the Congress
Member of the regional Council (Västra Götaland)
Sweden

Congress secretariat

Ms Stéphanie POIREL

Secretary to the Monitoring Committee

Expert

Mr Linze SCHAAP

Member of the Group of Independent Experts on the
European Charter of Local Self-Government (Netherlands)

The working language during the meetings is English.

⁷⁴ SOC/G/PD: Group of Socialists, Greens and Progressive Democrats
EPP/CCE: European People's Party Group in the Congress

Monday, 21 June 2021

Remote meetings

- **NATIONAL DELEGATION OF THE UNITED KINGDOM TO THE CONGRESS**
 - Mr John WARMISHAM, Councillor, Salford City Council, Head of Delegation
 - Mr Stewart DICKSON, Member, Northern Ireland Legislative Assembly, Deputy Head of Delegation

 - Ms Angela BOYES, Councillor, Cheltenham Council
 - Ms Heather BRANNAN MCVEY, Councillor, North Lanarks Council
 - Ms Joanne Louise LABAN, Councillor, London Borough of Enfield
 - Mr Andrew LEADBETTER, Councillor, Exeter City Council
 - Ms Bryony RUDKIN, Councillor, Ipswich Borough Council
 - Mr Peter THORNTON, Councillor, South Lakeland District Council
 - Ms Linda GILLHAM, Councillor, Runnymede Council
 - Mr Martin FODOR, Councillor, Bristol Council
 - Mr Ebrahim ADIA, Councillor, Bolton Council
 - **Mr Andrew BOFF**, Member, London Assembly

- **NORTHERN IRELAND LOCAL GOVERNMENT ASSOCIATION (NILGA)**
 - Mr Martin KEARNEY, Vice President
 - Ms Lisa O'KANE, Head of Investment, Performance and Improvement

- **LOCAL GOVERNMENT ASSOCIATION (LGA)**
 - Mr James JAMIESON, Chairman
 - Ms Izzi SECCOMBE, Leader of the Conservative Group
 - Mr Nick FORBES, Leader of Labour Group (tbc)
 - Ms Marianne OVERTON, Leader of Independent Group
 - Mr Richard KEMP, Leader of Liberal Democrat Group

- **WELSH MINISTRY FOR FINANCE AND LOCAL GOVERNMENT**
 - Ms Rebecca EVANS, Minister
 - Ms Lisa JAMES, Deputy Director, Local Government Democracy Division
 - Ms Judith COLE, Deputy Director, Local Government Finance Policy and Workforce Partnerships

- **GREATER LONDON AUTHORITY**
 - Ms Joanne MCCARTNEY, Statutory Deputy Mayor
 - Mr Richard WATTS, the Mayor's Deputy Chief of Staff
 - Mr Andrew BOFF, Chair of London Assembly

- **CONVENTION OF SCOTTISH LOCAL AUTHORITIES (COSLA)**
 - Ms Alison EVISON, President
 - Mr Graham HOUSTON, Vice President
 - Mr Steven HEDDLE, Environment and Economy Spokesperson
 - Ms Gail MACGREGOR, Finance Spokesperson
 - Mr Stuart CURRIE, Health and social care Spokesperson
 - Ms Kerry PARRY, Community wellbeing Spokesperson
 - Mr Stephen MCCABE, Children and young people Spokesperson

Tuesday, 22 June 2021

Remote meetings

• **HM TREASURY**

- Ms Catherine LITTLE, Director General for Public Spending and Head of the Government FinanceFunction

• **MINISTRY OF HOUSING, COMMUNITIES & LOCAL GOVERNMENT**

- Ms Catherine FRANCES, Director General for Local Government and Public Services
- Mr Emran MIAN, Director General for Stronger Places
- Mr Paul ROWSELL, Deputy Director and Head of Governance Reform and Democracy

• **SCOTTISH MINISTER FOR SOCIAL SECURITY AND LOCAL GOVERNMENT**

- Mr Ben MACPHERSON, Minister for Social Security and Local Government

• **EDINBURGH CITY COUNCIL**

- Mr Frank ROSS, Rt Hon, The Lord Provost
- Mr Andrew KERR, Chief Executive of Edinburgh Council
- Mr Adam MCVEY, Council Leader

• **UK PARLIAMENT**

- Mr Clive BETTS, Chair of the Housing, Communities and Local Government Committee

• **WELSH LOCAL GOVERNMENT ASSOCIATION (WLGA)**

- Mr Rob STEWART, WLGA Deputy Leader

Wednesday, 23 June 2021

Remote meetings

• **OFFICE OF THE SECRETARY OF STATE FOR SCOTLAND**

- Mr Iain STEWART, MP, Parliamentary Under Secretary of State

• **BELFAST CITY HALL**

- Ms Kate NICHOLL, Rt Hon, the Lord Mayor

• **WELSH PARLIAMENT (SENEDD CYMRU)**

- Mr David REES, MS, Deputy Presiding Officer

• **OFFICE OF THE SECRETARY OF STATE FOR WALES**

- Mr David Thomas Charles DAVIES, MP, Parliamentary Under Secretary of State

• **NORTHERN IRELAND OFFICE**

- Mr Robin WALKER, Minister of State of Northern Ireland