

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 474 (2022)<sup>1</sup> Monitoring of the application of the European Charter of Local Self-Government in the United Kingdom

1. The Congress of Local and Regional Authorities of the Council of Europe (hereinafter “the Congress”) refers to:

*a.* Article 2, paragraph 1.*b.*, of the Charter of the Congress of Local and Regional Authorities of the Council of Europe 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 2, of the Charter of the Congress of Local and Regional Authorities of the Council of Europe appended to Statutory Resolution CM/Res(2020)1, stipulating that “[t]he 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 for 2021-2026 (Resolution 465 (2021)), in particular priority 6.*b.*, 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 Goal 11 on sustainable cities and communities and Goal 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.* Congress Recommendation 455 (2021) on 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.* the previous Congress recommendation on local and regional democracy in the UK (Recommendation 353 (2014));

*j.* the current explanatory memorandum on the monitoring of the application 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 decided to examine the situation of local and regional democracy in the UK in the light of the Charter; it entrusted Vladimir Prebilič, 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;

*d.* the remote monitoring meetings took place from 21 to 23 June 2021 and, 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 of this recommendation;

*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 Council of Europe 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;

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

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 avenues 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 into 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 application of the European Charter of Local Self-Government in the UK and the accompanying explanatory memorandum in their activities relating to this member State.