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Monitoring of the application of the European Charter of Local Self-Government in Sweden

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

This is the third report assessing the implementation of the Charter in Sweden since the country ratified the Charter in 1989.

The rapporteurs conclude that the system of local self-government in the country is efficient overall. They welcome the establishment in 2019 of fully-fledged regional self-governments, the wide scope of responsibilities attributed to local and regional authorities, and the high turnout in municipal and regional elections.

However, the rapporteurs found that, while some of the issues raised in the previous Congress recommendation (2014) were resolved, others are still present. For instance, new obligations can be imposed by the state on municipalities and regions without allowing sufficient space for discretion. The rapporteurs also observe a tendency towards a shift in the division of roles between state governance and local/regional self-government at the cost of the latter. Moreover, the value of the grants may not always keep up with inflation or social change because of their non-indexation. Overall, there is a lack of systematic formal consultation procedures on all matters that concern subnational authorities.

Hence, the rapporteurs invite Sweden to grant local and regional authorities sufficient space for discretion when new obligations are imposed on them, find ways to include local authorities in new governance and policy implementation arrangements, and introduce an efficient system of indexation of state grants. Overall, they suggest that these issues be addressed through the implementation of formal consultation procedures that include more policy areas.

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.

RECOMMENDATION 485 (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 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;

e. Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;

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. the previous Congress Recommendation 357(2014) on the monitoring of the European Charter of Local Self-Government in Sweden;

i. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in Sweden (Document CG(2022)43-12) ;

j. the contemporary commentary by the Congress on the explanatory report to the European Charter of Local Self-Government (CG-FORUM(2020)02-05), adopted by the Statutory Forum on 7 December 2020.

2. The Congress points out that:

a. Sweden joined the Council of Europe on 5 May 1949, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter") on 4 October 1988 and ratified it with reservations on 29 August 1989. In accordance with Article 13 of the Charter, Sweden made a declaration that it intends to confine the scope of application to the following local and regional authorities: municipalities (Kommuner) and county councils (Landstings). The Charter entered into force in Sweden on 1 December 1989;

b. 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 Sweden in the light of the Charter. It instructed Harald BERGMANN, Netherlands (L, ILDG) and Matija KOVAC, Serbia (R, EPP/CCE) with the task of preparing and submitting to the Congress a report on monitoring the application of the Charter in Sweden;

c. The monitoring visit took place from 5 to 7 April 2022. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to the explanatory memorandum;

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

² Debated and adopted by the Congress on 26 October 2022, 2nd Sitting (see Document CG(2022)43-12, explanatory memorandum), co-rapporteurs: Harald BERGMANN, Netherlands (L, ILDG) and Matija KOVAC, Serbia (R, EPP/CCE).

3. The Congress notes with satisfaction that in Sweden:

- a. local and regional self-governments manage one of the highest shares of public affairs in Europe and enjoy one of the highest levels of financial autonomy;
- b. the high levels of turnout in local and regional elections as well as the comparatively high percentage of women in elected positions reflect a high level of trust in democratic institutions;
- c. the establishment in 2019 of fully-fledged regional self-governments which have the responsibility for regional development, increases clarity as well as local democratic accountability of the regional growth work,;
- d. the implementation of proportionality review and the practice of granting local and regional authorities a leeway of initiative make a formal introduction of the subsidiarity principle not necessary within the Swedish context.

4. The Congress expresses its concerns regarding the following issues:

- a. in some cases, new obligations are imposed by the state on municipalities and regions without granting sufficient space for discretion (mainly due to detailed regulations);
- b. a lack of systematic formal consultation procedures on all matters that concern subnational authorities, that would be in line with the requirements of the Charter and relevant Congress resolutions and recommendations;
- c. there is a shift in the division of roles between state governance and local/regional self-government, at the cost of the latter, due to new rules and guidelines, methods and instruments of governance launched by the state;
- d. the non-indexation of grants in times of rising inflation, climate and societal change.

5. In light of the foregoing, the Congress requests that the Committee of Ministers invite the authorities of Sweden to:

- a. grant local and regional authorities sufficient space for discretion, whenever new obligations are imposed on them;
- b. establish formal consultation procedures that would include all matters of concern to subnational authorities, and would match the requirements of the Charter;
- c. refrain from by-passing local authorities through new methods and instruments of governance and policy implementation and find, instead, ways for their inclusion in these new governance and policy implementation arrangements;
- d. introduce an elaborated system of indexation for state grants, following appropriate consultation procedures.

6. 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 Sweden 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. Sweden 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 4 October 1988 and ratified it on 29 August 1989, with entry into force on 1 December 1989. In accordance with Article 13 of the Charter, Sweden made a declaration that it intends to confine the scope of application to the following local and regional authorities: municipalities (Kommuner) and county councils (then called Landsting, now Regioner).

3. Sweden ratified the Additional Protocol on the right to participate in the affairs of a local authority (CETS No. 207) on 5 May 2010 with entry into force on 1 June 2012. It ratified the European Charter for Regional and Minority Languages (CETS No. 148) on 9 February 2000 with entry into force on 1 June 2000. The European Landscape Convention (CETS No. 176) was ratified on 5 January 2011 and entered into force on 1 June 2011.

4. Sweden also ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities and Authorities (CETS No. 106) on 23 April 1981 (with entry into force on 22 December 1982³. The Additional Protocol to the same Convention (CETS No. 159) was ratified by Sweden on 9 November 1995 with entry into force on 1 December 1998⁴. Protocol No. 2 to the same Convention (CETS No. 169) was ratified by Sweden on 5 May 1998 with entry into force on 1 February 2001⁵. Sweden has not ratified Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) ETS No. 206).

5. The previous monitoring report on local and regional democracy in Sweden was adopted by the Congress at its 18th Session in March 2014. The monitoring mission undertaken by the Congress delegation from 5 to 7 April 2022 followed up on the Congress Recommendation 357 (2014).

6. 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 Sweden in the light of the Charter. It instructed Harald BERGMANN, Netherlands (L, ILDG) and Matija KOVAC, Serbia (R, EPP/CCE), with the task of preparing and submitting to the Congress a report on the Application of the Charter of Local Self-Government in Sweden. The official monitoring mission in Sweden was carried out by the aforementioned rapporteurs. The delegation was accompanied by a representative of the Congress secretariat and was assisted by Prof. Nikolaos CHLEPAS (expert), member of the Group of Independent Experts on the European Charter of Local Self-Government. The rapporteurs wish to express their thanks to the expert for his assistance in the preparation of this report. This group of persons will be hereinafter referred to as “the delegation”.

7. The monitoring visit took place from 5 to 7 April 2022. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to the explanatory memorandum.

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

³ In accordance with the provisions of Article 2, paragraph 2 of the Convention, Sweden confined the scope of the Convention to the following authorities and bodies:

Kommuner = Municipalities

Landstingskommuner = County Councils, they are now called Regioner = Regions

Kommunalförbund = Local Federations

⁴ A declaration was made in accordance with Article 8 of this protocol to the effect that Sweden accepts only the application of Article 4.

⁵ A declaration was made with reference to Article 6 and 4 of this Protocol No. 2, confirming the application of Article 4 of the Additional Protocol only.

2. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

9. Sweden is a unitary state, a constitutional monarchy and a parliamentary democracy. Sweden maintains a Nordic social welfare system that provides universal health care and tertiary education for its citizens. It has the world's 12th highest per capita GDP (nominal, 2021) and ranks very highly in quality of life, health, education, economic competitiveness, income equality (Gini 26.9:low inequality in 2020), gender equality and human development (HDI:0.945, very high, 7th highest in the world in 2020). Sweden joined the European Union on 1 January 1995 but has rejected Eurozone membership following a referendum. Sweden has recently applied for membership in NATO, which is now in process of ratification by NATO members, according to their national procedures. Sweden is a member of the United Nations, the Nordic Council, the Council of Europe, the World Trade Organisation and the Organisation for Economic Co-operation and Development (OECD)⁶.

10. The population of Sweden is 10,443,153 (October 2021), the capital city is Stockholm (975,000 in the municipality, 1.6 million in the urban area, 2.5 million in the metropolitan area) and the total area of the country covers 450,295 km². Sweden has recognised as official minority languages: Finnish, Sami, Romani, Yiddish, and Meänkieli. The percentage of the population with Swedish background (born in Sweden with one or both parents born in Sweden) reaches 74.12%. The main national minorities are the Swedish Finns: 400,000 – 600,000; Roma: 50,000–100,000; Tornedalers: 50,000; Sami: 20,000–35,000 (estimates as there are no statistics on ethnicity). The percentage of the Swedish population with foreign background (foreign born or born in Sweden with foreign born parents) reaches 25.88%. The main countries of origin among foreign citizens in Sweden were: Syria (95,080); Poland (53,780); Norway (32,632); Afghanistan (48,478); Finland (46,053); Eritrea (43,455); Denmark (29,079); Germany (28,957); Somalia (28,949); India (28,260).

11. The Swedish Constitution regulates the relationships between decision-making and executive power, and the basic rights and freedoms of citizens. Four fundamental laws make up the Constitution: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. The fundamental laws take precedence over all other statutes. The Instrument of Government guarantees citizens the right to obtain information freely, hold demonstrations, form political parties and practice their religion.

12. The Act of Succession regulates the right of members of the House of Bernadotte, the royal family, to accede to the Swedish throne. Carl XVI Gustaf is King of Sweden since 15 September 1973. As head of state, the King is Sweden's foremost unifying symbol. According to the 1974 constitution, the monarch has no political affinity and no formal powers. The King's duties are mainly of a ceremonial and representative nature.

13. The Freedom of the Press Act sets out the principle of public access to official documents relating to the work of the parliament, the government and public agencies. This law allows people to study official documents whenever they wish. The Law on Freedom of Expression, which came into force in 1992, largely mirrors the Freedom of the Press Act, in regard to the prohibition of censorship, the freedom to communicate information and the right to anonymity⁷.

14. Sweden has a unicameral parliament (Riksdag) with 349 seats. Members are elected by popular vote on a proportional representation basis to serve four-year terms. To be assigned any seats in the Swedish parliament, a party must receive at least either four per cent of all votes or 12 per cent of the votes in any of the country's 29 constituencies. Following the 2018 general election, eight parties are represented in the Riksdag while out of the 349 MP's, 188 are men and 161 are women in the Swedish parliament. That's the highest share of women since the 2006 election (184 to 165).

15. The indigenous Sami people in Sweden have their own, non-territorial parliament, Sametinget. It is both an elected parliament and a public agency, and its main task is to act for a living Sami culture. This includes being the central administrative agency for reindeer husbandry and leading the Sami language work, among other things⁸.

16. After the general elections, the speaker of the parliament proposes a prime minister, who the parliament then votes on. The prime minister is tasked with forming a government (Regeringen). The prime minister personally chooses the ministers to make up the cabinet and also decides which ministers will be in charge of the various ministries. Together, the prime minister and the cabinet ministers form the government who is

⁶ <https://sweden.se/>

⁷ Democracy in Sweden - sweden.se

⁸ Democracy in Sweden - sweden.se

accountable to the parliament. The ministries focus on policy making while state-controlled government agencies carry out the policies of the government. The ministers do not bear individual ministerial responsibility for the performance of the agencies within their portfolio, the heads of government agencies reporting directly to the Government. After the last elections in 2018, a lengthy process resulted in the Social Democratic Party and the Green Party forming a government. From 20 November 2021, this was replaced by a Social Democratic one-party government, headed by the first Swedish female Prime Minister Magdalena Andersson.

17. There are three kinds of courts in Sweden: the general courts, which comprise district courts, courts of appeal and the Supreme Court; the general administrative courts, that is to say, administrative courts, administrative courts of appeal and the Supreme Administrative Court; and the special courts, which determine disputes within special areas, for example the Labour Court.

18. In comparative rankings, Swedish democracy is described as ‘full democracy’, ranking 4th best in the world and characterized by a consensual political culture⁹. Reaching the best possible score (100/100), Sweden is labelled as a ‘free country’, according to ‘Freedomhouse’¹⁰. Regarding the perception of corruption, Sweden ranks 4th best in the world (score: 84 in 2021)¹¹, while according to the risk index ‘global corruption index’ Sweden ranks 5th best in the world (‘very low risk’ in 2021)¹² which could also be an explanation why it ranked fifth best concerning trust in government among the EU28 in 2020, according to OECD¹³. Regarding the level of Local Autonomy, a comparative study on Local Autonomy in 39 European countries, has shown that the pertinent score of Sweden has been relatively stable since 1995, while it ranked 4th highest in the period 2000-2014¹⁴.

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

19. The concept of self-government came into being with the Municipal Ordinance of 1862 and has been enshrined in the Constitution since 1974.

20. Local self-government and the right to levy taxes are stipulated in the Instrument of Government, one of the four pillars of the Swedish Constitution:

- Chapter 1, Art. 1 states that Swedish democracy is founded on the free formation of opinion and on universal and equal suffrage. It shall be realised through a representative and parliamentary policy and through local self-government.

- Chapter 1, Art. 7 states that Sweden has municipalities and county councils. According to Chapter 14, Article 1, the decision-making power in these local authorities is exercised by elected assemblies.

21. Following the recommendation 163 (2005) made by the Congress after the 2005 monitoring visit to ‘instruct the Committee on the Revision of the Constitution to consider how the role of local self-government can be strengthened in the Constitution’, a constitutional reform took place in 2011. The Instrument of Government was amended by a new Chapter 14 under the title ‘Local Authorities’ with the aim to strengthen the constitutional protection of local self-government. The majority of the provisions of Chapter 14 were formerly found in other Chapters of the Instrument of Government or were established practice. Nevertheless, bringing the relevant provisions together in a chapter of its own helps strengthen local self-government¹⁵.

22. Article 1 of Chapter 14 establishes that Sweden has municipalities that are vested with a decision-making power which is exercised by elected assemblies. Municipalities in the constitutional context refers also to regions. In the revised Article 2, local and regional authorities are made responsible for local and regional matters of public interest, which is thus inscribed into the Constitution. Article 2 further clarifies that any activities assigned to local authorities by law are based on the principle of local self-government.

9 Score 9,26 according to the Global Democracy Index 2022: <https://www.economist.com/graphic-detail/2022/02/09/a-new-low-for-global-democracy>

10 <https://freedomhouse.org/country/sweden/freedom-world/2022>

11 <https://www.transparency.org/en/cpi/2021/index/swe>

12 <https://risk-indexes.com/global-corruption-index/>

13 <https://data.oecd.org/gga/trust-in-government.htm>

14 See Ladner/Keuffer/Baldersheim/Hlepas/Swianiewicz/Navarro (2019), Patterns of Local Autonomy in Europe, New York: Palgrave MacMillan, p. 240. According to this study, Switzerland reached the highest score (79,5) among these countries in 2014, followed by Finland (79,4) and Iceland (78,5); The German score was 75,1.

15 See the 2014 report on Local and Regional Democracy in Sweden:

https://search.coe.int/congress/Pages/result_details.aspx?ObjectId=090000168071a4fc

23. Article 3 of Chapter 14 is a new provision and lays down the principle of proportionality in relation to any restrictions in local self-government which should not exceed what is necessary with regard to the purpose of the restriction. This principle requires that the government and the Riksdag be restrictive and offer particular reasons whenever they wish to limit the scope of local self-government. Essential for the application of the principle of proportionality is the requirement for judicial preview by the Council of Legislation (Lagrådet) before any Riksdag decision on legislation is taken, whether they imply a new commitment for the local authorities or involve interference in the local authorities' power of taxation (RF 8:21, paragraph 2, point 5).

24. The tax levying power of local authorities as well as the equalisation principle is laid down in the Constitution (Articles 4 and 5 of Chapter 14). Any regulations which may lead to changes in territorial division ("the division of the realm into local authorities") have to be laid down in law (Article 6 of Chapter 14).

25. The legal framework is based on the Swedish Local Government Act (Kommunallagen) that regulates division into municipalities and the organisation and powers of the municipalities and county councils/regions. It sets rules for inter-municipal cooperation and for elected representatives, municipal and regional councils, executive boards and committees. Sweden's municipalities, and regions have a great deal of freedom to organise their activities as they see fit. Their responsibilities are regulated partly in the Local Government Act and partly in laws and ordinances covering specific areas, for example the Social Services Act, the Planning and Building Act, the Education Act and the Health and Medical Services Act. Within the framework of these and a large number of other acts the municipalities and county councils / regions have significant freedom to organise their activities as they see fit.

26. Local government in Sweden consists of two tiers – 290 municipalities and 21 regions. Using a system of proportional representation, the councils are elected for four-year terms. It is compulsory for candidates to run on party lists, but a councillor does not lose his/her seat if she/he is expelled from a party during a term. In fact more than 90% of the councillors represent the same parties as those in Parliament. There are just over 38,000 elected representatives in the country's 290 municipalities. The majority, 97 percent, are leisure politicians and thus carry out their assignments in addition to work or studies. Political decision-making is collective so there are no mayors or any other politicians with independent decision-making powers. Municipalities and regions are financed by a proportional income tax and by grants from the central government. A tax equalisation system evens out differences between affluent areas and those where incomes are lower and the needs for local public services are greater. There is also a system for equalisation of structural costs.

27. The municipal level has a wider range of functions than regions. The municipalities are also closer to the citizens and their decision-makers are better known by the general public, compared to the decision-makers in the regions. The municipalities in size from Bjurholm with 2460 inhabitants to Stockholm with 939,000 inhabitants. In order to be able to carry out more responsibilities in, primarily, the welfare sector, municipalities have been twice amalgamated into larger units, the first time in 1952 and the second during a period in the early 1970s. Major municipal functions include primary and secondary education, social services, day nurseries and care of the elderly. They are responsible for local infrastructure, including streets and parks, recreation, and culture (which are not compulsory tasks). They are also in charge of land use planning and building permits¹⁶.

28. The intermediate tier of elected government has been undergoing a transformation. Until the late 1990s, this consisted of county councils (Landsting – today Regions) with responsibility for, principally, health care. Indeed, at this time a uniform Scandinavian type of welfare county existed, that could be found also in Denmark and Norway.¹⁷ Partly inspired by Swedish EU membership, the two regions of Västra Götaland and Skåne were established at the end of the 1990s after amalgamating county councils. A gradual and experimental regionalisation process in Sweden since 1996, when these two counties (Skåne and Västra Götaland) were allowed to take more tasks from central government, also concerning regional development. Attempts to extend this initiative to a comprehensive regional amalgamation reform have failed.

29. However, what has succeeded has been the transfer of regional development responsibility to the county councils but without any border changes between them. The transfers are followed by a change of name to regions. Therefore, since 2019, all counties in Sweden became regions and became responsible for regional development. Today, the designations "county" and "region" have different meanings: county is the

16 Anders Lidström (2018): Subnational Sweden, the national state and the EU, *Regional & Federal Studies*, DOI: 10.1080/13597566.2018.1500907.

17 Jacob Torfing, Anders Lidström and Asbjørn Røiseland (2015): The Scandinavian Regional Model: Accounting for the shift from convergence to divergence. *Scandinavian Journal of Public Administration*, vol 19 (4), pp 7-28.

geographic designation, region is the political, while there are also county administrative boards that are the state's representative at the regional level. The smallest unit is Jämtland with 127,000 inhabitants and the largest is Västra Götaland with 1.6 million inhabitants¹⁸. There are almost 4,600 elected representatives in the country's 21 regions. The majority, 94 percent, are leisure politicians and thus carry out their assignments in addition to work or studies.

2.2 Status of the capital city

30. Stockholm, the capital city of Sweden, does not hold any special status as such. The 101 councillors are appointed following general elections held at the same time as the parliamentary and regional elections. The City Council establishes goals and guidelines for the overall work of the city. The matters on which the councillors decide have generally already been drafted and discussed by various boards and committees. The Council has its own audit board, which examines the finances and operations of the entire municipality. Once political decisions are referred for practical implementation, the city departments and companies take over.

31. The City Executive Board consists of 13 members, who represent both the majority and the opposition. If the Council functions as Stockholm's parliament, the City Executive Board can be thought of as its "government". The City Executive Board expresses an opinion in all matters decided by the Council and bears the overall responsibility for preparation, follow-up, evaluation and execution of its decisions. The Board is also responsible for the City's financial administration and long-term development. Meetings of the Board are not open to the general public.

32. In Stockholm, the majority has a Mayor and nine Vice Mayors, and the opposition has five Opposition Vice Mayors. The Mayor holds a special position chairing both the Council of Mayors and the City Executive Board. Mayors are appointed by the City Council. Together the Mayor and the 14 Vice Mayors form the Council of Mayors, and they prepare matters for the City Executive Board. Each Vice Mayor of the majority is responsible for an Office. The Offices are in charge of one or more areas of operation. The current Offices are City Planning; Housing and Real Estate; Transport; Environment and Climate; Labour Market, Integration and Sports; Culture and Urban Environment; Schools and Education; Social Affairs; and Elderly Care and Public Safety.

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

33. According to Chapter 1, article 10 of the Instrument of Government, Sweden participates in international cooperation within the framework of the Council of Europe. According to article 3 of Chapter 10, the Riksdag's approval is required before the Government concludes an international agreement which is binding upon the country if the agreement requires the amendment or abrogation of an act of law or the enactment of a new act of law or if it otherwise concerns a matter to be decided by the Riksdag. The Riksdag's approval is also required in other cases if the agreement is of major significance.

34. The normative substance of international agreements has to be transformed into Swedish law. This can take place by adding new provisions to an existing Act or ordinance or by enacting a new one. A transformation can also be achieved by explicitly providing that the agreement, and, if necessary, a translation of the text is annexed to the transformation Act. This last method was used in 1994 for the European Convention for the Protection of Human Rights and Fundamental Freedoms.

35. At the time of the approval of the Charter (1989), the view of the Government was that the 1977 Swedish Local Government Act was in line with the Charter and that no substantial changes therefore were needed in the Swedish legislation. The Charter and the Explanatory report were added as an appendix in the travaux préparatoires. However, some adjustments were made in the 1991 Local Government Act as a result of the transformation of the Charter. In addition, it should be taken into consideration that Swedish travaux préparatoires are usually viewed as an utterly important document for the interpretation of the enacted text. They are usually followed, not because they are formally binding but because this is the Swedish legal tradition.¹⁹ Nevertheless, despite being ratified, the Charter has no legal status in the courts. This is indeed the situation in all countries that lack systems for formal incorporation of charters into the domestic legal order and Sweden is no exception.²⁰

¹⁸ Ibid.

¹⁹ Verb. Tom Madell, Local Government in Sweden, in: A.M. Moreno (ed.), Local Government in the Member States of the European Union: a comparative legal perspective, INAP, Madrid 2012, p. 637 ff.

²⁰ A. Lidström & T. Madell: Adjusting to International Standards: Has Sweden Learned from the European Charter of Local Self-Government, Lex Localis, Vol 16 No 4 (2018), pp. 951-969 (954); Boggero, G., Constitutional Principles of Local Self-Government in Europe, Series: Studies in territorial and cultural diversity governance; vol. 9, Brill: Leiden/Boston 2018.

2.4 Previous Congress reports and recommendations

36. During the previous Congress' monitoring of local and regional democracy in Sweden in 2013 the rapporteurs have drawn attention to issues that require further improvement for optimal functioning of local government²¹ including the:

a. lack of a mention of the principle of subsidiarity in the Swedish Constitution, although the newly introduced Chapter 14 of the Instrument of Government has strengthened the role and scope of local authorities and, in any event, de facto, a very high percentage of public services are carried out at the local level;

b. significantly increased amount of detailed state regulations for local level activities, for example in such areas as working conditions, health care, education and public procurement, which carry the risk of infringement on local affairs and the need for an improvement in the consultation procedure in order avoid such infringements;

c. non-indexation of state grants. Although these are frequently revised, they remain nominally fixed. Therefore a decrease (in value) occurs in real terms through inflation. This situation could be addressed by adopting firm rules on the indexation of grants which, in turn, would strengthen the long-term planning conditions for local authorities and county councils;

d. insufficient involvement of local authorities in the estimation of cost implications of new state legislation concerning the local level, which sometimes leads to situations where the national authorities do not take into account all related cost factors.

37. In the light of this, the Congress asked the Committee of Ministers to invite the Swedish authorities to:

a. strengthen the principle of subsidiarity, which requires that tasks that can be performed at the local level should be performed at the local level, by ensuring a consistent application of the recently introduced principle of proportionality, laid down in the Constitution;

b. set up a formal consultation procedure that would allow the local authorities and their representative autonomy;

c. invite the Government to consider the local authorities' demand for indexation of state grants and linking them to demographic changes;

d. ensure the stronger involvement of the local authorities in the estimation of cost implications of any new state legislation that is to be implemented at local level;

e. grant more county councils responsibility in regional development, by extending this competence to all elected county councils, and to make use of the Council of Europe Reference Framework for Regional Democracy as a guideline in this respect;

f. invite the government to ratify Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (ETS No. 206).

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.

38. Local and regional self-government was first written into the Swedish Constitution in 1974, following a major constitutional reform (the old Constitution dating back to 1809). In Chapter 1, Article 1 of the Constitution, it is stated that Swedish democracy is founded on the free formation of opinion and on universal and equal suffrage. This is realised through a representative and parliamentary polity and through local self-

²¹ See the 2014 report on Local and Regional Democracy in Sweden:
https://search.coe.int/congress/Pages/result_details.aspx?ObjectId=090000168071a4fc

government and is carried out within the law. This is considered so essential that it is embedded in the country's fundamental law. The support for local self-government is clarified in Instrument of government, Chapter 14, Article 3. The paragraph states that the state commits itself not to restrict local self-government more than what is necessary in relation to the needs that has called for legislative measures.

39. At the time of the ratification of the Charter, the 1977 Local Government Act was in force, where the principle of local self-government was emphasized in Chapter 1, paragraph 4, stating that municipalities and county councils had the right to manage their own affairs. A new and revised Local Government Act came into force in 1991, aimed at further decentralizing responsibilities. The principle of self-government was written into Chapter 1, paragraph 1 of the new Act, which stated that the municipalities and county councils should attend to the matters indicated in the Act or in special regulations and proceedings on principles of democracy and local self-government. The most recent Local Government Act was adopted in 2017 and came into force on 1 January 2018. It is basically a modernized version of the act from 1991²².

40. The principle of local self-government is recognized both in the constitution and in relevant laws that refer to and specify this status. Sweden fully complies 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

41. According to Art. 2. of Chapter 14 of the Instrument of Government, local authorities are responsible for local and regional matters of public interest on the principle of local self-government. More detailed provisions on this are laid down in law. By the same principle, the local authorities are also responsible for other matters laid down in law. Local government in Sweden consists of two tiers – 290 municipalities and 21 Regions (Gotland is a special case since it is a municipality with regional tasks and regional development responsibility and also has the right to call itself a region). They have a key role as providers of the welfare services that are relevant for individual citizens and which, in the Nordic welfare system, are relatively generous. Municipalities are responsible for social services, care of the elderly and preschool, and for primary and secondary education. They also for example provide water and sewerage, parks and recreation, and fire protection. Regions are in charge of primary healthcare and hospitals, but also of care of the disabled, regional culture and public transport²³. Regions are also responsible for regional development in their area.

42. The extensive responsibility for welfare services means that local government is relatively strong in Sweden. Around 49% of total public expenditure in Sweden concerns the local government sector, which is the second largest in Europe. Only Denmark, where local government has an additional function as a provider of pensions, has a higher share. Another sign of the relative importance of Swedish local government is that around 83% of all public sector employees are employed in local government, which is the highest in Europe²⁴. Indeed, this crucial position in the national welfare system could be seen as reflecting central government trust in local government²⁵.

43. The rapporteurs conclude that Sweden has a fully-fledged system of local self-government and the local authorities do manage a substantial share of public affairs under their own responsibility and in the interests of the local population. Therefore, Sweden complies with the first paragraph of article 3 of the Charter.

22 A. Lidström & T. Madell: Adjusting to International Standards: Has Sweden Learned from the European Charter of Local Self-Government, *Lex Localis*, Vol 16 No 4 (2018), pp. 951-969.

23 Public transportation is formally a shared competence between municipalities and regions. In most counties, the regions and municipalities have agreed that the regions should be responsible for public transportation.

24 Dexia. (2008). *Sub-national Governments in the European Union: Organisation, Responsibilities and Finance* (Dexia).

25 Ibid. Lidström & Madell.

3.2.2 Article 3.2

44. In Chapter 1, Article 1 of the Instrument of Government, underlines that all public power in Sweden proceeds from the people, this also realised through local self-government. Chapter 14, Art. 1 stipulates that decision making powers in Sweden's local authorities, consisting of municipalities and county councils, are exercised by elected assemblies. In Sweden, executive bodies are appointed by the assemblies and accountable to them.

45. Voter turnout in Sweden is quite high. In the 2018 general elections, voter turnout was 87.1% at the national level to the Parliament. Turnout has not been below 80% since the 1950s. Voter turnout in the elections at the regional and local level was 83,8% and 84,1%. Many factors influence the high turnout: trust in democratic institutions, respect for the electoral system, and the fact that parliamentary elections are combined with local and regional elections. Voter turnout is equally high among younger people. Schools often prepare students for voting before they turn 18 by inviting representatives of different political parties, so that students can learn about how the country's democratic system works and what the different parties stand for. That way, young people can compare and draw their own conclusions.

46. Students under the age of 18 can sometimes also participate in an initiative called Skolval, school election, where they vote using the same ballots as adults. These votes are not counted as a part of the real elections and their result can differ quite a lot. For example, in 2018, the Social Democrats – the largest party – got 28.3 per cent among adults compared with 19.5 per cent among schoolchildren. For the Green Party, it was 4.4 versus 10.3 per cent. That year, 1,528 schools participated in the school election, and close to 370,000 students voted.

47. Most municipalities and regions today carry out some form of citizen dialogue between elections on a voluntary basis. In addition to this, citizens can raise an issue via public initiatives (Folkinitiativ) that are regulated in the Local Government Act. This means that if at least 10 percent of the voting population requests a referendum (advisory referendum) it should be carried out unless two-thirds of the members present in the municipal or regional assembly oppose it.

48. Municipalities and regions can also, in accordance with the Local Government Act, introduce citizen petitions. It entails a right for those who are registered as living in a region or municipality to raise matters on issues within the region and the municipality's area of responsibility to the general assembly. About half of the regions and around 200 municipalities have introduced citizen petitions.

49. Taking into consideration the aforementioned, the rapporteurs conclude that in Sweden a fully-fledged local and regional democracy exists and relevant provisions of the Swedish law are in accordance with the Charter, therefore Sweden fully complies with the second paragraph of article 3 of the Charter.

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 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

50. According to Chapter 14, Art. 2 of the Instrument of Government, 'the local authorities are responsible for local and regional matters of public interest on the principle of local self-government. More detailed provisions on this are laid down in law. By the same principle, the local authorities are also responsible for other matters laid down in law'. In fact, the division of tasks between central government and municipalities has changed over the years. Activities have chiefly been transferred from central government to municipal

bodies for democratic reasons. The central government enjoys exclusive powers in matters related to national sovereignty, including justice, foreign affairs, finance, and national defence; and the Parliament holds exclusive legislative powers.

51. The Swedish multi-level governance system has been described as an “hourglass”, meaning that the regional/county level, when it came to issues of regional development was less influential and of less importance compared to the central government and the municipalities. However, this situation is currently evolving, as the result of a trend to rebalance the system and reinforce the role of regions in recent decades. This has been achieved, notably, by transferring more decision-making power to regions from the central government, especially in regional development issues.

52. Recommendation 357 (2014) had invited the Swedish authorities to grant more county councils responsibility in regional development, by extending this competence to all elected county councils, and to make use of the Council of Europe Reference Framework for Regional Democracy as a guideline in this respect. In fact, there were important developments concerning regional self-government: In 2016 all regions were given responsibility for regional development through the Act on Responsibility for Regional Development. Since 1 January 2019, all county councils have become Regions, with these new enhanced responsibilities. All Regions thus have the same main responsibility for implementing the regional development policy, and Sweden has been given a clearer regional level regulated in the Act on Regional Development Responsibility. According to local government associations, the uniform regional development responsibility increases clarity as well as local democratic accountability of the regional growth work.

53. However, SALAR expressed some concerns since the legislative has the power to allocate responsibilities between municipalities and regions; the regional level ‘should not be given a superior position in terms of governance in relation to the Municipal level’. Areas where this particular issue would be a relevant concern are, for example, the responsibility for regional spatial planning and the conditions for establishing regional planning bodies. During the consultation process, the government underlined that It is clear from the preparatory works of the Instrument of Government that there is no relationship of subordination between municipalities and regions (prop. 2009/10:80 p 209).

54. Swedish Agency for Public Management (Statskontoret) has mapped and analysed the Government's governance in the area of regional development (Regional utveckling – regionernas erbjudanden och länsstyrelsernas roll Statskontoret 2021:11). In the report, Statskontoret emphasizes that the regions' status as self-governing bodies means that the Government cannot govern the Regions in the same way as it governs the State authorities. The State governance in relation to the Regions is therefore based on offers of assignments that the Regions themselves also choose if they want to accept. In its report, Statskontoret states that the model with offers could be developed and used more.

55. Similar to Statskontoret, SALAR views that the Government needs to improve and develop its governance of the national authorities. It is not uncommon for assignments and offers relating to regional development to pull in different directions and be contradictory. The assignments that come from government agencies would need to express a more coordinated and comprehensive view. SALAR believes that the Government needs to develop its governance of the state authorities so that it becomes more coordinated when it comes to regional development. SALAR emphasises that in a Swedish context it would be central that Municipalities and Regions constitute autonomous bodies at the same administrative level and that the State needs to adapt its practice to this fact.

56. In spite of some needs for further development and sophistication mentioned by local government associations, the legal framework on the responsibilities of local authorities in Sweden matches the requirements of the Charter and the rapporteurs conclude that Sweden complies with the first paragraph of article 4.

3.3.2 Article 4.2

57. Local authorities must have the right to exercise their initiative on matters not explicitly excluded from their competence by law. According to the Contemporary commentary to the Charter, apart from trends towards re-centralisation, another threat to the ability of local authorities to exercise their initiative on matters that are not excluded from their competence nor assigned to other authorities is the increasing amount of detailed State or regional regulation for local government activities. Even in countries where local authorities' status is strong, state or regional practices of overregulation can therefore undermine local autonomy.

58. In her answer to the rapporteurs, the Minister for Public Administration underlined that the Constitution and the legislation of Sweden give the municipalities and regions a general competence to take initiatives in

areas which are not exclusive for other institutions. The Swedish National Delegation to the Congress, also stated that regional and local authorities have full discretion to take initiatives within the scope of their competence. SALAR has emphasised, however, that the problem of detailed state regulation highlighted in the Recommendation 357 (2014) persists. According to the law, municipalities and regions are required to carry out certain activities. Other activities are voluntary and decided by the respective council assembly.

Municipalities

Mandatory tasks	Voluntary tasks
Social care (elderly and disabled care as well as individual and family care) Pre-school, primary and secondary school, and municipal adult education (komvux) Planning and construction permits Environmental and health protection Street cleaning and waste management Water and sewer Emergency services Crisis preparedness and civil defence Libraries Assistance for Housing	Leisure and culture Energy Employment Business development

Regions

Mandatory tasks	Voluntary tasks
Healthcare Dental care for children and young people up to the age of 23 Regional economic development Regional and local public transport (together with the municipalities)	Culture Training Tourism

59. Overall, the division of responsibilities across all municipalities and regions is symmetrical, but in some specific cases certain municipalities in Sweden have different areas of responsibility. For example, municipalities can apply to the government to take over responsibility for surveying from the state agency Lantmäteriet (the Swedish Mapping, Cadastral, and Land Registration Authority). So far, about 40 of the largest municipalities have been granted this power and they are then responsible for this task within their geographical area. In the rest of the country, this role is handled by Lantmäteriet. Another example is that the (state) county administrative board can delegate supervision in accordance with the Environmental Code to the local municipalities.

60. There is also a flexible and fluid division of responsibilities between municipalities and regions in some areas. In some cases, central guidance states that a task is a shared responsibility between municipalities and regions, but these actors agree the exact division of responsibilities themselves. For example, the responsibility for public transport in a county can be placed solely on the region, on several local municipalities in collaboration or on the local municipalities and region in collaboration. The municipalities also can take over responsibility for residential health care, about half of the country's municipalities have decided to do so. Other areas where responsibilities can be determined locally include (among other things), responsibility for compulsory school for pupils with learning disabilities (särskola) and adult education for pupils with learning disabilities (sär vux) as well as for support and service for certain disabled people (LSS).

61. The rapporteurs would like to draw attention upon the persisting problem of detailed state regulation. During the consultation procedure, the Ministry of Finance highlighted the need to take into consideration that Sweden is a unitary state and that a large part of governmental tasks is carried out by local and regional authorities. It is therefore not surprising that the Riksdag has an interest in regulating some of these very important tasks. Paragraph 2 of this article does recognise that local and regional authorities should exercise their initiative 'within the limits of the law'. Therefore, even though the legislation appears too detailed and may thus create practical problems in some cases, the rapporteurs come to the conclusion that the legal

framework and practice in Sweden in general do offer local and regional authorities the possibility to exercise their initiatives and therefore Sweden complies with paragraph 2 of article 4.

3.3.3 Article 4.3

62. Article 3 of the Constitution 2011 stated that the legislator needs to take into account the principle of proportionality if there are any changes proposed that may affect local self-government. The 2014 monitoring report had noticed that a principle of proportionality had been introduced in the revised Constitution but the rapporteurs criticized the way it had been applied and interpreted as regards the scope of local self-government: *“So far, the Council of Legislation (Lagradet) in exercising its function as a proportionality control mechanism has only touched upon the principle of proportionality in a limited number of legislative acts. In these respective statements only vague indications were given on how to balance national and the local interests in order to promote enhanced legislation”*. The conclusion was that the State maintained the power to determine which level of government is most appropriate for a particular task.

63. The 2014 report was critical of the fact that there is still no principle of subsidiarity within the Swedish political system that would ensure that local functions are carried out by local government. To ensure the division of powers between the State and the local governments in conformity with the Charter in law and in practice, it was proposed to introduce the principle of subsidiarity in the Swedish constitution as a remedy against recentralisation tendencies. The rapporteurs identified several cases where local autonomy had been restricted by central government, for example in the regulation of the social sector, working conditions, healthcare and in particular the regulation of education and public procurement. Finally, in the recommendation 357/2014 it was suggested to strengthen the principle of subsidiarity, which requires that tasks that can be performed at the local level should be performed at the local level, *‘by ensuring a consistent application of the recently introduced principle of proportionality, laid down in the Constitution’*.

64. During the last monitoring visit in April 2022, the Minister for Public Administration underlined that when new legislation that affects municipalities and/or regions is drafted, a proportionality assessment is made to make sure that the constitutional principle of local self-government is respected. There are several regulations that describe how the consequences of proposed legislation should be analysed. These regulations are currently being revised within the Government Offices. Several actors have the possibility to comment on the proportionality assessment in various stages of the legislative process in order to make sure it has been applied consistently:

- Experts (often nominated by SALAR), appointed to the committees and special investigators who propose new legislation, contribute to the initial proportionality assessment.
- Municipalities and regions are invited to comment on legislative drafts through a formal referral procedure (remissförfarande).
- Different divisions, for example, the Local Government Division at the Ministry for Finance, reviews the proportionality assessments when legislative proposals are being prepared within the Government Offices (Regeringskansliet).
- The Council on Legislation (Lagrådet) reviews all legislative proposals that include obligations for municipalities and regions.
- The Parliament (Riksdagen) determines whether an obligation is proportional when it enacts legislation.

In addition, the Parliament’s Committee on the Constitution (Konstitutionsutskottet) can review ex post how the Government (Regeringen) has applied the proportionality principle during the preparation of legislation (see for example, 2016/17:KU10).

65. The Instrument of Government gives the Parliament the prerogative to, with due regard to the proportionality principle (as explained above), enact legislation that gives municipalities and regions further responsibilities. The constitutional principle of local self-government applies both within the municipalities’ and regions’ general competence and the areas where the Parliament has given them further responsibilities. In her answer to the rapporteurs, the Minister of Public Administration underlined that the Parliament has entrusted the municipalities and regions with responsibilities for a large part of the public administration, so Swedish public administration is highly decentralised and respects the principle of subsidiarity in practice.

66. The 2014 Congress monitoring report had addressed the issue of a so-called competence catalog that would be one way to strengthen the principle of subsidiarity. SALAR, however, is questioning the need for a competence catalogue in a Swedish context. There is a broad consensus in Sweden that the national and local and regional levels in some sense have a joint responsibility for most of welfare services. A competence catalog with a clear division of tasks between the state and municipalities has therefore never been perceived as appropriate. The principle of municipal self-government is enshrined in Regeringsformen (Instruments of

Government) and the extensive Local Government sector demonstrates strong support for the principle that public tasks should be performed by actors close to the citizens. It would be doubtful whether introducing a principle of subsidiarity in the Constitution would have any impact on the level of detailed regulation.

67. According to SALAR, not the formal introduction of a principle of subsidiarity in the Constitution but other changes would be more likely to make a difference, for example a firmer application of the principle of proportionality and the principle of equitable financing in combination with a more formalized system of consultation would likely be more effective. From the point of view of the Local and Regional level, a more consistent application of the principle of proportionality would therefore be preferable to a competence catalog. It is more a question of how the norm-setting power is used for the tasks to be performed at Local and Regional level than of what tasks are to be performed there. In a nutshell, SALAR believes that a more consistent application of the principle of proportionality is needed, but that a competence catalog is not the solution. A more developed consultation procedure would be more useful.

68. Taking into consideration also the position SALAR, the rapporteurs conclude that according to the law and, in practice, public responsibilities are exercised by preference by the authorities who are closest to the citizen. A further elaborated proportionality check in combination with a formalized and considerably more developed system of consultation (s. below to 4.6.) would be the efficient way to ensure that the very high level of responsibility decentralization in Sweden will be sustainable in the future. Therefore, the rapporteurs conclude that Sweden complies with paragraph 3 of article 4.

3.3.4 Article 4.4

69. In the 2005 monitoring report of the Congress, the rapporteurs suggested to clarify the tasks and functions of local government in Sweden, for example by adding a list of functions to the constitution. This was rejected, however, as making regulation too inflexible. The sub-committee and later the commission of inquiry on constitutional reform suggested, on the other hand, a number of different changes that would underline the importance of local self-government in the Swedish polity. Many of these were subsequently enacted in the new Constitution that came into force in 2011²⁶.

70. The Council of Europe's first monitoring report in 2005 was critical of how Sweden complied with Article 4. The rapporteurs were concerned about the arbitrariness of the regulation of the tasks and functions of local government. They also had a few specific points of criticism that were seen as examples of unjustified central government interference in local matters. Some of the examples dealt with highly politicised issues, where the Social Democratic government had imposed stricter controls over local councils with a non-socialist majority that wanted to carry out policies that the government could not accept. The government had decided to reduce general grants to those local authorities that sold off municipal housing, which would reduce the stock of housing for the less well-off. According to the rapporteurs, this was seen as interfering with paragraph 4 of Article 4, stating that local authorities' powers should be full and exclusive. Other examples were a new law ordering local government to set up a housing agency service and a law restricting the right of county councils to sell off acute care hospitals. In all these cases, the monitoring mission criticised the government for unduly interfering in local affairs.²⁷

71. During the last mission in 2022, the Minister for Public Administration underlined, that most competencies are shared in the sense that the Parliament, and to some extent the Government and state administrative agencies, enact rules that generally govern what the local and regional authorities should do, and to a lesser extent how they should do it. Moreover, the State has a responsibility to provide funding when it delegates mandatory tasks to municipalities and regions and may have some supervisory functions. However, it is rare to find shared competencies in the sense that both, for example, regions and the State should perform a specific task.

72. In Recommendation 357 (2014) the Congress had drawn the attention to some issues that required further improving, including, inter alia, "the significantly increased amount of detailed state regulations for local level activities, for example in such areas as working conditions, health care, education and public procurement, which carry the risk of infringement on local affairs". Since 2017, Statskontoret (The Swedish Agency for Public Management), which is the government's own evaluation authority, has been tasked with carrying out annual follow-ups of the state's governance of municipalities and regions (Fi2017 / 04702 / K). Statskontoret's reports show that the State's control of the municipal sector has continued to increase in scope, complexity and level of detail. In a slightly longer perspective, regulations have also become more

26 A. Lidström & T. Madell, *ibid.* p. 957, and Commission of Inquiry on the Swedish Constitution (2007) *Den kommunala självstyrelsens grundlagsskydd*. SOU 2007:93.

27 *Ibid.*

detailed and increasingly involve legal aspects and enforcement, which means more detailed requirements for municipalities and regions.

73. Between 30 and 40 laws and ordinances with significant impacts on the Local Government sector's activities and functioning have been added or amended annually since 2017. These new or amended regulations mainly concern increased State demands and targets for the Local Government sector. Stadskontoret finds that the State today regulates much of the services and activities of Municipalities and Regions ("Utveckling av den statliga styrningen av kommuner och landsting, en analys" Statskontoret 2019). State regulation doesn't just affect what Municipalities and Regions should do, but increasingly also how they should do it. In addition, the so-called 'soft steering' (mjuka styrningen) has continued to increase. Examples of this includes knowledge management, national goals and strategies, national policy documents, guidelines, agreements (see comment to article 10 par. 2) and coordinators.

74. According to a report from the National Audit Office (Riksrevisionen) ("Nationella samordnare som statligt styrmedel" (RIR 2016:5)), it has become increasingly common for the Swedish Government to appoint national coordinators to deal with current issues and societal challenges. The national coordinators are not part of the regular administrative departments or authorities. Their assignments are time limited and are based on voluntariness for the actors who are recipients of state regulation. Between 2010 and 2019, the Government appointed 32 national coordinators with assignments that mean that they affect Municipalities and Regions (even though few of these coordinators were working simultaneously). According to Statskontoret by 2020 the Government has appointed five new national coordinators whose assignments are considered to affect the Local Government sector, such as the national vaccine coordinator, national coordinator for physical activity and national coordinator for Agenda 2030.

75. National policy documents ("Nationella inriktningsdokument"), on the other hand, refer to strategies, action plans and programs in which the Government expresses what they want to achieve in a certain area without implying central State control. During the period 2010–2019, the Government has launched 66 national policy documents that contain measures that affect Municipalities and Regions. According to Statskontoret's report in 2020 the Government has decided on five new national policy documents which affect Municipalities and Regions. Two of these documents have been produced in response to the corona pandemic, while the others concern, for example, an action plan against segregation and a national action plan against corruption.

76. In its opinion submitted before the last monitoring visit, SALAR was very critical of the increase in the State's comprehensive and detailed intervention in the governance of Municipalities and Regions. In recent years, several inquiries have also been started with the stated aim of exploring increasing State regulation and even transferring Municipal and Regional activities to direct State control. For example, "Förutsättningar för statligt huvudmannaskap för skolan" (Dir. 2020:140) (On transferring responsibility for Schools to State control), "Ökade förutsättningar för hållbara investeringsprojekt i framtidens hälso- och sjukvård" (S 2019:03, Dir. 2020:116) (On sustainable investment in health care) and "Ökad förutsägbarhet vid miljöprövning av vindkraft" (Dir. 2020:108) (On permits for wind power plants). On top of this there are also calls from various actors in the public debate for increased State governance, nationalisation and even the abolition of municipal income tax. SALAR thus sees an environment where there is a risk of even more extensive Government control in the longer term, while SALAR believes that State control must be reduced and become more appropriate to maximize the potential of self-government and thereby create good conditions for Municipalities and Regions to deal with welfare challenges in the future.

77. To the view of the rapporteurs, the aforementioned developments blur responsibilities and reveal tendencies towards a shift in the division of roles between the state government and local/regional self-government, at the cost of the latter. A way to harmonise new rules and guidelines, methods and instruments of governance launched by the state with territorial self-government would be to further develop and formalise consultation (s. below art. 4.6). As long as this is not the case yet, the rapporteurs conclude that Sweden partially complies with paragraph 4 of article 4.

3.3.5 Article 4.5

78. According to the Contemporary Commentary of the Congress to article 4.5, local discretion would be the case whenever other considerations and necessities did not override the need for discretion in adapting the exercise of delegated powers and tasks to local needs. On the other hand, when local authorities perform tasks on behalf of higher-level authorities and without exercising their own discretion, they are acting as agents of those authorities. Obviously, if a great deal of local self-government activity is devoted to performing tasks on behalf of higher-level authorities and this is done without local discretion, then the autonomy of local authorities may be seriously undermined.

79. During the meeting of the monitoring delegation at the Supreme Administrative Court, it was mentioned that at present, some of the most controversial issues on local autonomy would be cases concerning the funding by municipalities for organisers of independent schools. In Sweden education can be provided either by the municipality or an organiser of an independent school. According to the Education act, an organiser of an independent school is entitled to public funding, which is handled by the municipalities. Since modern compulsory schooling was established in Sweden in the 1950s and 1960s, it was a shared responsibility between municipalities and the central government. It was regulated and controlled by the central government but schools were run by municipalities. However, the teachers were state employees. Following decentralisation reforms in the 1980s, detailed regulation of education in central norms was reduced, special grants were merged into block grants and teachers became municipal employees. Hence, the reforms increased local autonomy in education.

80. In 2016, the so-called Residence Act (Bosättningslagen) was introduced (lag 2016:38 om mottagande av vissa nyanlända invandrare för bosättning). The law forces municipalities to arrange housing for refugees with residence permits. Municipalities do not normally have an obligation to arrange housing for 'external' cases relating to care of the disabled, young people in care and sheltered housing for vulnerable women. Prior to 2016, receiving refugees in a Municipality was based on voluntariness, and agreements between the State and the Municipalities. The Ministry of Finance pointed out during the consultation procedure that this system did not lead to an even allocation of refugees between municipalities. Even though there is an obvious need to allocate the population of refugees in different parts of the country, this legal arrangement could open the door for several central policies concerning people needing different kinds of assistance, without taking into consideration the principle of territorial self-government and its distinct responsibility.

81. Interlocutors from the central government consider the scope of the existing local discretion to be sufficient and raised arguments concerning fairness and the reduction of inequalities. The rapporteurs, however, hold the impression that in some cases new obligations imposed by the State to municipalities and regions without granting sufficient space of discretion are problematic with regard to the Charter and therefore conclude that Sweden partially complies with paragraph 5 of article 4 of the Charter.

3.3.6 Article 4.6

82. When the Charter was ratified the Swedish government claimed that existing channels, for example the system of referrals (remiss), gave local governments sufficient opportunities to express their views. Nevertheless, local government associations demanded to strengthen the consultation process. A previous formalised process that existed till the beginning of the 1990s was finally abolished. Therefore, the Congress monitoring mission in 2005 suggested that formal consultations should be reintroduced. With direct reference to the Charter, the sub-committee of experts reviewing how the new constitution could better protect local self-government ended up suggesting that the constitution should explicitly mention the right of local government to be heard by the government. This has subsequently been included in Chapter 7, Article 2 of the Swedish Constitution²⁸.

83. The 2014 monitoring report of the Congress acknowledged this change in the Constitution, but it noted (referring to the views of SALAR), that there was still no formalized consultation or time frame within which consultations should take place. The government claimed that the regulation in the Constitution was sufficient as it allowed for a flexible and non-formalized process. It argued that SALAR is invited to follow the work of commissions of inquiry preparing proposals for new reforms affecting local authorities and that both SALAR and individual local authorities are often asked for their opinions on suggested policy changes (the "referral system")²⁹. In Recommendation 357 (2014) the Congress suggested, nevertheless, to set up a formal consultation procedure that 'would allow the local authorities and their representative association to make input in all decisions taken at the State level which might limit local authorities' autonomy'.

84. During the last monitoring mission, the Minister of Public Administration answered the rapporteurs that new formal consultation procedures have not been set up since Recommendation 357 (2014). However, there are several ways that the Government consults with municipalities and regions, as well as their representative association, both formal and informal. Once more, the Swedish government underlined that the Government obtains information and opinions of municipalities and regions as necessary when preparing Government decisions. This is primarily done through the formal referral procedure (remissförfarande) that is offering possibilities to comment on legislative proposals, for example.

²⁸ A. Lidström & T. Madell, *ibid.* p. 960.

²⁹ *Ibid.*

85. In addition, SALAR is often invited to nominate experts to committees and special investigators that produce legislative proposals. These experts can be recruited from SALAR or from individual municipalities or regions. When preparing legislation with financial consequences for municipalities and/or regions, an assessment is done by the Government Offices in the state budget process on the cost implications for local and regional authorities. SALAR shall be consulted when this assessment is carried out, but this is not always done.

86. There are also other forms of consultations. For example, the leadership of the Ministry of Finance meets the leadership of SALAR twice per year to discuss the situation of municipalities and regions. A special body – The Welfare Commission (Välfärdskommissionen) – operated between 2020 and 2021. It brought together the Government (Ministers for Finance (chairman), Public Administration, Education, Social services and Gender equality), SALAR (Chairman and First Vice Chairman), and workers' unions to identify and analyse concrete measures to improve the local and regional authorities' ability to deliver welfare services (including, for example, education and healthcare) of high quality. The commission was appointed in the light of the challenges facing the local government sector, for example, urbanization and an increased need for welfare services due to an aging population. Moreover, there are continual exchanges of views between the Ministry of Finance, municipalities, and regions and their associations concerning specific topics on an ad hoc basis.

87. According to the view expressed by SALAR, however, the existing forms of consultation are still not sufficient. By referring the local level to the usual consultation process in a legislative procedure, the popularly elected local level is viewed as a special interest among others. This disadvantages the sector's ability to safeguard the space for municipal self-government. In 2016 SALAR submitted a proposal to the Government Offices on how a formalized consultation can be designed. SALAR's proposals were in line with the proposals presented in previous investigations such as the Ansvarskommittén (Responsibility Committee) (SOU 2007: 10), Grundlagsutredningen (Constitutional Inquiry) (SOU 2007: 93) and Delaktighet i EU (Participation in the EU) (SOU 2016: 10). The proposal sought to find new forms for a more formalised consultation or to develop the deliberations that already exist between SALAR and the Finansdepartementet (Ministry of Finance).

88. Also the Swedish Agency for Public Management (Statskontoret) that has mapped and analysed the Government's governance in the area of regional development (Regional utveckling – regionernas erbjudanden och länsstyrelsernas roll Statskontoret 2021:11, s. also above, the comment to article 9.1), stated in its report that the model and especially the preconditions for dialogue between the national and the regional level could be further developed and more used.

89. For its part, SALAR emphasised that a formalised consultation process should include financial and other overall prerequisites for municipalities and regions to be able to fulfil their tasks, the design of state regulation and the results that the sector's various activities show. The consultation should thus address long-term, comprehensive, and fundamentally important issues concerning the relationship between the State and Local Government, Municipal finances, as well as legislation concerning the Municipalities and Regions. Besides the deliberations with Finansdepartementet, the current system means that SALAR's meeting with the Government takes place with different ministries on different occasions and on different issues without the possibility of relating the local sector perspectives to the whole. As there is no formalised system for consultations, there is also a risk that current consultations will be linked to individuals and sensitive to shifts in connection with elections.

90. According to SALAR consultations need to be formalised to a greater extent and include additional policy areas such as education, care and nursing. At the same time, a more formalised consultation process is not intended to replace the current forms of collaboration, such as participation in official inquiries and working groups, consultations on proposals for new legislation and negotiations on financial regulation in accordance with the financing principle. SALAR emphasised that more formalized consultation solutions provide a more constructive environment for political solutions rather than legal ones (such as the establishment of a Constitutional Court in Sweden), especially within the framework of the Swedish consensual political culture and collaborative tradition.

91. According to local interlocutors, in previous administrative policy statements, the Government has expressed some reluctance to the idea of developing consultation mechanisms. From the national level, this reluctance has been expressed in the form of statements questioning the need for such changes, but also concerns about the difficulties of finding suitable forms for such consultation mechanisms. SALAR considers that the Government has not complied with previous Congress recommendations (e.g. 357/2014) to establish a formal consultation procedure. SALAR proposed to the Government to develop a method for developing

consultations. A functioning consultation at a political level is closer to the Swedish collaborative tradition than a formal Constitutional Court or legal dispute resolution mechanism.

92. The Congress pays great attention to the existence of effective and efficient systems of consultation in member States and advocates a thorough and comprehensive approach to consultation, in order to achieve better decisions and quality governance at local and national levels. Resolution 368 (2014) launched a 'Strategy on the right of local authorities to be consulted by other levels of government'. Further on, the Congress adopted Resolution 437/2018 on "the consultation of local authorities by higher levels of government" including relevant guidelines that the Congress undertook to use as a reference document in its monitoring activities. These guidelines outline the main elements that such consultation procedures should include.

93. In Recommendation 328 (2012) the Congress stressed that local authorities should have an active role in adopting the decisions on all matters that concern them and in a manner and timing such that they have a real opportunity to formulate and articulate their own views and proposals, in order to exercise influence. The Congress also asked member States to specify the format of consultations; to provide proper, clear and detailed information in writing well before the consultation; to involve local government expertise in drafting policies and legislation; to carefully analyse the implications of strategically important decisions to make.

94. According to Resolution 437/2018 relevant legislation should provide clear and detailed regulations of the process of consultation in order to make this process formal, predictable and result-oriented. The relevant legal framework could therefore clearly describe a) the objectives of consultations; b) the parties involved and their rights and obligations; c) the time frame, forms and procedures for consultations; and d) the expected outcomes of consultations. In this Resolution the Congress called for the promotion of institutionalised and systematic consultation of local authorities by higher levels of government through the formalisation of the consultation process; moreover it called for efficient forms and mechanisms of consultation with local authorities in the rules of procedures and bylaws both at the level of parliamentary bodies and line ministries.

95. The rapporteurs conclude that there is a need in Sweden to establish formal consultation procedures that include more policy areas, and would match the aforementioned criteria, also in line with the guidelines of the Congress. During the consultation procedure, the Government had announced the appointment of a special investigator with the task of mapping and analysing existing forms of cooperation and dialogue between the Government and local/regional authorities and their associations. The Special Investigator could suggest new forms of cooperation and consultation if it is deemed necessary (Dir. 2022: 89). However, until a reform establishing formal consultation procedures that would meet the aforementioned requirements is reached, Sweden does not comply with the requirements of article 4.6 of the Charter.

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.

96. In Sweden, Municipal mergers started on a voluntary basis but were made compulsory in order to accelerate the process. In 1974, the number was cut from 464 to 278. This number nudged higher to its current 290 when several municipalities broke off to form separate entities. Today, the municipal average size is around 34,000 inhabitants (to be compared to 9,700 inhabitants in the OECD on average). 53% of municipalities had between 5,000 to 20,000 inhabitants in 2016 and 42% more than 20,000 inhabitants. However, Swedish municipalities vary significantly in land area and population size as well as tax base and age structure. For example, in terms of land area, the smallest municipality is only 9 km², whereas the largest municipality has an area of 19,155 km². Municipal populations vary between 2,450 inhabitants and 923,520 inhabitants.

97. In Chapter 14 of the Instrument of Government, Article 6, it is clarified that the principles of local government boundary changes are regulated in ordinary law. In 2019 the Act on Changes in Sweden's Division into Municipalities and Regions (lagen (1979:411) om ändringar i Sveriges indelning i kommuner och regioner) was altered in order to make sure that the views of the affected regions are given due consideration when proposals that would change the regional structure are being considered. In 2019, a referendum was held on a merger of two municipalities on the island of Öland. In the referendum a majority of citizens in the two municipalities voted against the merger.

98. Considering the above, the rapporteurs conclude that Sweden complies 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.

3.5.1 Article 6.1

99. At the time of the ratification of the Charter, a special regulation made six municipal committees mandatory for Swedish municipalities. These committees included a School Board and a Building and Planning Board. The Explanatory report of the Charter stated that a limited number of ‘certain’ mandatory committees were acceptable, as long as they were ‘*not so widespread as to impose a rigid organizational structure*’. Six committees were more than half the total number of committees in most Swedish municipalities. Already in 1991, however, the Swedish Local Government Act was revised (1991) in a way that gave local government much more leeway in setting up its own political organization: According to the new regulation, the executive committee and a committee with responsibility for election administration remained mandatory. These changes were motivated from experience of the “Free Commune Experiment”, which allowed selected local authorities to be exempted from central regulation on an experimental and temporary basis³⁰. Local authorities were given greater leeway to set up their internal organisation as they saw fit.

100. But limitations still exist. If a superintendent has not been appointed, there must also be a supervisory board in each municipality. In regions, so-called patient boards are compulsory, having the task of supporting and helping patients in health care and dentistry. A committee should be defined as responsible to fulfil relevant tasks during extraordinary events that cause serious disruptions to important societal functions and therefore require urgent action by a municipality or a region; however, this does not mean that the establishment of a specialised ‘crisis committee’ would be compulsory. In each municipality and region, auditors also form part of the political organisation.

101. In most cases, however, subnational governments are also free to decide how services are provided, either through their own production or by outsourcing the services through inter-municipal cooperation or to a limited company, a trading partnership, an incorporated association, a non-profit association, a foundation or a private individual. Indeed, municipalities and regions may procure services from private companies. Privately managed providers financed from tax revenue must offer the service concerned to citizens on the same conditions as those that apply to a similar public service. Swedish local governments are therefore part or majority owners of about 1,800 companies. These local public enterprises are usually established in order to provide housing services, transport, property management, energy, and communication services. From a legal standpoint, these companies are treated as any other private company, with the difference being that the shares are owned by local governments.

102. In relation to municipal and regional capacity for decision-making on organisational and functional matters, some local interlocutors mentioned problems with digital meetings: there have been a number of court decisions that have undermined the legal grounds for digital meetings. In this matter SALAR has asked for clarifying legislation. The issue should be considered from a more long-term perspective. In fact, the government inquiry mentioned above (Dir. 2022/89 - article 4.6 of the Charter) will also look into this question.

103. In spite of some minor problems, the rapporteurs conclude that overall Sweden complies with this paragraph.

3.5.2 Article 6.2

104. Overall, municipalities and regions employ more than one million people, corresponding roughly to 25% of total employment in Sweden. Sub-national governments (SNG’s) employ more than three-quarters of public staff, since they are responsible for wages of teachers, social and health employees. This big share in total employment reflects the relative weight of the local and regional self-government sector, and also the fact life-important services and utilities are offered by this sector. Municipalities employ approximately

³⁰ A. Lidström & T. Madell, *ibid.* p. 961.

760,000 people and regions employ around 250,000. Women represent just over 80% of the total employment figure for municipalities and regions.

105. There are shortages of staff in certain professions, for example within healthcare and education. The Government has expanded existing and created new, seats of higher learning during the last decades to meet the shortage. The Government has also created special grants in order to make it possible for municipalities and regions to raise the wages of certain professions.

106. The rapporteurs conclude that Sweden fully complies with the second paragraph 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

107. There are approximately 14,500 elected representatives in municipalities and regions and approximately 40,000 people who hold elected roles of all types. In total, the proportion of women among the elected representatives is 43 percent. As a rule of thumb, the gender balance is usually regarded as even if the proportion of women and men is between 40 and 60 per cent. In a total of 205 of the country's 290 municipalities, the proportion of women elected representatives is higher than 40 percent. In the regions, the proportion of women and men is much more even than in the municipalities. This applies to both the council and the boards. Foreign-born citizens are underrepresented among the elected representatives, but the trend is that this under-representation is decreasing, albeit slowly.

108. A lack of candidates has been a challenge in some municipalities and among some parties, especially the smallest ones. Membership of political parties has decreased over time. In the 1970's, members of national political parties appeared to reach a number of more than 1,5 million. This figure is not comparable with the recent membership data as it includes almost a million collectively enrolled members in the Socialdemocratic party (could be decided by the local labour union). This practice was abolished in 1991. The number of individual members of political parties was 625 000 in 1991 and 245 000 in 2020.

109. One issue is that elected representatives are exposed to hate speech, threats, and violence. This poses a threat to the democratic system in several ways. On one hand, it makes it more difficult to recruit and retain politicians, and on the other hand, the openness and inclusiveness of a democratic society can be affected by a harsher tone in the democratic discourse. In the end, the democratic decision-making process can also be affected. Threats and hatred also affect officials in municipalities and regions, which leads to silence and impermissible influence in the decision-making process, as well as higher risks of corruption. During the consultation procedure, the rapporteurs were informed by the government that a security survey for politicians is carried out every two years. It is a comprehensive survey of the extent and consequences of threats and harassment as well as violence, vandalism and theft directed at ordinary members of all Swedish municipal and regional councils. In addition, the government stressed that it had provided financial support to SALAR to strengthen the work of municipalities and regions in preventing and dealing with threats and hatred directed at elected representatives.

110. The rapporteurs would like to point out these considerable efforts to counteract the aforementioned phenomena, but they nevertheless call the Swedish authorities to introduce additional measures to protect elected representatives from threats and violence. With this in mind, they however conclude that Sweden complies with this paragraph.

3.6.2 Article 7.2

111. The position of elected local and regional representatives is protected by the Local Government Act. They are entitled to fair financial compensation for the loss of work-related income and other financial benefits during the exercise of their mandates. The municipal and regional assemblies decide on guidelines on financial compensation, which means that the compensation is not identical throughout the country. This is a consequence of local and regional autonomy.

112. More precisely, the Local Government Act provides that elected representatives have the right to reasonable compensation for the loss of earned income and financial benefits that they suffer in carrying out their assignments. The same applies to elected representatives with disabilities who are entitled to reasonable compensation for travel expenses that arise when they fulfil their assignments. Each municipal or regional council is responsible for setting guidelines for remuneration and may decide the degree to which elected representatives shall be reimbursed for travel expenses and other expenses caused by the assignment, as well as agreeing on the compensation for lost income, pension arrangements and other financial benefits. The fee levels agreed upon shall be the same for equal assignments. It is thus up to each municipality and region to decide how the fee is calculated and the exact design of compensation. There is variation between them, but often it is based on the reimbursement for a member of parliament or based on the base amount set by the Treasury.

113. A large majority of the elected representatives in municipalities and regions carry out their assignments in their spare time in addition to studies and regular work. The term “Leisure politicians” (Fritidspolitiker) refers to elected representatives whose paid time for political assignments makes up less than 40% of working time. In the municipalities, leisure politicians make up 96% of all elected representatives, while the corresponding figure in the regions is 93%.

114. Considering the above, the rapporteurs conclude that Sweden complies with this paragraph of the Charter.

3.6.3 Article 7.3

115. Functions and activities which are deemed incompatible with the holding of local elective office are included in 4 of the Local Government Act. Taking into consideration the legal framework, their observations and their contacts the rapporteurs conclude that Sweden complies with this paragraph of the Charter.

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

116. Several state administrative agencies have been given supervisory tasks towards the municipalities and regions in areas that have been delegated by the Parliament, for example within healthcare and education. The scope and nature of the supervision differ but is always based on legislation. Several government agencies are tasked with supervising municipal activities. This applies mainly in health and care where the Swedish Health and Care Inspectorate (Inspektionen för Vård och Omsorg) operates and in the school where the Swedish Schools inspectorate (Skolinspektionen) operates. In addition, the state county administrative boards (Länsstyrelsen) also supervise the planning process in accordance with the Planning and Building Act (plan och bygglagen), chief guardians, waste transports and supervision of the municipalities’ alcohol and tobacco inspections.

117. The principle of openness and transparency is central to the Swedish legal system. It means that the public (including individuals and representatives of the media) have the right to insight into and access to information about the state’s, regions’, and municipalities’ activities.

118. In each municipality and region, there is the municipal audit, which is a local democratic control instrument with the task of reviewing decision-making in committees and boards as well as reviewing the actual activities conducted. The result of the review forms the basis for the council’s annual decision on granting discharge from liability for the past year. Each municipality and region has the responsibility for ensuring the audit of its operations. On behalf of the council, the municipal audit carries out its examination. The auditors cannot be elected members of the council at the same time as they are auditors. They are nominated by the parties and may be politically active elsewhere. In their role as auditors, they are however supposed to be politically neutral. The auditors assess annually whether committees and the board have

managed the operations efficiently and in a financially satisfactory manner. They also assess whether the systems of internal control are sufficient and whether the accounts are accurate.

119. Taking into consideration the legal framework, their observations and their contacts the rapporteurs conclude that Sweden complies with this paragraph of the Charter.

3.7.2 Article 8.2

120. The Parliamentary Ombudsman ensures that state, local and regional authorities treat individuals lawfully and correctly. Its review is primarily based on individual complaints and may lead to statements that a public authority or public official have acted in conflict with the law. The Ombudsman may not review the decisions of local and regional assemblies.

121. As already mentioned in the previous report, the County Administrative Boards (CABs) and central government agencies are commissioned by the government to supervise municipalities and county councils for compliance with the laws and regulations. The areas where oversight is exercised extensively are environmental protection, social services and education. Different monitoring instruments are used such as evaluations, inspections, bench-marking systems and follow-ups.

122. Taking into consideration the legal framework, their observations and their contacts the rapporteurs conclude that Sweden complies with this paragraph of the Charter.

3.7.3 Article 8.3

123. According to the Local Government Act (Kommunallagen), every member (resident) of a municipality or region has the right to have the legality of the municipality's or region's decision reviewed by appealing the decision to the administrative court. Also municipalities and regions can, on their part challenge the legality of a decision or measure taken within the framework of supervision by another authority.

124. Taking into consideration the legal framework, their observations and their contacts the rapporteurs conclude that Sweden complies with this paragraph of the Charter.

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

125. The power of taxation for local and regional government is nowadays regulated in Chapter 14 Article 4 of the Swedish Instrument of Government (Regeringsformen 14:4). Therein it is stated that "Municipalities may levy taxes for the management of their affairs." The actual collection of municipal taxation is handled by the state, which transfers the funds to municipalities and regions on a monthly basis. The state also pays general (non-ringfenced) grants to municipalities and regions, which currently amount to approximately 17% of their revenues (including subsidies for the costs of medicines). Targeted government grants make up

about 6 percent of the municipalities 'and regions' revenues in 2019. According to the Swedish National Delegation to the Congress, the financial resources of municipalities and regions are adequate, mainly due to the legal right to raise taxes and non-ringfenced government grants. But government grants would be eroded by price and wage increases and demographic changes since the state grants are nominally unchanged over time. At regular intervals, the state increases the general grants, but in practice, this would only in part cover for increases in wages and other costs. In addition, state reforms would not always be fully funded. During the consultation procedure, representatives of the government have stressed the fact that in recent years the general grant has increased significantly and claimed that cost increases are being fully covered.

126. In 2020, municipalities' revenues amounted to SEK 753 billion (EUR 73.31 billion)³¹ and regional revenue SEK 423 billion (EUR 41.21 billion)³².

Distribution of the municipalities' revenues in 2020 ³³	
Tax revenue	64.7%
General government grants	17.0%
Special-purpose government grant (for specific matters)	6.3%
Taxes and fees	5.2%
Sale of operations and contracts	0.6%
Rents and leases	2.8%
Other income	3.4%

Distribution of the regions' revenues in 2020 ³⁴	
Tax revenue	64.4%
General government grants	10.7%
Grant for pharmaceutical benefits	7.2%
Specially designated government grant	10.5%
Tariffs and fees	2.4%
Other income	4.9%

127. In Sweden, subnational government tax revenue is almost entirely formed by the local income tax (PIT). In 2020, tax revenues accounted for 64.7% of municipalities' revenues and 64.4% of regions' revenues. Subnational governments (SNG) in Sweden have a degree of fiscal decentralisation (66% in 2017) that is substantially above the EU average (17% in 2017). The indicator measuring the level of tax autonomy also points towards a high level of fiscal autonomy for local governments in Sweden, with 98% of total local tax revenues under full control of local authorities.

128. Income tax is levied on salaries, wages, pensions, and payments from health insurance and unemployment benefits, and it represented 97.3% of SNG tax revenue in 2016, 53.5% of SNG revenue and 13.1% of GDP. Municipalities and counties are free to set the income tax rates but central government controls the tax base. At the aggregate level, the municipality tax rate is around 20%, while the county rate is around 10%. Technically, taxes are collected by the central government and then redistributed on the basis of each tax. The real estate fee (it is not called a property tax but a real estate fee) is a central government tax as the central government sets the fee and defines the base. Subnational governments get a share of the real estate fee revenue, these revenues represented 2.7% of SNG tax revenue, 1.5% of SNG revenue and 0.4% of GDP in 2016, among the lowest in the OECD where recurrent taxes on property amounted to 1.1% of GDP in 2016.

129. Apart from grants (s. below, comments to article 9.7) that constitute 23% of municipal revenue and 21% of regional revenue, municipalities and regions receive charges and fees (9.8% of subnational government revenues, 6% of municipal revenues and 3% of regional revenues) for local services provided such as child, elderly and health care. Municipalities and regions are allowed to set fees but ceilings on maximum charges have been introduced for some services. The role of user fees as subnational government revenues remains below the OECD average of 14.9%. Revenues from assets represented 1.4% of SNG revenues in 2016

31 [Diagram för kommunerna | SKR](#)

32 [Diagram för regionerna | SKR](#)

33 [Diagram för kommunerna | SKR](#)

34 [Diagram för regionerna | SKR](#)

(versus 2% OECD average). Since 2013, local governments are also able to build rainy day funds in order to reduce the cyclicity of their revenues.

130. In her answer to the rapporteurs, the Minister of Public Administration underlined that municipalities and regions are in a strong financial position, on the whole. Municipalities and regions have a constitutionally protected power of taxation, which accounts for about two thirds of their income. Moreover, they receive significant state grants and obtain further incomes through fees for services they provide. The financial results in the municipalities as well as in the regions were at a historically high level 2020 and 2021. Few municipalities and regions reported negative results in 2021 (preliminary data), four (of 290) municipalities and one (of 20) region. The financial results can be explained by the fact that the tax base developed better than expected, but also by state grants due to the pandemic and increasing net financial income. The sector is expected to report a strong result also for 2022. State contributions will remain high in 2022 because of grants intended to deal with the consequences of the pandemic.

131. The rapporteurs note that municipalities have a status and an array of revenue that meet the requirements of this paragraph.

3.8.2 Article 9.2

132. Subnational governments are responsible for a large range of public services and benefits in key areas, making Sweden one of the most decentralised unitary countries in the OECD. Expenditures of counties/regions and municipalities represent a significant part of total general government expenditures in the fields of health (almost the totality, 97% in 2017), housing and community amenities (91% in 2017), education (80% in 2017), recreation, culture and religion (79% in 2017) and environmental protection (51% in 2017).

133. More generally, subnational governments account for about 50% of the general government expenditure and 25% of GDP (the OECD averages are 40.4% of public expenditure and 16.2% of GDP): it demonstrates their fiscal importance. Following the Nordic tradition of a strong welfare system, the social expenditure is also greater than the OECD unitary countries' average. Since the municipalities are responsible for a wider selection of tasks, they manage roughly twice the budget of counties. In 2020, municipalities total expenditures amounted SEK 715 billion (EUR 69.65 billion) and regional expenditures SEK 393 billion (EUR 38.28 billion).

134. Social protection and health care form the largest subnational government spending categories. Together these accounted for almost 55% of subnational expenditure, followed by education and general public services. For the regions, the main category of spending is health care (around 90%). For the municipalities, social protection and education are the main services. Compared with counties, municipalities are responsible for a much wider range of services. For example, they are responsible for housing and community amenities, for recreation and culture (which are not mandatory), for economic affairs and transport (jointly with the transport companies organised by counties).

Distribution of the municipalities' expenditures in 2020 ³⁵ :	
Preschool activities and school childcare	14.5%
Primary school	18.3%
High school	6.5%
Other education	4.1%
Elderly care	18.9%
Disabled	11.3%
Financial assistance	2.2%
Individual and family care	5.0%
Business	3.4%
Culture and leisure	4.6%
Infrastructure and protection	7.3%
Other	3.9%

³⁵ Diagram för kommunerna | SKR

Distribution of the counties' expenditures in 2020 ³⁶		
Healthcare (around 90%)	Primary care	16.1%
	Spec somatic care	46.6%
	Spec psychiatric care	7.5%
	Dentistry	2.7%
	Other health and medical care	7.6%
	Other health care	0.5%
	Medicines (open)	7.0%
Other	Regional development	2.6%
	Infrastructure traffic	9.4%

135. In 1993, the “funding principle” (finansieringsprincipen) has been adopted by the Parliament, meaning that if central government allocates a new task to local government, it must also specify how it should be funded. The 2005 monitoring report pointed out the increasing use of “rights legislation” that gives specific clients the right to particular services. This started back in the 1980s when the Social Services Act and other legislation on disabled persons were introduced that provided undisputable rights to certain services, independent of the resources available to local government. Although recognising that it was important to safeguard that people in vulnerable positions receive the services that they are entitled to, the 2005 report considered that this type of legislation might limit the scope of local self-government. A problem, according to the report, was that the Parliament was the final arbiter and that the local government had no say over how the funding principle is interpreted. For this the Congress recommended that there should be an institutionalised way of evaluating the actual costs for providing rights-based services, such as an independent audit commission.³⁷

136. SALAR has also emphasised how important it is that the Government's calculation basis is transparent for both Municipalities and Regions, and for the Riksdag. In 2018, Riksrevisionen (the National Audit Office) published the report Den kommunala finansieringsprincipen – tillämpas den ändamålsenligt? (RIR 2018:8). The purpose of the report was to assess whether the Government's application of the financing principle has been sufficient in order to result in adequate financial regulation, in accordance with the intention of financial regulations. The review refers to both preparatory work and cost calculations and is mainly based on three examples (upper secondary school reform 2011, childcare allowance and general preschool for three-year-olds and increased teaching time in mathematics). Riksrevisionen was critical and considered that the financing principle is not applied in the way it is intended. More specifically:

- The preparatory work for the proposed reforms is in many respects unclear and deficient. Important sub-objectives have not been met (particularly when it comes to deliberations and time frames).
- No analysis is made of how reforms affect individual municipalities and there is limited support for municipal financial impact assessments.
- Reform costs are seldom constant over time and are not followed up.

During the consultation procedure, the government stressed that it partly agreed (skr. 2017/18:300) with the conclusions in the report and stated that it is important to ensure well-founded calculations and the smooth functioning of the preparation processes. Therefore there is an ongoing development of impact assessments in the Government's Offices.

137. Riksrevisionen recommended preparing municipal financial reforms in a transparent and well-founded manner, also by giving committees sufficient support to make most calculations in accordance with the guidelines; moreover to invite representatives of Municipalities and Regions to participate with adequate timeframes to the preparatory work for Municipal economic reforms. In addition, the review and assessment of the economic consequences of the municipal reforms should include an analysis of how the consequences differ between different Municipalities. Particularly important would be to carry out follow-ups to assess cost implications over time. The government did not agree with this recommendation (skr. 2017/18:300) but stated instead that there would be no need to introduce general cost follow - up in order to post-regulate reforms. It would entail increased administrative costs and the government would already be following up and analysing the municipalities' needs for additional resources, as well as how well the municipal cost equalisation system reflects the structural differences that exist between municipalities and between regions.

³⁶ [Diagram för regionerna | SKR](#)

³⁷ A. Lidström & T. Madell, *ibid.* p. 361.

138. From its side, SALAR largely agreed with Riksrevisionen's recommendations, but unlike Riksrevisionen, SALAR believes that the settlement amount should always be made in kronor per inhabitant. A possible solution in cases where a new activity, with significant differences in cost implications between Municipalities, is created is to adjust the settlement amount. New regulations and reforms will inevitably affect municipalities and regions differently. However, over time, and with new regulations in many areas, it is likely that the differences will even out. SALAR further believes that adjustments made when there is a lack of documentation should be followed up once a few years after entry into force, not followed up several times. This allows for adjustments of an incorrect regulation to be made. Thereafter, these regulations should also be included in State grants and the Riksdag's assessment of the size of State grants, ie not be followed up specifically in the coming years.

139. Another aspect, according to SALAR, is when authorities make binding decisions on rules changes for activities in Municipalities or Regions. The financing principle also applies in these cases. But an authority has no resources for the corresponding costs, it must be handled in the state budget process, which makes it difficult to issue regulations and thus the willingness to live up to the financing principle. It should therefore be the duty of the authorities to always contact the responsible Ministry when funding issues arise.

140. According to SALAR, nothing has happened with regard to the aforementioned Riksrevisionen's recommendations. In other aspects, the application of the financing principle has generally deteriorated over time, while it needs to be applied more consistently. Negotiations on the financing principle between Ministries and SALAR have virtually ceased. One cause would be the pandemic that has taken up a lot of focus and has also consumed a lot of resources from the State. Another cause would be the parliamentary situation where the Government needs to negotiate with supporting parties may have made it more complicated to also take into account the principle of financing.

141. For its part, the Ministry of Finance underlined that the financing principle is applied when new responsibilities are given to municipalities and regions, or when existing responsibilities are altered. If the competences refer to activities that are voluntary for the municipalities and regions, the state does not have to provide financing. Sometimes it is however possible to apply for earmarked grants.

142. In line with the concerns expressed above the rapporteurs consider that Sweden is partially complying with the principle of commensurability.

3.8.3 Article 9.3

143. During a reform debate back in 2004 (s. below, article 9.5.) the question whether temporary tax caps were in line with the constitution was raised. This issue was a point of criticism in the 2005 Congress report. Although the right to taxation is guaranteed by the constitution, the government introduced a moratorium on local government tax increases during the financial crisis in the years 1991-1993. Although the Parliamentary Committee on the Constitution regarded a temporary capping to be acceptable, the rapporteurs thought that the conditions for limiting the right to taxation needed to be clarified, as new tax caps could be imposed in the future.

144. Today, according to information provided by the Swedish National Delegation to the Congress, the average share of own-source taxes in total regional and municipal revenues are approximately 65 percent (see the composition of SNG revenues above, article 9.1). The regional and municipal authorities have the right to determine the tax rates, the base is determined by the state.

145. The rapporteurs conclude that Sweden complies with this paragraph of the Charter.

3.8.4 Article 9.4

146. The contemporary commentary to the Charter, underlines that the second requirement of this paragraph is that systems of local finance should be "buoyant". This means that 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. There are many manifestations of this principle. Firstly, transfers from regional or national bodies should be updated and possibly increased over the years in order to take account of price increases, or factors involved in the delivery of services. Secondly, local authorities should also be allowed to increase their tax rates where such a decision is necessary owing to inflation (tax caps should be avoided, especially in times of inflation). Finally, any decision by higher-level authorities to impose additional costs on local authorities should ensure that these costs are covered by new financial resources (i.e., new financial transfers, grants, etc.) or by an

increase in existing resources. Accordingly, any delegation of tasks that does not indicate the source of funding to meet the cost of the new responsibility is not compatible with the principle of buoyancy.

147. Recommendation 357 (2014) had invited the Swedish government to “consider the local authorities’ demand for indexation of state grants and linking them to demographic changes”. According to the Ministry of Finance, the Government does a thorough analysis of the need to raise State grants as part of the budget process each year in the state budget process. The analysis takes into account, for example, demographic changes and cost increases. The Ministry underlined that the general State grants to municipalities and regions have been boosted by more than 50 % since 2014. The government that took office in 2018 made a commitment (together with two other political parties in the Parliament) to increase the general grant continuously during the term of office.

148. According to SALAR, on the other hand, the government has not taken any steps towards indexed government subsidies since the last review. With nominally unchanged government grants, they are eroded with each passing year in real terms. Historically, state grants have been increased over time, but this has been done on an ad hoc basis and often with some form of an increase in government ambition. This may be through statements from Government representatives or through legislative changes and amendments, which, at least in the latter case, are associated with direct cost increases. Rule-based indexing based on price development and demographic development would strengthen the long-term planning conditions for Municipalities and Regions. SALAR emphasised that a rule-based indexation of government subsidies based on price development and demographic development is needed.

149. Taking into consideration the aforementioned and their discussions with local interlocutors, the rapporteurs would encourage the Swedish authorities to proceed with a systematic indexation of state grants and conclude that Sweden partially complies with this paragraph of the Charter.

3.8.5 Article 9.5

150. In 1995 a political debate on the constitutionality of the Swedish system of tax equalisation began. As the Constitution state that local taxes can only be used for local purposes, it was questioned whether central government had the constitutional right to transfer local tax resources from one municipality to another. This led to the appointment of a multi-party commission of inquiry with the task of reviewing the constitutional protection of local self-government (Commission of Inquiry on Local Self-Government, 1996). In its report, the commission referred to the newly ratified Charter and emphasized that any changes in the Constitution would need to be in line with the Charter. The commission suggested some changes in the constitution but these were not implemented at that time but were instead included in a larger revision of the Swedish Constitution³⁸.

151. A multi-party commission of inquiry was set up in 2004 with the task of preparing such changes. The debate on the constitutionality of the tax equalisation system had continued and the controversy had been further exacerbated by the issue of whether temporary tax caps were in line with the constitution. Finally in the new Constitution that came into force in 2011, in Chapter 14 of the Instrument of Government, the previously controversial question of inter-municipal financial equalisation was regulated in Article 5. It is stipulated that local government can be obliged, through an ordinary law, to contribute to cover costs in other municipalities, if this can be justified as a means of creating equal financial conditions³⁹.

152. The Ministry of Finance stated that the purpose of the equalisation system is to provide municipalities and regions with equal economic conditions, independent of the municipal residents’ income and other structural differences. Municipal equalisation system is designed to give all municipalities and regions equivalent conditions to be able to deliver on their responsibilities. The system is periodically reviewed to take into account the development of society. As regards to income equalisation, tax income base is equalised between municipalities and between regions respectively. Cost equalisation is made for structural cost differences which means equalising according to what each activity ‘should’ cost depending on the differences, e.g. in age structure, social economy and area, with average efficiency and level of ambition.

153. The fiscal equalisation system takes differences between tax bases into account. Transfers from the central government include compensation for mandatory tasks based on an ex-ante assessment, and allocated on a per capita basis through general grants.

38 A. Lidström & T. Madell, *ibid.* p. 361.

39 *Ibid*

154. In international comparison, Sweden's subnational governments stand out as relatively self-reliant (as was mentioned above, own revenues form almost 70% of revenues). This relatively low share of grant revenue as part of total subnational revenue implies that the vertical fiscal imbalance (i.e. asymmetry between subnational revenues and spending responsibilities) in Sweden is low. Also, the horizontal fiscal gap in the Swedish case seems relatively modest: in 2015 only three municipalities had a general grant share that was larger than 30% of all municipal revenues. Nevertheless, the Swedish equalisation system certainly levels the playing field: after equalisation most differences in calculated service costs and tax bases are evened out.

155. In 2020, a new cost equalisation system was introduced for both Municipalities and Regions to ensure equity based on needs. According to SALAR, however, the underlying ambition of the equalisation process and the principles behind it have not changed. The only fundamental difference is that an equalisation for adult education has been introduced for the Municipalities. In the meantime, the government informed the rapporteurs during the consultation procedure that a government inquiry was appointed in April 2022 to review the system⁴⁰.

156. In addition, a delegation (Delegationen för kommunal ekonomi i balans) was set up in 2021 to distribute temporary grants to municipalities with particularly weak finances in order to support them in implementing the necessary restructuring and efficiency measures. Municipalities with particularly weak finances can themselves apply to the above-mentioned delegation to obtain additional funds.

157. The rapporteurs conclude that Sweden complies with this paragraph of the Charter.

3.8.6 Article 9.6

158. According to the contemporary commentary to the Charter, under Article 9.6, consultation is not merely a compulsory procedure that has to take place in a timely manner before a final decision is made. It must also cover the way a decision is made and the criteria for doing so, not only the decision itself. Taking into consideration issues recurring in monitoring reports, the Congress has called for greater involvement of local authorities or their representatives in financial matters, including estimating the costs involved with any new State legislation that must be implemented at the local level.

159. In the 2014 monitoring report, a point of criticism was that local authorities were not involved in assessing the cost implications of new reforms, which sometimes meant that not all cost-related factors were being taken into account. As the funding principle states that new tasks given to local government should be accompanied by sufficient resources this has led to situations where reforms are underfunded.

160. In her answer to the Rapporteurs, the Minister for Public Administration referred to efforts to ensure stronger involvement of local authorities in the estimation of cost implications of new State legislation. Proposals for new legislation are normally drafted by a committee or special investigator appointed by the Government and published as Swedish Government Official Reports (Statens offentliga utredningar). The proposals include calculated financial consequences for municipalities and regions. Adjustments according to the financing principle are based on those calculations. SALAR is often invited to nominate experts to advise committees and special investigators concerning new commitments for municipalities and region. Municipalities and regions are often consulted by the committees and special investigators regarding costs of proposals.

161. The Minister underlined that municipalities and regions, as well as SALAR, can also comment on the estimation of cost implications when they are consulted in the formal referral procedure of legislative proposals. When the Government Offices prepare legislation (often based on the proposals of committees/special investigators) that has financial consequences for municipalities and regions, an assessment is done by the Government Offices on the cost implications for those authorities. SALAR is consulted when this assessment is carried out. The estimated compensation for new commitments is finally added to the general grant to municipalities and regions in the state budget process (in accordance with the financing principle).

162. In Recommendation 357 (2014), the Congress recommended that local authorities get more involved in assessing the cost implications of all new government legislation to be implemented at local level. The financing principle is fundamental for the ability of Municipalities and Regions to implement state reforms in a judicious way. Therefore, it is important that economic regulation is carried out at the right level, with foresight and in consultation with representatives of the sector. It is also important that the Government's

40 Kommittédirektiv En ändamålsenlig kommunalekonomisk utjämning (regeringen.se).

calculation basis is transparent for both Municipalities and Regions, and for the Riksdag. In the aforementioned (s. comment to Art. 9.2.) Riksrevisionen report from 2018, the National Audit Office recommended to give committees sufficient support to make most calculations in accordance with the guidelines; moreover to invite representatives of Municipalities and Regions to participate with adequate timeframes to the preparatory work for municipal finance reforms.

163. Considering the aforementioned (also in the light of conclusions above under article 4.6) as well as discussions with local interlocutors during the monitoring visit, the rapporteurs conclude that Sweden does not comply with this paragraph of the Charter.

3.8.7 Article 9.7

164. Shortly after the ratification of the Charter by Sweden, a number of revisions were made. From 1993, twelve special grants were replaced by one general grant. In the 2005 monitoring report, the Congress raised a number of specific points of criticism that were seen as examples of unjustified central government interference in local matters. Some of the examples dealt with highly politicised issues, where the Social Democratic government had imposed stricter controls over local councils with a majority that wanted to carry out policies that the government could not accept. The government had decided to reduce general grants to those local authorities that sold off municipal housing, which would reduce the stock of housing for the less well-off. This was obviously a kind of 'earmarked' financial incentive, in order to 'persuade' municipalities, not to sell off municipal housing.⁴¹

165. In its reply to the monitoring report 2005, the government stressed that there had been a move from special to general grants and that this was perhaps a less relevant issue in Sweden, where 70 percent of local government funding came from their own taxes. It was not deemed necessary to further regulate the right to local taxation as no tax caps were planned. The system of equalisation was under review, and the draft proposal would significantly reduce transfers between local authorities, hence being in line with the recommendation of the Council of Europe.⁴²

166. The Swedish welfare state is built on the promise that citizens have equal access to public services regardless of their place of residence. This is a considerable challenge for the SNGs because the conditions for service provision and the revenue bases can vary in some territories. Apart from the fiscal equalisation system, grants can also contribute to the reduction of inequalities. An important grant reform was implemented in the early 1990s, which replaced the matching grant system with general grants. In addition to the general grant system, the central government also uses earmarked grants for specific purposes. Another reform took place in 2014. The general grant system for municipalities and regions in Sweden consists of three main parts: income equalisation grants (85% of the general grant), cost equalisation grants (9%), and structural grants (3%). In addition, there is a "transition grant" to ensure that the impact of the 2014 grant reform takes effect only over several years. There is also a grant to even out the residual between estimated municipal and regional costs and the general and specific grants they receive.

167. In her answer to the rapporteurs, the Minister of Public Administration underlined that municipalities and regions of Sweden operate under different conditions concerning geography and demography. The equalisation system is designed to compensate for these differences in a general way, while there are other grants designed to give specific support to municipalities faced with specific problems. In Sweden, the share of targeted government grants is significantly smaller than the share of general government grants. In 2019, targeted Government grants accounted for a total of 30% and 28% of the State grants to the Municipalities and Regions, respectively (excluding the State grants to the Regions for Läkemedelsförmånen: pharmaceuticals, which is of a special nature). 2019 is used as a baseline because the pandemic has temporarily increased the proportion of targeted state grants for both 2020 and 2021.

168. Even in the years preceding the pandemic, targeted funding was driven in response to provide temporary support to deal with the influx of refugees. Interlocutors from local authorities have pointed out, that the proportion of targeted funding and grants has increased slightly in recent years at the same time as the number has increased sharply in connection with 'soft steering' strategies of the national governments. Some of these interlocutors complained about the complexity of the procedures and the requirements to apply and/or receive targeted funding and grants. This situation would be a negative incentive with serious consequences since in some cases local authorities would be discouraged to apply for these grants. Targeted government grants made up about 6 percent of the municipalities 'and regions' revenues in 2019.

41 A. Lidström & T. Madell, *ibid.* p. 362.

42 *Ibid.*

169. Statskontoret's reports have shown that the targeted state grants have increased annually and in 2020 there were 183 targeted state grants compared with 165 the previous year ("Utveckling av den statliga styrningen av kommuner och regioner 2020", Statskontoret 2021). Most targeted government grants are in the areas of care and education. According to SALAR, examples of new targeted government grants that restrict local self-government are the equality grant in schools ("likvärdighetsbidraget"), which in 2020 amounted to about SEK 5 billion. The distribution of the grant is made on the basis of estimated needs, despite the fact that there is a model in the equalisation system with the same purpose. Other government grants in the school area are the teacher salary increase (introduced 1/7 2013) and career services (introduced in 2016, changed in 2020 when three career service grants were merged into one but divided into two pots). In elderly care there are now special-purpose grants in order to increase equalisation.

170. The rapporteurs are aware of the fact that in several cases the targeted grants cannot be avoided, especially when the Swedish welfare system has to match special challenges faced by some municipalities. The fact, however, that the number of these grants has considerably increased and in addition several representatives of local authorities complained about the complexity of procedures and requirements that discourage municipalities to apply for targeted grants should be recognized and faced through measures of systematisation and simplification. Nevertheless, the rapporteurs conclude that Sweden complies with this paragraph of the Charter, especially because the total share of earmarked grants in local and regional self-government revenue is comparatively low in Sweden.

3.8.8 Article 9.8

171. The Local Government Act contain rules on, for example, sound economic administration but every municipality and region define their objectives for sound economic administration. There is also a balance requirement demanding that each municipality and regions draw up a budget for the next calendar year in which the revenues exceed the costs. Fees charged for a municipal service may not exceed the cost of producing the service.

172. Since 1992, local governments have been required to exercise good financial management in their activities. The balanced budget requirement for the local government sector has been in place since 2000. This requirement means that every municipality and region must plan their budget to achieve balance which means a financial result of at least zero. The local governments also have to adopt guidelines for good financial management. In order to meet this requirement, local budgets are usually drafted following a conservative approach aiming for a 2-3% surplus. This rule is part of a wider fiscal policy framework, which was reinforced in June 2016 following a cross-party agreement to ensure the long-term sustainability and transparency of fiscal policy.

173. Municipalities and regions have the legal right to make autonomous decisions on their borrowing, without scrutiny or approval by the central government. Borrowing is nevertheless indirectly limited because all costs associated with the debt must be included in the balanced budget. There is no direct volume limit restricting local and regional governments' borrowing. In Sweden, local and regional government outstanding debt as a percentage of GDP is lower than the OECD average (16.4% vs 24.5%) but the share in total public debt is higher (27.3% vs 20.7%). It is made up of financial debt (65%), other accounts payable (20%) and insurance pensions. Financial debt comprises both loans (66% of outstanding financial debt) and bonds (34%).

174. According to the Ministry of Finance, the debts are expected to increase (especially in the municipalities) due to a high level of investments that is partly financed by loans. The investment expenditure has increased sharply in the last decade. Many municipalities have growing populations and need new premises for schools and preschools. At the same time, the increasing number of elderly people also increases the needs of investments in healthcare and elderly care. Older buildings and infrastructure also need to be renovated or replaced.

175. The rapporteurs conclude that Sweden complies with this paragraph of the Charter.

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

176. In 2018 a new Local Government Act (kommunallagen (2017:725), which applies to both municipalities and regions) was introduced. The new Act offers more possibilities for cooperation between municipalities and between regions. Local as well as Regional authorities can create regional or/and municipal association (kommunalförbund), joint committees (gemensam nämnd), jointly owned corporations and trusts. They can also cooperate through contracts in specific situations. Chapter 9 Art. 37 of the Local Government Act gives a clear legal competence for municipalities to co-operate purely based on agreements. The rule is also applicable between regions – but only to a limited extent between municipalities and regions. However there have been some concerns in relation to the regulations on public procurement. The Government recently gave The Swedish Agency for Public Management (Statskontoret) the task to analyse different forms of IMC and, if possible, identify measures that could be applied to make IMC more effective.

177. There are approximately 170 municipal associations in Sweden. Common areas of activity are rescue services, water and energy, labour market and education. The most common activity in joint committees is administration, for example public procurement, payroll management and telephone exchange. The regions collaborate on their main areas of competence - plans for regional development, infrastructure, public transport, culture, and health care. In the latter, regions cooperate primarily within six larger cooperation regions (samverkansregioner), especially when it comes to specialised medical services. there is broad cooperation in several areas such as ambulance aviation, for example. During the pandemic, collaboration between the regions was strengthened to support each other with the relocation of staff or patients to reduce workload / increase capacity across the regions all over Sweden. The cooperation regions have decided on different forms of legal structures for their cooperation.

178. The rapporteurs conclude that Sweden complies with the requirements of this paragraph of the Charter.

3.9.2 Article 10.2

179. The Swedish Association of Local Authorities and Regions (SALAR) is an organisation that represents and advocates local government in Sweden. All of Sweden's municipalities and regions are members of SALAR. The Association represents and advocates for local government by raising issues and influencing public opinion. SALAR has high quality staff that also provide scientific evidence and advice and speaks for its members in dialogue with the Government, Riksdagen (Swedish Parliament), government agencies, the EU and other key organisations. At the same time SALAR is an employers' organisation and members are municipalities and regions as the employers of more than one million people, which makes SALAR the largest employer organisation in Sweden. As an employer organisation SALAR signs central collective agreements works for the interests of its members and offers them support and service.

180. Agreements between the Government (or in some cases a State authority) and SALAR entail an arrangement between the parties to jointly achieve a desired development in a specific area. According to Statskontoret report ("Utveckling av den statliga styrningen av kommuner och regioner 2020", Statskontoret 2021) there were 26 agreements in 2020. This is roughly the same number as in recent years. According to Statskontoret report, there are significant differences in the length and financial size of the agreements. The majority of the agreements are time-limited and are renegotiated every year, while others are valid for 3-5 years or until further notice. To facilitate the municipal sector's handling of the pandemic, some existing agreements between the government and SALAR have been adjusted and new ones signed. For example, an agreement on increased national testing for covid-19 has been signed, which aims to increase test capacity.

181. The rapporteurs conclude that Sweden complies with the requirements of this paragraph of the Charter.

3.9.3 Article 10.3

182. Sweden cooperates closely with its neighbours and has, for example, recently enacted a law that allows workers in Sweden a right to leave of office in order to carry out political assignments in local and regional authorities in other EU/EEA countries, the United Kingdom and Switzerland. There is also significant cooperation between Sweden and the neighboring countries regarding rescue-cooperation and health care. Moreover, the EU Regulation No 1082/2006 of the European Parliament and of the Council of July 2006 on a European grouping of territorial cooperation can be used to promote transborder cooperation between municipalities and regions. Examples of particularly close cooperation can be found in the northeast of Sweden through, for example, a European Grouping of Territorial Cooperation named the Kvarken Council, which brings together Swedish and Finnish municipalities and regions.

183. The city of Haparanda-Torneå is a notable example of transborder cooperation between Sweden and Finland: education, culture and infrastructure are some of the key areas common to the "two" cities. This close cooperation was severely affected under the pandemic when the borders were closed. One effect was that people were not able to go to work, but there were also more indirect effects. As Sweden and Finland had different approaches regarding COVID-strategies, a sentiment of mistrust and fear towards "the other side" appeared in social media, news and discussions around the fika table. But in other cases current events push regions to take new cooperation initiatives, as is currently the case with the refugee crisis in Ukraine.

184. Another example of transborder cooperation is Interreg Öresund-KattegatSkagerrak (Sweden, Norway and Denmark) that provides support for joint Scandinavian projects for societal development. Some of the topics are innovation, low-carbon economy, transport and employment. Öresund cooperation has a focus on skills development and education, improved supply and demand for skills, increased coordination of employment measures, and reciprocal recognition of professional qualifications in Denmark and Sweden for example.

185. Transfrontier co-operation has been an issue in a few border regions in more sparsely populated areas – for example on the border to Norway and in the area of Haparanda and Torneå. According to Swedish government officials, this kind of co-operation is complex, and raises a wide variety of legal issues and creates strains in the legal system. It is unlikely that the answer to these issues is to be gathered through an ECG. The Protocol has not been ratified by the countries that Sweden shares a border with and there is no ongoing process in Sweden for the signing or ratifying of the protocol. Therefore, it seems that a ratification of the Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings is not going to take place in the foreseeable future.

186. The rapporteurs would nevertheless encourage the Swedish authorities to reconsider their stand and proceed with the ratification of the aforementioned Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation. Regardless of this aspect, the rapporteurs conclude that Sweden complies with the requirements of this paragraph of the Charter.

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.

187. The municipalities and regions are free to initiate proceedings in the Swedish court system concerning concrete legal disputes, for example by appealing decisions of state administrative agencies. All courts have the power to perform concrete constitutional judicial review. The principle of local self-government may occasionally come into consideration by the courts when exercising judicial review in concrete cases (chapter 14 of the Instrument of Government). According to these provisions a court, if it finds that a specific provision is in conflict with the Constitution or another provision laid down in a superior law, may not apply that provision. In Sweden, judicial review is thus, as already mentioned, a judicial review in concreto and the courts may not declare an act invalid (see for example The Supreme Court's judgement of 28 September 2018, NJA 2018 s. 743, paragraph 14–41).

188. The issue of the legal protection of local self-government through some kind of judicial remedy was already discussed in the 2005 monitoring report; the corresponding recommendation 163/2005 recognised that 'this might mean a Constitutional Court, although it is understood that this option is not widely favoured in Sweden even among the local authorities themselves'⁴³. But the rapporteurs underlined the need to even out the balance of power between Parliament and local government, not least in questions of funding. Therefore, it was suggested that a standing Parliamentary Committee on local self-government should be set up, that could hear both sides, i.e. both the state and local government.

189. During the process of the constitutional amendment, the responsible sub-committee considered the alternatives proposed by the rapporteurs but ended up with a weaker suggestion, namely, to give the Council on Legislation (Lagrådet), a legal advisory body⁴⁴, an additional task of assessing how new laws affect local self-government. In fact, this was eventually included in the revised Instrument of Government in 2011

⁴³ Chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://rm.coe.int/local-and-regional-democracy-in-sweden/1680719ab8

⁴⁴ Chapter 8: Council on Legislation. Art. 20: There shall be a Council on Legislation which includes justices, or, where necessary, former justices of the Supreme Court and the Supreme Administrative Court, to pronounce an opinion on draft legislation. More detailed rules concerning the composition and working procedures of the Council on Legislation are laid down in law.

(Chapter 8, Article 21). The opinion of Lagrådet should be obtained before the Riksdag takes a decision on 'an act of law relating to local taxation or an act of law involving the obligations of local authorities'. Following these amendments, the principle of local self-government as it is expressed in chapter 14 of the Instrument of Government is primarily to be observed during the law-making process, including the Swedish system of referrals but also the public debate. In this context the judicial preview conducted by the Council on Legislation has an important role to play⁴⁵.

190. The Council of Europe's second monitoring report in 2014, was generally positive to the changes that had been made since 2011. The new function of the Council of Legislation would be sufficient to meet the requirements of the Charter, and it was also acknowledged that local government obtained the right to turn to the Supreme Administrative Court if the "funding principle" (the principle of 'commensurability' in the wording of art. 9.2 in the Charter) is violated by a central government allocating new obligations to local government without providing the necessary funding. In some cases, the court has to balance the individual rights of persons and the independence of local government. An example of a fairly recent appeal to the Supreme Administrative Court (HFD 2018 ref. 75) from a municipality concerns the power of a municipality to enact regulations prohibiting begging in certain areas. A county administrative board had found that the municipality had exceeded its competence, but the Supreme Administrative Court ruled in favour of the municipality.

191. As underlined by interlocutors from the Supreme Administrative Court during the last monitoring visit in 2022, a municipality or a county council can be a party before the court and claim its rights towards a central authority, for example in cases concerning the right to compensation for costs for refugees (HFD 2017 ref. 3). A few years ago, the court had ruled in favour of a municipality in a number of cases concerning the right to compensation for costs for refugees (HFD 2013 ref. 19). It also ruled (in 2015) that Regions should obtain the funding required for psychiatric services. On the other hand, decisions of local authorities can be challenged in the courts, as it happened with the case of a municipal decision to ban burqas, pending at the Court.

192. Decisions by local authorities based on legislation which are characterized by the fact that individuals can base their claim on "rights" may be subject to appeal by these individuals before administrative courts. When adjudicating such cases, the administrative courts do not only act as courts of cassation but may also examine the suitability of a decision. The judgements delivered by the administrative courts may therefore have an impact on the scope of the obligations and costs of the local authorities. Other decisions by municipalities may be subject to legality review (laglighetsprövning) according to the provisions in chapter 13 of the Local Government Act. In these cases, the administrative courts act as courts of cassation.

193. The Swedish system of judicial review appears to be efficient, also regarding the times needed for court decisions. A decision of an administrative court at first instance would normally require a period 3-6 months and the same applies for decisions in the second instance. The main role of the Supreme Administrative Court is to deal with cases where legal precedents are deemed necessary. To this end, about 1% of cases pending at the second instance (usually a total of 7.000 cases are subject to appeal per year) are selected, and around 70 precedential decisions are published (within a time span of 3-6 months after selection) every year.

194. Along with other Nordic countries, Sweden does not possess a constitutional court. Even though, as already mentioned, judicial review of constitutionality by other courts is possible, Swedish judges are usually unwilling to enter the political sphere and tend to maintain their role as administrators of the law rather than become participants of law-making. After all, the Swedish constitution is flexible to change. Therefore, a constitutional court is often perceived as a threat to democracy (since the judges are not elected) and problematic to the separation of powers. Taking into consideration the Swedish legal and political tradition, the fact that the system of justice is very efficient and the aforementioned, the rapporteurs consider that Sweden complies with the provisions of Article 11 of the Charter.

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

195. The regions, and to a lesser extent, the municipalities have the main responsibility for providing healthcare in Sweden. They have retained this responsibility during the Covid-19 pandemic, which of course means that they have been put under strong pressure.

45 A. Lidström & T. Madell, *ibid.*

196. The Government stated early on during the pandemic that the State would cover the regions' and municipalities' Covid-related costs, and has done so. The Government has for example raised the general state grants and entered into agreements with SALAR on testing and vaccination which guaranteed that the regions received adequate compensation.

197. At the same time, the cost increase in the municipalities was low between 2019 and 2020. This is mainly explained by the fact that the pandemic has limited certain activities in the municipalities. The pandemic has, however, had a major impact on the cost increase in elderly care and health care.

198. Significant funds have been provided to municipalities and regions for the additional costs that the pandemic has caused, but also to support the regions' management of health care that has been postponed due to the pandemic. Funds have also been set aside to strengthen elderly care and increase staff competence.

199. Consequently, both municipalities and regions have reported positive financial results throughout the pandemic. There have also been few limitations on their self-government as a result of government action due to the pandemic. Several state administrative agencies were given specific instructions from the Government to aid the municipalities and regions in different ways.

200. The corona pandemic has put society as a whole under extensive strain. For sectors such as education, health and elderly care, this has required extraordinary efforts and rapid changes. Many temporary measures and initiatives have been required to deal with the consequences of the pandemic, such as targeted government grants for testing and vaccination. Another aspect is, however, the large 'healthcare debt' that remains because many operations could not be performed during the pandemic when intensive care was required for Covid patients. SALAR claims that at the same time, there have continued to be a growth in Government control mechanisms that are not linked to the pandemic.

201. Concerning the impact of the refugee crisis caused by the Russian war against Ukraine, it should be first mentioned that very early, the leadership of all 310 municipalities and regions were invited to meetings with the Minister for Public Administration, the Minister for Migration, and representatives from the Swedish Migration Agency to discuss the challenges faced by municipalities and regions due to the war. There have also been continual dialogue on different levels with SALAR.

202. The Mass Refugee EU-Directive to which Ukrainian refugees are subject means that they are granted temporary protection and receive a residence permit and work permit for a limited period. However, unlike others who have been granted a residence permit in Sweden, the Mass refugee is covered by the same legislation as an asylum seeker. This means, among other things, that they do not have the right to register, nor do they have access to the integration initiatives that are normally offered to refugees through the establishment programme (run by the Public Employment Service), social orientation, Swedish for immigrants (sfi) and other adult education. This obviously reduces the municipalities' ability to actively work with integration initiatives.

203. A new task for municipalities does not by definition mean a restriction in the municipal self-government, but if funding is lacking or if the way of organizing the task is constrained, the intervention needs to be assessed to see if it is proportional, or if the needs for intervention can be met in a less intrusive way. A new bill is on the table, intended to enter into force on 1 July this year, which means that the Swedish Migration Agency will be allowed to direct a municipality to arrange accommodation for people with a residence permit with temporary protection, while the authority retains the main responsibility for reception. The new bill would mean that it would be mandatory for municipalities to receive refugees from Ukraine.

204. Corresponding systems already exist for other refugees who have been granted a residence permit. The purpose of the new law is to ensure a more even distribution of Ukrainian refugees between municipalities. Many municipalities are positive to the proposal. However, the refugees still have the opportunity to settle wherever they want on their own, provided that they find accommodation themselves.

205. According to SALAR, local finances are affected by the fact that the state compensation does not cover all costs / additional costs that the municipalities have for the reception, this applies to e.g. costs for school and social care. This becomes especially noticeable for the municipalities in times when many refugees arrive. The municipalities have assisted the state regarding the reception of refugees from Ukraine, for example by providing evacuation accommodation. The municipalities were able to quickly prepare the housing and also granted financial assistance to people who have needed support before the state paid daily allowance has started. The state has in turn provided municipalities with scenarios of how many refugees

from Ukraine are projected to arrive, which has (despite uncertainty on the numbers) has given some help to the municipalities' planning process. SALAR has had an ongoing dialogue with relevant government agencies since the refugee crisis began. Collaboration forums have also been formed at all levels, as well as working groups with relevant actors in affected areas such as housing, compensation, and regulations.

206. As already mentioned, those who have been granted a residence permit in accordance with the Refugee Directive and who are not registered in Sweden must be offered care on the same terms as those who are asylum seekers. The regions offer health and dental care and their costs are covered by the state as follows:

- a standard allowance that is provided with a certain amount per quarter and person;
- special compensation if the cost of a care contact amounts to more than SEK 100,000;
- a standard allowance for a completed health examination per person, including health interviews and the cost of an interpreter in connection with the health examination.

The benefits are regulated in an ordinance on state compensation for health and medical care for asylum seekers and apply to those who have been granted a residence permit under the Mass Refugee Directive.

207. In Sweden, the State is responsible for the reception of refugees from Ukraine. The state reimburses municipalities and regions for the costs of mandatory services that they provide, for example education and healthcare. Accommodation has previously been a state responsibility but new legislation came into force the 1 of July 2022. The State will still be responsible and will reimburse the costs, but the municipalities will provide accommodation for a number of refugees from Ukraine. A grant has also been decided with the purpose of compensating the municipalities for unforeseen costs associated with receiving refugees from Ukraine.

208. Several state administrative agencies have been given specific tasks. For example, the county administrative boards have been given the task to continuously compile information about the consequences in municipalities and regions. The Swedish National Agency for Education have been given several tasks to aid the municipalities in providing the refugees with access to education.

209. Some other challenges for local and regional democracy mentioned by interlocutors during the monitoring visit include: the demographic challenges with an aging population that will need more welfare services. Municipalities and regions need to invest and prepare for this development but also try to find new solutions by, for example, using digital tools and cooperating more closely. Many municipalities and regions face problems of increased cohorts of children and older people and a corresponding declining share of the population contributing tax payments to welfare. The Government has recently appointed (Dir. 2021:110) a special investigator tasked with promoting the development of innovative solutions to these and other problems facing municipalities and regions. Another challenge is posed by issues of welfare crime against municipalities and regions, which leads to inappropriate influence as well as conflicts of interest. In this area there is need for increased information, competence, and knowledge.

5. CONCLUSIONS AND RECOMMENDATIONS

210. This report is the third monitoring of the European Charter of Local Self-Government in Sweden, which is a country with a very strong tradition of democratic institutions, local self-government and social welfare. Sweden is characterised by high standards of local democracy, human rights and social solidarity. The rapporteurs would also like to praise the wide scope of responsibilities belonging to local and regional authorities and the high levels of organisational and personnel autonomy which offer many possibilities to develop relevant policies and choose the appropriate measures for their implementation. In addition, the high turnout in municipal and regional elections, as well as the comparatively high percentage of women elected in elective offices of municipalities and regions reflect a high level of trust in the political process and inclusive political institutions.

211. Sweden is exposed to challenges faced by all European nations, such as the climate change and the environmental crisis, the demographic change, and the emergence of new, much more complex and diverse societies displaying a plurality of values and ways of living. As a country characterised by an extensive and generous welfare state financed through taxation that also manages to combine low levels of inequality with economic competitiveness, Sweden has to sustain high levels of social capital and human development. Thereto, the contribution of local and regional self-government is of cardinal importance, as it also is for coping with crisis situations, such as the covid pandemic or the recent refugee influx from Ukraine.

212. On top of the positive developments is the establishment in 2019 of fully-fledged regional self-governments that have the responsibility for regional development, healthcare, dental care for children, and

regional and local (together with the municipalities) public transport. Especially the uniform regional development responsibility following this reform increases clarity as well as local democratic accountability of the regional growth work. On the other hand, the existence of a two-tier system of territorial self-government within the Swedish system of multi-level governance, makes formal, systematic and efficient consultation even more necessary (s. below).

213. Another positive finding of the monitoring mission is the implementation of proportionality review and the practice of granting local and regional authorities a leeway of initiative that lead to the conclusion that a formal introduction of the subsidiarity principle would not be necessary or could even restrict flexibility within the Swedish context. In reality, public responsibilities are exercised by preference by the authorities who are closest to the citizen. A further elaborated proportionality check in combination with a formalized and considerably more developed system of consultation is the efficient way to ensure that the very high level of responsibility decentralisation in Sweden will be sustainable in the future.

214. Notwithstanding the foregoing findings of the overall very good picture of local and regional democracy in Sweden, the rapporteurs examined some problematic aspects as well as the implementation of different points and suggestions of the previous recommendation 357/2014 and came to the conclusion that some of the issues raised in the previous monitoring report still persist.

215. In some cases, new obligations are imposed by the state on municipalities and regions without granting sufficient space for discretion (mainly due to detailed regulations).

216. There is a shift in the division of roles between state governance and local/regional self-government, at the cost of the latter, due to new rules and guidelines, methods and instruments of governance launched by the state.

217. Indexation of grants is necessary in order to ensure that financial resources are buoyant and commensurate with the responsibilities of local and regional self-governments.

218. The aforementioned problems could be resolved if Sweden establishes formal consultation procedures that include more policy areas, and would match the criteria of the Congress, also in line with relevant guidelines of the Congress.

219. Elected representatives in some cases faced hate speech, threats and even violence.

220. In view of the aforementioned, the rapporteurs consider that the Swedish authorities should be invited to:

- Grant local and regional authorities sufficient space for discretion, whenever they impose new obligations on them;
- Refrain from by-passing local authorities through new methods and instruments of governance and policy implementation and find, instead, ways for their inclusion in these new governance and policy implementation arrangements;
- Introduce an elaborated system of indexation for state grants, following appropriate consultation procedures;
- Establish formal consultation procedures that include more policy areas, and would match the criteria of the Congress, also in line with relevant guidelines of the Congress;
- Introduce additional measures in order to protect elected representatives from threats and violence;

APPENDIX – Programme of the Congress monitoring visit to Sweden

CONGRESS MONITORING VISIT TO SWEDEN
Stockholm, Uppsala, Östhammar
(5-7 April 2022)

PROGRAMME**Congress delegation:**Rapporteurs:

Mr Harald BERGMANN

Rapporteur on Local Democracy
 Chamber of Local Authorities, ILDG⁴⁶
 Member of the monitoring committee of the Congress
 Mayor of Middelburg, The Netherlands

Mr Matija KOVAC

Rapporteur on Regional Democracy
 Chamber of Regions, EPP/CCE¹
 Member of the governance committee of the Congress
 Member of the Assembly of Autonomous Province of
 Vojvodina (Novi Sad), Serbia

Expert:

Prof. Nikos CHLEPAS

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

Congress Secretariat:

Ms Stéphanie POIREL

Head of Division of Statutory Committees of the Congress
 and Secretary to the Monitoring Committee

Interpreters:

Ms Louise RATFORD

Ms Maria HEMPH

The working languages, for which interpretation is provided during the visit, will be English and Swedish.

⁴⁶ 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.

**Tuesday, 5 April 2022
Stockholm**

**JOINT MEETING WITH THE NATIONAL DELEGATION OF SWEDEN TO THE
CONGRESS AND WITH NATIONAL ASSOCIATIONS**

- SWEDISH ASSOCIATION OF LOCAL AUTHORITIES AND REGIONS (SALAR)

Welcome by Mr Anders KNAPE, President

SALAR Executive Committee members
Mr Staffan ISLING, Managing Director

- NATIONAL DELEGATION OF SWEDEN TO THE CONGRESS⁴⁷

Mr Anders KNAPE, Head of Delegation, Mayor of Karlstad
Ms Cecilia DALMAN EEK, Member of the regional Council, Västra Götaland
Mr Jan BOMAN, Mayor, Borlänge
Ms Jelena DRENJANIN, Member of the municipal Assembly, Huddinge
Mr Johan ROCKLIND, Mayor, Gnesta
Mr Michael ROSENBERG, Member of the municipal Assembly, Helsingborg
Ms Amelie TARSCHYS INGRE, Member of the municipal Assembly, Lidingö
Mr Thomas ANDERSSON, President of the regional Council, Jämtland & Härjedalen
Mr Magnus BERNTSSON, Member of the regional Council, Västra Götaland
Mr Kristoffer TAMSONS, Member of the regional Council, Stockholm region
Mr Karin THOMASSON, Member of the regional Council, Jämtland and Härjedalen
Ms Azra MURANOVIC MUJAGIC, Member of city council, Värnamo

- INDEPENDENT EXPERT (GIE)

Dr Anders LIDSTRÖM

CITY OF STOCKHOLM

Ms Anna KÖNIG JERLMYR, Mayor
Ms Cecilia BRINCK, President of the City Council

PARLIAMENT

Mr Andreas NORLÉN, Speaker

**Wednesday, 6 April 2022
Stockholm**

SUPREME ADMINISTRATIVE COURT

Mr Henrik JERMSTEN, Justice and Vice-President of the Supreme Administrative Court
Ms Helen LIDÖ, Judge referee

PARLIAMENTARY OMBUDSMEN

Mr Per LENNERBRANT, Parliamentary Ombudsman (since 2019)
Ms Charlotte HÅKANSSON, Head of Division
Ms Maria WAGERMARK, Head of Division
Ms Charlotte DE GEER FÄLLMAN, Senior Legal Adviser

⁴⁷ As of 10/03/2022.

MINISTRY OF FINANCE & MINISTRY FOR PUBLIC ADMINISTRATION

Ms Ida KARKIAINEN, Minister for Public Administration

Mr Peder BJÖRK, Political Adviser

Ms Christina FREDIN, Deputy Director-General of Regional Department

Mr Håkan ERIKSSON, Deputy Director

Ms Maria ANTONSSON, Desk officer

Mr Lars KARLANDER, Desk officer

Thursday, 7 April 2022
Uppsala, Östhammar

UPPSALA CITY HALL

Ms Eva EDWARDSSON, President of the City Council

Mr Erik WEIMAN, President of the Regional Council

ÖSTHAMMAR CITY HALL

Mr Jacob SPANGENBERG, Mayor

Mr Roger LAMELL, Chair of the municipal Council

Mr Peter NYBERG, municipal Manager