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The application of the European Charter of Local Self-Government in the smallest States

Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (Monitoring Committee)

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Draft resolution (for vote) 3
Draft recommendation (for vote) 5
Explanatory memorandum (for information) 7

Summary

This report evaluates the implementation of the European Charter of Local Self-Government across the smallest member States of the Council of Europe, namely Andorra, Liechtenstein, Malta, Monaco and San Marino.

Drawing on Congress monitoring reports, reports on recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and election observation missions, the report makes it clear that the Charter applies uniformly to all member States, regardless of their size or the number of subnational government tiers. Each of the smallest States has ratified the Charter and while monitoring takes account of varied national contexts, no significant size-related obstacles fundamentally differentiate these States from others with respect to the Charter.

Legally, the Charter's binding nature is affirmed by the Vienna Convention on the Law of Treaties, which stipulates that States may not invoke provisions of their internal law to justify non-compliance. Furthermore, the Charter allows an "à la carte" system in the acceptance of its core principles at the time of ratification, thereby ensuring adaptation to evolving circumstances.

The Congress highlights the importance of strict adherence to international law and the avoidance of double standards in monitoring procedures. Additionally, member States, including the "smallest States", are encouraged to ratify the provisions of the Charter with which they already comply de facto, by lifting the reservations they entered when ratifying the Charter. Those smallest States that have not yet ratified the Additional Protocol to the Charter on the right to participate in the affairs of a local

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
PfE: Patriots for Europe Group
NR: Members not belonging to a political group of the Congress

authority are encouraged to do so, thus ensuring effective and inclusive local democracy regardless of territorial size.

DRAFT RESOLUTION[2]

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

a. the Statute of the Council of Europe (ETS No. 001);

b. the European Charter of Local Self-Government (ETS No. 122) ("the Charter") and its Additional Protocol on the right to participate in the affairs of a local authority (CETS No. 207);

c. the Reykjavík Declaration, adopted at the Fourth Summit of Heads of State and Government of the Council of Europe (Reykjavík, 16 and 17 May 2023), highlighting the need to support the essential role of multilevel governance in delivering the Organisation's vision, including through the role of the Congress with respect to the implementation of the European Charter of Local Self-Government;

d. 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";

e. 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;"

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

g. the Congress monitoring reports and recommendations on the implementation of the European Charter of Local Self-Government in the Council of Europe member States;

h. the Vienna Convention on the Law of Treaties (1969), in particular its Article 27, according to which "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty;"

i. the Draft articles on Responsibility of States for Internationally Wrongful Acts (2001).

2. The Congress:

a. highlights the geographical, historical, economic and social diversity of the signatory States to the Charter;

b. notes that, for the purpose of this report, the term the "smallest States" shall refer to member States with a very small territorial size, namely Andorra, Liechtenstein, Malta, Monaco and San Marino;

c. notes that the Charter makes no distinction between countries based on their territorial size, or on the number of levels of local governance;

d. points to the absence of specific issues that would significantly distinguish the "smallest States" from other member States, based on the findings of reports identifying recurring issues in the application of the Charter;

e. highlights that Article 12 of the Charter allows for an "à la carte" system in the acceptance of its core principles at the time of ratification;

f. underlines that monitoring of the application of the Charter is a sui generis procedure, which is not purely legal but also political; it is not intended to sanction non-complying States, but rather to encourage and support all member States of the Council of Europe in applying the principles of local self-government.

2. Approved by the Monitoring Committee on 1 April 2026.

3. The Congress invites its Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the Respect of Human Rights and the Rule of Law at local and regional levels (Monitoring Committee) to:

a. continue monitoring the application of the Charter, taking into account the geographical, historical, economic and social diversity within the Council of Europe;

b. continue operating strictly within the limits established by the Charter and in full compliance with international law, ensuring that no double standards are applied in the interpretation of the Charter, including in relation to the smallest States;

c. update the Contemporary Commentary on the Explanatory report to the European Charter of Local Self-Government in light of modern-day realities with particular attention to the smallest States.

DRAFT RECOMMENDATION[3]

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

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b. the European Charter of Local Self-Government (ETS No. 122) ("the Charter") and its Additional Protocol on the right to participate in the affairs of a local authority (CETS No. 207);

c. the Reykjavík Declaration, adopted at the Fourth Summit of Heads of State and Government of the Council of Europe (Reykjavík, 16 and 17 May 2023), highlighting the need to support the essential role of multilevel governance in delivering the Organisation's vision, including through the role of the Congress with respect to the implementation of the European Charter of Local Self-Government;

d. 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";

e. 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;"

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

g. the Congress monitoring reports and recommendations on the implementation of the European Charter of Local Self-Government in the Council of Europe member States;

h. the Vienna Convention on the Law of Treaties (1969), in particular its Article 27, establishing that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty";

i. the Draft articles on Responsibility of States for Internationally Wrongful Acts (2001).

2. The Congress:

a. highlights that local democracy is a pillar of any genuine democracy, as enshrined in the Statute of the Council of Europe;

b. emphasises that the Charter, as an international treaty establishing the European standards of local self-government, must be interpreted in accordance with the Vienna Convention on the Law of Treaties;

c. points to the geographical, historical, economic and social diversity of the States Parties to the Charter and considers that the open structure of the Charter is intended to accommodate this diversity;

d. notes that some States are notable for their very small size and, for the purpose of this report, the term the "smallest States" shall refer to Andorra, Liechtenstein, Malta, Monaco and San Marino;

e. points out that the Charter makes no distinction between countries based on their territorial size or on the number of levels of local governance;

f. notes that Congress reports identifying recurring issues in the application of the Charter reveal no specific challenges affecting the smallest States that would distinguish them from other member States with regard to the application of the Charter;

3. Approved by the Monitoring Committee on 1 April 2026.

g. emphasises that Article 12 of the Charter allows for an “à la carte” system in the acceptance of the core principles of the Charter at the time of ratification;

h. underlines that monitoring of the application of the Charter is a sui generis procedure, which is not purely legal but also political; it is not intended to sanction non-complying States, but rather to encourage and support all member States of the Council of Europe in applying the principles of local self-government.

3. In the light of the foregoing, the Congress invites the Committee of Ministers to:

a. call on the member States, including the “smallest States” to ratify the provisions of the Charter with which they already comply de facto, by withdrawing the reservations they entered when ratifying the Charter;

b. call on the member States that have not yet done so, including the smallest States, to ratify the Additional Protocol to the Charter on the right to participate in the affairs of a local authority.

EXPLANATORY MEMORANDUM[4]

Table of contents

DRAFT RESOLUTION....3

DRAFT RECOMMENDATION....5

EXPLANATORY MEMORANDUM....7

1. INTRODUCTION....8

2. THE SMALLEST STATES WITHIN THE COUNCIL OF EUROPE....10

3. THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT IN THE SMALLEST STATES....11

4. RECURRING ISSUES RELATED TO THE APPLICATION OF THE CHARTER IN THE SMALLEST STATES....13

5. INTERPRETATION AND APPLICATION OF THE CHARTER IN THE LIGHT OF THE VIENNA CONVENTION ON THE LAW OF TREATIES....17

6. CONCLUSIONS....19

4. This explanatory memorandum has been prepared with the contribution of Prof. Tania GROPPI, Vice-President of the Group of Independent Experts on the European Charter of Local Self-Government and adviser to the Congress on constitutional matters.

1. INTRODUCTION

1. Among the member States of the Council of Europe, there is considerable geographic and demographic diversity. This includes the fact that some States are of a very small size. These are sometimes described as “microstates”, although there is no universally accepted definition of what constitutes a microstate.[5] While a variety of other terms can be found in the literature, including village States, mini States, small States, dwarf States, and miniature States,[6] for the purpose of this report, we will use the term “smallest States.”

2. “Smallest State” is not generally regarded as a legal term of art. There is no authoritative legal definition.[7] Scholars and policymakers have arbitrarily determined criteria to help identify and define smallest States. Consequently, there are many different and competing definitions.[8] In general, “the smallest” signifies an extreme smallness in size when referring to sovereign statehood: these are the smallest of small States. Accordingly, the two main elements of statehood – population and territory – are considered,[9] although no prevailing criterion exists, either in the literature or in international documents.

3. The issue of “small States” or “smallest States” emerged within the United Nations in the context of decolonisation and admission of new member States.[10] In the 1960s, a debate on the possibility of introducing admissibility criteria related to the size of a country emerged, notably on the occasion of the admission of Maldives Islands, on 20 September 1965. In the 1967 annual report, the Secretary General referred to the possibility of “laying down the necessary limitations on full membership while also defining other forms of association which would benefit both the ‘Microstates’ and the United Nations.”[11] However, limitations were not introduced, and the only admissibility criterium to the UN was statehood.

4. According to United Nations practice, “small States” are those with limited population, territory, and economic capacity, often facing particular governance and development challenges, though no strict numerical thresholds are applied.[12] The United Nations does not distinguish “small States” as a separate category and provides development assistance to them on the same basis as for larger countries, although in some documents the specific development needs of the smaller member States have been considered.[13]

5. While small States differ considerably among themselves in terms of their geography, history, political structure, legal system and wealth, they are nevertheless deemed to face a plethora of common challenges as a direct or indirect result of their (small) size. These include an openness to external economic impacts and shocks, an excessive dependence from one economic activity, limited public and private sector capacity, and a thin legal, governmental and judicial infrastructure. On the other hand, small States can also be flexible and adaptable, serve as sites of social development and innovation, engage in norm entrepreneurship, experience closeness between citizens and politicians producing a non-hierarchical society, operate under the international radar, and exert an influence on world affairs that is disproportionate to their size.[14]

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5. Baldacchino G., Wivel A. (2020), *Small States: Concept and Theories*, in Baldacchino G., Wivel A. (eds), *Handbook on the Politics of Small States*, Edward Elgar Publishing, p. 3; Adam L. (1995), *Le concept de micro-État: États lilliputiens ou parodies d'États?*, in *Revue internationale de politique comparée*, p. 577; Duranthon A. (2012), *Qu'est-ce qu'un micro-état aujourd'hui ? L'exemple des micro-états d'Océanie*, in *Revue française de droit constitutionnel*, pp. 785 -797.
6. Lukaszewski M. (2011), *Research on European Microstates in Social Science, Selected Methodological and Definitional Problems*, in *Ad Alta. Journal of Interdisciplinary Research*, no. 2, pp. 74-77.
7. Grant T. D., *Micro States*, in *Max Planck Encyclopedia of Public International Law*, February 2013, online.
8. Simpson A. (2022), *On the Identification and Definition of Microstates*, in *Journal of International Affairs*, pp. 67-80.
9. Duursma J. (1996), *Fragmentation and the International Relations of Micro-states*, Cambridge University Press, pp. 2-3.
10. Rapoport J.G. (1965), *The participation of Ministates in International Affairs, Proceedings of the American Society of International Law at Its 62d Annual Meeting*, (Apr. 25-27, 1965), Washington, 55 ss. Saint-Girons B. (1972), *L'Organisation des Nations Unies et les micro-États*, *Revue générale de droit international public*, p. 445.
11. Doc. A/6701/Add. 1, para. 165.
12. The definition of “microstate” or “smallest State” based on the general sense of “extreme smallness” in statehood by selecting three quantitative indicators that are important to States is attributed to U Thant, a former UN Secretary General: Y. Ogashiwa, *Micro-States and Nuclear Issues*, University of the South Pacific, 1991, p. ix.
13. United Nations, Joint Inspection Unit, *A Review of the Specific Development Needs of Small Member States and the Responsiveness of the United Nations Development System to These Needs*, Geneva 1993.
14. Baldacchino G. (2023), *Reproposing the Small State*, in G. Baldacchino (ed), *The Success of Small States in International Relations: Mice that Roar?*, Routledge.

6. In Europe, the number of States considered "smallest States" varies depending on the criteria used. Some authors identify seven : Andorra, Liechtenstein, Luxembourg, Malta, Monaco, San Marino, and the Vatican City State, due to both their territory and population size.[15] Others list five States, namely Andorra, Lichtenstein, San Marino, the Vatican City, and Monaco.[16] Others list six European "smallest States": the Principalities of Andorra, Liechtenstein and Monaco, the Republics of Malta and San Marino, and the Vatican City State.[17] Others, based on a socio-historical review, identify seven States, Andorra, Liechtenstein, Monaco, Malta, San Marino, Vatican City and, surprisingly, the Sovereign Order of St. John.[18]

7. This report will adopt a perspective based on territorial size, considering as "smallest States" those member States with the smallest territories. Since it addresses the application of the Charter of Local Self-Government, it will focus on the "territorial" dimension of State power organisation: local authorities, as referred to in the Charter, are in fact territorial authorities.[19] As pointed out by the Explanatory Report to the Outline Convention on Transfrontier Cooperation (1980), "'territorial' has a geographical connotation, denoting powers covering a smaller area than that of the State".[20]

8. According to this criterion, a group of five States clearly stands out: from the smallest to the largest, Monaco, San Marino, Liechtenstein, Malta and Andorra. The ranking based on population does not fully correspond to that based on territory, due to Malta's relatively large population. However, considering the country's small territorial size, island status, and the specific rules governing the attribution of Maltese citizenship,[21] it can be argued that Malta may also be classified as a "smallest State", for the limited purposes of this report.

Table 1: Council of Europe Ten Territorially Smallest Countries (Smallest to Largest)

Council of Europe Member States by Size (Smallest to Largest)

Rank	Country	Area (km^2)
1	Monaco	2.02
2	San Marino	61
3	Liechtenstein	160
4	Malta	316
5	Andorra	468
6	Luxembourg	2,586
7	Cyprus	9,251
8	Montenegro	13,812
9	North Macedonia	25,713
10	Albania	28,748

Population

1. **San Marino – 34 000**
2. **Monaco – 38 000**
3. **Liechtenstein – 40 000**
4. **Andorra – 88 000**
5. **Iceland – 389 000**
6. **Malta – 542 000**
7. **Luxembourg – 672 000**
8. **Cyprus – 934 000**
9. **Estonia – 1375 000**
10. **North Macedonia – 1 826 000**

Source: Own elaboration based on approximate official data

15. Eccardt T. (2005), *Secrets of the Seven Smallest States of Europe*, Hippocrene Books Inc.
16. Duursma J. (1996), *Fragmentation and the International Relations of Micro-states*, Cambridge University Press.
17. Bertolini E. (2020), *The Constitutional Identity of European Micro States and the Continental Integration Mechanisms. The Influence of the Diminutive Size*, in *ICL Vienna Journal on International Constitutional Law*, 2, p. 133.
18. Christian Klieger P. (2014), *The Microstates of Europe*, Lexington books.
19. Boggero G. (2018), *Constitutional Principles of Local Self-Government in Europe*, Brill, p. 88.
20. Explanatory Report to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities Madrid, 21.V.1980, para. 24.
21. Judgment of the ECJ, Case C-181/23, Commission v Malta (Citizenship by investment).

2. THE SMALLEST STATES WITHIN THE COUNCIL OF EUROPE

9. The smallest States have not received particular attention from the Council of Europe. Membership in the Council of Europe may, however, have an impact on the constitutional architecture of aspiring States, as applicants must meet specific criteria and continue to fulfill them once admitted. Article 3 of the Statute of the Council of Europe establishes the requirements for joining the organisation: the protection of fundamental rights and freedoms, the rule of law, and democracy. Additional requirements may also be recommended, based on the advice of the Parliamentary Assembly.

10. Malta joined the Council of Europe in 1965, shortly after gaining independence from the United Kingdom in 1964, becoming one of the earliest smallest States to join the organisation. Liechtenstein was admitted in 1978. According to the government of Liechtenstein own account, "the question of whether small States such as Liechtenstein should be members of international organisations was not without controversy in the years leading up to its accession. Some States took the view that small States would be unable to meet the accompanying obligations."[22] The Parliamentary Assembly opinion on Liechtenstein's accession debated whether Liechtenstein's sovereignty and its delegation of certain sovereign powers to neighbour States harmed its status but concluded that these do not logically undermine its international sovereignty.[23]

11. When deciding to admit Liechtenstein, the Council of Europe implicitly acknowledged that a country could not been denied membership because of its diminutive size. That would have been the sole reason to deny the admission of Liechtenstein, since it already fulfilled the requirements under Article 3. Liechtenstein paved the way for the admission of other continental smallest States, in the sense that the dimension would not be an issue anymore. Indeed, when the other smallest States encountered difficulties entering the organisation, it was because of their constitutional arrangements, which did not meet the requirements for admission and not due to their size.[24]

12. San Marino was granted the observer status in 1982, after passing significant reforms. Nonetheless, the official application was submitted only in 1988, and the Republic was admitted the same year. The applications submitted by Andorra in 1992 and Monaco in 1995 raised significant constitutional issues with respect to the fulfilment of the Council of Europe's standards. Andorra was admitted in 1994, after adopting a new constitution, while Monaco joined the Council of Europe only in 2004, after amending its constitution.[25]

13. Not even has the Venice Commission addressed the issue of the specificities of the "smallest States". In its opinions on the constitutional revisions of Liechtenstein (2002) and Monaco (2013), it referred to certain features of their history and constitutional tradition, without taking into account their size, concluding in both cases that the two countries should comply with international standards regarding a democratic form of government.[26]

14. On its side, the Congress of Local and Regional Authorities of the Council of Europe held a debate on 28 March 2018 regarding the common challenges faced by smaller States in implementing the Charter.[27] It concluded that, although these States are often closer in size to a local authority than to a typical State, the Council of Europe's "smaller member States" frequently serve as models of local democracy. While certain aspects of the European Charter of Local Self-Government may, at first glance, seem less relevant to their specific characteristics, its full implementation enables these States to strengthen and enhance local democracy.

22. https://www.europarat.li/en/council-of-europe/membership-representation
23. Parliamentary Assembly, Opinion 90 (1978).
24. Bertolini E., *The Constitutional Identity of European Micro States*, p.151.
25. Bertolini E., *The Constitutional Identity of European Micro States*, p.153.
26. Venice Commission, CDL-AD (2002) 32 Opinion on the amendments to the Constitution of Liechtenstein proposed by the Princely House of Liechtenstein; Venice Commission, CDL-AD(2013)018 Opinion on the balance of powers in the Constitution and the Legislation of the Principality of Monaco.
27. Congress of Local and Regional Authorities, 34th Session, 27-28 March 2018.

Table 2: Territory and population of Council of Europe smallest States

Country	Size	Population	Membership of CoE
Malta	316 sq. km	542 051 residents Foreigners 29.4%	1965
Liechtenstein	160 sq. km	40 023 residents Foreigners 34.3%	1978
San Marino	61.2 sq. km	34 132 residents Foreigners 16.5%	1988
Andorra	468 sq. km	88 306 residents Foreigners 47.6%	1994
Monaco	2 sq. km	38 423 residents Foreigners 78.2%	2004

Source: Own elaboration based on approximate official data

3. THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT IN THE SMALLEST STATES

15. The European Charter of Local Self-Government (ETS No 122, hereinafter "the Charter") is an international treaty adopted by the Council of Europe and opened for signature and ratification by all member States of this organisation since 1985.

16. The Charter was conceived, from the outset, as an instrument intended to be applied (with a view to guaranteeing local self-government) in all countries that have at least one level of local governance, that is, at least one category of local authority distinct from the national government.

17. All the five European smallest States have at least one level of local authority. In Liechtenstein the local government includes 11 municipalities (*Gemeinden*). The local government sector in Malta comprises 68 local governments (*Kunsilli Lokali*) and 6 regions (*Kunsilli Reġjonali*). Andorra consists of seven Parishes (*Parròquies*). Monaco has only one municipality (*Commune de Monaco*), which covers the entire 2km^2 surface area of the State. The Republic of San Marino is divided into nine administrative sub-units, called Townships or Castles (*Castelli*).

18. The Charter makes no distinction between countries based on their territorial size, nor on the number of their levels of local governance. Its provisions contain general principles that apply uniformly.

19. To facilitate adherence to the Charter, member States are allowed to limit the number of provisions to which they commit themselves as being bound. Within the limits set out in Article 12, a member State must either positively declare the provisions it intends to apply or, negatively (through reservations), those it does not intend to apply. Article 12 allows for a system 'à la carte' in the acceptance of the core principles of the Charter. Actually, "the Charter adopts 'the compulsory nucleus' system first established by the European Social Charter, by providing that the Parties are required to subscribe to at least twenty of the thirty paragraphs of Part I of the Charter, including at least ten from a nucleus of fourteen basic principles."[28]

28. Charter of Local Self-Government, Explanatory Report, Article 12.1: *"Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:*
–Article 2,
–Article 3, paragraphs 1 and 2,
–Article 4, paragraphs 1, 2 and 4,
–Article 5,
–Article 7, paragraph 1,
–Article 8, paragraph 2,

20. The Contemporary Commentary points out that “Ratification of the Charter is not a matter of ‘black-or-white’ acceptance. On the contrary, the Charter allows for different forms of ratification: either full and complete acceptance from the outset or gradual acceptance by making subsequent declarations. This is because, as the Explanatory Report states, at the time the Charter was drafted, the idea was that the formulation of the principles of local self-government (laid down in Part I of the Charter) should try to reconcile the great diversity of legal systems and local government structures in existence at the time in the member States of the Council of Europe.”[29]

21. Among the Council of Europe smallest States, Liechtenstein was the first to ratify the Charter, in 1988. Malta ratified the Charter in 1993, while Andorra, Monaco and San Marino were the very last Council of Europe member States to sign and ratify the Charter, in 2011, 2013 and 2014 respectively.

22. All these countries established reservations while ratifying the Charter, in accordance with Article 12.[30]

23. In its official declaration, Liechtenstein announced not to be bound by Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3, 4, 8 and Article 10 paragraphs 2 and 3.

24. According to the deposed instruments, Malta declared itself to be bound by Article 2, Article 3, paragraphs 1-2, Article 4, paragraphs 1-6, Article 5, Article 6, paragraphs 1-2, Article 7, paragraphs 1 and 3, Article 8, paragraphs 1-3, Article 9, paragraphs 1, 2, 7 and 8, Article 10, paragraphs 1-3 and Article 11. Therefore, Malta was not bound by Article 7.2 and by Article 9.3-6. It lifted the reservation on Article 7.2 and 9.4-6 in 2010, therefore it is not bound only by Article 9.3.

25. Andorra declared itself bound by Article 2; Article 3: paragraphs 1 and 2; Article 4: paragraphs 1, 2, 3, 4, 5 and 6; Article 5; Article 6: paragraphs 1 and 2; Article 7: paragraphs 1, 2 and 3; Article 8: paragraphs 1, 2 and 3; Article 9: paragraphs 1, 3, 4, 6 and 7; Article 10: paragraphs 1, 2 and 3; Article 11. Therefore, it is not bound by Article 9.2 on commensurate financial resources, Article 9.5 on financial equalisation, and Article 9.8 on access to the national capital market.

26. Monaco declared itself bound by Articles 2; 3, paragraph 2; 4, paragraphs 1, 2, 4, 5 and 6; 5; 6, paragraphs 1 and 2; 7, paragraphs 1 and 3; 8, paragraphs 1 and 2; 9, paragraphs 5, 6 and 7; 10, paragraphs 1 and 3; and 11 of the Charter. Consequently, it is not bound by Articles 3.1, 4.3, 7.2, 8.3, 9, paragraphs 1-4 and 8, and 10.2 of the Charter.

27. San Marino made reservations to paragraphs 3 and 8 of Article 9.

28. Monaco and San Marino also adopted interpretative declarations.

29. Monaco adopted a declaration on the interpretation of Article 3: “The Princely Government recalls that the territory of the Principality, with a surface area of approximately 2 km², constitutes only one municipality which is an autonomous institution established by the Constitution, endowed with legal personality and governed by public law. Therefore, the concept of local self-government as stipulated in Article 3 of this Charter applies there, in Monaco, in light of the specific institutional and geographical characteristics of the country, within the framework defined by Title IX of the Constitution and by Law No. 959 of 24 July 1974.”

30. San Marino declared that “The Republic of San Marino maintains that Article 9 of the Charter must be interpreted as an article establishing a general principle of financial autonomy, according to which local authorities are entitled to freely dispose, in the framework of the national economic policy, of the resources allocated to them for the exercise of their powers.”

31. Reservations and interpretative declarations are not the prerogative of smallest States, as they have been made by many member States taking advantage of Article 12 of the Charter. According to Article 22 of the Vienna Convention on the Law of Treaties, a reservation may be withdrawn at any time,

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–Article 9, paragraphs 1, 2 and 3,
–Article 10, paragraph 1,
–Article 11 ».
29. Contemporary Commentary, para. 217.
30. Reservations and Declarations for Treaty No.122 - European Charter of Local Self-Government (CETS No. 122).

as many States did, also as a consequence of the recommendations following the Congress' monitoring of the Charter. Among the smallest States, as pointed out above, Malta lifted the reservations on Article 7, paragraph 2 and Article 9, paragraphs 4, 5 and 6 in 2010.

32. Most of the smallest States have not yet signed or ratified the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of local authorities (CETS No. 207).[31] Only Malta signed and ratified it in 2018.[32]

Table 3. Reservation and declarations by Council of Europe smallest States

Country	Local Authorities	Year (ratified the Charter)	Reservations and declarations	Add. Prot.
Monaco	1	2013	Articles 3.1, 4.3, 7.2, 8.3, 9, paragraphs 1-4 and 8, and 10.2, + interpretative declaration concerning Article 3	NO
San Marino	9	2013	Article 9, par 3 and 8, + interpretative declaration concerning Article 9	NO
Liechtenstein	11	1988	Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3, 4, 8 and Article 10 paragraphs 2 and 3	NO
Malta	68+6 regions	1993	Article 9.3 (lifted the reservation on 7.2 and 9.4-6 in 2010)	YES (2018)
Andorra	7	2011	Article 9.2, Article 9.5 Article 9.8	NO

Source: Own elaboration

4. RECURRING ISSUES RELATED TO THE APPLICATION OF THE CHARTER IN THE SMALLEST STATES

33. The Congress of Local and Regional Authorities has been mandated by the Committee of Ministers to "prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States". Based on the reports, recommendations and resolutions are adopted. Recommendation shall be sent to the Committee of Ministers, which may decide to transmit it to the national authorities of the monitored member State for implementation.[33]

34. The five smallest States have been subject to several monitoring visits, which resulted in multiple monitoring reports. Liechtenstein was monitored in 2006, 2018 and 2025. Malta was monitored in 2002, 2011, 2017 and 2024. Andorra was monitored in 2018 and 2024. Monaco was last monitored in 2026. San Marino in 2018 and 2025.[34]

35. The small size of the country is mentioned in all monitoring reports when providing a general overview, and it is also taken into account in the conclusions. This is particularly evident in the case of

31. Chart of signatures and ratifications of Treaty 207 Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207). Status as of 23/11/2025.
32. https://timesofmalta.com/article/malta-signs-and-ratifies-two-protocols-convention.668191
33. Committee of Ministers Statutory Resolution CM/Res (2020)1. The detailed procedure are set by the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe, Chapter XVIII.
34. All the monitoring reports can be found by using the Carta-Monitor: https://www.congress-monitoring.eu/en/

Monaco, whose situation as a city-state – with a single municipality coinciding with the entire territory of the state – is unique.[35]

36. Only rarely is the small size of the country mentioned in the sections of the reports that monitor the implementation of individual provisions of the Charter, although a few cases can be found. For example, in the 2018 report on Monaco, "the rapporteurs consider it logical that Monaco has not ratified paragraph 3 of Article 4 on the principle of subsidiarity", as "the State's small size and the existence of only one municipality whose area is the same as the state leads to a distribution of powers between the state and the municipality that is difficult to compare to the distribution in most other European countries".[36]

37. The 2025 report on San Marino, while considering that San Marino does not meet the requirements of Article 3.1 of the Charter, notwithstanding some recent legislative amendments, states that: "However, in the opinion of the rapporteurs, these changes can only be described as marginal. The scope of local competences has not been substantially enlarged and the level of local authorities' responsibilities continues to remain extremely low, in any comparison, and even if the small size of the country is taken into account".[37] Another example from the same report refers to Article 4.3 of the Charter. To that regard, "the rapporteurs welcome the explicit introduction of the principle of subsidiarity in legislation, but they consider that in practice given the current scope of decision-making at the local level, the situation in San Marino still does not comply with Article 4.3 of the Charter". In the report, it is pointed out that "this article leaves a considerable scope for interpretation of how many tasks local authorities should be assigned to and how extensive these responsibilities should be. In general, local councillors and national authorities met by the delegation showed a mutual understanding of the inherent problems attributed to extensive decentralisation in small countries like San Marino. During the visit, the term "small" (it. *piccolo/piccola*) was frequently used at all levels of government, both in verbal and written communication, to argue both for and against further decentralisation also in the context of implementing the principle of subsidiarity".[38]

38. The 2024 report on Malta, while considering Article 3.1 as not complied with – as the principle of local self-government, although formally respected, is in practice largely absent – refers to the fact that "the informality of relations, while understandable in a small environment, often replaces the formal cooperation mechanisms."[39] The small size is also mentioned (as for the small population) regarding the challenges of finding qualified staff for the local government sector. As for local taxes, on Article 9.3 (non-ratified), the report considers that "the vision that it would not be feasible to establish different tax regimes in a small country like Malta" is overstated, "as local taxing power does not imply a different tax regime but just a specification of the principle of equality, whereby different situations should be treated differently, and of the principle of competition among local councils".[40] On Article 10.2, the report refers to the informal networking promoted by the Local Councils Association, considering that "while the latter role is significant and necessary in every context, and perhaps even more in a small-sized country like Malta, it is equally important not to rely too heavily on informality and to continue to strengthen the role of the Association also and foremost in formal procedures."[41]

39. The 2024 reports on Andorra refers to the small size of the country under Article 3.1, considering that while education is usually a local government responsibility, it is managed by the State in Andorra because of its small size, and Article 4.6, by considering that "Andorra has a prevailing culture, deeply rooted in its history, of consultation and close dialogue between the Government and the local authorities. This is facilitated by the country's small dimensions, which allow for informal meetings and consultations."[42]

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35. For example, in the conclusion of the 2018 monitoring report it is stated that "Bearing in mind Monaco's unusual situation, the rapporteurs take the view that there is a generally satisfactory level of local self-government in the country. The state's small size and the existence of only one municipality whose area is the same as the state leads to a distribution of powers between the state and the municipality that is difficult to compare to the distribution in most other European countries The relations between the state and the Municipality are good, facilitated by the country's small size, the law provides for mechanisms to consult the Municipality in several fields, the Municipality receives an adequate grant and has suitable administrative structures and methods, and the review of activities is restricted to ensuring compliance with the law". See CG34(2018)16 Local democracy in Monaco, para 201.
36. CG34(2018)16 Local democracy in Monaco, para 201.
37. CPL(2025)48-03 Monitoring of the application of the European Charter of Local Self-Government in San Marino, para 51.
38. *Ibid,* para 72.
39. CPL(2024)47-04 Monitoring of the application of the European Charter of Local Self-Government in Malta, para 45.
40. *Ibid,* para 174.
41. *Ibid,* para 217.
42. CPL(2024)46-02 Monitoring of the application of the European Charter of Local Self-Government in Andorra, para 112.

40. The 2025 monitoring report on Liechtenstein goes even further, particularly with regard to Article 4.3, on subsidiarity. It considers that "Having regard to the nature and scope of the exclusive competences, the tradition of direct democracy and the relatively small size of the state party which allows for the greater proximity to the local populations, the rapporteurs are of the view that the Article 4.3 is respected in Liechtenstein".[43] The small size of the country is also mentioned under Article 4.6, on consultation of local authorities: "The rapporteurs conclude that an inclusive and consistent consultation process exists in practice, however they highlight the absence of a formal consultation process enshrined in domestic legislation which provides procedural guarantees. Therefore, they conclude to a partial compliance for Article 4.6 of the Charter and recommend national authorities to undertake legislative action to enshrine the consultation process in law."[44] The small size of the country is also mentioned under Article 8.2, on State supervision, considering that "the micro-state nature of Liechtenstein and close co-operation between central and local authorities due to relatively small scale might be a motif" for State intervention. The report points out that "It is important to note that this specific context of the State Party does not exempt it from its obligation to adhere to the principle of legality in the supervision. To this end, the rapporteurs underline the need for clarification in the legislation of the division of competences with regard to planning and building law and the scope of legality check such as timing, competent authority and the possible legal outcomes of the control in line with the Charter."[45]

41. Regarding the recurring issues highlighted in monitoring reports, smallest States do not differ significantly from other member States. The most frequent challenges include the limited own resources of local authorities and their minimal share within local budgets, the absence of institutionalised and legally guaranteed mechanisms for regular consultation between central and local governments on matters affecting the latter, and the restricted scope of local self-government, with local councils often lacking the authority to regulate and manage a substantial portion of public affairs under their responsibility.[46]

42. For example, Recommendation 417 (2018)[47] on local democracy in Monaco called for special attention on the fact that the political responsibility of the mayor and his deputies cannot be put in question, although they are elected by the communal council (Article 3.2); the Municipality is not consulted in an appropriate manner on the annual lump-sum appropriations allocated to it (Article 9.6); the Municipality does not have the right to judicial remedy to challenge a law that is found to not be compliant with Title IX of the Constitution nor with the Charter (Article 11); Monaco has not ratified several provisions of the Charter, although it does in fact comply fully with several of these, namely Articles 8.3, 9.2 and 10.2.

43. Following the 2024 monitoring visit to San Marino, the Congress, in Recommendation 522 (2025),[48] expressed its concerns with respect to several issues: the continuing situation of limited competencies and decision-making powers at the local level, due to the central organisation of almost all services; the persisting lack of autonomy for local authorities, preventing them from exercising the competencies under their responsibility, and the lack of discretion over the tasks assigned to them; the ineffective use of legally established consultation mechanisms, particularly concerning the distribution of financial resources, which hampers local authorities' meaningful participation in consultations; the limited resources available to local authorities, which remain heavily dependent on central government financing and financial decision-making, and are restricted in the use of their resources, with their income almost exclusively derived from earmarked grants; the absence of professional staff for local authorities, which are also unable to decide on their internal administrative structures, preventing those authorities from carrying out their tasks effectively; the extensive and overly detailed administrative supervision, in particular given the narrow scope of local responsibilities.

43. CPL(2025)48-02 Monitoring of the application of the European Charter of Local Self-Government in Liechtenstein, para 73.
44. *Ibid,* para 89.
45. *Ibid*, para 121.
46. CG(2024)47-20 16 October 2024 Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and election observation missions (reference period 2021-2024).
47. Recommendation 417 (2018) Local democracy in Monaco.
48. Recommendation 522 (2025) Monitoring of the application of the European Charter of Local Self-Government in San Marino.

44. In Recommendation 521 (2025) on the monitoring of the application of the Charter in Liechtenstein,[49] the Congress expressed its concern on the system of a priori approval of municipal budgets as a legal condition for their validity, which is disproportionate to the legitimate aim of budget equilibrium; the overlapping of some competences, in particular as regards municipal budget approval, issuing of building permits and the approval of community planning and development, that does not allow for the powers given to local authorities to be full and exclusive; the lack of formal recognition in the relevant legislation of the mechanisms of consultation with local authorities on matters that directly affect them; the limits of the mayor's spending power, as defined by the law, that are no longer adequate in view of the size and importance of the capital city.

45. The Congress expressed its concern on several issues in its Recommendation 515 (2024) on the application of the Charter in Malta[50] : the scope of local self-government remains minimal, and local councils are overall not empowered to regulate and manage a substantial share of public affairs under their responsibility. In addition, further functions have been removed from local councils, contrary to the principle of subsidiarity; local authorities' responsibilities must be aligned with nationally defined policies while supervision by the national government, notably through the executive secretaries, is extensive and disproportionate, leading to excessive involvement of the national authorities in local affairs; the effectiveness of consulting with local authorities, including through the Local Councils' Association, needs improvement for all matters affecting them, especially concerning activities that were outsourced to specialised agencies but are relevant to local government; local authorities' financial autonomy is limited as they lack adequate financial resources of their own, of which they may dispose freely within the framework of their powers; mayors are only allowed to work part-time, regardless of the size of their locality and the workload in practice; local councils' flexibility in determining their administrative structures and implementing their own human resources policy is limited; grants to local authorities are mostly earmarked for the financing of specific projects; the status of the capital city of Valetta remains the same as of any other local council and does not take into account specific aspects and needs connected to its role as the capital; while regions have been recognised as a level of local government by domestic law, indirect election of the regional council members and the lack of financial autonomy impede their consideration as genuine regions within the meaning of the Charter.

46. In Recommendation 505 (2024)[51] on the application of the Charter in Andorra, the Congress called for particular attention on the fact that no law sets out the consultation and negotiation procedures between the State and the municipalities for all major decisions concerning them; the city of Andorra la Vella has not been granted special autonomy; paragraphs 2 and 5 of Article 9 of the Charter have still not been ratified.

47. Special status for capital cities[52] is not recognised for Valletta in Malta, nor for the City of San Marino in the Republic of San Marino, nor for Andorra la Vella, notwithstanding the explicit mention in Article 2.3 of the Andorran Constitution, nor for Vaduz, despite the reference in Article 1 of the Constitution of Liechtenstein. As for Monaco, the rapporteurs considered that the recommendation on the status of capital cities is not applicable to Monaco "in view of its specific institutional and geographical characteristics."[53]

48. While some of the smallest States still need to improve the level of local self-government, in most of these countries the level is relatively satisfactory and continues to improve as a result of recent reform processes. Some of the non-ratified provisions of the Charter are often respected de facto. In some respects, it can even be argued that the "smallness" of these States represents an advantage in relation to the application of the Charter: the closeness of central institutions to local institutions creates a relational ease that minimises the risk of conflict and facilitates dialogue, to the point that one of the recurring recommendations found in all monitoring reports on the application of the Charter is an invitation to formalise consultation procedures that already exist in practice.

49. Conversely, all the five smallest States, except Malta, have not yet signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of local

49. Recommendation 521 (2025) Monitoring of the application of the European Charter of Local Self-Government in Liechtenstein.
50. Recommendation 515 (2024) Monitoring of the application of the European Charter of Local Self-Government in Malta.
51. Recommendation 505 (2024) Monitoring of the application of the European Charter of Local Self-Government in Andorra.
52. CG-FORUM(2021)01-04final, 12 February 2021 Special status of capital cities.
53. CG34(2018)16 Local democracy in Monaco, para.113.

authority (CETS No. 207). Malta signed and ratified it in 2018. During monitoring visits, the primary concern was that the Additional Protocol could imply the right for non-citizens to vote and stand in local elections, due to the very high proportion of non-citizen residents. So far, the explanation highlighted in the reports – that paragraph 4.1 of Article 1, as noted in the explanatory report, "does not provide an individual electoral right for non-citizens," and paragraph 4.2 of Article 1, referring to foreign residents, grants States a wide margin of discretion regarding their right to participation – has not been sufficient to advance the ratification process.

Table 4. References to the small size of the county in Monitoring reports

Country	Monitoring reports, years	References to the size in the most recent report
Monaco	2026 (2018)	Yes (Article 4)
San Marino	2025 (2018)	Yes (Articles 3.1; 4.3)
Liechtenstein	2025 (2006, 2018)	Yes (Articles 4.3, 4.6, 8.2)
Malta	2024 (2002, 2011, 2017)	Yes (Articles 3.1, 6.2, 9.3, 10.2)
Andorra	2024 (2018)	Yes (Articles 3.1, 4.6)

Source: Own elaboration

5. INTERPRETATION AND APPLICATION OF THE CHARTER IN THE LIGHT OF THE VIENNA CONVENTION ON THE LAW OF TREATIES

50. The Charter is an international treaty of regional scope that is binding like any other treaty.[54] According to Article 1 of the Charter, the Parties "undertake to consider themselves bound" by the Charter, or at least by some core articles thereof. As pointed out by the Contemporary Commentary, "'bound' is the key word here. It means that the Parties are required to comply with the Charter, and to implement it faithfully. […] Consequently, the ratifying countries are required to implement it in accordance with the 'pacta sunt servanda' principle, a long-standing principle of international law, and in the manner laid down by the UN Vienna Convention on the Law of Treaties (1968)."[55]

51. The Congress has addressed the key issue of the legal nature of the Charter at various times.[56] For example, in Recommendation 395 (2017) it stressed that "the Charter, ratified by 47 member States of the Council of Europe, as an international treaty has legal force and should be directly applied in member States, each according to its legal tradition".[57]

52. The interpretation and implementation of international treaties are governed by the Vienna Convention on the Law of Treaties (VCLT). While Article 31 establishes the general rules for treaty interpretation, Article 27 is particularly relevant with regard to treaty performance and application.[58]

53. Pursuant to Article 27 VCLT, "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty." This provision makes clear that a State cannot rely on its domestic legal system to excuse the non-performance of treaty obligations, nor to unilaterally alter or extinguish

54. Venice Commission, CDL(2025)046 Report on the Status of the European Charter on the Local Self-Government In Domestic Legal Order, para. 13
55. Contemporary Commentary, para. 11.
56. Contemporary Commentary, para 15.
57. Debated and adopted by the Congress on 28 March 2017, 1st sitting (see Document CG32(2017)19, explanatory memorandum).
58. On the interpretation of the Charter in the light of Article 31 VCLT see especially G. Boggero, *Constitutional Principles of Local Self-Government in Europe*, p. 39 ff.

them.[59] A parallel principle is affirmed in Article 32 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts, which states that **"**The responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this Part."[60]

54. These rules are expression of the sovereign equality of the States, as a fundamental axiomatic premise of the international legal order and are aimed at avoiding 'double standards'.[61] While they confirm that internal law is irrelevant as a justification for a State's failure to perform its international obligations under a treaty (unless the treaty itself leave room for a domestic legal adaptation), these rules do not explicitly address the potential impact of factual circumstances – such as the smallness or limited capacity of a State – on the implementation or application of a treaty.

55. As for the Charter, its effective implementation and application can be influenced by various contextual factors, which can be broadly categorised into factual and legal aspects. A local authority's autonomy is inevitably, to a certain extent, situation-dependent.[62]

56. Geographically, the density and distribution of the population play a critical role in shaping local self-government structures and their functioning, affecting the distribution of competences, the administrative capacities, and the degree of local autonomy (Articles 4, 5 and 6 of the Charter). Economically, the level of development of a country and territorial inequalities in income distribution significantly impact the capacity of local authorities to fulfill their responsibilities, as disparities may lead to uneven access to resources and services across regions (Article 9). Politically, factors such as the overall democracy index and potential erosion of the rule of law influence the environment in which local governments operate, with strong democratic institutions and respect for the rule of law being essential for upholding the Charter's principles (Articles 3.2, 7 and 8). Socially, demographic trends including an aging population, the presence of ethnic minorities, and immigration patterns affect local governance challenges and priorities, influencing social cohesion and the provision of inclusive services (Articles 4 and 9).

57. From a legal perspective, the prevailing legal tradition – whether common law, civil law, or Nordic tradition – shapes the application of many Charter's provisions, as differences in legal culture, administrative procedures, and judicial oversight can affect local self-government (Articles 2, 3.1, 4.6, 8, 9 and 11).

58. However, international law scholars are quite clear in stating that a State's internal characteristics – size, resources, political structure, or capacity – do not alter its international obligations unless a recognised circumstance precluding wrongfulness, explicitly stated in Articles 23-25 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts (such as force majeure, distress, or necessity) applies.[63]

59. The drafters of the Charter were fully aware of the many factors capable of influencing the effective functioning of local self-government.[64] According to the explanatory memorandum of Article 12, "The formulation of the principles of local self-government laid down in Part I of the Charter had to try to reconcile the wide diversity of legal systems and local government structures existing in the member States of the Council of Europe. Nevertheless, it is recognised that individual governments may still face constitutional or practical impediments to subscribing to particular provisions of the Charter."[65]

60. Therefore, the Charter provides two main tools to address diversity. One is Article 12 of the Charter, which allows for a system "à la carte" in the acceptance of the core principles of the Charter (see *supra*). This principle works at the time of ratification: later, considering the evolution of national systems of

59. Schaus A. (2011), *1969 Vienna Convention: Article 27 Internal law and observance of treaties*, in Corten O., Klein P. (eds), *The Vienna Conventions on the Law of Treaties: A Commentary*, Oxford Commentaries on International Law (online edn, Oxford Law Pro).
60. International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, 2001.
61. Kokott J., Mälksoo L., *State, Sovereign Equality***,** in *Max Planck Encyclopedias of International Law*, March 2023, online.
62. Himsworth C. (2015), *The European Charter of Local Self-Government. A Treaty for Local Democracy*, Edinburgh University Press, p. 125, who mentions the small size among the situations able to affect the application of the Charter.
63. Pellet A., *The Definition of Responsibility in International Law*, in Crawford J. and others (eds), *The Law of International Responsibility*, Oxford Commentaries on International Law (2010; online edn, Oxford Law Pro); Crawford J. (2002), *The International Law Commission's Articles on State Responsibility: A Commentary*, Cambridge University Press.
64. Venice Commission, CDL(2025)046 Report on the Status of the European Charter on the Local Self-Government in Domestic Legal Order, para.17.
65. Charter of Local Self-Government, Explanatory Report, Article 12.

local government since its entry into force, member States were invited to extend the number of applicable provisions of the Charter. [66]

61. The other one is the malleability and non-specificity of much of the Charter's language.[67] The Charter consists of a limited number of articles, drafted in the form of general principles, with frequent references to domestic legislation and it includes many softening provisions, giving the member States a vast marge of appreciation in its application.

62. For example, in Article 3.1, the concept of local self-government is defined as the "right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs." "Within the limits of the law" is a phrase used elsewhere, for instance, in Article 4.2 to qualify the right of local authorities to "have full discretion to exercise their initiative." Another example in Article 3.1 is the reference to a "substantial share" of public affairs. Elsewhere in Article 4, the provision is softened through the use of terms such as "generally," "normally," and "insofar as possible." The provision in Article 4.4, requiring powers to be "full and exclusive" is qualified not only by "normally" but also by "except as provided for by the law." Similarly, Article 6.1, which is designed to ensure local authority freedom to "determine their own internal administrative structures", is subject to the provision "without prejudice to more general statutory provisions." The requirements of Article 7.2 for financial compensation for councillors are hedged about with the language of "appropriateness". Article 8.2 restricts the exercise of administrative supervision of local authority activities but states only that they be "normally" confined to ensuring compliance with the law and with constitutional principles. In Article 9.1, the entitlement of local authorities to financial resources is subject both to the elusive requirement of "adequacy" and to "national economic policy."

63. The open texture of the Charter shapes the monitoring process as a "sui generis" procedure,[68] which is not purely legal in nature but also has a distinct political dimension and is designed to assess the application of the Charter both in law and in practice. The reports, recommendations and resolutions the Congress adopts make it possible to inform governments, parliaments, associations, elected representatives and the media about the situation of local and regional democracy in specific countries and the application of the Charter by these countries. The monitoring process is not intended to sanction the non-complying States, but to gradually persuade all member States of the Council of Europe to apply the principles of local self-government with conviction.

6. CONCLUSIONS

64. Among the member States of the Council of Europe, there is considerable geographic and demographic diversity. Some member States are notable for their limited territorial size, falling into the category of the smallest States.

65. The Charter was conceived, from its outset, as an instrument intended to be applied (with a view to guaranteeing local self-government) in all countries that have at least one level of local governance, distinct from the national government regardless of States' territorial size and of the number of levels of government.

66. All five of Europe's smallest States have at least one level of local authority. In Liechtenstein the local government includes eleven municipalities (*Gemeinden*). The local government sector in Malta comprises 68 local governments (*Kunsilli Lokali*) and six regions (*Kunsilli Reġjonali*). Andorra consists of seven Parishes (*Parròquies*). Monaco has only one municipality (*Commune de Monaco*), which covers the entire 2km² surface area of the State. The Republic of San Marino is divided into nine administrative sub-units, called Townships or Castles (*Castelli*).

67. All of Europe's smallest States have ratified the Charter. Liechtenstein was the first, in 1988. Malta ratified the Charter in 1993, while Andorra, Monaco and San Marino, were the last Council of Europe member States to sign and ratify the Charter, in 2011, 2013 and 2014 respectively.

66. See for example, Recommendation 314 (2011) of the Congress adopted on 20 October 2011.
67. Himsworth C. (2015), *The European Charter of Local Self-Government*, p. 20 ff., also for the examples.
68. Congress of Local and Regional Authorities, Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe, Chapter XVIII.

68. Regarding the recurring issues highlighted in monitoring reports, the smallest States do not differ significantly from other member States. The most frequent challenges include the limited own resources of local authorities and their minimal share within local budgets, the absence of institutionalised and legally guaranteed mechanisms for regular consultation between central and local governments on matters affecting the latter, and the restricted scope of local self-government, with local councils often lacking the authority to regulate and manage a substantial portion of public affairs under their responsibility.

69. While some of the smallest States still need to improve their level of local self-government, in most of these countries that level is relatively satisfactory and continues to improve as a result of recent reform processes. Some of the non-ratified provisions of the Charter are often de facto respected.

70. The Charter is an international treaty of regional scope that is binding like any other treaty. The interpretation and performance of international treaties are governed by the Vienna Convention on the Law of Treaties. Pursuant to Article 27, “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.” This provision makes clear that a State cannot rely on its domestic legal system to excuse the non-performance of treaty obligations, nor to unilaterally alter or extinguish them.

71. While these rules confirm that internal law is irrelevant as a justification for a State’s failure to perform its international obligations under the Charter, they do not explicitly address the potential impact of factual circumstances, such as the smallness or limited capacity of a State, on the implementation or application of a treaty.

72. The Charter makes no distinction between countries based on their territorial size, or on the number of their levels of government. Its provisions contain general principles that apply uniformly. However, the effective implementation and application of the Charter can be influenced by various contextual factors.

73. The drafters of the Charter were fully aware of the many factors that may influence the effective functioning of local self-government. According to the explanatory note on Article 12, “The formulation of the principles of local self-government laid down in Part I of the Charter had to try to reconcile the wide diversity of legal systems and local government structures existing in the member States of the Council of Europe. Nevertheless, it is recognised that individual governments may still face constitutional or practical impediments to subscribing to particular provisions of the Charter.”

74. There are two main tools in the Charter to deal with the diversity of member States. One is Article 12 of the Charter, which allows for an “à la carte” system in the acceptance of the core principles of the Charter at the moment of ratification. All the smallest States established reservations while ratifying the Charter. Monaco and San Marino also adopted interpretative declarations. Some of them, considering the evolution of domestic systems of local government, have since been invited to extend the number of applicable provisions of the Charter. Accordingly, Malta has withdrawn some of its reservations.

75. In addition, the Charter consists of a limited number of articles, drafted in the form of general principles, with frequent references to domestic legislation, and it includes many softening provisions, giving the member States a wide margin of appreciation to accommodate the various situations that can affect its application.

76. The smallest States, due to their specific characteristics, exemplify the geographical, historical, economic and social diversity present within the Council of Europe. As with all manifestations of diversity, they warrant particular attention by the Congress. The monitoring procedure, as a sui generis mechanism – neither purely legal nor devoid of a distinct political dimension – aims to recognise and account for such diversity in the application of the Charter. Nevertheless, the Congress must operate strictly within the limits established by the Charter and in full compliance with international law, ensuring that no double standards are applied in the interpretation of the Charter.