

Speech by Vladimir PREBILIC (Slovenia, L, SOC/G/PD)

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Debate on: **Monitoring of the European Charter of Local Self-Government: the United Kingdom**

Dear colleagues,

I would also like to thank Minister **Neil O'Brien** for his participation in our session today. We do appreciate his commitment and we are grateful to him for agreeing to participate in today's session.

Indeed, while noting some positive developments, we have seen that several issues with the application of the Charter identified yet in 2014 remain outstanding.

I will not be able to dwell now on all articles of the Charter that require further efforts from the UK authorities. I will thus focus only on those that we consider as most substantial and urgent to address.

Firstly, the principle of local self-government is not expressly recognised in the UK's domestic law as required by Article 2 of the Charter. In fact, the situation in the UK since 2014 has remained unchanged. The UK local authorities cannot rely on the Charter as a source of substantive rights and therefore do not have a legal possibility to have their self-government rights protected in line with Article 11 read in conjunction with Article 2.

The position of the UK Government is that as a dualist state the UK does not directly incorporate international commitments in its domestic law, with the exception of the European Convention of Human Rights.

Last year's attempt of the Scottish Parliament to incorporate the Charter into Scottish law, has not been successful. The UK Supreme Court pronounced the Scottish Parliament not to have competence with regard to two very specific sections of the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

Hence, we recommend that the UK explore all possible legal venues in order to recognise the principle of local self-government in domestic law.

Next, this is good that a general competence clause exists in the UK and local authorities manage a rather substantial share of public affairs. Still, when assessing compliance with Article 3.1, it is important to remember that local authorities cannot regulate this substantial share of local affairs effectively if they do not have financial resources necessary to perform their tasks. Such entities would have the legal "right" but would lack the real "ability" to act as required by the Charter.

This is however, the case in the UK where local authorities do not have adequate financial resources of their own to be able to perform their tasks effectively. In fact, non-conformity or partial compliance with most of the paragraphs of article 9 on financial resources has been concluded.

We therefore clearly see the need in a significant reform of the local government funding system. This reform should rely on inclusive consultation procedures between associations of local authorities and central government on local funding. And in more general terms, the consultation procedure on financial resources should be improved to ensure that local authorities have enough time to meaningfully contribute to consultation process on finances.

Thirdly, we have had the impression that the UK is a rather centralised country, where general competence in local affairs is rather limited in practice. There is what seemed to as a heavy supervision (with regard to expediency of local tasks' performance) and their over-regulation by the upper-level authorities. As already mentioned, the central government has significant oversight in how local authorities are funded and how these funds are spent.

We suggest, among other things, enhancing local authorities' financial capacity to allow meeting the costs of service delivery and ensuring that the administrative supervision is limited to the control of legality that respects proportionality principle.

Finally, the UK has signed the Additional Protocol to Charter on the right to participate in the affairs of a local authority but not ratified it. And we call on the UK to proceed to ratification.

We trust that the UK authorities will apply all efforts to address the areas of concern we have identified and implement the proposed recommendations.

I encourage you to vote in favour of the draft recommendation.

We are ready to take your questions if you have any.

Thank you for your attention.