

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 353 (2014)<sup>1</sup> Local and regional democracy in the United Kingdom

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

*a.* Article 2.1.b of Statutory Resolution CM/Res(2011)2 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of the Council of Europe, which provides that one of the aims of the Congress shall be “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 2.3 of the aforementioned Statutory Resolution CM/Res(2011)2, 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, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

*c.* its Resolution 299 (2010) on Follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009), which provides that the Congress will use the Council of Europe Reference Framework for Regional Democracy in its monitoring activities, as well as the reply given by the Committee of Ministers to Congress Recommendation 282 (2010) (CM/Cong(2011)Rec282final) encouraging the governments of member states to take account of the aforementioned Reference Framework in their policies and reforms;

*d.* the explanatory memorandum of the present recommendation on local and regional democracy in the United Kingdom;

2. The Congress notes that:

*a.* the United Kingdom signed the European Charter of Local Self-Government (ETS No. 122) on 3 June 1997 and ratified it on 24 April 1998. It made a declaration to the effect that it intends to confine its scope to the following categories of authorities: in England, county councils, district councils and London borough councils and the Council of the Isles of Scilly; in Wales, to all councils constituted under Section 2 of the Local Government (Wales) Act 1994 and in Scotland, to all councils constituted under Section 2 of the Local Government (Scotland) Act 1994;

*b.* it has not ratified the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) nor signed

the Additional Protocol to the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities (ETS No. 159);

*c.* the Monitoring Committee instructed Angelika Kordfelder and Alexander Uss as co-rapporteurs on local and regional democracy, to prepare and submit to the Congress the report on local and regional democracy in the United Kingdom;<sup>2</sup>

*d.* the Congress delegation carried out two visits, from 29 to 31 May 2013 (London, Leeds, Edinburgh) and from 5 to 7 November 2013 (London, Cardiff) respectively, to review the situation of local government in the United Kingdom;

*e.* the rapporteurs are aware that, the United Kingdom being in reality made up of four countries which retain territorial and cultural distinctions of their own, their recommendations will be addressed to the United Kingdom as member State of the Council of Europe, but the implementation thereof will be subject to the powers and responsibilities of the government of the United Kingdom as well as to those of the governments of Scotland, Wales and Northern Ireland according to the distribution of competences regarding local government.

3. The Congress wishes to thank the Permanent Representation of the United Kingdom to the Council of Europe and the United Kingdom authorities at central, devolved entity and local levels, all the local government associations, experts as well as other interlocutors for their valuable co-operation during the different stages of the monitoring procedure and the information conveyed to the delegation.

4. The Congress notes with satisfaction that:

*a.* local government in the United Kingdom, in general, complies with the obligations taken under the Charter and that the situation has improved since the United Kingdom ratified the Charter in 1998, notably through the devolution process which brought the powers related to local government under the responsibility of the devolved entities;

*b.* the Localism Act 2011, by introducing a “general power” for local authorities and greater freedom to decide their internal arrangements and appoint their own auditors, has signified an important step in the direction of incorporating principles related to local self-government into domestic legislation;

*c.* a successful partnership approach has been adopted in Scotland, Wales and Northern Ireland that facilitates consultation with local authorities in matters concerning them;

*d.* the local government associations in the United Kingdom play an important role, gathering together representatives from local authorities from different political backgrounds, giving local government a more far-reaching voice and negotiating with the central government and with the devolved governments, although in many cases it is informal and not based upon legal guarantees.

5. The Congress expresses concern, however, that:

*a.* the constitutional or legislative recognition and entrenchment of (the right to) local self-government does not exist

in the United Kingdom (including in Scotland), and that the introduction of a general power for local authorities does not go far enough in satisfying the spirit of the Charter;

*b.* while legal duties for local authorities to be consulted do exist and are used in practice, the ways and the time-frame for consultation seem to be controversial, the time-frame depending on the concrete subject, and in particular on the nature and the possible impact of a proposal;

*c.* local authorities do not have adequate financial resources, are under severe constraints as a consequence of cuts and indebtedness, and are faring worse than other public sectors and the national government in weathering the effects of the economic crisis (in spite of the very welcome government reform of 2013, localising business taxes in England and Wales but not in Scotland), all of which contribute to a situation that raises issues under Article 9 of the Charter;

*d.* the status of elected councillors does not fully correspond to their responsibilities and the low turnouts at local elections indicate the necessity to strengthen the democratically elected institutions as well as the role of elected office holders who are the backbone of the local government system;

*e.* local authorities do not have sufficiently prominent leadership and co-ordinating functions vis-à-vis other service providers within their local area, although they manage a considerable share of public affairs and services and represent their community in important issues beyond that, such as planning and licensing;

*f.* oversight through extensive reporting duties and active involvement in local affairs by various ministries of the central government poses considerable limits on local authorities' discretion to manage local affairs, although it must be said that significant steps have been taken by the Government to reduce centralised performance assessments.

6. In the light of this, the Congress asks the Committee of Ministers to invite the United Kingdom authorities to:

*a.* explore the constitutional and practical issues around the possibility of formalising the principles and mechanics of the relationship between central and local government, in the light of the Charter, the arguments developed by both local elected representatives, their associations and the Political and Constitutional Reform Committee of the House of Commons and the devolved parliaments where applicable for a more codified approach;

*b.* develop more institutionalised, uniformly time-framed and legally guaranteed consultation arrangements for local government, taking into account the necessity or opportunity for local authorities to consult their local population, at

least regarding important issues, and in this regard, consider the partnership approach and the co-operation experiences in Scotland, Wales and Northern Ireland for the relations between central government and English local authorities;

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

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

*e.* give elected local representatives leadership and co-ordinating functions vis-à-vis other local service providers;

*f.* carry out the oversight of local government in a manner to ensure that the involvement of the controlling authorities is kept in proportion to the importance of the interests which it is intended to protect as set by Article 8.3 of the Charter;

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

*h.* consider the ratification of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority and the Additional Protocol to the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities.

7. The Congress invites the Committee of Ministers of the Council of Europe to take into consideration the present recommendation on local and regional democracy in the United Kingdom, as well as the explanatory memorandum, in its activities related to this member State.

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1. Debated and adopted by the Congress on 26 March 2014, 2nd Sitting (see Document [CG\(26\)10FINAL](#) explanatory memorandum), rapporteurs: Angelika Kordfelder, Germany (L, SOC) and Alexander Uss, Russian Federation (R, EPP/CCE).

2. They were assisted by Jens Woelk, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government, and Jean-Philippe Bozouls and Sedef Cankocak from the Secretariat of the Congress.