

45th SESSION

Report
CG(2023)45-17prov
5 October 2023

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

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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Draft recommendation (for vote).....2
Explanatory memorandum (for information)5

Summary

The report presents the findings and recommendations from the third monitoring visit in April-May 2023. Although Ireland is a solid democracy, and reforms of local government have taken place in the last decade, it remains one of the most centralised countries in Europe. Nevertheless, the Irish authorities proclaim that they are committed to strengthening local self-government and since the previous monitoring report in 2013, significant improvements have taken place, for example with transfers of the responsibility for local economic and community development to local government and the abolishing of the dual mandate. The system is now also more streamlined with just one tier of local government and with indirectly elected regional assemblies. Further reforms are on their way, such as the first directly elected mayor in Limerick.

However, there is still a lot to be done before local self-government in Ireland is on par with other European countries. In this respect, the rapporteurs expressed concern, among other things, over the limited share of public affairs under local authorities' own responsibility and local authorities' limited own resources, an imbalance between the elected members and the chief executives in local authorities, a lack of a formalised and regular consultation with central government as well as extensive and detailed administrative supervision. In addition, members of regional assemblies are indirectly elected and are not accountable to the citizens for the decisions they take in the assembly.

It is therefore recommended that Irish authorities transfer additional functions to local authorities, continue with reforms of the executive, elect members of the regional assemblies directly; introduce a system of formal and regular consultations between central and local government; enhance local democratic control over the internal administrative structure of local government; reduce administrative supervision; increase the amount of own resources that can be used at the discretion of local government and increase the share of non-earmarked grants.

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.

DRAFT RECOMMENDATION²

1. The Congress of Local and Regional Authorities of the Council of Europe (“the Congress”) 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 “[t]he Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government;”

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

d. the Congress priorities for 2021-26, in particular priority 6b which concerns the quality of representative democracy and citizen participation;

e. the Sustainable Development Goals (SDG) of the United Nations 2030 Agenda for Sustainable Development, in particular Goal 11 on sustainable cities and communities and Goal 16 on peace, justice and strong institutions;

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

g. 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;

h. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;

i. the previous Congress Recommendation on the monitoring of the European Charter of Local Self-Government in Ireland (Recommendation 342 (2013));

j. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in Ireland.

2. The Congress points out that:

a. Ireland joined the Council of Europe on 5 May 1949, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 7 November 1997 and ratified it on 14 May 2002, with a declaration to the effect that Ireland intends to confine the scope of the Charter to the following categories of authorities: county councils, city councils and town councils. The Charter entered into force in respect of Ireland on 1 September 2002. Ireland has not signed 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).

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 the Monitoring Committee) decided to examine the situation of local and regional democracy in Ireland in light of the Charter. It entrusted Vladimir Prebilič, Slovenia (L, SOC/G/PD) and Gunn Marit Helgesen, Norway (R, EPP/CCE) to prepare and submit a report on the implementation of the Charter in Ireland to the Congress. The two rapporteurs were assisted by Professor Anders Lidström, member of the Group of Independent Experts on the European Charter of Local Self-Government of the Congress. This group of people will hereinafter be referred to as “the delegation”;

² Preliminary draft recommendation approved by the Monitoring Committee on 4 July 2023.

c. The monitoring visit took place from 4 to 5 April and on 2 May 2023. The Congress delegation met representatives of various institutions at all levels of government. The detailed programme of the monitoring visit is appended to the explanatory memorandum;

d. The co-rapporteurs wish to thank the Permanent Representation of Ireland to the Council of Europe and all those with whom they had exchanges during these meetings.

3. The Congress notes with satisfaction that in Ireland:

a. additional important changes have taken place since the previous monitoring visit in 2013. Many of these were codified in the 2014 Local Government Reform Act which transformed the structure of local government, gave local councils additional responsibilities for local economic development and local community development, and established municipal districts and regional assemblies. The financial conditions for elected members have also improved;

b. local authorities are strongly connected with their citizens and provide services of good standard;

c. national authorities proclaim their commitment to further reforming the system in order to strengthen local self-government and local democracy;

d. a major reform strategy is to promote the establishment of directly elected mayors, who will have a leading role in the county and who can take over executive functions from the chief executive;

e. citizens' participation in local public affairs is well developed through various forms of participatory democracy.

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

a. although new functions have been transferred to local authorities, local government is far from complying with the principle of subsidiarity which requires that public responsibilities shall generally be exercised, in preference, by those authorities closest to the citizens, and local authorities do not manage a substantial share of public affairs under their own responsibility;

b. an imbalance between the elected members and the chief executives in local authorities remains;

c. members of regional assemblies are indirectly elected and not accountable to citizens for the decisions they take in the assembly;

d. Ireland still lacks a formalised and regular process for central government consultations with local government on matters that concern them directly;

e. the local council has limited influence over the administrative structure of the local authority;

f. on the whole, administrative supervision of local government is extensive and detailed, and there are no signs that central supervision is about to be relaxed;

g. the own resources which can be used at the discretion of local government remain limited;

h. most central government grants are earmarked for specific purposes, which means that the scope for local priorities is limited.

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

a. transfer additional functions to local authorities, in particular within the area of public welfare;

b. continue with reforms of the executive, both in terms of introducing directly elected mayors and with reforms that increase elected members' influence over executive matters in local authorities, and elect members of the regional assemblies directly;

- c. introduce a system of formal and regular consultations between central and local government as part of efforts to build trust between different levels of government;
 - d. enhance local democratic control over the internal administrative structure of local government;
 - e. reduce administrative supervision of local government;
 - f. increase the amount of own resources that can be used at the discretion of local government and the share of non-earmarked grants;
 - g. sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).
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 Ireland and the accompanying explanatory memorandum in their activities relating to this member state.

EXPLANATORY MEMORANDUM**Contents**

1.	INTRODUCTION: AIM AND SCOPE OF THE VISIT AND TERMS OF REFERENCE	6
2.	INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK	7
2.1	Local government system (constitutional and legislative framework, reforms)	8
2.2	Status of the capital city	13
2.3	Legal status of the European Charter of Local Self-Government	13
2.4	Previous Congress reports and recommendations	13
3.	HONOURING OF OBLIGATIONS AND COMMITMENTS: ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY ON THE BASIS OF THE CHARTER (ARTICLE BY ARTICLE)	15
3.1	Article 2 – Constitutional and legal foundation for local self-government	15
3.2	Article 3 – Concept of local self-government	15
3.3	Article 4 – Scope of local self-government	17
3.4	Article 5 – Protection of local authority boundaries	20
3.5	Article 6 – Appropriate administrative structures and resources for the tasks of local authorities	21
3.6	Article 7 – Conditions under which responsibilities at local level are exercised	22
3.7	Article 8 – Administrative supervision of local authorities' activities	23
3.8	Article 9 – Financial resources	25
3.9	Article 10 – Local authorities' right to associate	29
3.10	Article 11 – Legal protection of local self-government	30
4.	OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL AND REGIONAL SELF-GOVERNMENT	31
5.	CONCLUSIONS AND RECOMMENDATIONS	32
	APPENDIX – Programme of the Congress monitoring visit to Ireland	34

1. INTRODUCTION: AIM AND SCOPE OF THE VISIT AND TERMS OF REFERENCE

1. Article 1 paragraph 3, of Committee of Ministers Statutory Resolution CM/Res(2020)1 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto, stipulates that “[t]he Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government”.
2. Ireland joined the Council of Europe on 5 May 1949 as a founding member. It signed the European Charter of Local Self-Government (ETS No. 122, hereafter “the Charter”) on 7 November 1997 and ratified it on 14 May 2002, with entry into force on 1 September 2002. In accordance with Article 13 of the Charter, Ireland made a declaration that it considers itself bound by all articles of the Charter and intends to confine the scope of its application to the following subnational authorities: county councils, city councils and town councils.
3. Ireland has not signed 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) and the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.159).
4. Two monitoring visits of local and regional democracy in Ireland have previously been carried out. The first one was conducted in January and March 2001, resulting in Recommendation 97 (2001)¹ on local democracy in Ireland. A second visit took place in October 2012 and May 2013 and was followed up by Congress Recommendation 342 (2013) on local democracy in Ireland.
5. 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 Ireland in light of the Charter. It instructed Vladimir Prebilič, Slovenia (L, SOC/G/PD) and Gunn Marit Helgesen, Norway (R, EPP/CCE) to prepare and submit a report on the implementation of the Charter in Ireland to the Congress. The official monitoring mission in Ireland was carried out by these two rapporteurs. They were accompanied by a representative of the Congress secretariat and assisted by Professor Anders Lidström (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 people will hereinafter be referred to as “the delegation”.
6. The monitoring visit took place from 4 to 5 April and on 2 May 2023. During the visit, the Congress delegation met representatives of various institutions at all levels of government. The detailed programme of the monitoring visit is appended to the explanatory memorandum.
7. The rapporteurs wish to thank the Permanent Representation of Ireland to the Council of Europe and all those whom they met during the visit.
8. According to Rule 88.3 of the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe, the preliminary draft report was sent to all interlocutors met during the visit for their comments and possible adjustments or corrections (hereinafter referred to as “consultation procedure”). The present report is based on the comments received, which have been considered by the rapporteurs before submission for approval to the Monitoring Committee.

2. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

9. Ireland is a unitary, parliamentary republic. The country became independent from the United Kingdom in 1922. Ireland is today among Europe's stable democracies. It is a member of the Council of Europe (since 1949), the Organization for Security and Co-operation in Europe (since 1973) and of the European Union (since 1973). It is not a member of the North Atlantic Treaty Organization, but has participated in the latter's Partnership for Peace programme since 1999. Ireland is also a member of the United Nations, the World Trade Organization and the Organisation for Economic Co-operation and Development.

10. Ireland has a population of 5 149 139 inhabitants (Census of Population 2022), its capital city is Dublin, with a population of 1 458 154 in the Greater Dublin Area, and the total area of the country covers 70 273 square kilometres. Ireland has two official languages – Irish and English. According to the constitution, Irish is the “national language”, although English is the most widely spoken language. There are 631 785³ non-Irish citizens, with the largest groups consisting of citizens of Poland and the United Kingdom, followed by India, Romania and Lithuania.

11. Ireland has a common law legal system. The written constitution was adopted in 1937 after a popular referendum. The constitution can only be amended with the approval of the people in a referendum. Statute law is made by the Oireachtas (the legislature comprised of the national parliament (Dáil Éireann) and the senate (Seanad Éireann)). Because of its membership, Ireland is also bound by the treaties of the European Union. In terms of international law, Ireland is a dualist state, that is, international agreements are not automatically treated as domestic law, hence they need to be translated into national law by the Oireachtas. The courts system of Ireland consists of superior courts – the Supreme Court, the Court of Appeal and the High Court – and lower courts, which are the circuit court, the district court and the special criminal court.

12. The head of state is the president, who is elected by popular vote for a seven-year term and can be re-elected once. The current president is Michael D. Higgins, first elected in 2011 and re-elected in 2018. Although mainly a ceremonial role, the president has some constitutional functions such as the power to refer a bill to the Supreme Court for an assessment of its constitutionality. The government rests on support in the lower house of the Oireachtas and has, since 1989, been a coalition government. The current government consists of Fianna Fáil, Fine Gael and the Green Party. The head of the government is the Taoiseach (prime minister), who is Leo Varadkar (Fine Gael), since December 2022.

13. The Oireachtas is bicameral. Seanad Éireann has 60 seats. Of these, 43 members (senators) are elected by panels representing vocational interests (culture and education, agriculture, labour, industry and commerce, and public administration); six are elected by graduates of two universities (National University of Ireland and the University of Dublin - Trinity College); the remaining 11 are nominated by the Taoiseach. Senators serve a maximum of five-year terms, but may be re-elected. The main function of the Seanad is to debate legislation proposed by the government. The Seanad can amend a bill that has been passed by the Dáil and delay, but not stop, it becoming law. Senators can also introduce their own bills, which are debated in the Seanad and, if passed, are then debated in the Dáil. Although the government has no constitutional responsibility to Seanad Éireann, a minister or minister of state attends the Seanad when it is dealing with bills or debating government policy.

14. The most important chamber is the lower house, Dáil Éireann, which has 160 seats as of 2023. Its members (Teachtaí Dála or TDs) are elected by popular vote (by citizens who are 18 or older) from multi-seat constituencies on the basis of proportional representation (single transferable vote system) to serve maximum five-year terms and they may be re-elected. Dáil Éireann is dissolved by the president at the request of the Taoiseach. Dáil Éireann decides on laws and finances. After the latest elections, in February 2020, the main political parties are Fianna Fáil (38 TDs), Sinn Féin (37 TDs), Fine Gael (35 TDs), Green (12 TDs), Labour (6 TDs) and Social Democrats (6 TDs). There are also 19 independent TDs. The turnout in the 2020 elections was 63%. Female representation in Dáil Éireann was only 16% after the 2011 elections, but since the introduction of new legislation, incentivising political parties to ensure that at least 30% of their candidates are women, numbers have been increasing. After the 2020 elections, 23% of the TDs are women.

15. With the United Kingdom leaving the European Union on 31 January 2020, the question of how to deal with the previously open border between the Republic of Ireland and Northern Ireland has been a recurring issue. Customs and immigration issues were regulated in the Northern Ireland Protocol that came into force

3. www.cso.ie/en/releasesandpublications/ep/p-cpsr/censusofpopulation2022-summaryresults/, accessed 12 July 2023.

on 1 January 2021. At ministerial level, there is regular contact through the North South Ministerial Council (which brings together Irish ministers and ministers from the Northern Ireland Executive) and through the British-Irish Council (consisting of British and Irish ministers and their counterparts from Scotland, Wales, Northern Ireland, the Isle of Man and the Channel Islands).

16. The economy of Ireland is a modern knowledge economy, focusing on financial services, life sciences and high-tech industries, and is dependent on trade, industry and investment. Still basically an agrarian economy until the 1950s, the country's economy expanded rapidly from the 1980s until 2007 (the so-called "Celtic Tiger" phenomenon) driven by various factors, particularly after 2002. However, the 2008 crisis impacted Ireland severely, especially its banking sector, and borrowing from international organisations became necessary. The near collapse of the property market put pressure on both the banking system and the government finances. Loans from the European Union, the International Monetary Fund and some European Union member states, together with reforms, budget cuts and selling of assets, helped to overcome the crisis.

17. Ireland has a gross domestic product (GDP) per capita of US\$131 034 (purchasing power parity, 2022), which is the 4th highest in the world, after Luxembourg, Liechtenstein and Singapore. As a share of its GDP, Ireland has by far the smallest public sector of all European Union countries. In 2021, general government total expenditures of GDP represented just below 25%. This is less than half of the European Union average of 51.5%.⁴ Ireland is also the country in the European Union that spends least of its GDP on social protection. This amounts to 8%, compared to the European Union average of 21%.⁵ However, any measure using GDP in Ireland must be interpreted with caution, as it is regarded to be inflated due to the large presence of multinational firms. The gross national income is about 30% lower.

18. In contrast to the United Kingdom, and many other European countries, Ireland did not experience any major expansion of its welfare system after the Second World War. Traditionally, functions such as healthcare, education and poor relief had been tasks for the voluntary sector, in practice provided by the Catholic Church. Until recent decades, the primary school system and parts of the secondary school system were effectively run by the church, albeit to a significant extent funded by the state. It is only since the 1960s that Ireland has had some variety in models of provision and educational providers. The state developed welfare functions gradually and with only a very limited role for local government. An exception was the responsibility for healthcare, which became a local function in 1878. However, in 1970 this task was removed from local government and transferred to eight appointed regional health boards.⁶ According to information provided by the Department of Housing, Local Government and Heritage during the consultation procedure, the Health Service Executive (HSE), an organisation of over 100 000 people, is now responsible for running all public health services in Ireland. The Department of Social Protection runs Ireland's social protection system which covers a range of contingency-based income support, designed to act as a safety net for those in need of income support to reduce the risk of poverty and social exclusion. The department added that over the past ten years or so, social protection expenditure has amounted to between one fifth and one quarter of general government expenditure.

19. The Irish democracy is very solid in comparative terms. It is described as a "full democracy" and is ranked 8th in the world in the Global Democracy index.⁷ It also has the 8th rank on the general Human Development Index, although it is only the 21st in terms of gender equality.⁸ Ireland is also among the least corrupt countries in the world, according to Transparency International's Corruption Perceptions Index, which ranks the country as number 10.⁹

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

20. The founding document of the present system of local government in Ireland is the Local Government (Ireland) Act 1898, which was adopted by the United Kingdom Parliament. The Act established local

4. <https://tradingeconomics.com/country-list/government-spending-to-gdp?continent=europe>, accessed 12 July 2023.

5. [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Total_general_government_expenditure_on_social_protection,_2021_\(%25_of_GDP\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Total_general_government_expenditure_on_social_protection,_2021_(%25_of_GDP).png), accessed 12 July 2023.

6. Barrington T. J. (1991), "The crisis of Irish local government", in Hesse J. J. (ed.), *Local government and urban affairs in international perspective*, Nomos Verlagsgesellschaft, Baden-Baden. Fanning B. (2004), "The construction of Irish social policy 1953-2003", in Peillon M. and Corcoran M. P. (eds.), *Place and non-place - The reconfiguration of Ireland*, Institute of Public Administration.

7. www.eiu.com/n/campaigns/democracy-index-2022/, accessed 12 July 2023.

8. <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>, accessed 12 July 2023.

9. https://images.transparencycdn.org/images/Report_CPI2022_English.pdf, accessed 12 July 2023.

governments modelled after the system that already existed in England, Scotland and Wales, and ended previous landlord control of the local communities.

21. Local self-government was constitutionally recognised first in the Twentieth Amendment of the Constitution Act in 1999 (Article 28A), after having been approved by a referendum. The amendment recognises the role of local government “in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interests of such communities”. The constitution also states that local councils are directly elected, and that local elections will be held every five years.

22. The current principal act regulating local government is the Local Government Act 2001, although it has been extensively amended and updated over the years. It was originally enacted in connection with Ireland’s ratification of the Charter as a way of transposing the Charter into national legislation. Further reforms were codified in the Local Government Reform Act 2014, for example a territorial restructuring of local government and the introduction of municipal districts (see below). The 2014 Act also reformed the regional level of government with the establishment of three regional assemblies. Local government is also subject to special legislation in areas such as land-use planning and social and affordable housing.

23. Irish local government underwent a major structural reform codified in the Local Government Reform Act 2014, largely driven by a need to rationalise the system in the wake of the 2008 financial crisis, but also with the ambition to establish a more coherent, representative and streamlined system.¹⁰ The reform was implemented in time for the 2014 local elections. Before the reform, the local government system consisted of 29 counties, 5 cities, 5 boroughs and 75 town councils of which boroughs and towns were lower-tier local governments. Through the reform, all boroughs and town councils were abolished, and some city and county councils were merged. The new structure consists of a single tier with three types of authorities. Most of the country’s territory is covered by 26 county councils, and in addition there are three city councils (Cork, Dublin, and Galway) and two combined city and county councils (Limerick and Waterford). Of the 31 local authorities, 25 are further subdivided into municipal districts (in some councils called borough or metropolitan districts). These consist of one or more local electoral areas (constituencies) that carry out specific local functions. Municipal districts can be regarded as the smallest unit of local government in the sense that local councillors are elected to both their respective county and city council, and to their municipal district (where one exists); further, the Putting People First reform programme (2012) stated that councillors are elected “in the first instance for the municipal district”.

24. Irish local authorities vary in population size from 35 000 (Leitrim County Council) to 592 713 (Dublin City Council), with an average of 165 000 inhabitants. This makes Irish local government, on average, the second largest in Europe, after local government in the United Kingdom. In terms of territory, the Irish local authorities are the largest in Europe with an average size of 2 200 square kilometres. The largest in Ireland is Cork County council, with an area of 7 300 square kilometres.¹¹

25. Each local authority is governed by a council, elected by citizens in the area, based on proportional representation (single transferable vote system), that is, the same as the electoral system for Dáil Éireann. The main components of the electoral system, such as electoral districts, number of seats and system for transforming votes into seats, are decided centrally. The members are elected from local electoral districts, each with three to seven seats. The term of office is five years. The councils vary in size from 18 to 63 members. In total, there are 949 local councillors, each on average representing 5 400 citizens. The 2014 structural reform reduced the number of local authority elected members from 1 627 with the abolition of town councils. After the dual mandate was abolished in 2001, members of the national parliament are prohibited from simultaneously serving as councillors. It was claimed that the dual mandate had tended to reinforce clientelism, whereby politicians, by holding office at both local and national levels, could “look after” the interests of the local voters at both levels of government.

26. The latest local elections were held on 24 May 2019, on the same day as the elections to the European Parliament. The turnout was 50%. Participation in local elections has steadily decreased from 2004, when it was 59%. It is about 15 percentage points lower than for the Dáil Éireann elections. The major national parties also dominate the local councils; however, 20% of the seats were won by independent candidates. Of the

10. Quinlivan A. (2022), “The Republic of Ireland: struggling to turn back the tide of centralism”, in Copus C. et al. (eds.) *A modern guide to local and regional politics*, Edward Elgar Publishing.

11. www.oecd.org/regional/EU-Local-government-key-data.pdf, accessed 12 July 2023.

local councillors elected, 24% were women. The plenary council of the municipal (borough/metropolitan) districts consists of the councillors elected from the local electoral areas within the local authority area. The municipal district comprises the councillors elected from the local electoral area(s) within the district.

27. The chair of most local authorities is the Cathaoirleach, but in six authorities the title is mayor and in two lord mayor. The chair is elected for a one-year period, but may serve for further years if re-elected. Although the chair may be re-elected, the function usually alternates between the parties. Several attempts have been made to introduce directly elected mayors, first in the Dublin area, later in other larger councils. A legal requirement of the Local Government Act 2019 has been that the proposal is accepted in a popular referendum. So far, only the proposal in Limerick City and County has been approved, in a plebiscite held at the same time as the 2019 local elections. In their written statement, the Department of Housing, Local Government and Heritage informed the rapporteurs that the Local Government (Mayor of Limerick) Bill 2023 was being drafted in May 2023 and that this would also include provisions to allow for plebiscites on directly elected mayors in other localities. The directly elected mayor will be the executive head of the local authority with responsibility for mayoral executive functions, which will be most of the executive functions currently carried out by the chief executive. Another important task is to develop a programme for local government in Limerick, which sets out the mayor's vision and ambitions for the area, to be approved by the elected council. The chief executive would be renamed "director general" with more limited functions. A proposal in 2014 to introduce an elected mayor for the Dublin metropolitan area did not win the necessary support as it was rejected by one of the four councils in the area. However, a new initiative was taken in 2022, when Dáil Éireann initiated a citizens' assembly to investigate the prospects for a directly elected mayor for Dublin. The assembly, which brings together 12 councillors together with randomly selected members of the public to discuss and debate issues, recommended that a directly elected mayor should be introduced for the city of Dublin and its adjoining county councils. The mayor would have wide-ranging powers and responsibilities similar to mayors in other international cities. In June 2023, the Taoiseach announced that a plebiscite on a directly elected mayor for Dublin would be held at the same time as the 2024 local and European Parliament elections.¹²

28. The executive and administrative head of the local authority is the chief executive, who is an appointed official, responsible for implementing policies. Following an open recruitment process carried out by the Public Appointments Service (the central recruitment agency for the civil service and public bodies in Ireland), on behalf of the local authority, the chief executive is appointed by the council. The function was first introduced in 1929, modelled after the function of city manager in the United States of America, but more extensively institutionalised in the 1940 County Management Act, which placed the administration of local authorities in the hands of centrally appointed managers. Under section 140 of the Local Government Act 2001, the council can direct - in limited circumstances - the chief executive to undertake certain tasks. The chief executive has a term of office of seven years, which can be extended by an additional three years. The council can remove a chief executive on the basis of stated misbehaviour, but this requires a two-thirds majority in the council and that the decision is approved by the minister. As mentioned, where there is a directly elected mayor, chief executives will be replaced by a director general with more limited responsibilities.

29. Irish local authorities are responsible for services within the following programme groups: housing and building management; road transport and safety; development incentives and controls; environmental protection; recreation and amenity; agriculture, education, health and welfare; and miscellaneous services. The previous programme group of water services was removed from local government in 2023. According to the Department of Housing, Local Government and Heritage, water management was moved to a national water utility because this was considered to be a more effective way of managing and investing in the maintenance of Ireland's water resources. From 1999, local government has a general competence. Section 66.3 of the Local Government Act 2001 states that a "local authority may take such measures, engage in such activities or do such things in accordance with law (including the incurring of expenditure) as it considers necessary or desirable to promote the interests of the local community". From 2015, local government was given a more active role in local economic development. This includes adopting a six-year local economic and community plan which outlines goals and actions to foster such development. In terms of expenditures, the most important functions are housing and building (33% of total expenditures), followed by roads, transport and safety (19%).

12. www.rte.ie/news/regional/2023/06/08/1388056-dublin-mayor/, accessed 12 July 2023.

30. Ireland is currently experiencing a serious housing crisis, similar to other parts of Europe. There is a general lack of both houses for purchase and rental homes, which has increased the costs for housing and made more people homeless. Refugees from Ukraine and asylum seekers also need shelter, which has been challenging in the last 12 months. According to Taoiseach Leo Varadkar, Ireland is 250 000 homes short of the number it needs. As councils are responsible for physical planning, including planning permissions and social housing, this has put considerable pressure on local government to act. Notwithstanding these challenges, there were 29 851 new dwelling completions in 2022, an increase of 45.2% from 2021 and of 41.3% from 2019 (that is pre-Covid-19).¹³

31. The range of functions of Irish local government is more limited than in practically all other European Union countries, in particular with regard to welfare functions. Over the years, several responsibilities have been removed from local government, including the responsibility for health services, and, most recently, water management. The reason is, as local authorities claim, that central government lost trust in the ability of local government to carry out these functions in an effective and efficient way. It has also been suggested that powers were taken away because local councillors had a too parochial focus which reduced their ability to make bold strategic decisions. The roots of the relatively centralised system in Ireland can be traced back to the experiences of the 1922-23 civil war. Centralisation became the means of curbing tendencies by the losing party to re-establish its influence in parts of the country and the need to establish the legitimacy of the new state. It has also been seen as a way of reducing risks for corruption and nepotism at local level.¹⁴ Although there have been modifications over the years, the system is still highly centralised.

32. The limited range of functions and the low central government trust in local government is reflected in the local government share of the public sector, which amounts to 8.0% of total public expenditures. This is among the smallest within the European Union and far below the European Union average of 23.3%,¹⁵ but Irish local government has only minimal responsibility in welfare sectors such as health, education or policing, which are financed by local government in many European countries. However, trust in local government is also relatively weak among Irish citizens.

33. Local government functions are divided into reserved and executive. The reserved functions are under the authority of the elected members, whereas the chief executive is responsible for the performance of executive functions. Reserved functions embrace the key policy and financial decisions of a local authority, such as power to determine the policy of the local authority, make land-use plans, enact bylaws and adopt the annual budget. Section 140 of the Local Government Act 2001, as amended, also confers upon the council the power to direct - in limited circumstances - the chief executive in the performance of executive functions. Executive functions include delivering on strategic objectives as set out in the corporate plan, administering schemes, allocating grants and managing staff. During the monitoring visit, the rapporteurs gained the strong impression that the chief executive has responsibilities and a very significant influence in the policy areas of transport, social housing and economic development. This mixture of functions was, in the 2013 monitoring report, characterised as “a system of local government that is a combination of local self-government and state administration offices under ‘one roof’”.¹⁶

34. Local government receives funding from different sources. Of its current income in 2022, 40% came from government grants and subsidies; goods and services accounted for 25%; business property tax (commercial rates) for 28%, and the local residential property tax for 7%. Local government has a certain scope to influence the local (residential) property tax. Although the basic rate is set by central government, local authorities can adjust it annually, by +/-15%. Of the local property tax revenue that is collected in a local area, until recently, 80% has been used by the county council itself and the rest was allocated by national government for equalisation purposes. From 2023, 100% of the estimated yields will be retained locally and resources for equalisation will instead be provided by central government. The transfers from central government to local government are mainly conditional for specific purposes.¹⁷ Unconditional transfers account for less than 10% of total current transfers.¹⁸ Local government capital expenditure is financed largely by central government

13. www.cso.ie/en/releasesandpublications/ep/p-ndc/newdwellingcompletionsq42022/, accessed 12 July 2023.

14. Lee J. (1985), *Ireland 1912-1985*, University Press, Cambridge; Quinn B. (2015), “Local government reform—Plus ça change, plus c’est la même chose?”, *Administration*, 63(2), 7-29. Breathnach, P. et al. (2021), “The changing map of subnational governance in the Republic of Ireland”, *Administration*, 69(1), 113-139.

15. www.oecd.org/regional/EU-Local-government-key-data.pdf, accessed 12 July 2023.

16. Congress of Local and Regional Authorities (2013), “Local democracy in Ireland”.

17. Department of Housing, Local Government and Heritage (2022), *Local Authority Budgets 2022*.

18. European Commission (2021), *Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020*. Appendix: Country report on Ireland.

grants, internal capital receipts (for example development levies, sale of property, etc.) or borrowing. Local authorities can only borrow after the approval of the minister in charge of local government affairs.

35. Since 2015, Ireland has three regional assemblies – the Northern and Western, Eastern and Midlands, and the Southern regional assemblies. These replaced a previous structure consisting of eight nomenclature of territorial units for statistics (NUTS) III level regions and two NUTS II level regions. The latter were established mainly for European Union structural funds purposes. Regional responsibilities include strategic planning, promoting the co-ordination of public service provision, and monitoring the delivery of European structural and investment funds in the regions. Within the national planning framework, they adopt a 12-year regional spatial and economic strategy which sets limits for local government planning. The assemblies consist of elected members appointed by the local authorities within their area. As these are elected, in the first instance, as councillors, they have no direct mandate from the citizens for their regional functions. The regional assemblies receive statutory funding from the councils in their area and from the European Union for specific programmes and projects. They also receive some resources from national government.

36. Central government control over local government is carried out by the relevant government departments, in general terms by the Department of Housing, Local Government and Heritage. However, there are also legal provisions for direct central control of local government. For example, the minister has issued mandatory guidelines to local government as planning authorities and they must “have regard” to these guidelines in the performance of their functions.¹⁹ Draft legislation going through the legislative process in 2023 has been designed to strengthen the legal status of ministerial guidelines, which will be upgraded to national planning policy statements and associated national planning policy guidance.²⁰ The local government audit service performs the independent, external audit of local government. Each local authority also has an internal audit function. The National Oversight and Audit Commission (NOAC), introduced with the Local Government Reform Act 2014, has an independent role in providing evaluations and oversights over the local government sector. NOAC’s functions are wide ranging, covering all local authority activities and involving the scrutiny of performance generally and financial performance specifically. NOAC also has a role in supporting best practice, overseeing implementation of national local government policy, and monitoring and evaluating implementation of corporate plans, adherence to service level agreements and public service reform by local government bodies. A government minister may also request that NOAC prepare a report relevant to its functions on any specified aspect of local government.

37. The national association with the role of protecting and promoting the interests of the elected members of local government in Ireland is the Association of Irish Local Government (AILG). It was established on 1 June 2014 following the Local Government Reform Act of the same year when the borough and town councils were abolished. AILG was the result of the voluntary merger of the previous Association of County & City Councils - itself a renamed General Council of County Councils founded in 1899 - and the Association of Municipal Authorities of Ireland. AILG explicitly represents the elected members as there is a separate association for the chief executives – the County and City Management Association (CCMA). There is also a Local Authority Members Association (LAMA) which primarily represents the individual interests of members, and an organisation for the regional assemblies – the Association of Irish Regions (AIR). There are no formal mechanisms for consultations between the local government associations and central government.

38. As the overview has shown, in many respects the position of local government is weaker in Ireland than in most other European countries. It has a more limited set of functions, represents a smaller share of public affairs, and can only marginally influence the size of its resources. The strong position of the chief executive also limits the role of the elected representatives. At the initiative of the European Commission, a group of local government scholars under the leadership of the late professor Andreas Ladner, University of Lausanne, Switzerland, has developed a local autonomy index as a measure of the state of local self-government, which provides a basis for comparison between countries and over time. The index consists of a set of dimensions, modelled after the Charter. Each country’s position on these dimensions has been assessed by academic experts on local government. The scholars have investigated the situation in the Organisation for Economic Co-operation and Development and Council of Europe member countries for the period 1990-2020.²¹ Irish local government turns out as being among those with the lowest scores, with a rank only just above Hungary

19. Scannell Y. (2012), “Local government in Ireland”, in Moreno A.-M. (ed.) *Local government in the member states of the European Union: a comparative legal perspective*, Instituto nacional de administración pública, Spain.

20. https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/reports/2023/2023-05-04_report-on-the-pre-legislative-scrutiny-of-the-draft-planning-and-development-bill-2022_en.pdf, accessed 12 July 2023.

21. Ladner A. et al. (2019), *Patterns of local autonomy in Europe*, Palgrave MacMillan, New York; and European Commission (2021), *Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020*.

and the Republic of Moldova. On a scale from 0 to 100, Ireland has an average score for the period 2015-20 of 42, compared to an average of 57 among all investigated countries. The scoring is low on practically all dimensions of the index. The position has remained the same over time and was not affected by the reforms in 2014.

39. A number of future reforms of Irish local government is presented on the website of the Department of Housing, Local Government and Heritage. Reforms include a review of the implementation of the changes suggested in the 2012 Putting People First – action programme for effective local government, and a consideration of the potential for further devolved powers and other modernisations of the local government system. The department has also completed an examination of the operation of municipal districts with the purpose of determining the support and improvements required to enhance their performance. Further reforms include continuing boundary reviews and to consider the legislation that is required to establish urban area committees. However, no substantive powers and functions have been transferred to local government in recent years, nor have any been identified for transfer to local authorities in the medium term.

2.2 Status of the capital city

40. There is no special law regulating the status of Dublin as the capital city. Its position is the same as other Irish local authorities. A minor difference is the title of the chair of the Dublin City Council, which is lord mayor (the same as in Cork City). The chairs of the other three Dublin local authorities are officially titled “Cathaoirleach” (plural: Cathaoirligh).

41. The metropolitan area, or Greater Dublin, is an informal entity, with relevance for planning and public transport. A narrower delineation includes the city of Dublin and the counties of Dún Laoghaire-Rathdown, Fingal and South Dublin. There is also a wider definition which encompasses the county councils of Meath, Kildare and Wicklow. The narrower metropolitan area has 1.5 million inhabitants and the wider one a total of 2.2 million inhabitants.

42. The 2014 Local Government Reform Act allowed for a plebiscite to be held on whether there should be a directly elected mayor for the four city/county councils in the narrower metropolitan area. This required the approval of all four councils. Although it was supported by three of them, it was rejected by Fingal County Council. However, a new process was initiated by the Oireachtas with the appointment of a citizens’ assembly. In its report in 2023, it suggested that a directly elected mayor with extensive powers should be introduced for the Greater Dublin Area. In June 2023, the Taoiseach announced that a plebiscite on a directly elected mayor for Dublin would be held at the same time as the 2024 local and European Parliament elections.²²

43. Local self-governance in Dublin City is weak relative to the situation in other municipal authorities and capital cities in Europe. During the consultation process, the rapporteurs were informed that the Dublin City Council has requested a legislative recognition of the unique position of Dublin as a major capital city in the national and international context, and legislative funding mechanisms for Dublin as a capital city.

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

44. Ireland has a dualist legal system, which means that international agreements are not part of domestic law, save by law of parliament (the Irish Constitution, Article 29, section 6). Therefore, although the Charter is binding on the state, it is not enforceable in domestic courts. Local authorities can sue the government, but there are no constitutional or legal guarantees for subsidiarity. Judicial review is the instrument available to those who wish to complain.

2.4 Previous Congress reports and recommendations

45. During the previous monitoring by the Congress of local and regional democracy in Ireland in 2013, the rapporteurs have drew attention to issues that require further improvement for optimal functioning of local government:

- a. the constitutional protection of local self-government is rather weak and the principle of subsidiarity is not properly reflected and guaranteed in the legislation;

22. www.rte.ie/news/regional/2023/06/08/1388056-dublin-mayor/, accessed 12 July 2023.

- b. local governments do not manage a substantial share of public affairs: local authorities are still waiting for a strong decentralisation effort and the delegation of relevant competences and financial independence to the local and regional level;
- c. consultations with local authorities and their associations are neither systematic nor sufficiently regulated to allow the latter to be involved in the decision-making process on matters which concern them and, in the present context, to make an input into the proposed reform;
- d. the administrative supervision of local authorities' activities by the central level remains disproportionate and, under this system, the powers given to local authorities are not full and exclusive;
- e. the equalisation mechanism is not transparent and, although local governments have the formal freedom to adopt budgets, such freedom is severely limited in practice;
- f. the scale of local taxes and the power of local authorities to determine the rates are very limited;
- g. conditions of office of local elected representatives are insufficiently regulated by general legislation (Labour Code).

46. In light of the above, the Congress requested that the Committee of Ministers invite the Irish authorities to take account of the following recommendations:

- a. to revise their legislation to ensure that the subsidiarity principle is better enshrined and protected in the law and to promote this basic principle in practice in the Irish public administration system;
- b. to rapidly implement the action programme in order to devolve more powers and responsibilities to local and regional authorities, and delegate relevant competences and financial resources to the local and regional levels;
- c. to develop the procedures and mechanisms of consultation with local and regional authorities on matters concerning them directly both in legislation and in practice, taking into account the criteria provided by Article 4 paragraph 6, of the Charter, namely, "in due time" and "in an appropriate way";
- d. to take the necessary measures to amend existing legislation which allows the central government to intervene in local decision making and ensure that the action programme does not increase the level of supervision even more through the establishment of a new additional national oversight office to monitor the efficiency of local authorities including, inter alia, their compliance with national objectives and policies;
- e. to review the equalisation mechanism in order to render it transparent and ensure that the rules pertaining thereto are established in consultation with the local authorities;
- f. to ensure that, in practice, local governments have the power to levy taxes and determine effectively the rates within the limits of the law;
- g. to consider establishing a clear and specific legislative basis regarding the conditions of office of local elected representatives, particularly as related to rules for private employers to provide "free time" to elected officials for participation in local matters;
- h. to encourage the Irish Government to consider opening the debate on further developing the regional tier of government, with the possibility of putting in place a system of direct election of representatives and real responsibilities in the delivery of "regional" public services;
- i. to invite the Irish Government to sign the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159) and 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).

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 – Constitutional and legal foundation for local self-government

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

47. Following an amendment in 1999, the principle of local self-government is recognised in the Irish Constitution. Article 28A emphasises that local government provides a forum “for the democratic representation of local communities” and for “exercising and performing at the local level powers and functions conferred by law”. It also stipulates that councils are directly elected and that local elections will be held every five years.

48. Local self-government is also recognised in domestic legislation, with the Local Government Act 2001 being the major instrument that specifies how local self-government is applied. The act has been considerably revised over the years.

49. The rapporteurs acknowledge that local self-government is recognised in both the constitution and domestic legislation. Thereby, Ireland complies with Article 2 of the Charter. Nevertheless, the rapporteurs note that there is no mention of the types of local authorities that are protected in the constitution and, therefore, whole tiers of local government can be abolished through a decision in the Oireachtas, which occurred with the 2014 structural reform.

50. When ratifying the Charter in 2002, Ireland declared that it was confining the scope of the Charter to county councils, city councils and town councils. As town councils have been abolished, Ireland may want to adjust the units of application to those currently existing and possibly also to regional assemblies (this is further discussed in Chapter 4 of this report).

3.2 Article 3 – Concept of local self-government

Article 3 – Concept of local self-government

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

51. Local government in Ireland is responsible for a number of local services and functions, such as housing, planning, roads, environmental protection, fire services, and maintaining the electoral register. An important extension of its area of responsibility was the introduction of a general competence in 1999. Further reforms were envisaged in the ambitious action programme that was adopted in October 2012. In the programme, it was stated that “(t)he role of local government in Ireland is narrow. Some traditional functions have moved to specialist organisations in recent years due to necessities of scale, resources and expertise. To make the most of its resources and capacities, the role of local government will be strengthened, having regard to relevant criteria, with a wider range of suitable functions. Its role will be refocused, particularly towards economic, social and community development. Central government involvement in operational details of local services will be further reduced and administrative controls and procedures streamlined. Local authority capacity to undertake services for a wider range of sectors will also be fully utilised”.²³ After the monitoring visit in 2013, the Congress recommended that Ireland should implement the action programme rapidly in order to devolve more powers and responsibilities to local and regional authorities, and delegate relevant competences and financial resources to the local and regional levels.

23. Department of the Environment, Community and Local Government (2012), “Putting People First – action programme for effective local government”, p. iv.

52. The rapporteurs acknowledge that the implementation of the action programme has contributed to some changes, for example by giving local authorities a stronger role in local economic development and local community development. Additional functions have also been transferred to the local level, for example with regard to climate action, marine planning and administration of housing-related support. Nevertheless, functions have also been withdrawn during recent years, for example the responsibility for water and wastewater management, which was transferred to a national water utility (see paragraph 29 above). Local government has only partly received “a wider range of suitable functions”. Indeed, compared to most other European countries, Irish local government has still a very limited set of powers. Particularly noteworthy is the lack of local government responsibility for functions that in most other countries are carried out under local self-government. These include most welfare functions such as social assistance, elderly care, primary and secondary education, and health services, but also areas such as public transport and municipal policing. None of the additional functions transferred to local government after the last monitoring report would change the Irish position on the local autonomy index. The local government share of public expenditures remains only 8%, compared to 23% in the European Union as a whole.

53. The rapporteurs cannot see that local government manages “a substantial share of public affairs under their own responsibility”. Therefore, they conclude that Ireland does not comply with Article 3.1 of the Charter.

3.2.2 Article 3.2

54. The paragraph emphasises that the right to self-government is exercised by democratically elected councils. In Ireland, local self-government is shared between the council and the chief executive. The council has a set of reserved functions, such as policy decisions, land-use plans, to enact bylaws and to adopt the annual budget. The chief executive is in charge of the executive functions, which include delivering on strategic objectives as set out in the corporate plan, administering schemes and allocating grants. Functional areas and services under the responsibility of the chief executive include transport, social housing and economic development, in which the chief executive is answerable mainly to the national government. Hence, local self-government is only partly in the hands of the elected council. Therefore, the conclusion in the previous report that local government is a combination of local self-government and state administration offices under “one roof” remains valid.

55. The article also states that executive organs may be responsible to the council. Although the chief executive is formally appointed by the council, this is done on the basis of a recommendation from the local appointments service and is not carried out independently by the local authority. The chief executive can only be dismissed by the council following a legally defined process. This requires both a qualified majority in the council and the approval of the minister. Hence, the links of responsibility between the council and the chief executive are very weak. The impression of the rapporteurs during meetings with various interlocutors is that the practical relationships between council and chief executive vary – from close co-operation and understanding to almost living in separate worlds. The difference in length of office between the mayor/chairman and the chief executive is to the disadvantage of the former (normally one year for the mayor/chairman, compared to 7+3 years for the chief executive). Representatives of the AILG suggested that the position of the chief executive has become even stronger during the last ten years.

56. Ireland is about to propose introducing the office of a directly elected mayor in its system of local government. The forerunner is Limerick City and County Council, where this function was approved by a citizen majority in a plebiscite. The required legislation is expected to be in place during 2023, but a draft bill was not available at the time of the monitoring visit. It is understood that most of the powers of the chief executive will be transferred to the mayor. Another important task for the mayor will be to produce a five-year plan to be amended and approved by the council. A mayoral function for Greater Dublin may be put to a plebiscite in 2024, after having been supported by a citizens’ assembly. Its proposal is currently being reviewed by the government and passed on to the Oireachtas for further consideration. During the monitoring visit, the minister of state with responsibility for local government and planning informed the delegation that he hopes that more local authorities will hold plebiscites so that this can be a major part of the reform of local self-government in Ireland. He also underlined that it is very important for the success of the reform that the mayoral function turns out to work as expected and that it is accepted by the general public and the councillors. However, there is no way of knowing, at this point, if the electorates in the various local authorities will, in fact, opt for a directly elected mayor.

57. The position of the elected mayor was not anticipated when the Charter was established in 1985, but the Congress has subsequently stated that Article 3.2 leaves the door open to the direct election of the

executive.²⁴ Hence, the introduction of such a function would not violate the Charter. Depending on the precise nature of the proposed role, and its interface with elected councillors, it may be seen as an important step forward in improving the control of locally elected politicians over executive functions and thereby broaden the scope of democratic local self-government in Ireland.

58. The rapporteurs consider Ireland to partially comply with Article 3.2 of the Charter. There is a strong system of democratic local government, but the area of self-government is limited to the reserved functions. Transfers of executive functions to an elected mayor may be a positive development and the rapporteurs hope that many more local authorities will choose to go in that direction. However, at the same time, the delegation would welcome additional and immediate reforms that strengthen local democratic control of executive functions in all councils. Otherwise, there is a clear risk that an asymmetric system of local government will develop, with different amounts of local democratic control over local matters in different councils. Recent work in this area has included the development of best practices for the operation of municipal districts, in co-operation with local authorities, elected members and other stakeholders.

59. Although the Charter does not specify any ideal population size of local authorities, the rapporteurs notice that the Irish local authorities, on average, are among the largest in Europe. This may have considerable implications for the role of local government vis-à-vis citizens. However, the evidence suggests that Irish local identity is largely connected to the county level, and that the election system ensures strong links between citizens and the local authority. Also, the rapporteurs acknowledge the establishment of municipal (borough/metropolitan) districts as an important democratic innovation, which brings decisions on some local matters closer to the citizens.

60. The 2014 territorial reform included a restructuring of the regional level of government, with the establishment of three regional assemblies. This partly corresponds to the recommendations by the Congress in the 2013 monitoring report to further develop the regional tier of government and make it responsible for the delivery of “regional” public services. The rapporteurs also suggested direct elections of the regional decision makers. Ireland has chosen a model by which the assemblies consist of councillors from the local authorities in the area. However, these councillors have a popular mandate only as councillors and not as regional decision makers, and therefore, cannot be made accountable by the citizens in the region for their decisions in the assembly. Although regional assemblies are not included in the area of applicability of the Charter in Ireland, the rapporteurs would suggest that these are reformed so that their members are elected directly by the citizens. This would also make regional government in Ireland more similar to the regional level in other European countries.

3.3 Article 4 – Scope of local self-government

Article 4 – Scope of local self-government

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.

24. Recommendation 113 (2002) on relations between the public, the local assembly and the executive in local democracy (the institutional framework of local democracy). Recommendation 151 (2004) on the advantages and disadvantages of a directly elected local executive in light of the principles of the European Charter of Local Self-Government.

3.3.1 Article 4.1

61. According to this article, all basic powers and responsibilities need to be firmly anchored in legal texts, with no room for assignment of powers to local government on an ad hoc basis. The powers and responsibilities should be prescribed by the constitution or by statute in order to safeguard predictability, permanence and protection of self-government. Legislation may have a general form, with relevance for local government as a whole, but can also concern regulation of specific local services.

62. In Ireland, the competences of local authorities are clearly given by legislation. Particularly important is the 2001 Local Government Act, but other significant general legislation includes the 2014 Local Government Reform Act and the Local Government Rates and Other Matters Act 2019. In addition, there is considerable special legislation for different areas of service provision. According to evidence from the interlocutors, allocation of powers is done on a strictly legal basis with no scope for ad hoc measures.

63. Hence, the conclusion is that Ireland complies with Article 4.1 of the Charter.

3.3.2 Article 4.2

64. This paragraph stipulates a right for local government to carry out any function that is not explicitly excluded from their area of responsibility as long as it is not the specific task of any other authority. In addition, it is stated that local government should be able to carry out such functions with “full discretion”.

65. For many years, Irish local government was subject to the principle of ultra vires, limiting the functions of local government to only those assigned by law. Closely connected with Ireland’s signing of the Charter, the country introduced a general competence for local authorities. Section 66.3 of the Local Government Act 2001 states that a “local authority may take such measures, engage in such activities or do such things in accordance with law (including the incurring of expenditure) as it considers necessary or desirable to promote the interests of the local community”. The local property tax provides some resources for specific local priorities, such as public parks, leisure amenities, and maintenance and cleaning of streets.

66. The rapporteurs acknowledge that local government has a power of general competence which makes it possible for the council to carry out functions that they would otherwise not have been able to do, within the law. However, the relevance of this function is clearly constrained by the financial resources available. Although the local property tax generates resources that are not regulated by national government, these are fairly limited.

67. Therefore, the rapporteurs conclude that Ireland only partially complies with Article 4.2 of the Charter.

3.3.3 Article 4.3

68. This paragraph introduces subsidiarity as the guiding principle for the division of functions between levels of government. In the general European context, this means that public responsibilities should be exercised by authorities as close to the citizens as possible. However, when there are good reasons with regard to the extent and nature of the tasks, other levels may be more relevant. Nevertheless, decentralisation is the first choice to be considered. In the monitoring report from 2013, the Congress recommended that Ireland revised its legislation to ensure that the subsidiarity principle is better enshrined and protected in the law and to promote this basic principle in practice in the Irish public administration system.

69. The rapporteurs have already noted that Ireland is a centralised state, with national government being responsible for functions that in many other countries are concerns for local government and with a comparatively small share of public expenditures in the hands of local authorities. Despite the reforms that have taken place since the previous monitoring report, and the continuing programme of work to enhance the operation of municipal districts, the system remains very centralised. For this reason, the conclusion is that the situation in Ireland is not compliant with the requirements laid down in Article 4.3 of the Charter.

3.3.4 Article 4.4

70. This paragraph is concerned with the powers that local government carries out on behalf of central government at the local level. In all European countries, local authorities have functions that are delegated to them by law. The Charter requests that these functions should be “full and exclusive” and if they are shared

with some other level of government, the line of demarcation should be clear with no room for ambiguities. The contemporary commentary to the Charter emphasises that there may be limitations to the power assigned to local authorities, but these should be exceptional, based on objective criteria and interpreted narrowly.²⁵

71. The functions of Irish local government generally seem to be clearly defined and delimited with a minimum of overlaps with other authorities. However, they are seldom “full”, as tasks given to local government often remain tightly regulated. In the evidence given by the AILG, the organisation suggests that all powers that derive from primary legislation can be withdrawn or amended at the initiative of the government and the approval of the Oireachtas. It is also stated that ministerial guidelines are increasingly being used to regulate details. An example concerns the draft Planning and Development Bill 2022, which would upgrade ministerial guidelines to “national policy planning statements” and “national planning policy guidance”, which will be mandatory. Other interlocutors have also expressed a concern with the high level of details of national regulation of the tasks that local government carries out on behalf of national government.

72. Ireland meets the requirement in the Charter that powers given to local authorities are exclusive, but to a lesser extent that they are “full”.

73. The high level of detail of the regulation of these tasks makes the rapporteurs conclude that Ireland only partially complies with Article 4.4 of the Charter.

3.3.5 Article 4.5

74. A crucial argument for local self-government is that local democratically elected decision makers are better positioned to adapt general policies to local circumstances as they are closer to citizens and have access to local knowledge. This paragraph emphasises that also powers delegated from central or regional levels of government to local government should include such scope for local adjustments. Discretion in local application of national policies contributes to the legitimacy of national policies and is therefore beneficial also for central government.

75. Although, as was explained in connection with the assessment of Article 4.4, regulation of local government is particularly tight in areas of delegated powers, there is still scope for local adjustments. An example is spatial planning regulation which allows local authorities to take into account local circumstances when drawing up plans.

76. The rapporteurs acknowledge that despite tight regulation there is some scope for discretion when adapting delegated powers to local conditions, which leads to partial compliance with Article 4.5.

3.3.6 Article 4.6

77. The Charter demands that the views of local government should be taken into account when national authorities develop new policies. Article 4.6 explicitly states that this should be done with all matters that concern local government directly, and that consultation should take place in due time. This would mean that local authorities need to be consulted at a stage when new policy or regulation is being drafted with a real opportunity to be able to provide input into the process. For practical reasons, consultations may be carried out with the local government associations, which in turn will need to have sufficient time to discuss matters with their members. Consultations should be regular and not only occur on an ad hoc basis.

78. In the Congress report on local democracy in Ireland from 2013, it was recommended that national authorities develop the procedures and mechanisms of consultation with local and regional authorities on matters concerning them directly both in legislation and in practice, taking into account the criteria provided by Article 4, paragraph 6, of the Charter, namely, “in due time” and “in an appropriate way”.

79. During the monitoring visit of the delegation, it became clear that there is still no formalised and regular process for consultations with local government during the national policy-making process. Although councillors and officials are often invited to pre-legislative scrutiny sessions by the joint Oireachtas

25. Congress of Local and Regional Authorities, “A contemporary commentary by the Congress on the explanatory report on the European Charter of Local Self-Government” (CG-FORUM(2020)02-05final), p. 19.

committees, and the minister may ask local government associations for advice, this is carried out on an ad hoc basis. Nevertheless, in the written statement from the Department of Housing, Local Government and Heritage, the delegation was told that the new mayor of Limerick is suggested to have the right in law to be formally consulted on dimensions of national policy that affect the well-being of Limerick. This may be the start of the development of a more extensive system of formal consultations between national and local government in Ireland as a whole. During the consultation procedure, the department also pointed out that section 225 (3) of the Local Government Act of 2001 (as amended) provides that an association of local authorities “may carry out such activities as are necessary to represent the collective interests of the local authorities which constitute its members” including (c) the “provision of policy support and other assistance [...] as regards any matter relating to or that may relate to local government”, (d) “the assessment of public policy as regards any matter relating to or that may relate to local government”, and (3) “the provision of advice and the making of submissions to the Minister or other public authorities as regards such matters”. Section 255 (3A) provides for the holding of meetings between such associations and the minister. The department added that the CCMA’s system of seven thematic committees provides a forum for central government to engage with local government in the development of policy.

80. Although there are signs of a promising development, national government’s consultation with local government remains irregular and does not deal with all matters that concern local government directly. Therefore, the rapporteurs conclude that the situation in Ireland is not in conformity with Article 4.6 of the Charter. Consultation schedules between local government and central government should be put in place without delay.

3.4 Article 5 – Protection of local authority boundaries

Article 5 – Protection of local authority boundaries

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.

81. The article deals with the territory of the local authorities. It accepts that the borders of local government are basically a matter for higher levels of government to decide, in most cases the national level. Hence, local authorities have neither any right to make such changes themselves, nor are in any position to veto such proposals. This applies to minor adjustments as well as extensive and comprehensive territorial reforms, such as amalgamations of local authorities. Nevertheless, when boundary changes are considered, the affected local communities should be consulted. At the least, this should include the local authorities that are most concerned, but it may also take the form of a local referendum.

82. Local government boundary alternations are regulated in part 8 of the Local Government Act 2001. If the request comes from a council, other affected local authorities are invited to give their views. However, if requested by the minister, there is no provision in the Local Government Act that affected local authorities must be consulted.

83. The most recent territorial reform of local government in Ireland was carried out in 2014, codified in the Local Government Reform Act 2014. Through the reform, all boroughs and town councils were abolished and municipal districts were introduced. In addition, the city and county councils of Waterford and Limerick were merged and so were the two county councils in Tipperary. Minor changes have also taken place, such as the alternation of boundaries in Cork County Council and Cork City Council. No further major territorial reforms are currently considered although an expert advisory group recommended amalgamation of Galway City and County Councils.

84. As noted in connection with Article 4.6, Ireland has no general mechanism for consultation with local government or their associations. Neither is there any such mechanism in the special case of boundary changes. There were no consultations prior to the 2014 territorial reform. Nevertheless, citizens and the local authorities were consulted in connection with the boundary alteration in Cork and the boundary reviews undertaken for the towns of Athlone, Waterford, Carlow and Drogheda. Despite these promising examples, the monitoring delegation considers that Ireland is in breach of Article 5 of the Charter.

3.5 Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

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

85. The paragraph deals with the right for local government to independently, although within the limits of the law, decide how its administrative structure should be organised. The requirement adds an element to local autonomy through which local authorities can adjust their organisation to local circumstances in order to be able to provide their services in an effective way.

86. The internal administrative structure of Irish local authorities is only to a limited extent decided by the elected councillors. All local authorities are required to have a strategic policy committee, but the council can set up any other committee that is regarded to be relevant. However, the council has no influence over the administrative structure of the local authority, as this is entirely an executive function. According to the draft legislation on a directly elected mayor in Limerick, significant administrative functions will be transferred to the mayor, which will increase the influence of an elected official over the internal administrative structure of the local authority.

87. During the consultation procedure, the Department of Housing, Local Government and Heritage highlighted that section 159 of the Local Government Act 2001 provides that each chief executive is responsible for the staffing and organisational arrangements necessary for carrying out the functions of the local authority for which they are responsible. The department added that accordingly, the responsibility for allocating staff to specific work areas within local authorities and other related organisational arrangements including recruitment are matters that rest solely with the chief executive. Furthermore, the department stated that it oversees workforce planning for the local government sector in order to ensure that prudent workforce planning remains in place as is required for all sectors across the public service. And the department pointed out that where local authorities require additional posts above the levels set in workforce plans, the department's engagement is only in the overall context of ensuring that prudent workforce planning is in place. However, the opinion of the rapporteurs is that decisions about the employment structure in local authorities are controlled by central government. As indicated in the written evidence provided to the delegation by the CCMA, sanction for additional posts is usually granted following the submission of a business case and if funding is identified. Nevertheless, this procedure reflects a highly centralised system of local government staffing.

88. Although the mayoral reform represents a step towards meeting the requirement in Article 6.1., the rapporteurs conclude that the current situation in Ireland does not comply with the above-mentioned article of the Charter.

3.5.2 Article 6.2

89. To be able to carry out its functions, local authorities depend on well-trained and high-quality staff. This paragraph emphasises that the conditions of service of local government employees should be sufficiently favourable, so that such staff can be recruited and retained. The contemporary commentary report underlines that local government should have the freedom to determine the conditions of service of their own employees, although the specific national context of public-sector employment has to be taken into account.²⁶

90. In Ireland, conditions for local government employees are largely determined by national level agreements between the trade unions and the local government management body at national level. According to local government associations, local authorities report great difficulties in recruiting and retaining technical staff. In their written comments to the monitoring delegation, Dublin City Council underlines that the cost of living and a more competitive recruitment environment make recruitment and retention of staff more difficult for the city council, relative to other local authorities. However, in the context of an economy with full

26. Congress of Local and Regional Authorities, "A contemporary commentary by the Congress on the explanatory report on the European Charter of Local Self-Government" (CG-FORUM(2020)02-05final), p. 26.

employment (2023), the recruitment and retention of all categories of staff in all parts of the country remains challenging.

91. The overall conclusion is that Ireland on the whole complies with Article 6.2 of the Charter.

3.6 Article 7 – Conditions under which responsibilities at local level are exercised

Article 7 – Conditions under which responsibilities at local level are exercised

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

92. Article 7 regulates conditions for the elected members of the local councils. In the first paragraph, it is stated that these should be able to exercise their functions freely, that is without restrictions.

93. The overall picture of the conditions for local elected representatives in Ireland is that they are generally free to carry out their functions. A recent improvement is that elected councillors, from 2022, are granted a right to maternity leave equivalent to the entitlement for employees in the general society. An additional innovation is the co-option of a temporary member as a substitute for a councillor who is absent due to maternity leave or temporary sickness. It is hoped that these reforms will make it easier for women to participate in local politics, although the rapporteurs note that gender equality would benefit if there was also an equivalent right for male councillors to paternity leave.

94. A remaining obstacle, observed by the Congress in the 2013 monitoring report, is that councillors in general have no legal right to leave from work for council meetings, which has turned out to restrict private-sector employees from running for office. Therefore, it was recommended that the Irish Government consider establishing a clear and specific legislative basis regarding the conditions of office of local elected representatives, particularly as related to rules for private employers to provide “free time” to elected officials for participation in local matters.

95. Beyond the formal conditions, it is also clear that the workload of each councillor has increased with the reduction in number of local authorities. Each councillor now represents on average 5 400 citizens and with the tradition of clientelism, they are expected to pursue not only the interests of the local community, but also requests from individual citizens. An additional disadvantage is that the usual one-year term of the mayor puts the political leader of the council in a disadvantageous position vis-à-vis the chief executive. Finally, the members of regional assemblies have an additional role without having a popular mandate for this task, hence cannot be made accountable to the citizens for the decisions they take in the regional assembly.

96. Although the situation for elected representatives has improved in many respects, the lack of a legal right for leave to attend council meetings must be understood as a restraint on the free exercise of the elected members’ mandate. The rapporteurs therefore conclude that Ireland partially complies with Article 7.1.

3.6.2 Article 7.2

97. This paragraph states that elected members of local councils have a right to financial compensation for their tasks. The financial compensation should be “appropriate”, thereby not preventing, limiting, or excluding citizens to run for office for financial reasons.

98. Remuneration of local councillors has improved considerably since the last monitoring report. Based on suggestions from the Independent Review of the Role and Remuneration of Local Authority Elected Members by Sara Moorhead, recognition was given that “people who put themselves forward to run for public office do so knowing that serving as a local authority elected member involves a significant commitment of time and effort. It is recognised that this commitment grew significantly as a consequence of the 2014 local government reforms.” The review also found, however, that the role of councillor was not a full-time one. The following major changes were made to councillor’s remuneration and allowances in 2021:

99. An increase of more than 40% in councillors' salary and linked to a local authority pay scale, which increases in line with national pay agreements. The current salary is €28 145 (gross) per annum as of 1 March 2023, among the highest rates of pay for local councillors in Europe.

100. During the consultation procedure, the Department of Housing, Local Government and Heritage informed the rapporteurs that in addition, councillors receive a non-taxable travel and subsistence allowance which is worth approximately €3 850 per annum, but varies based on personal circumstances. Councillors also receive travel and subsistence allowances at the standard civil service rates, set by the minister for public expenditure and reform, for attending training events, conferences and other events that are relevant to their functions. Additional allowances are paid to chairpersons of local authorities (Cathaoirleach/mayors), municipal districts and local authority committees. Maternity leave has been introduced for members of local authorities through the Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022. Councillors can also receive a non-contributory lump sum gratuity payment after leaving local government service and having reached the minimum retirement age of 50 years, which is worth a maximum of €76 664 after 20 years of service. The vouched local representation allowance is €5 160 maximum per annum.

101. Despite these improvements, several interlocutors have underlined that the financial compensation is still not sufficient to compensate for the workload that councillors have. Also, there is no additional salary for membership of a regional assembly. It was also stressed that it has become increasingly difficult to get people to run for elected office. Of the 949 councillors elected in the 2019 local elections, by April 2023, at least 101 had left their positions mostly on election to the national parliament, and of these, 32 stood down for personal/career/political reasons (for example, time pressure, work reasons, health or stress issues, policy or party organisational issues). Among these, younger, first-time, co-optees and female councillors are overrepresented.²⁷

102. Although the financial conditions for councillors have improved somewhat, much remains to be done to meet the requirements of Article 7.2 of the Charter. The rapporteurs highlight that important steps have been, and continue to be, taken, however, they conclude that Ireland only partially complies with this paragraph.

3.6.3 Article 7.3

103. Due to conflicts of interests, some citizens should not be permitted to hold a local elected office. However, such restrictions must be clearly defined by statute or other legal instruments. This is emphasised in the third paragraph dealing with the conditions of elected representatives.

104. Before 2003, members of the Irish Parliament could simultaneously hold office as an elected member of a council. This practice of dual mandate was abolished to reduce tendencies of clientelism, as those with such a position tended to protect the interests of their local voters at all levels of government. All disqualifications of being a member of a county council are specified in Article 13 of the Local Government Act and also include, for example, members of the European Parliament and the national government.

105. The disqualifications of being a member of a local council are clearly stated in the Local Government Act. Therefore, it is the view of the rapporteurs that Ireland complies with Article 7.3 of the Charter.

3.7 Article 8 – Administrative supervision of local authorities' activities

Article 8 – Administrative supervision of local authorities' activities

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.

27. <https://adriankavanaghelections.org/2019/09/02/city-and-county-council-members-co-options-and-changes-since-the-2019-local-elections/>, accessed 30 April 2023.

3.7.1 Article 8.1

106. Article 8 of the Charter outlines how administrative supervision of local government should be carried out. In the contemporary commentary, supervision refers to a “form of intervention in the decision-making process of a local entity by which a higher administrative level explicitly or tacitly approves, clears, agrees, suspends or annuls a proposal or a final decision, rule or plan approved by a local entity”.²⁸ Administrative supervision can be “a priori” or “ex post”. Paragraph 1 underlines that such supervision must comply with the principle of legality, that is that all administrative supervision must be made according to law without any room for higher authorities to interfere on an ad hoc basis.

107. The way supervision is carried out is essential for the functioning of local self-government, as supervision is the very opposite of autonomy. Therefore, a first requirement is that all supervision is based on law. In Ireland, supervision of local authorities is carried out by various government departments, but also by the Ombudsman, who responds to claims by citizens, and the NOAC, which investigates the performance of local authorities and oversees how national policy is implemented by local government bodies. Based on the evidence provided to the delegation and on discussions with interlocutors, the rapporteurs have found no incidence of supervision that is not grounded in law.

108. Therefore, the conclusion of the rapporteurs is that Ireland complies with Article 8.1 of the Charter.

3.7.2 Article 8.2

109. This article establishes the principle that administrative supervision should generally be limited to a scrutiny of compliance with law. However, supervision in relation to delegated tasks may also concern expediency, in which case the supervisory body may replace a decision by a local authority with a different decision.

110. Irish local government is mainly in charge of tasks that have been delegated from national government and are regulated by national law. Therefore, this paragraph makes it justifiable to supervise these tasks with regard to both compliance with law and expediency. Only decisions falling within the general competence can be regarded to be “own” tasks and should therefore only concern whether these have been carried out according to law.

111. The evidence given during the visit suggests that Ireland complies with Article 8.2, as functions that are carried out within the general competence are only supervised with regard to their lawfulness.

3.7.3 Article 8.3

112. Paragraph 3 establishes the principle of proportionality in the supervision of local government, meaning that administrative supervision should be proportional to the interest it intends to protect. Also, more softer means, such as warnings, requests or negotiations, should be preferred over more intrusive interventions, such as annulling or suspending a decision at local level.

113. In the report after the previous monitoring visit in 2013, it was stated that administrative supervision of local government in Ireland is detailed, and that national government remains highly interventionist in local decision making. The Congress recommended Ireland to amend existing legislation which allows the central government to intervene in local decision making and ensure that the action programme that was about to be implemented did not increase the level of supervision even more. In particular, the establishment of the NOAC to monitor the efficiency of local authorities should not increase administrative supervision of local government.

114. Central government control over local government is carried out in general terms by the relevant government departments, but there are also provisions for direct ministerial control of local government, for example in the planning legislation. The auditing of local government is conducted by the local government audit service. In addition, the NOAC has an independent role in providing evaluations and oversights over the

28. Congress of Local and Regional Authorities, “A contemporary commentary by the Congress on the explanatory report on the European Charter of Local Self-Government” (CG-FORUM(2020)02-05final), p. 30.

local government sector. Many of the interlocutors representing local government have emphasised that the level of detail in administrative supervision remains high.

115. A leading Irish local government scholar has characterised the administrative supervision of local government in Ireland as overly pervasive, and with power concentrated in central government.²⁹ In the scholarly contribution to the local autonomy index, it was noted that “(d)ay-to-day supervision by the Department, the Minister and officials is widespread and far-reaching. Manifestations of administrative controls and supervision beyond the normal Acts of Parliament include practice, codes of conduct, circulars, etc. Requirements include monitoring and evaluation of activities and service level agreements (SLAs) to regular returns of financial and non-financial information, that include annual budgets, financial statements, performance indicators, financial audits, value for money reports, etc.”³⁰

116. The most serious form of central government control is the replacement of a council with a commissioner. According to part 21 of the Local Government Act 2001, the minister for housing, local government and heritage can appoint a commissioner to take over council functions if a local authority fails to perform any of its functions in a duly and effectual way, if it does not adopt a budget, if it acts illegally or if it refuses or wilfully neglects to comply with any other express requirement which is imposed on it by or under any enactment or act. Although this ultimate instrument is available to central government, it has not been used since 1985. However, in the early years of the state, it was used frequently.³¹

117. The rapporteurs have seen no signs of reduced administrative supervision of local government in Ireland since the last monitoring visit. On the contrary, the establishment of the NOAC has added to the previously fairly tight supervision of local authorities, and no examples of relaxed supervision have been detected. Although supervision is justified with regard to delegated tasks, it is clearly not proportional in the sense suggested by the Charter. Therefore, the conclusion that was made in the previous monitoring report about the breach of Article 8.3 of the Charter remains valid.

3.8 Article 9 – Financial resources

Article 9 – Financial resources of local authorities

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

118. Article 9 consists of a number of paragraphs about the resources available to local authorities and their right to dispose of them freely. The first paragraph is about the “own” resources of local government, typically referring to resources generated locally such as local taxes, charges, fees, etc. These should, within national economic policy, be “adequate”, and local government should have the right to dispose of these freely, although within the framework of their powers.

29. Callanan, M. (2018), *Local government in the Republic of Ireland*, Institute of Public Administration, Dublin.

30. European Commission (2021), *Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020*. Appendix: Country report on Ireland.

31. Breathnach P. et al. (2021), “The changing map of subnational governance in the Republic of Ireland”, *Administration*, 69(1), 113-139.

119. In Ireland, approximately 60% of all local authority revenues are generated locally, from commercial rates, income from goods and services, and from the local property tax (LPT). However, most of these are linked to predetermined services and it is only the LPT that can be used according to local priorities. Until 2022, 80% of the LPT was retained at the local level and the remaining was used for equalisation purposes. From 2023, all resources generated through the LPT are kept locally. The local property tax, which represents 7% of local government revenue, provides resources for specific local priorities, such as public parks, leisure amenities, and maintenance and cleaning of streets.

120. Although there is no specific definition of “adequate resources of their own”, compared to most other European countries, 7% is clearly very low. Therefore, the assessment of the rapporteurs is that Article 9.1 of the Charter is not respected in Ireland.

3.8.2 Article 9.2

121. Paragraph 2 is about the principle of commensurability of local authorities’ financial resources. Resources available to local authorities should be sufficient and commensurate with their responsibilities. Although it may be difficult to determine the exact level of resources that is required, there should be a balance between local governments’ total revenues and their mandatory functions. New tasks should be accompanied by the corresponding funding.

122. During the monitoring visit in 2013, the rapporteurs noted that the financial situation for local government remained restrained, in the wake of the financial crisis of 2008. The evidence presented to the delegation suggests that the situation is clearly better today. However, there are different views among interlocutors on whether funding from national government is commensurate with the mandatory functions that local government is carrying out. Perhaps not unexpectedly, those representing the government side claimed that funding was sufficient, whereas representatives from local government and their associations were more critical.

123. It is difficult to identify some objective criteria as a basis for an assessment of the compliance with Article 9.2, and the comments made by the interlocutors vary in this respect. The rapporteurs consider that Ireland partially complies with Article 9.2.

3.8.3 Article 9.3

124. The Charter considers tax-levying powers to be a crucial part of local self-government. According to Article 9.3, local authorities should be allowed to raise at least a part of the revenue locally, through local taxes and charges, and in addition, they should have the power to, within the limits of statute, determine the rate of these.

125. In the 2013 monitoring report, the rapporteurs concluded that the scale of local taxes and power of local authorities to determine the rates are very limited, and therefore the Congress recommended that, in practice, local governments would have the power to levy taxes and determine effectively the rates within the limits of law. After the report was published, the local property tax has been introduced, which provides a certain leeway to set the rate locally.

126. Approximately 60% of all local authority income in Ireland is currently generated at the local level, from commercial rates, income from goods and services, and from the local property tax. Local government has some scope to determine the rates on commercial property. During the consultation procedure, the Department of Housing, Local Government and Heritage pointed out that the level of commercial rates to be levied is set according to the annual rate on valuation (ARV), which is determined by local authorities after all expenditure and income is estimated and the net expenditure figure which needs to be funded is finalised.

127. Income from goods and services does not usually generate any surplus as these should correspond to the costs of these services. However, the rate of the local property tax can be adjusted locally, with +/- 15% in relation to the base rate set by the national government. Currently, 22 county councils have an LPT rate above the national base line (of which 12 have the top deviation of +15%, five have the same as the national standard and four are below).

128. Ireland clearly meets the requirement in paragraph 3 that at least part of the revenue should be raised locally. The rapporteurs also note that the LPT provides a certain scope for variation, thereby making it possible for local government to independently decide the level of its revenue. From the written documentation provided by the Department of Housing, Local Government and Heritage, it is clear that this expression of self-government was introduced partly as a response to the proposal made by the Congress on the basis of the 2013 monitoring report.

129. Nevertheless, it should be noted that a scope for variation of 30 percentage points of a tax that only generates 7% of total local government revenue is a restricted form of financial self-government. During the consultation procedure, the Department of Housing, Local Government and Heritage disagreed with this statement, claiming that there is full leeway in setting commercial rates, which comprises a significant portion of local government funding and that councillors can seek to reduce expenditure if they wish to reduce commercial rates or can increase rates if they wish to have additional discretionary funding.

130. The opinion of the rapporteurs is that even if there may also be some leeway in setting the commercial rates, the total amount of financial autonomy is very limited. Hence, the conclusion of the rapporteurs is that Ireland only partially complies with Article 9.3 of the Charter.

3.8.4 Article 9.4

131. Article 9.4 is about the need for local government to have different types or sources of income which are sufficiently buoyant to meet fluctuations in the economy. The ability to keep up as far as practically possible with the actual increases in the costs for carrying out their tasks is an important requirement for local self-government. Ideally, the types of revenue should automatically compensate local government for inflation or economic difficulties that are beyond their control.

132. Irish local government has four major sources of revenue – commercial rates, grants and subsidies, goods and services income, and the local property tax. Some of these sources are provided by national government, others are generated from the local tax base. This mix of resources clearly meets the requirement of the Charter that sources of income should be diversified. With regard to the buoyancy, the incomes from rates would follow changes in property values, although this may occur with some delay during times of inflation. During the consultation procedure, the Department of Housing, Local Government and Heritage noted that buoyancy in commercial rates is determined by the ARV decision (mentioned above in paragraph 124) and the valuation of commercial properties under the national revaluation programme undertaken by Tailte Éireann (formerly valuation office). It added that LPT buoyancy is determined by the addition of new properties and LPT revaluation.

133. However, the grants and subsidies are less flexible and usually require decisions by the relevant government authority for income to meet increasing costs. Some interlocutors told the rapporteurs that revenues do not always follow the cost increases in wages, personnel and materials that occurred during 2023 although the CCMA underlined that central government has provided significant compensation to the local government sector for the cost increases. During the consultation procedure, the Department of Housing, Local Government and Heritage informed the rapporteurs that funding was provided to cover the cumulative effect on the local government sector of the increased costs arising from the implementation of national pay agreements and the unwinding of the financial emergency measures in public interests legislation. For instance, €287.2 million was secured to assist local authorities to meet their additional payroll costs in 2023, which represents a 37% increase (€78 million) in available funding compared to 2022 (€209.6 million). Furthermore, €60 million supplementary support is being provided for the local government sector in 2023 in recognition of the current funding pressures, and in particular the rising energy costs.

134. The rapporteurs note that there are differences between local authorities as local finances tend to be buoyant in counties with investment and population growth, but are more static in rural counties. They consider that in the current system, buoyancy is largely dependent on the central government as the types of revenues do not appear to be automatically adjusted to respond to inflation in a way that a local income tax would do.

135. For this reason, the rapporteurs conclude that Ireland only partially complies with Article 9.4 of the Charter.

3.8.5 Article 9.5

136. Paragraph 5 states that systems of local self-government should include some kind of equalisation mechanism, through which the effects of the unequal distribution of potential sources of finance and of the financial burden they must support are counterbalanced. Equalisation can be achieved either through transfers from central government or redistribution among local authorities. However, the mechanism must not reduce the discretion that local authorities have in carrying out their responsibilities.

137. Ireland has a system of financial equalisation of local government. In the present system, local authorities with incomes under a baseline receive additional funding, to compensate for disadvantages in terms of geographical location, population density, service needs and the ability to raise income locally. Baseline funding comes from the LPT and is supplemented by funding from national government where a local authority's LPT income is less than its baseline level. The additional resources can be used at the discretion of the local government.

138. In light of the above, it is clear that Ireland complies with the requirement of Article 9.5.

3.8.6 Article 9.6

139. Paragraph 6 requests that local government should be consulted about aspects of the redistribution system. Hence, in addition to the general principle of consultation in Article 4.6, the Charter also specifically underlines the right to be consulted about the way in which redistributed resources are to be allocated to them by other levels of government.

140. In the 2013 monitoring report, it was noted that there is a system of financial equalisation through the local government fund, but it is not sufficiently transparent, as equalisation is done on the basis of an administrative assessment of needs and resources. Therefore, the Congress recommended the government to review the equalisation mechanism to make it transparent and ensure that this is done in consultation with the local authorities.

141. A local government funding (baseline) review group, consisting of representatives of the Department of Housing, Local Government and Heritage, and the Department of Public Expenditure, National Development Plan Delivery and Reform, together with representatives from councillors' and chief executives' associations, has been established to review the baseline computation. It has been given the task to recommend a set of indicators that are fair, equitable and transparent. In the process, all local authorities are invited to give their views on how the indicators should be weighted and recommend new indicators where appropriate. A report from the review group is expected by May 2023, to be presented to the minister.

142. The rapporteurs welcome the initiative to review the system of equalisation and that this is carried out in a way that gives both individual local authorities and the local government associations an influence over the process. They conclude that Ireland now complies with the criteria in Article 9.6.

3.8.7 Article 9.7

143. This paragraph is concerned with grants to local authorities from higher levels of government. If possible, grants should be unconditional, rather than earmarked for specific projects or purposes. Even when services are financed with grants, there should still be a basic freedom for local authorities to exercise policy discretion within their own jurisdiction.

144. Central government transfers to local government account for 40% of local government revenue income. It has been estimated that only 10% of these grants are unconditional.³² Central government grants fund approximately two thirds of local government capital investments. Capital projects co-funded by national government need the approval of the capital projects grants board which also monitors that these comply with the agreed budgets. During the consultation procedure, the Department of Housing, Local Government and Heritage pointed out that local authorities often choose the projects to propose for grant funding.

32. European Commission (2021), *Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020*. Appendix: Country report on Ireland.

145. The scope for local self-government provided by the grants to local government is very limited. Therefore, Ireland does not meet the requirements in Article 9.7.

3.8.8 Article 9.8

146. The final paragraph dealing with financial self-government concerns the right for local government to have access to the national capital market for capital investments, within the limits of the law.

147. Local authorities in Ireland have access to the national capital market for borrowing to capital projects, although most of them borrow from a government fund as this provides better rates. However, all borrowing by local government requires the approval of the minister in charge of local government affairs. During the consultation procedure, the Department of Housing, Local Government and Heritage informed the rapporteurs that this is because local authorities are required to have a neutral impact on the general government balance, which is the fiscal measure the European Union Commission uses to assess a country's compliance with the Stability and Growth Pact and the Maastricht criteria. Therefore, access to borrowing is limited.

148. Irish local government has access to the national capital market within the limits of the law, as stated by this paragraph in the Charter. However, in practice, this provides very limited independent scope for self-government as local authorities lack the right to decide on borrowing. For this reason, the rapporteurs conclude that Ireland is only partially complying with Article 9.8 of the Charter.

3.9 Article 10 – Local authorities' right to associate

Article 10 – Local authorities' right to associate

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

149. Article 10 regulates various aspects of local authorities' right to associate, within the country as well as with local government in other countries. The first paragraph underlines that local authorities must be able to establish consortia with other local authorities for tasks of common interest.

150. Section 52 of the Local Government Act 2001 gives county councils the right to establish joint committees to carry out tasks jointly for several councils. Section 85 empowers local authorities to perform functions on behalf of their neighbouring local authorities. For example, Dublin City Council provides fire services and an emergency ambulance service also for the adjoining county councils.

151. The rapporteurs conclude that Ireland complies with Article 10.1 of the Charter.

3.9.2 Article 10.2

152. The second paragraph of the article is about the right for local authorities to join different types of interest organisations, both national and international. At national level, the most obvious organisations are national associations of local government. Local authorities should also be able to join international organisations that are in their interest.

153. In Ireland there are currently three local government associations – the AILG, the LAMA, which both represent elected councillors, and the CCMA, which represents chief executives who are professional administrators. There is no organisation in Ireland for the collective interest of local government; however, consultations occur between the different organisations. There is also an interest organisation for the regional assemblies – the AIR. Although membership in international organisations is permitted, the associations are not members of the Council of European Municipalities and Regions. The all-island local authority programme is a strategic partnership comprising of chief executives from the society of local authority chief executives in

Northern Ireland and chief executives from the CCMA. It receives part of its funding from the Department of Housing, Local Government and Heritage.

154. Local authorities in Ireland have the right to belong to associations, and therefore, Ireland complies with Article 10.2 of the Charter. Nevertheless, the lack of a joint voice for all aspects of local government is an anomaly in a European context, where local government associations are normally not divided between elected members and professional leaders. This is likely to weaken the protection of local self-government in Ireland. The rapporteurs would also welcome Irish local government associations as members of international associations as an additional way of supporting local self-government in Ireland.

3.9.3 Article 10.3

155. This paragraph can be seen as an extension of Article 10.1, but deals with the right for local authorities to co-operate with their counterparts in other states.

156. Local government in Ireland has full rights to co-operate with local authorities in other countries. Such co-operation is common with adjacent or near-adjacent local authorities in Northern Ireland, but councils also co-operate with local authorities in for example Scotland, Wales and England. During the consultation process, the AILG stressed that, however, the scope for co-operation with United Kingdom authorities is lessening as, since Brexit, European Union funding for Interreg type regional co-operation is no longer available to the United Kingdom partner local authorities. Local authorities may also work together with other European countries on European Union schemes while – although impacted by Covid-19 – local authorities maintain some town-twinning type links with local authorities internationally, as well as some outreach to expatriates in the United States of America and elsewhere.

157. Ireland complies with Article 10.3 of the Charter.

3.10 Article 11 – Legal protection of local self-government

Article 11 – Legal protection of local self-government

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.

158. Article 11 concerns the right for local government to a judicial remedy in order to protect its interests if any aspect of local self-government is violated. The general principle is that local government should have the right to invoke and defend in the courts the principle of local self-government, especially when their rights and powers are challenged or curtailed or when those rights are endangered by higher levels of government. “Recourse to a judicial remedy” means access by a local authority to either a properly constituted court of law or an equivalent, independent, statutory body.³³

159. The Constitution of Ireland allows for a judicial review to be carried out by the High Court and the Supreme Court. According to Article 34.3.2 of the constitution: “Save as otherwise provided by this Article, the jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this constitution, and no such question shall be raised (whether by pleading, argument or otherwise) in any Court established under this or any other article of this constitution other than the High Court or the Supreme Court”. Although a local authority could challenge the constitutionality of legislation enacted by the Oireachtas in accordance with Article 34.3.2, it is highly unlikely to do so. Also, as pointed out in a written statement from the chief justice to the delegation, the commencement of litigation in the name of a local authority is a management/executive function. It would require a special resolution to be passed by councillors before any individual member of a local authority was empowered to issue proceedings in the name of the local authority.

160. Section 11(7) of the Local Government Act 2001 states that a local authority has the power to sue and to be sued in its corporate name. Although it is unusual that local government challenges the state, there is a recent example in the case of *Cork County Council v (by order) the Minister for Housing, Local Government and Heritage, Ireland and the Attorney General and the Office of the Planning Regulator*, in November 2021. Cork County Council brought a challenge to a direction by the minister, made through the office of the

33. Congress of Local and Regional Authorities, “A contemporary commentary by the Congress on the explanatory report on the European Charter of Local Self-Government” (CG-FORUM(2020)02-05final), p. 45.

planning regulator, that it should cancel a change to its development plan. The High Court found in favour of the council and quashed the minister's decision.

161. As a judicial remedy exists in Ireland, the conclusion from the rapporteurs is that Ireland complies with Article 11 of the Charter.

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

162. When Ireland ratified the Charter, it declared itself bound by all articles of the Charter and confined the scope of application to county councils, city councils and town councils. Since then, Ireland has abolished the town councils and introduced municipal districts, and now has effectively three types of local authorities – county councils, city councils, and combined city and county councils. The rapporteurs would therefore suggest reviewing the scope of application of the Charter to remove the town councils.

163. Ireland is in many ways a forerunner in the practical application of new forms of participatory democracy. In particular, the citizens' assembly is a way of getting policy advice on a particular topic from a representative and well-informed group of people. Since 2011, such assemblies have had a significant role in finding solutions on contentious issues such as same-sex marriages, gender equality, loss of biodiversity and, most recently, to establish a directly elected mayor for the Greater Dublin Area. Ireland has also established public participation networks as a way to include community and voluntary organisations in local decision making. Although the rapporteurs note that this is a legal obligation, rather than an expression of local self-government, it nevertheless increases citizens' involvement in local decision making. As Ireland already has a strong commitment to participatory democracy, the rapporteurs would suggest that the government considers signing 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). In this respect, it should be mentioned that during the consultation procedure, the Department of Housing, Local Government and Heritage, in its letter of 19 June 2023, assessed that Ireland would be in a reasonable position to be able to sign and ratify the protocol without undue difficulty or delay, and on that basis, the department is in a position to give positive consideration to this matter, with a view to signing and ratifying this protocol in advance of the next Congress monitoring visit.

164. The rapporteurs also note that Ireland has not signed the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159). Signing this would also be most welcome.

165. The Covid-19 pandemic has had considerable effects on Irish society and on local government. As noted by the local government audit service, "the Covid-19 pandemic and the emergency measures taken to mitigate it have had a significant impact on the finances of local authorities. This has resulted in a reduction in and uncertainty over various income sources, together with increased levels of unexpected expenditure. Reductions in income have also had a bearing on the cash flow of local authorities and their ability to deliver services."³⁴ Therefore, the financial support provided by central government has been critical for the financial stability of local government. Support has included compensation for loss of income and extra resources for the additional expenditures that have occurred.

166. It has generally been acknowledged by representatives from local government as well as from government departments that local authorities played a crucial role during the pandemic and took on an important leading and co-ordinating function for the local communities. Indeed, it is the understanding of the rapporteurs that this showed that Irish local authorities are capable of taking over a larger set of functions under self-government for the benefit of their local communities. It also illustrated their ability to dynamically respond to a major societal crisis. The way that local authorities dealt with the Covid-19 crisis has also enhanced central government trust in local governments and possibly also strengthened their position among their citizens.

167. The councils were also taking a key role as part of Ireland's response to the Ukraine humanitarian crisis and the arrival of almost 80 000 beneficiaries of temporary protection into local communities. Support was

34. Department of Housing, Local Government and Heritage (2022), "Overview of the work of the local government audit service – Year ended 31 December 2020.

provided in four major areas – leading the community response, operating emergency reception centres, running the “Offer a Home” pledging system, and leading the longer-term refurbishment of large, suitable buildings.

5. CONCLUSIONS AND RECOMMENDATIONS

168. When the monitoring delegation visited the Custom House in Dublin, where the Department of Housing, Local Government and Heritage resides, it was informed that “local government has been administrated and supported from this house for 200 years”. The house was used by the British as the location where local government in Ireland was controlled, but after independence also by the Irish central authorities. This was a telling way of expressing how central government views local government – something that is administrated and not primarily regarded as self-governing units.

169. Ireland has historically been a centralised state. Central government control has been extensive, the range of functions administered under local self-government has been limited, local financial autonomy has been constrained and the position of the local elected representative vis-à-vis the appointed executive has been weak. By signing the Charter, Ireland explicitly committed itself to strengthen the autonomy of local government.

170. Many important steps had already been taken prior to the ratification, such as the replacement of the ultra vires principle with a general competence. In 1999, local government and fixed election periods were constitutionally protected. Through the 2001 Local Government Act, a basic legal framework was established and the dual mandate abolished.

171. The rapporteurs also note with satisfaction that the reform process has continued after the last monitoring visit with several additional steps towards fuller local self-government. Through the 2014 Local Government Reform Act, the structure of local government was streamlined, but also complemented with the innovative municipal districts, which brings local decision making closer to the citizens. Local authorities were given a stronger role in local economic development and local community development. The 2014 Act also established a regional level of government more in tune with European standards. In addition, the financial compensation to councillors has improved somewhat.

172. During the monitoring visits, the rapporteurs experienced a general awareness at all levels of government of the centralised nature of the Irish state and the restricted position of local self-government in the country. The burden of history remains strong and more strategic reforms seem difficult to implement. For example, the legislation underpinning the direct election of a mayor in Limerick has several times been delayed. There also seems to be an enduring tendency of central government to mistrust and oversee local government. At the same time, there is also a genuine ambition at the top level of government to reform the system of local government.

173. Despite these positive tendencies, several deficiencies remain. Having investigated the extent to which Ireland complies with the Charter, the rapporteurs would like to point to some aspects which deserve further attention.

174. Although new functions have been transferred to local authorities, local government is far from managing a substantial share of public affairs under its own responsibility. Despite decentralisation reforms since the previous monitoring report, the system remains essentially centralised. The range of responsibilities handled under local self-government is clearly smaller than in most other European countries, in particular within the area of public welfare.

175. The main strategies put forward for increasing local democratic control over local matters are the introduction of municipal districts and the introduction of directly elected mayors. The latter function is underway in Limerick City and County Council and has been supported by a citizens’ assembly for the Greater Dublin Area. Depending on the detail of the model, as yet invisible to those expected to operate it, this is a reform strategy in line with the Charter, however, as it is bottom-up driven, it may not be adopted in all councils. That said, it is bolstered by the top-down approach of a citizens’ assembly on a directly elected mayor for Dublin. Therefore, in the immediate term, strategies are urgently required to deliver stronger local self-government in all counties whether or not citizens prefer to have directly elected mayors.

176. The reform of the regional level in 2014 has improved regional self-government in Ireland along the lines suggested in the previous monitoring report. However, regional assembly members are not directly elected at regional level and therefore, there is no mechanism of accountability between citizens and the assembly members.

177. Ireland still lacks a formalised and regular process for central government consultations with local government on matters that concern them directly. This also includes the special case of consultations prior to boundary changes. Consultation remains sporadic and does not deal with all matters that are relevant for local government.

178. The council has limited influence over the administrative structure of the local authority, as this is an executive function in the hands of the chief executive. However, when there are directly elected mayors, the local democratic influence over the internal administrative structure will be stronger, although this is yet to be implemented. Detailed legislation on the role and functioning of the directly elected mayor had not been finalised at the time of the monitoring visit.

179. The extent of the administrative supervision of local government is not proportional to the importance of the interests which it is intended to protect. Supervision is generally extensive and detailed.

180. The own resources which can be used at the discretion of local government are mainly restricted to those generated through the LPT and commercial rates. These remain limited and do not meet the Charter's requirement of adequacy.

181. Most central government grants are earmarked for specific purposes, which means that the scope for local priorities is limited.

182. There are also, in addition, a number of paragraphs where Ireland only partially complies with the Charter, for example with the exercise of members' mandates and the financial situation of local government.

183. During the monitoring visit and from the evidence provided, the rapporteurs have observed that there remains an element of central government distrust about the ability of local government to shoulder responsibilities under local self-government, as expressed by the Charter. However, the rapporteurs also note the experience of how local government has dealt with the Covid-19 crisis and the arrival of Ukrainian refugees, responses which show that Irish local government is responsible and efficient, and is prepared to take on a more extensive role on a par with local authorities in other European countries. The Congress emphasises that trust building needs to be a key element in the future reform process.

184. More specifically, and in response to the identified violations, the Congress recommends to the Irish authorities, in accordance with the principle of subsidiarity, to transfer additional functions to local authorities, in particular within the area of public welfare; to continue with reforms that increase elected members' influence over executive matters in all local authorities; to elect members of the regional assemblies directly; to introduce a system of formal and regular consultations between central and local government; to enhance local democratic control over the internal administrative structure of local government; to reduce administrative supervision; to increase the amount of own resources that can be used at the discretion of local government and that a larger share of the grants should not be earmarked.

185. The rapporteurs also recommend updating the scope of applicability of the Charter to remove the town councils which were abolished under the 2014 territorial reform.

186. Finally, the rapporteurs recommend that Ireland sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).

APPENDIX – Programme of the Congress monitoring visit to Ireland

**MONITORING OF THE APPLICATION OF THE EUROPEAN CHARTER
OF LOCAL SELF-GOVERNMENT IN IRELAND**

– First part of the visit –

**Dublin, Meath
(4-5 April 2023)**

PROGRAMME

Congress delegation

Rapporteurs:

Mr Vladimir PREBILIČ

Rapporteur on local democracy
Chamber of Local Authorities, SOC/G/PD³⁵
Mayor of Kočevje
Slovenia

Ms Gunn Marit HELGESEN

Rapporteur on regional democracy
Chamber of Regions, EPP/CCE¹
Member of the County Council of Vestfold and Telemark
Norway

Congress secretariat:

Ms Stéphanie POIREL

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

Expert:

Professor Anders LIDSTRÖM

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

35. 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 4 April 2023
Dublin

**MEETINGS WITH THE NATIONAL DELEGATION OF IRELAND TO THE CONGRESS,
NATIONAL ASSOCIATIONS AND INDEPENDENT EXPERT:**

- **NATIONAL DELEGATION OF IRELAND TO THE CONGRESS:**

Cllr Jimmy (James) MOLONEY, Head of Delegation, Member of the County Council of Kerry

Cllr Gobnait NI MHUIMNEACAIN, Deputy Head of Delegation, Member of the County Council of Cork

Cllr Anne COLGAN, Member of the County Council of Dún Laoghaire-Rathdown

Cllr John CROWE, Member of the County Council of Clare

Cllr Alan CHEEVERS, Municipal Councillor of Galway

Cllr Aisling MORAN, Member of the County Council of Laois

Cllr Tom WELBY, Member of the County Council of Galway

Mr Liam KENNY, Delegation Secretary

- **ASSOCIATION OF IRISH LOCAL GOVERNMENT (AILG):**

Cllr Pat FITZPATRICK, President
(Councillor Kilkenny County Council)

- **ASSOCIATION OF IRISH REGIONS (AIR):**

(Northern and Western Regional Assembly + Southern Regional Assembly + Eastern and Midlands Regional Assembly)

Cllr Pip BREEN, Cathaoirleach for the Association of Irish Regions,
Cathaoirleach of Southern Regional Assembly
(Councillor Wexford County Council)

Cllr Kate FEENEY, Member of Eastern and Midlands Regional Assembly
(Councillor Dún Laoghaire-Rathdown County Council)

Cllr Dermot LACEY, Member of Eastern and Midlands Regional Assembly
(Councillor Dublin City Council)

Mr David KELLY, Director Southern Regional Assembly

- **LOCAL AUTHORITY MEMBERS ASSOCIATION (LAMA):**

Cllr Michéal ANGLIM, Chair
(Councillor Tipperary County Council)

- **THE COUNTY AND CITY MANAGEMENT ASSOCIATION (CCMA):**

Mr Frank CURRAN, Chairperson
(Chief Executive, Dún Laoghaire-Rathdown County Council)

- **INDEPENDENT EXPERT:**

Dr Brid QUINN, Department of Politics & Public Administration, University of Limerick

DUBLIN CITY HALL:

Cllr Caroline CONROY, Lord Mayor of Dublin
Cllr Claire BYRNE, Councillor
Mr Owen P. KEEGAN, Chief Executive Dublin City Council
Ms Yvonne KELLY, Law Agent Dublin City Council
Mr Fintan MORAN, Head of Management Accounting, Finance Department
Mr Darach O'CONNOR, Executive Manager Corporate Services and Transformation Department
Ms Ruth DOWLING, Senior Executive Officer, Chief Executive's Department
Ms Fanchea GIBSON, Head of International Relations
Ms Caroline FALLON, Personal Assistant to Chief Executive Owen Keegan

PARLIAMENT: (Houses of the Oireachtas)

Mr Seán Ó FEARGHAÍL, TD, Chairman of the Dáil Éireann (*Ceann Comhairle*)
Ms Eileen LAWLOR, Secretary of Ireland's delegation to PACE

COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE:

Mr Paul McAULIFFE, TD, Vice Chair (*Leas-Chathaoirleach*)

OMBUDSMAN:

Mr Ger DEERING, Ombudsman and Information Commissioner for Ireland

Wednesday 5 April 2023
Dublin, Meath County

DEPARTMENT OF HOUSING, LOCAL GOVERNMENT AND HERITAGE:

Mr Kieran O'DONNELL, TD, Minister of State with responsibility for Local Government and Planning
Ms Fiona QUINN, Assistant Secretary, Local Government Division, Department of Housing, Local Government and Heritage
Ms Niamh DREW, Principal Officer, LG Structures & Modernisation
Ms Sinead O'GORMAN, Principal Officer, LG Finance
Mr Diarmuid O'LEARY, Principal Officer, LG Governance and Elected Members
Ms Karen KENNY, Senior Advisor, Planning Division
Mr Gary McGUINN, Assistant Principal, LG Governance and Elected Members
Ms Sarah SHIEL, Assistant Principal, LG Governance and Elected Members
Ms Jeanette YOUNG, Higher Executive Officer, LG Governance and Elected Members
Ms Ciara BATES, Community and Voluntary Supports and Programmes Unit, Department for Rural and Community Development

LOCAL GOVERNMENT AUDIT SERVICE:

Ms Niamh LARKIN, Director of Audit
Mr Daragh McMAHON, Principal Local Government Auditor
Mr Pat GUINEY, Principal Local Government Auditor

NATIONAL OVERSIGHT AND AUDIT COMMISSION:

Mr Michael McCARTHY, Chair

MEATH COUNTY COUNCIL:

Cllr Nick KILLIAN, Cathaoirleach/Chairperson
Ms Jackie MAGUIRE, Chief Executive

MONITORING OF THE APPLICATION OF THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT IN IRELAND

– Second part of the visit –

(Dublin, 2 May 2023)

PROGRAMME

Congress delegation

Rapporteurs:

Mr Vladimir PREBILIČ

Rapporteur on local democracy
Chamber of Local Authorities, SOC/G/PD³⁶
Mayor of Kočevje
Slovenia

Ms Gunn Marit HELGESEN

Rapporteur on regional democracy
Chamber of Regions, EPP/CCE¹
Member of the County Council of Vestfold and Telemark
Norway

Congress secretariat:

Ms Stéphanie POIREL

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

Expert:

Professor Anders LIDSTRÖM

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

³⁶ 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 2 May 2023
Dublin**

SUPREME COURT OF IRELAND:

The Hon. Mr Justice Gerard HOGAN, Judge of the Supreme Court

The Hon. Ms Justice Nuala BUTLER, Judge of the Court of Appeal

**DEPARTMENT OF PUBLIC EXPENDITURE, NATIONAL DEVELOPMENT PLAN
DELIVERY AND REFORM:**

Mr Eoin DORGAN, Assistant Secretary, Public Service Delivery Division

Mr Garrett O'RORKE, Assistant Principal for the Department of Housing, Local Government and Heritage Vote

ELECTORAL COMMISSION:

Mr Art O'LEARY, Chief Executive

Mr Jim GAVIN, Chair of the Dublin Citizens' Assembly

Mr Ragnar ALMQVIST, Director, Department's Enlargement and Southeast Europe Unit, Department of Foreign Affairs

DEPARTMENT OF RURAL AND COMMUNITY DEVELOPMENT:

Ms Bairbre NIC AONGUSA, Assistant Secretary General

Mr Kieran MOYLAN, Principal Officer

Ms Aoife O'BRIEN, Assistant Principal

Mr Diarmuid O'LEARY, Principal Officer, Local Government Division, Department of Housing, Local Government and Heritage

SENATE (Seanad Éireann):

Senator John CUMMINS (*Fine Gael*)

Senator Róisín GARVEY (*Green Party*)