

47th SESSION

Report
CPL(2024)47-02prov
26 August 2024

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

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

Co-rapporteurs:¹ Matthias GYSIN, Switzerland (L, ILDG)
Gudrun MOSLER-TÖRNSTRÖM, Austria (L, SOC/G/PD)

DRAFT RECOMMENDATION.....	3
EXPLANATORY MEMORANDUM.....	6
1. INTRODUCTION: AIM AND SCOPE OF THE VISIT, 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.....	11
2.3 Legal status of the European Charter of Local Self-Government.....	14
2.4 Previous Congress reports and recommendations.....	14
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.....	17
3.2.1 Article 3.1.....	17
3.2.2 Article 3.2.....	20
3.3 Article 4 – Scope of local self-government.....	23
3.3.1 Article 4.1.....	23
3.3.2 Article 4.2.....	24
3.3.3 Article 4.3.....	24
3.3.4 Article 4.4.....	25
3.3.5 Article 4.5.....	26
3.3.6 Article 4.6.....	26
3.4 Article 5 – Protection of local authority boundaries.....	28
3.5 Article 6 – Appropriate administrative structures and resources.....	29
3.5.1 Article 6.1.....	29
3.5.2 Article 6.2.....	29
3.6 Article 7 – Conditions under which responsibilities at local level are exercised.....	30
3.6.1 Article 7.1.....	30
3.6.2 Article 7.2.....	31
3.6.3 Article 7.3.....	32

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.

3.7	Article 8 – Administrative supervision of local authorities' activities	32
3.7.1	Article 8.1	32
3.7.2	Article 8.2	33
3.7.3	Article 8.3	34
3.8	Article 9 – Financial resources	34
3.8.1	Article 9.1	34
3.8.2	Article 9.2	36
3.8.3	Article 9.3	38
3.8.4	Article 9.4	39
3.8.5	Article 9.5	39
3.8.6	Article 9.6	40
3.8.7	Article 9.7	41
3.8.8	Article 9.8	41
3.9	Article 10 – Local authorities' right to associate	42
3.9.1	Article 10.1	42
3.9.2	Article 10.2	43
3.9.3	Article 10.3	43
3.10	Article 11 – Legal protection of local self-government	44
4.	OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL AND REGIONAL SELF-GOVERNMENT	45
5.	ADDITIONAL PROTOCOL TO THE CHARTER ON THE RIGHT TO PARTICIPATE IN THE AFFAIRS OF THE LOCAL AUTHORITY	46
6.	CONCLUSIONS	48
	APPENDIX – Programme of the Congress monitoring visit to Iceland (23-25 January 2024)	49

Summary

This report follows the third monitoring visit to Iceland since it ratified the European Charter of Local Self-Government in 1991. It welcomes the high level of fiscal autonomy in local self-government and the increase in state grants while positively noting the government's intention to revise consultation procedures on public finances and equalisation systems, which currently do not appear to be efficient. Furthermore, Icelandic municipalities lead globally in terms of female voting and representation.

However, the report draws particular attention to the unclear division of responsibilities between central and local authorities, the lack of legal force for the Charter in the domestic legal system despite previous Congress recommendations, insufficient financial resources for local authorities to effectively perform their tasks, and mostly single-purpose inter-municipal cooperation (IMC). Additionally, Reykjavik has not been granted a special status to address its specific needs as the capital city compared to other municipalities.

Hence, the Congress recommends that Iceland clarify the division of responsibilities, adopt legislation to give the Charter legal force, ensure adequate financial resources for local authorities, modernise the equalisation mechanism, further promote municipal mergers, improve IMC, grant Reykjavik a special status as the capital city and enhance consultation on financial matters.

DRAFT RECOMMENDATION²

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

- a. Article 2, paragraph 1.b, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;
- b. Article 1, paragraph 3, of the above-mentioned Statutory Resolution CM/Res(2020)1, 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 set up for 2021-2026, in particular priority 6b that 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. 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. previous Congress Recommendation on the monitoring of the European Charter of Local Self-Government in Iceland [Recommendation 402/2017];
- j. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in Iceland. [CPL32(2017)06].

2. The Congress points out that:

- a. Iceland joined the Council of Europe on 7 March 1990, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 20 November 1985 and ratified it in its entirety in 1991. Iceland has ratified the Additional Protocol to the European Charter of Local Self-Government on the rights to participate in the local government affairs (CETS N° 207);
- b. Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (hereinafter referred to as Monitoring Committee) decided to examine the situation of local democracy in Iceland in the light of the Charter. It instructed Matthias Gysin, Switzerland (L, ILDG) and Gudrun Mosler-Törnström, Austria (R, SOC/G/PD), with the task of preparing and submitting to the Congress a report on the implementation of the Charter in Iceland;
- c. The monitoring visit took place from 23 to 25 January 2024. The Congress delegation met representatives of various institutions at all levels of government. The detailed programme of the monitoring is appended to the explanatory memorandum;

2. Preliminary draft recommendation approved by the Monitoring Committee on 2 July 2024.

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

3. The Congress notes with satisfaction that in Iceland:

a. local self-government has a high level of fiscal autonomy;

b. Icelandic municipalities lead globally in terms of female voting and representation;

c. sums of state grants have been increased and initiatives have been made to improve the calculation of costs for some of the transferred services;

d. plans have been approved for the necessary work to revise procedures and the consultation between state and municipalities on public finances;

e. the equalisation system is currently under revision and it is expected that a new one will be in place as soon as some controversial aspects will be resolved;

f. following Congress recommendation 402(2017) "Local democracy in Iceland", in particular its paragraph 6.f, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of local authority (CETS No. 207) has been ratified on 22 May 2017.

4. The Congress notes that the following points call for particular attention:

a. the division of responsibilities between central government and local authorities has not been clarified despite previous Congress recommendations on this matter;

b. the European Charter of Local Self-Government still lacks legal force as a directly applicable source of law in the domestic legal system, despite previous recommendations from the Congress;

c. local authorities do not dispose of financial resources that are commensurate with their competences and sufficient to allow them to undertake optional tasks for the sake of their communities;

d. the current equalisation mechanism does not fully take into account the diverse needs of local authorities;

e. the city of Reykjavik has not been granted a special status;

f. inter-municipal cooperation is mostly single-purpose and often overlapping creating problems of transparency and accountability;

g. the system for consultation with the National Association of local authorities of Iceland on financial matters appears not to be efficient;

h. relevant legislation after the ratification of the Additional Protocol on the right to participate in the affairs of local authorities has not been adopted;

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

a. clarify the division of responsibilities between central government and local authorities based on the subsidiarity principle;

b. adopt legislation to give the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system;

c. ensure that local authorities dispose of financial resources that are commensurate with their competences and sufficient to allow them to undertake optional tasks for the sake of their communities;

d. finalise the modernisation of the equalisation mechanism, to ensure it can effectively respond to the current needs of local authorities;

- e. grant the city of Reykjavik a special status, on the basis of Congress Recommendation 452 (2021), establishing different legal arrangements to take into account the particular situation of the capital city compared to other municipalities;
 - f. further promote amalgamations of municipalities, also by improving and strengthening relevant incentives;
 - g. improve the system of inter-municipal cooperation through new forms of multi-purpose organisations that could address needs in rural and in urban areas, and would enhance transparency and accountability;
 - h. strengthen the institutional framework for consultation on financial matters to ensure a more regular and timely consultation process in accordance with the Charter's requirements on consultation and also taking into consideration good practices in other countries;
 - i. enact relevant legislation after the ratification of the Additional Protocol on the right to participate in the affairs of local authorities, following due consultation with local authorities.
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 Iceland and the accompanying explanatory memorandum in their activities relating to this member State.

EXPLANATORY MEMORANDUM

Table of contents:

DRAFT RECOMMENDATION.....	3
EXPLANATORY MEMORANDUM.....	6
1. INTRODUCTION: AIM AND SCOPE OF THE VISIT, 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.....	11
2.3 Legal status of the European Charter of Local Self-Government.....	14
2.4 Previous Congress reports and recommendations.....	14
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	17
3.2.1 Article 3.1.....	17
3.2.2 Article 3.2.....	20
3.3 Article 4 – Scope of local self-government	23
3.3.1 Article 4.1.....	23
3.3.2 Article 4.2.....	24
3.3.3 Article 4.3.....	24
3.3.4 Article 4.4.....	25
3.3.5 Article 4.5.....	26
3.3.6 Article 4.6.....	26
3.4 Article 5 – Protection of local authority boundaries.....	28
3.5 Article 6 – Appropriate administrative structures and resources	29
3.5.1 Article 6.1.....	29
3.5.2 Article 6.2.....	29
3.6 Article 7 – Conditions under which responsibilities at local level are exercised	30
3.6.1 Article 7.1.....	30
3.6.2 Article 7.2.....	31
3.6.3 Article 7.3.....	32
3.7 Article 8 – Administrative supervision of local authorities' activities	32
3.7.1 Article 8.1.....	32
3.7.2 Article 8.2.....	33
3.7.3 Article 8.3.....	34
3.8 Article 9 – Financial resources.....	34
3.8.1 Article 9.1.....	34
3.8.2 Article 9.2.....	36
3.8.3 Article 9.3.....	38
3.8.4 Article 9.4.....	39
3.8.5 Article 9.5.....	39
3.8.6 Article 9.6.....	40
3.8.7 Article 9.7.....	41
3.8.8 Article 9.8.....	41
3.9 Article 10 – Local authorities' right to associate.....	42
3.9.1 Article 10.1.....	42
3.9.2 Article 10.2.....	43
3.9.3 Article 10.3.....	43
3.10 Article 11 – Legal protection of local self-government	44
4. OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL AND REGIONAL SELF-GOVERNMENT	45
5. ADDITIONAL PROTOCOL TO THE CHARTER ON THE RIGHT TO PARTICIPATE IN THE AFFAIRS OF THE LOCAL AUTHORITY	46
6. CONCLUSIONS	48
APPENDIX – Programme of the Congress monitoring visit to Iceland (23-25 January 2024)	49
1. INTRODUCTION: AIM AND SCOPE OF THE VISIT, TERMS OF REFERENCE	

1. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities, appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulates that "The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy

in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government”.

2. Iceland joined the Council of Europe on 7 March 1990, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter") on 20 November 1985 and ratified it in its entirety in 1991. Iceland has signed on 16 November 2009 and ratified on 22 May 2017 (with entry into force on 1 September 2017) the Additional Protocol to the European Charter of Local Self Government on the rights to participate in the local government affairs (CETS N° 207).

3. In the domain of local and regional democracy, Iceland, apart from the Charter and its Additional Protocol, has also signed and ratified the following Council of Europe Treaties the Convention on the participation of Foreigners in Public life at Local level, of 5 February 1992 (ETS No. 144), signed and ratified on 11 February 2004 and entered into force on 1 June 2004, and the Council of Europe Landscape Convention of 20 October 2000 (ETS No. 176), signed on 29 June 2012 and ratified on 11 December 2019 and entered into force on 1 April 2020.

4. On the other hand, Iceland has signed, but not ratified yet: the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.106) that was signed on 15 June 1999; the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities of 9 November 1995 (ETS No.159), signed on 15 June 1999; the Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation, of 5 May 1998 (ETS No. 169), signed on 15 June 1999, and the European Charter for Regional or Minority Languages of 5 November 1992 (ETS No. 148), signed on 07 May 1999. Iceland has not signed Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euro-regional Co-operation Groupings, of 16 November 2009 (ETS No. 206).

5. The previous monitoring report on local and regional democracy in Iceland was adopted by the Congress at its 32d Session in 29 March 2017 and resulted in the Congress Recommendation 402 (2017).

6. The Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (hereinafter referred to as Monitoring Committee) decided to examine the situation of local democracy in Iceland in the light of the Charter. It instructed Matthias Gysin, Switzerland (L, ILDG) and Gudrun Mosler-Törnström, Austria (L, SOC/G/PD), with the task of preparing and submitting to the Congress a report on the implementation of the Charter in Iceland. The delegation was accompanied by a representative of the Congress secretariat and was assisted by Prof. Dr. Nikolaos-Komninos Chlepas (expert), a member of the Group of Independent Experts on the European Charter of Local Self-Government. This group of persons will be hereinafter referred to as “the delegation”.

7. The monitoring visit took place from 23 to 25 January 2024. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to the explanatory memorandum.

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

2. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

9. In Iceland, the President of the Republic is directly elected for a 4-year term (Article 5 of the Constitution), with no limits to the number of terms of office. The executive power includes the President, the Prime Minister and seven ministries who all together form the State Council presided by the President of the Republic. In practice the President delegates executive power to the Government. The President has the right and obligation to appoint and remove his Ministers (Article 15 of the Constitution), including the Prime Minister (Article 17). He or she must approve government or ministerial measures for them to be passed (Articles 18 and 19). The President of the Republic, according to Article 21, ratifies international treaties under certain conditions.

10. The Althingi (Parliament) consists of 63 members directly elected every 4 years based on proportional representation among six electoral constituencies with several seats per constituency ranging from 2 to 17. It is accompanied by eight standing committees whose members are elected at

the beginning of each period and roughly reflect the political composition of the Parliament. The Committee on Environmental Affairs and Communication is responsible for municipal affairs.

11. The Althingi meets up every 1st of October for its yearly session. The Althingi can investigate on matters of public interests through its committees which deliver reports on the topics they are competent for (Article 39 of the Constitution), and particularly auditing the financial accounts of the State's institutional bodies (Article 43). It is also in charge of voting the State budget submitted at the beginning of each fiscal year (Article 42), and voting the bills in general, as "no bill may be passed until it has received three readings in Althingi" (Article 44). The Althingi may remove the President by a resolution by three fourths of its members based on a criminal charge against him. The risk of tabling such a resolution, though, is that in case of rejection during the plebiscite, the Althingi will be automatically dissolved after two months (Article 11).

12. The President opens and can postpone for two weeks maximum the Althingi sessions (Articles 22 and 23) and can dissolve it (Article 24). The President can submit bills and draft resolutions to the Althingi for vote during the session (Article 25), or, under certain conditions and circumstances, before this date in case of urgency (Article 28). On the other hand, the proposals voted by the Althingi have to be approved by the President, but if rejected, the draft will stay valid until a plebiscite is held among the MPs and will only be declared void if rejected within the Althingi (Article 26).

13. Iceland is a founding member of NATO and a member of the Council of Europe since 1950. Nordic and Arctic cooperation is nowadays one of Iceland's top diplomatic priorities, which chaired the Nordic Council of Ministers in 2019. Iceland is also a member of the Barents Sea Euro-Arctic Council and the Arctic Council, which it chaired from May 2019 to May 2021. Relations between Iceland and the European Union are a major issue for the country. Since 1994, Iceland has been a member of the European Economic Area (EEA), where it accounts for almost three quarters of its exports. The country is also a member of the Schengen Area and the European Free Trade Association (EFTA). Iceland generally supports EU positions. Applying for EU membership at the time of the 2008 financial crisis, she then suspended her candidacy in 2015: membership is no longer on the agenda. However, Iceland participates in certain European policies, notably the European Cohesion Funds and the 3 EU climate structuring instruments: the European Carbon Market (EU ETS), the Effort Sharing Regulation between Member States (ESR) and the Regulation specifying the objectives and rules for accounting for emissions and removals from forests and the land sector. It has also paid particular attention to the Brexit process, with the UK being a major partner, absorbing 12 % of its exports. After the UK's exit from the EU, the two countries reached a trade agreement in June 2021.

14. In comparative rankings, Iceland is described as a "full democracy", ranking 3rd best (score: 9,52) in the world.³ Reaching a very high score (94/100), Iceland is labelled as a "free country", according to 'Freedomhouse' in 2023⁴. Regarding the perception of corruption, Iceland reached a score of 74/100 and ranked 14th best in the world⁵, while according to the risk index "global corruption index" (2023)⁶ Iceland reached a score of 12,98/100 ('very low risk') and ranked 8th best in the world. Trust in government reached 51,5%, which was lower than in other Nordic states but still obviously higher than most OECD members.⁷ Regarding the Local Autonomy Index, Iceland reached the 3rd highest score (76,21/100) among 57 countries in 2020.⁸

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

15. Municipalities made their inaugural appearance in Icelandic annals during the thirteenth century, and, remarkably, the territorial configuration of numerous municipalities has endured without substantial alterations since that period. Consequently, Icelandic municipalities, in a traditional sense, persist in reflecting the foundational characteristics of their inception as communities. This is delineated by a

3 Global Democracy Index 2022: <https://www.economist.com/graphic-detail/2022/02/09/a-new-low-for-global-democracy>.

4 <https://freedomhouse.org/countries/freedom-world/scores>

5 <https://www.transparency.org/en/cpi/2022>

6 [https://risk-indexes.com/global-corruption-index/#:~:text=The%20Global%20Corruption%20Index%20\(GCI,a%20more%20nuanced%20risk%20assessment](https://risk-indexes.com/global-corruption-index/#:~:text=The%20Global%20Corruption%20Index%20(GCI,a%20more%20nuanced%20risk%20assessment)

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

8 See Ladner/Keuffer/Baldersheim/Hlepas/Swianiewicz/Navarro (2019), Patterns of Local Autonomy in Europe, New York: Palgrave MacMillan, and EUROPEAN COMMISSION Directorate-General for Regional and Urban Policy, Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020 (CCI N° 2019CE16BAT176), December 2021, retrieved from: https://ec.europa.eu/regional_policy/sources/policy/analysis/KN-07-22-144-EN-N.pdf.

circumstance wherein citizens' affiliation with a community seamlessly aligns with their association with the territorial boundaries of a municipality or locality.⁹

16. According to Article 78 of the Icelandic Constitution (1944).¹⁰ "The municipalities shall manage their affairs independently as laid down by law. The income sources of the municipalities and the right of the municipalities to decide whether and how to use their sources of income shall be regulated by law." This article is included in the part of the Constitution (Chapter VII) dedicated to rights and freedoms, as a consequence of a conception of local autonomy as part of self-determination of the individuals. It is the only legal provision on local government in the Constitution of Iceland. It leaves other details to be set out in legislation. The main laws concerning local government are:

- The Local Government Act, No 138/2011 January 2012
- The Elections Act, No. 112/2021, June 2021
- The Local Government Financing Act, No. 4/1995

17. The Local Government Act entered into force on January 1, 2012 (Law 138/2011) repealing Law 45/1998. The Icelandic Association of Local Authorities was directly involved in the preparation of the proposal for the new law as well as in the creation of the new framework for local government finances. After the proposal was introduced in Parliament, the Association, as well as both individual citizens and local authorities, were able to send in suggestions for changes. The main area of change touches upon the involvement of local authorities in national decision-making, central government financial and administrative supervision of local government, inter-municipal cooperation, and citizen participation.

18. Chapters VII and VIII address financial issues, concerning both the overall framework as well as auditing or surveillance on behalf of the central government. Budgeting is now much more professional and the possibilities for the State to regulate the finances of local government are better than before. By this Act municipalities must adhere to two fiscal rules. The first, the balance rule pertains to budgetary balance. Municipalities are required to balance their consolidated budget (A- and B-parts) 25 over every three years. By the second rule, the debt ratio of municipalities (A- and B-parts) should not be higher than 150 percent of annual revenues. In Chapters VIII and XI some articles explain when the minister responsible for local government may exercise supervision. Chapter X addresses citizen participation and provides for citizen initiative based on referendums (20% of voters) and public meetings (10% of voters). Local authorities are also obliged to provide their citizens with information on local government issues and procedures.

19. The Public Finance Act from 2015 (Law (123/2015, 28 December 2015) included relevant provisions for local government. It provided for the first time new rules on fiscal strategy, including both the State and the municipalities, based on a "Fiscal Strategy Plan" that forms the basis for the drafting of the Budget Bill and local government budgets for the upcoming budget year. The law (Article 11) determined in detail the procedure for the local authorities to participate in the formulation of the Plan. The Icelandic Association of Municipalities signed in 2015 an agreement with the State, on behalf of the municipalities, about balanced municipal finances for five years and no debt increase. This agreement is updated regularly.

20. The state territory of Iceland is divided for administrative purposes into eight districts. For electoral purposes the country is divided into six constituencies: North Reykjavik, South Reykjavik, Southwest, North, East, and South. Iceland has a single tier of local government, made up of municipalities. Municipalities in Iceland date back to the 11th century. Following gradual mergers, the number of local

⁹ Ibid.

¹⁰ The Constitution of the Republic of Iceland of 17. June 1944, has been amended several times (30 May 1984, 31 May 1991, 28 June 1995, and 24 June 1999). Between 2010 and 2013, in the wake of the so-called Kitchenware Revolution, Iceland's constitution was proposed to be revised through the world's first "crowd-sourced constitution". The new constitution was given the green light by 67% of voters in a national referendum called by parliament in 2012 but has not been adopted by the Parliament, aimed to strengthen democracy. The proposed Bill contains a full chapter (Chapter VII) on "Municipalities" including four articles, in line with the rules and principles of the Charter:

- Article 105 (Independence of municipalities) would provide that "Municipalities shall manage their own affairs as laid down by law. Municipalities shall have sufficient capacity and income to undertake their statutory responsibilities. The sources of revenue of municipalities shall be decided by law, as well as their right to decide whether and how to use them".
- Article 106 (Subsidiarity) would establish that "Municipalities, or associations acting for the municipalities, shall be charged with the aspects of public service that are regarded as best discharged locally, as further provided for by law".
- Article 107 (Election of local government and public participation) would provide that "Municipalities are governed by local governments working under a mandate from residents and elected in by secret ballot in general elections. The right of the residents of a municipality to request a referendum on its affairs shall be determined by law".
- Finally, Article 108 (Obligation to consult) would establish that "Local governments and their associations shall be consulted in the course of the preparation of legislation concerning the affairs of municipalities".

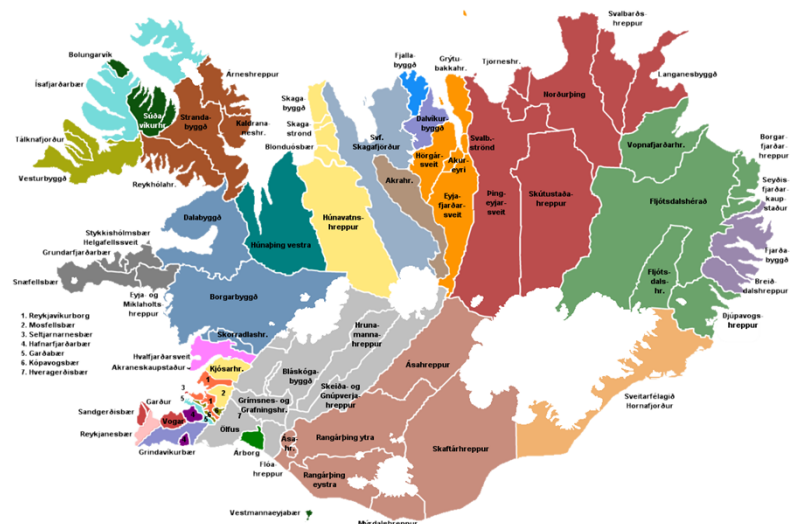
authorities increased slowly until the middle of the 20th century when it reached a peak of 229, after which it decreased again, falling from 124 in 2000 to 69 as of January 2021 (in 2024: 64 municipalities). Municipalities had to negotiate the merger plans between themselves, to be approved by local referendums. There have been two main waves through two comprehensive local referendums on municipal amalgamations, the first time in 185 municipalities was in 1993 and the second time in 66 municipalities was in 2005. The main objective was to reach a sufficient size to be able to provide efficient and high-quality services.

Size Category (inhabitants)	Number of Municipalities	Total Population per category
Reykjavíkurborg	1	139,875
20.000 and more	3	92,437
5.000 and more	7	81,920
2.000 and more	12	42,558
1.000 and more	12	17,710
500 and more	13	9,560
200 and more	9	3,101
smaller	7	597
Totals	64	387,558

Table 1: Number of municipalities per size category and total population per category (Source: Statistics Ireland 2024)

21. The average geographical size of a municipality is about 1,300km².

Figure 1 Territorial division of municipalities with names in March 2020 (Source National Land Survey of Iceland)



22. The Icelandic local government system¹¹ is a monistic council-committee system¹² in which the local council is formally the main source of power. The number of councillors (aldermen) depends on the population, but the legal minimum is five, and councils have between 5 and 11 members – Reykjavik has 23. Councils are the main decision-making body and local governments in Iceland are responsible for a variety of legally assigned tasks in addition to voluntary tasks. The rule is that Icelandic local

11 Eva Marín Hlynisdóttir, *Sub-National Governance in Small States The Case of Iceland*, Palgrave Macmillan, Cham 2020, p. 57-70.

12 Mouritzen and Svava, *Leadership at the Apex*, 2002.

authorities may take up any task they deem necessary as long as it is not assigned to another body or prohibited by law (Valsson 2014). Overall, the institutional framework has been remarkably stable since the introduction of the current system 150 years ago.¹³

23. Local elections take place, without exception, at the end of May every four years. It is possible to use two types of electoral systems. The first type is bloc voting system that functions as a personal vote without parties and comes into actions as a default if no lists come forward. Hence, in such cases, every eligible citizen in the municipalities automatically becomes a runner for a council seat. On the election day, the voters write the name of their preferred candidate on the ballot sheet. The five people with the highest scores automatically become members of the council, and the person with the highest score usually becomes the council leader and mayor. This type of voting is a remnant of the old electoral system installed in the rural municipalities in the nineteenth century, and usually, only very small municipalities use this type of electoral system, but 20% of all municipalities used this type of voting in the local elections in 2022.

24. The second and most frequent type of voting is proportional but without a threshold. In 2022, 51 municipalities (with 99% of the population) used the proportional system of voting. How strong the presence of national political parties is on the local level varies greatly between municipalities, and local politics tend to concentrate heavily on local issues. The tendency to organise local lists for local elections therefore has a long tradition. In the 2022 local government elections, only around half of the 407 representatives elected in proportional elections were from lists affiliated with national parties. The other half came from local lists.

25. In addition to the directly elected council, there are various committees at the local level, of which the executive board is the most important. The executive board is proportionally elected based on the majority and minority in the council. The executive board is responsible for the daily management and fiscal administration of the municipality. Councils are not obliged to set up an executive board, and not all of them do; moreover, municipalities with five-member councils are not permitted to establish an executive board (Local Government Act no. 138/2011).

26. The positions of the leader of the council and the leader of the executive board are usually assigned to the leading politicians on the council. The same person is not normally chosen for these positions. These leadership positions do not have independent powers, and although voting takes place within the council on who should be assigned to the positions, these are normally only formalities, as the majority on the council can effectively decide without consulting the minority. Usually, the council leader is the individual who in most other settings would be referred to as the mayor. However, there are cases where the leader of the executive board is obviously the leading politician of the municipality.¹⁴

27. In addition to the council and the executive board, the most important figure in the day-to-day management of the council is the local government's chief executive. Since the introduction of Local Government Act no. 138/2011, all municipalities must have a chief executive; however, this person may be hired based on either professional merits or political basis. In cases where the chief executive is hired based on professional merits, s/he is a council manager working closely with the council led by the council leader (mayor) and the executive board led by the leader of the executive board.¹⁵

28. In December 2023 the Parliament (Althingi) adopted a policy-making plan on matters concerning municipalities for 2024-2038 and an action plan for 2024-2028. The plan includes a complete revision of the Local Authorities Act. According to interlocutors from the Ministry of Infrastructure, these plans involve objectives to improve the working conditions of elected officials, to advance a better flow of information, and a more active participatory democracy at the local level.

2.2 Status of the capital city

29. Recommendation 452 (2021) of the Congress on the Status of Capital Cities¹⁶ acknowledges that states should have some margin of appreciation to consider country-specific conditions while setting up

¹³ Eva Marín Hlynisdóttir, op.cit., p. 61.

¹⁴ Eva Marín Hlynisdóttir, op.cit., p. 64.

¹⁵ Eva Marín Hlynisdóttir, op.cit.

¹⁶ Debated and adopted by the Statutory Forum on 12 February 2021 (see Document CG-FORUM(2021)01-04, explanatory memorandum), rapporteur: Amelie TARSCHYS-INGRE, Sweden (L, ILDG). See also: Congress of Local and Regional Authorities of Europe Recommendation 133 (2003) on management of capital cities Debated and approved by the Chamber of Local Authorities on 21 May 2003 and adopted by the Standing Committee of the Congress on 22 May 2003; Resolution 158 (2003) on management of capital cities. Debated and approved by the Chamber of Local Authorities on

and implementing appropriate legal safeguards to protect their capitals' local autonomy and address changing trends in central-local relations. This flexibility should, however, be matched with strict compliance with the principles laid down by the Charter, in particular regarding consultation with the local authorities concerned, as set out in Article 4.6.

30. This Recommendation invites the states to provide substantial procedural safeguards to guarantee capital cities' autonomy and minimise the risk of interference from other levels of government. This should be done in conformity with the Charter and the states, with a special focus on some critical areas, should inter alia:

i. Concerning capital city administration:

- introduce an elected citywide administration as a legal safeguard to represent and promote the specific interests of the capital and refrain from splitting the capital's territory into several municipalities.

ii. regarding financial resources:

- ensure adequate financial resources and consider the compensation of capital cities for additional expenditure arising from carrying out the specific functions of a capital;

iii. concerning intergovernmental cooperation:

- formalise the co-operation of capital cities both horizontally, with neighbouring municipalities, and vertically, with higher levels of government.

31. Reykjavik is the world's northernmost capital of a sovereign state. The city reached a population of around 140,000 in 2023 (up from 121,822 in 2015). The city-region of Reykjavík consists of seven cities or municipalities. Of the three largest cities, Reykjavík is notably the largest, followed by Kópavogsbær (population 37,970 in 2020) and Hafnarfjarðarkaupstaður (population 30,000 in 2020). Garðabær and Mosfellsbær are considerably smaller, with populations of 15,700 and 12,070, respectively. Although relatively substantial in the Icelandic context, Seltjarnarneskaupstaður, with a population of 4,720, is small compared to the other cities in the city-region. Approximately 36% of the Icelandic population resides in the city of Reykjavík, and 28% in the surrounding cities. In recent years, the suburbs of Reykjavík have experienced an even more significant and faster growth than the city itself. Given that the biggest share of the Icelandic population resides in this metropolitan area, a more thorough examination of the capital city and its surrounding territory is warranted.

32. In fact, there has been increasing use of the term 'greater city-region of Reykjavík' in recent years, encompassing cities and areas up to a 50–70 km radius from the city centre. However, definitions vary regarding the extent of this area. Three major urban areas lie within a 50 km radius from the Reykjavík city centre: Reykjanesbær (population 19,430), Sveitarfélagið Árborg (population 10,060), and Akraneskaupstaður (population 7,540). These cities, along with their suburbs, have become significant sources of commuting to and from the Reykjavík city region. However, unlike the cities within the city region itself, these cities are distinctly separated from the capital city area by vast uninhabited spaces.

33. Traditionally, collaboration and cooperation were not high priorities in the Reykjavík city region. Individual cities often compete for residents and businesses. Challenges posed by population growth were met in an uncoordinated manner. For instance, until 2001, public transport was managed by two separate companies with limited coordination, often hindering seamless movement between the service areas of each bus company. Noteworthy collaborative efforts have primarily revolved around waste management, public transport, and fire departments. Despite research indicating that spatial coordination is typically one of the initial areas in which cities in a metropolitan region engage in collaboration, municipalities within the Reykjavík city-region have been slow to establish consistent collaboration in this domain.

34. In 2019, an accord was reached between the municipalities in the capital area of Iceland (Reykjavik, Kópavogur, Hafnarfjörður, Garðabær, Mosfellsbær, and Seltjarnarnes) and the national government on transportation within the capital region. After this agreement, a public enterprise named Transport for the Capital Area was established. The primary function of this entity is to invest in transportation infrastructure within the designated area. The financing strategy for these investments involves the development of the Keldur Area in Reykjavik, in addition to contributions from the participating municipalities and the central government. To further support funding, legislative measures are envisaged to enforce traffic charges. The primary challenges in this initiative are intricately linked to the

21 May 2003 and adopted by the Standing Committee of the Congress on 22 May 2003; Recommendation 452 (2021) Status of capital cities. Debated and approved by the Chamber of Local Authorities on 3 May 2007 and adopted by the Congress in June 2007, 3rd Sitting.

political sensitivity surrounding the imposition of fees for the utilization of transportation investments. This aspect significantly impacts the financial underpinning of the investments.

35. Regarding the consideration of a Special Status for the capital city, some local stakeholders have indicated that this matter is poised to be discussed in the Ministry of Infrastructure. However, as of now, no such special legal status is in effect, despite explicit recommendations in both Recommendation 283(2010) and 402(2017). The Local Government Act (No. 138/2011) is grounded in the principle that all local governments share identical responsibilities. In relation to the City of Reykjavik, Article 10 specifies it as the capital of Iceland, with the municipal council termed the city council [borgarstjórn], the byggðaráð as the municipal executive board, the executive director as the borgarstjóri [city mayor], and the oddviti referred to as the president of the city council.

36. The Reykjavík City Council comprises 23 Councillors elected by residents. Meetings are held twice a month and are generally open to the public unless specified otherwise. The City Council holds decision-making authority over Reykjavik City policies and revenues, overseeing the implementation of municipal tasks. Boards and committees, elected by the City Council, are responsible for formulating policies and supervising specific functions. The executive council, consisting of seven councillors, and nine standing committees, each serving a four-year term, play pivotal roles in overseeing the management, finances, and administration of the city. Representatives to district committees and various other committees, such as the child welfare committee, are also elected by the City Council.

37. The Mayor of Reykjavík serves as the chief executive officer of the city and is appointed by the City Council, with the possibility of being a City Councillor as well. In addition to the responsibilities associated with being a City Councillor, the Mayor holds three primary roles: managing director of the City of Reykjavík, the city's public representative, and the political leader of the majority. The mayor is vested with executive authority to sign documents on behalf of Reykjavik Municipal Treasury regarding real estate transactions, borrowings, and other obligations or measures requiring City Council approval. Furthermore, the Mayor oversees Reykjavik City's holdings in companies and chairs the Metropolitan Public Security Committee. Additionally, the Mayor represents Reykjavik in the SSH (Association of Municipalities in the Capital Area) and SHS (Capital Region Fire Service).

38. Apart from being the capital and hosting main state bodies and foreign embassies/diplomatic offices, the city of Reykjavik does not enjoy special privileges nor has additional obligations by law compared to other municipalities. However, de facto, as the most populous municipality and the functional center of the country, offering numerous opportunities, individuals tend to gravitate towards it, especially those in need of social services. Notably, homeless people, foreign pupils with special needs (e.g., language tutoring), and individuals with disabilities move to Reykjavik for its quality and variety of services and opportunities.

39. Some responsibilities, like nursing homes, are jointly managed with the state, but according to Reykjavik representatives, funds provided by the state are insufficient. Grey areas, especially concerning health care services for older individuals with disabilities, pose challenges. Housing is also a pressing issue, exacerbated by both internal migration and the influx of immigrants, straining the city's resources for providing affordable housing solutions.

40. Representatives argue that, given its multifaceted services and functions, the City has less access to commensurate state funding than other municipalities. The Act on Municipalities Revenue Bases No. 4/1995 bars the City from certain contributions from the Municipal Equalisation Fund without annual evaluation, which Reykjavik contends is unfair.

41. Reykjavik has taken legal action regarding the cost calculation for services provided to disabled persons. The city contends it is illegal to be excluded from specific contributions from the Local Authorities Equalisation Fund, resulting in a significant deficit. Though winning at first instance, the state government's challenge has potentially stalled the equalisation reform. The pending outcome has implications for municipal taxation and equalisation funds, as Reykjavik argues it has exhausted its full potential due to the high demand for city services.

42. During the consultation procedure, the Ministry of Infrastructure indicated that it would examine whether a provision to grant the Capital City and possibly other cities with similar roles a special legal status will be added to the Local Authorities Act during the ongoing review of the law.

43. Taking into consideration the above, the rapporteurs would suggest reiterating the previous recommendations and recommend, once more, to establish a fully-fledged special status for the city of Reykjavik.

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

44. As both the earlier recommendation (Rec. 283/2010) and the preceding recommendation (Rec. 403/2017) emphasize, the European Charter of Local Self-Government was never formally integrated into the Icelandic legal system. Such incorporation requires legislative action by the Icelandic Parliament (Alþingi). Iceland adheres to a dualistic relationship between domestic and international law, just as it traditionally the case in other Nordic states. Accordingly, the provisions of international treaties ratified by Iceland do not automatically gain the status of domestic law unless they are specifically incorporated into Icelandic law. In several cases international treaties have been incorporated into domestic Law with specific Acts. This applies for example to the European Convention on Human Rights and the United Nations Convention on the Rights of the Child.

45. According to information provided by members of the National Association of Local Authorities, the Charter is not transformed into domestic law just as it is the case for several other treaties, not because there is some kind of targeted reluctance against the Charter. The Association is trying to put it on the agenda of the system, but the parliament has not responded. If the incorporation of the Charter will be realised, it would offer additional arguments for local authorities in several aspects, for instance also to the city of Reykjavik for pending litigations concerning the principle of commensurate resources, the principle of subsidiarity, of delineation of powers and various other provisions of the Charter.

46. The Supreme Court of Iceland has consistently endeavoured to interpret Icelandic law in harmony with the country's international obligations. The President of the Supreme Court has emphasised to the rapporteurs, that it is settled case law in Iceland to interpret domestic legislation in the light of, and in accordance with, international obligations, to every extent possible. The Court has cited various international instruments in its decisions, including those not formally integrated into Icelandic law, such as the United Nations Convention on the Law of the Sea and the International Covenant on Civil and Political Rights.

47. Just as in the preceding monitoring mission, however, apart from an explicit reference in the local government act (s. infra) no evidence was found regarding the impact of the Charter on the Icelandic legal system. According to information provided by the President of the Supreme Court, the Charter has not been referenced in the Courts' infrequent decisions on local self-government; instead, these decisions typically rely on Article 78 of the Constitution.

48. Article 3.4 of the Local Government Act 138/2011, stipulates that 'intervention by other government authorities in the affairs of the municipalities should always take account of constitutional autonomy of the municipalities and the European Charter of Local Self-Government'. While this acknowledgment may not be deemed sufficient for the formal integration of the Charter into the Icelandic legal system, it could maybe encourage direct judicial references in the future. An Act violating a certain provision of the Charter but not the Icelandic Constitution, could not, however, be set aside by the courts as long as the Charter has not been transformed into domestic law. Therefore, the rapporteurs would suggest incorporating the whole Charter into the domestic legislation and relevant previous recommendations (s. infra) should be reiterated.

2.4 Previous Congress reports and recommendations

49. As part of the monitoring of local democracy in Iceland in 2017, the Congress identified areas that need further improvement to enhance the optimal functioning of local government:

- a. the division of responsibilities between central government and local authorities has not been clarified and several "grey areas" do persist;
- b. no legislation has been passed giving the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system;
- c. local authorities dispose of limited resources, which means that they are unable to undertake tasks other than those stated by the law;

- d. local authorities have mentioned the risk of an increase in transferred competences without adequate financial resources;
- e. the equalisation fund is a static mechanism, unable to adjust to changing needs, in order to fulfil its purpose to protect financially weaker local authorities and to correct the unequal distribution of potential sources of finance;
- f. the city of Reykjavik has not been granted a special status establishing different legal arrangements to take account of the particular situation of the capital city compared to other municipalities.

50. Considering the above, the Congress recommended (Rec. 402/2017) that the Committee of Ministers call upon the Icelandic authorities to:

- a. clarify the division of responsibilities between central government and local authorities on the basis of the subsidiarity principle;
- b. pass legislation to give the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system;
- c. ensure that local authorities dispose of financial resources that are commensurate with their competences and sufficient to allow them to undertake optional tasks for the sake of their communities;
- d. modernise the equalisation mechanism, in order to enable it to respond to current needs of local authorities;
- e. grant the city of Reykjavik a special status, on the basis of Congress Recommendation 452 (2021), establishing different legal arrangements to take into account the particular situation of the capital city compared to other municipalities;
- f. 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).

3. HONOURING OF OBLIGATIONS AND COMMITMENTS: ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY ON THE BASIS OF THE CHARTER (ARTICLE BY ARTICLE)

3.1 Article 2 – Constitutional and legal foundation for local self-government

Article 2
The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

51. According to the Contemporary Commentary (2020) to the Charter, article 2 requires the Parties to recognise “the principle” of local self-government, which means it is deemed sufficient to recognise the core elements of local self-government in written rules, without the need for detailed regulation. This raises the question of what those “core elements” are. In this connection, a key role is played by the preamble and by Article 3 of the Charter, both of which refer to the aspects of local self-government that have always been considered the essential features of this concept in the modern European tradition. As stated in the preamble, these core elements are: a) “local authorities endowed with democratically constituted decision-making bodies”; b) “wide degree of autonomy with regard to their responsibilities”; c) “ways and means by which those responsibilities are exercised and the resources required for their fulfilment”. Therefore, to assess compliance with Article 2, it would be necessary to check not only the formal recognition of the principle in domestic legislation but also whether those core elements are enshrined in that legislation.

52. As for the sources of law where the principle of local autonomy must be enshrined, the Charter establishes two levels of recognition. The first is “domestic legislation”, a concept that must be construed as equivalent to written parliamentary legislation (“acts” or “statutes”). This level of recognition is obligatory. The second level consists of the recognition of the principle of self-government in the

constitution. This is “further desirable” by the Explanatory Report to the Charter, but it is to be achieved “where practicable”. In Iceland, the Constitution¹⁷ includes a rather laconic provision on local self-government, namely Article 78: “The municipalities shall manage their affairs independently as laid down by law. The income sources of the municipalities, and the right of the municipalities to decide whether and how to use their sources of income, shall be regulated by law”.

53. The Local Government Act of 2011, encompassing 25 chapters with a total of 134 articles, comprehensively regulates various facets of local self-government. Fundamental principles are delineated in Chapter I (General provisions on municipalities):

Article 1 (Autonomy of municipalities):

1. “The country is divided into municipalities, which are responsible for governing their own affairs”.
2. “The administration of municipalities is managed by the local authorities who are elected by their residents through democratic elections in accordance with the Local Government Elections Act”.

Article 2 (Overall administration of local government affairs):

2. “The Minister responsible for local government affairs shall take account of, and respect, the autonomy of the municipalities, the tasks they undertake, and their finances”.

Article 3 (The object and premise of the Act):

1. “municipalities are independent authorities that are administrated by democratically elected local authorities acting on behalf of the residents of the municipality”.
4. “the involvement of other authorities in the affairs of municipalities should always take account of the constitutional independence of the municipalities and the European Charter of Local Self-Government.”

Article 7 (General obligations of municipalities):

1. “Municipalities are under obligation to carry out the tasks assigned to them by law [..]”.
2. “Municipalities shall work for the common welfare of the residents, as far as they are able at any time”.
3. “Municipalities may undertake any task relating to the residents of the municipality, provided that it is not assigned to others by law”.

54. Given that the principle of local self-government is recognized in the Constitution and meticulously regulated by domestic legislation, the rapporteurs assert that Iceland adheres to Article 2 of the Charter. However, they wish to underscore that the succinct provision in the Constitution, coupled with the potential for adverse amendments to relevant acts determined by the Parliament, offers an additional rationale for incorporating the Charter, along with all its provisions safeguarding various facets of local autonomy, into domestic legislation.

17 See above, under 2.1 about the failed attempt to introduce a special Chapter (VII) for local self-government in 2012, as a part of a grassroots initiative also approved by a strong majority in a referendum. See New Icelandic Constitution with a foreword by Vigdís Finnbogadóttir and historical introduction by Thorvaldur Gylfason, Constitution Society (Stjórnarskrárfélagið), Reykjavík, 2018; Gylfason, Thorvaldur (2016), “Constitution on Ice,” in Iceland’s Financial Crisis: The Politics of Blame, Protest, and Reconstruction, eds. Valur Ingimundarson, Philippe Urfalino, and Irma Erlingsdóttir, Routledge, London; Gylfason, Thorvaldur (2018), “Chain of legitimacy: Constitution making in Iceland,” in Elster, J., R. Gargarella, V. Naresh, and B. E. Rasch (eds.), Constituent Assemblies. Cambridge University Press, New York, 2018. Greitar Þór Eyþórsson, Thorvaldur Gylfason. Dettlef Jahn (Coordinator) Iceland Report, Sustainable Governance Indicators 2022, Bertelsmann Stiftung 2023, especially pages 5, 23, 30-31; and the relevant opinions of the Venice Commission: <https://www.venice.coe.int/webforms/documents/default.aspx?country=60&year=all&other=true>

3.2 Article 3 – Concept of local self-government

Article 3

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

3.2.1 Article 3.1

55. The Charter stresses that the share of public affairs managed by local government should be “substantial”, not residual. In other words, local authorities should not be limited to secondary tasks or routine duties; they should have a sufficient range of responsibilities with the possibility of drawing up and implementing appropriate and relevant local public policies for the benefit of the local population (in areas such as environmental protection, culture and education, basic infrastructure, urban development, housing, transport management and the like).

56. The reality, however, is that the traditions of the Parties to the Charter regarding matters considered to be the natural or inherent preserve of local authorities differ greatly. It is accepted that the Parties may wish to reserve certain functions (such as police or higher education) to the central government. Accordingly, the Charter grants States a certain amount of discretion in terms of setting “the limits of the law” and identifying local authorities’ scope of action.

57. The Contemporary Commentary to the Charter points out, that the legal right to local self-government is nevertheless fully protected by the Charter (Article 11). Local authorities should also be able to exercise this legal right to self-government effectively through the proper institutional and regulatory means provided for in other articles of the Charter (Article 9: adequate financial resources; Article 6: organisational and human resources, etc.).

58. Unlike the other Nordic countries, where decentralisation of tasks to the local level commenced as early as the 1960s, the Icelandic system remained heavily centralized in the early 1990s. Various municipalities had evolved in divergent ways, and as they were not accountable for major welfare responsibilities like primary education, many had adopted entrepreneurial practices, heavily investing in local enterprises or spearheading voluntary projects such as recreational facilities and kindergarten services. However, this also resulted in a significant disparity in service levels between rural and urban municipalities. In an average rural municipality in the early 1990s, there was a lack of waste management, pre-school services, or sports facilities; minimal or no services were available for the elderly, and water supply (hot or cold) was not centrally organised. Essentially, each farm operated independently, and the local mayor handled accounting and limited day-to-day management of the municipality. In contrast, larger urban settlements already had municipal offices with structured opening times, professional management, recreational facilities, organised water supply, waste management, and other services. Thus, urban settlements had implemented basic administrative structures with offices and established operating hours, while rural communities seldom had such facilities.¹⁸

59. In the early 1990s, the central government initiated the decentralization of welfare tasks. The process began with social services, such as economic assistance, in 1991, followed by primary education in 1996. Concurrently, mandatory municipal planning and local planning were implemented for all rural and urban land. The highest authority for planning was decentralised to the local level, obliging local authorities to initiate municipal plans. Before this, farmland and uninhabited land in the highlands had been exempt from planning and building regulations.¹⁹

60. The final significant transfer occurred in 2011 when responsibility for disability services was shifted to the local level. Unlike in other Nordic countries, Icelandic local governments do not bear responsibility for primary health care. Nevertheless, they engage in various tasks, albeit without legal obligation, such

¹⁸ Eva Marín Hlynisdóttir, *Sub-National Governance in Small States. The Case of Iceland*. Palgrave MacMillan, Cham 2020, p. 67-68.

¹⁹ Eva Marín Hlynisdóttir, *op.cit.*, p. 68.

as establishing recreational facilities. Over the past 30 years, there have been unprecedented changes in the responsibilities of Icelandic local government. These entities have emerged as major contributors to the provision of welfare services and the general well-being of citizens, accounting for approximately 13-14 percent of GDP and employing around 12 percent of the Icelandic workforce.²⁰ There is no doubt that Icelandic municipalities nowadays do manage a substantial share of public affairs.

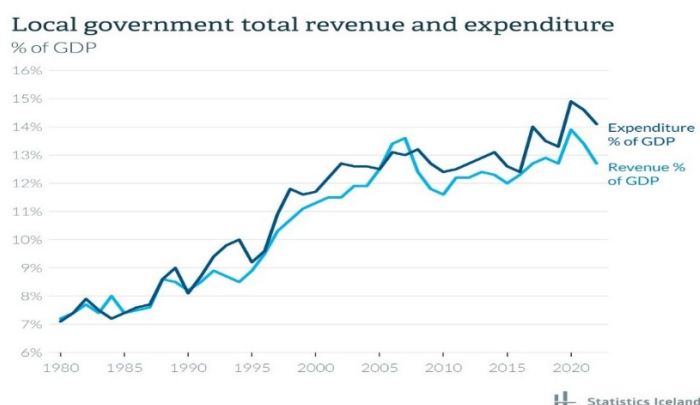


Figure 2: Time series of Local Government total revenue and expenditure as GDP percentage (Statistics Iceland)

61. In the realm of pre-school education, municipalities bear the responsibility for kindergarten services. The law, specifically No. 90/2008, does not explicitly mandate municipalities to provide this service; theoretically, it remains voluntary. However, in practice, it is socially unacceptable for a municipality not to offer this service. Around 90% of Icelandic children are enrolled in municipal pre-schools. This is likely the most significant factor contributing to the exceptionally high percentage (79%) of Icelandic women participating in the labor market and potentially influencing the high birth rate (1.95 children) in comparison to continental Europe.²¹ Traditionally, services were directed towards children aged 2-5, but in recent times, kindergartens are increasingly admitting younger children, even below the age of one. Private organizations or NGOs must obtain permission from local authorities to offer these services, and municipal institutions are tasked with overseeing them. The service is funded through a combination of contributions from municipalities and parents.²²

62. Municipalities hold full responsibility for primary education for 6-15 year olds, as stipulated by the Primary Education Act (No. 91/2008 § 5). This responsibility encompasses the construction and maintenance of school buildings, as well as the hiring and payment of teachers. While secondary education is a state responsibility, municipalities are entitled to appoint board members for these schools.

63. Concerning child protection, the Child Care Act (Barnaverndarlög 80/2002) allocates the responsibility for the availability and organisation of front-line services to municipalities, including staffing and facilities. However, institutions for permanent placement/custody fall under the responsibility of the state.

64. The Act on Elderly Issues (Lög um málefni aldraðra 125/1999) mandates that municipalities are responsible for home assistance and providing opportunities for social gatherings for elderly people. Home assistance does not include any medical assistance, as that falls within the purview of the state.

65. Municipalities are responsible for providing services to people with disabilities and those in need of long-term support (Lög um þjónustu við fatlað fólk með langvarandi stuðningsþarfir, No. 38/2018). Individuals are entitled to a private support plan (Art. 12). However, there are gray areas concerning elderly disabled persons, and disputes have arisen between the state and municipalities regarding responsibility for disabled and elderly individuals.

66. The Act on Social Services in Municipalities (Lög um félagsþjónustu sveitarfélaga 40/1991) imposes obligations on municipalities regarding economic help to persons in destitute circumstances,

²⁰ Ibid.

²¹ <https://www.government.is/topics/foreign-affairs/iceland-in-europe/eea-grants/partnership-opportunities-in-iceland/opportunity/?itemid=4598ef89-29fa-11eb-8129-005056bc8c60>

²² Andreas Ladner et al., European Commission, Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020, National Expert for Iceland: E.-M. Hlynisdottir, Brussels 2021: https://ec.europa.eu/regional_policy/sources/policy/analysis/KN-07-22-144-EN-N.pdf

including access to affordable housing. Although housing has not been an extensive municipal function in Iceland, municipalities are obligated by law No. 44/1998 on housing to provide low-rent housing for people in economic distress or with disabilities.

67. The integration of refugees is generally not the responsibility of local government. However, in the case of quota refugees (refugees invited by the state to move to Iceland), local authorities have made a contract with the state to integrate the refugees in question. This is, however, voluntary and does not include all municipalities. Therefore, the refugee issue is particularly relevant to this group of municipalities.

68. National agencies have very limited ability to stop municipal land use plans, primarily concerning larger issues such as hydroelectric power plants and mainly based on environmental disputes. National agencies cannot halt municipal land use plans because they conflict with national objectives. However, they may suggest that a municipal land use plan should be rejected on some technical bases; in practice, this would indicate that the municipality needs to address the problems in the plan and resubmit it. There is, however, an increase in state scrutiny, and municipal land use is increasingly subjected to detailed public oversight.

69. Public transport is not a mandatory municipal function; however, in 2010, the National Road Agency signed a contract with Regional Associations on the organization and provision of public bus services. The Regional Associations are voluntary associations created by and the sole responsibility of the municipal level. The local level, however, is not the sole provider of public transport. Additionally, based on the Disability Act, municipalities are obliged to provide transport services to persons with disabilities. However, in 2020, most regional associations relinquished responsibilities for public transport (disability transport not included), with two exceptions (the regional association for the greater city area of Reykjavík and the East part of Iceland).

MAIN RESPONSIBILITY SECTORS AND SUB-SECTORS

SECTORS AND SUB-SECTORS	MUNICIPAL LEVEL
1. General public services (administration)	Internal administration; Issuing various licences for business; Building permits
2. Public order and safety	Fire brigade, rescue services
3. Economic affairs / transports	Street/road construction and maintenance; Public transport; Economic promotion and employment; Harbours
4. Environment protection	Waste collection and treatment; Wastewater; Environment protection; Public parks and open areas
5. Housing and community amenities	Water supply; Electricity; District heating; Town planning and building regulation; Social housing
6. Health	Monitoring of public and environmental health; Primary health services for the elderly
7. Culture & Recreation	Culture; Sports; Youth; Leisure; Public libraries; Museums
8. Education	Pre-schools; Primary and lower secondary schools; After school and summer holiday arrangements for children
9. Social Welfare	Care for disabled persons; Supplementary assistance to general pensions and income support programmes; Welfare services for the elderly; Child welfare; Youth support

Table 2: Main sectors and sub-sectors of municipal responsibility – Source OECD- WOFI 2020

70. In terms of municipal responsibility, education, social protection, recreation, and culture are the sectors where over 70% of the total local government expenditure is allocated. This allocation underscores the role of Icelandic municipalities as a cornerstone of the welfare state.

Local government expenditure by economic types and functions 1998-2022

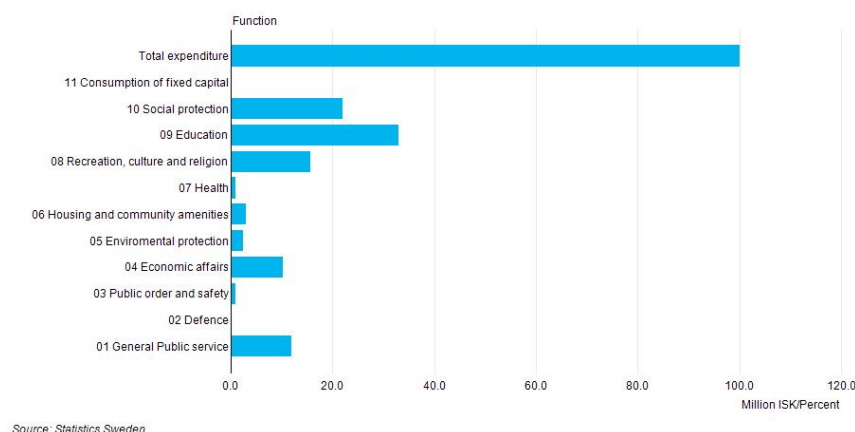


Figure 3: Percentage of municipal expenditure per function

71. As the Contemporary Commentary points out, local authorities cannot regulate and manage a “substantial share of local affairs” effectively if the authorities are too small and/or are deprived of the resources necessary to perform their tasks. Such entities would have the legal “right” but would lack the real “ability” to act, as required by the Charter. Mergers of municipalities may therefore be advisable (provided that the rules on boundary changes in Article 5 are complied with). Another possibility is the use of inter-municipal co-operation to achieve joint service provision (Article 10.1 s. the corresponding comments of this report).

72. In Iceland, considerable differences in size of municipalities do exist (s. below the comments to article 5), it should be mentioned, however, that some municipalities are small but wealthy because they have tourism energy plants or factories. In addition, intermunicipal cooperation is quite developed (s. below the comments to Article 10).

73. Taking into consideration the above, the rapporteurs conclude that Iceland complies with this paragraph.

3.2.2 Article 3.2

74. According to the Contemporary Commentary, this paragraph represents the primary assertion of the democratic principle in the provisions of the Charter. The right of self-government must be exercised by democratically constituted authorities, and a preference is expressed for representative democracy at the local level. In this framework, decision-making power is vested in councils or assemblies directly elected by the people. Consequently, local elections play a pivotal role in local democracy, requiring the direct election of local representatives in free elections, through a secret ballot and based on direct, equal, universal suffrage. The representative assembly serves as the body mandated to address matters of utmost importance to the local community, such as budgetary or tax issues.²³

75. This paragraph defines executive organs as being “responsible” to the elected councils or assemblies. According to the Contemporary Commentary, this ‘responsibility’ implies that the executive body, if not directly elected, must be elected (de jure or de facto) by the council. The executive’s responsibility to the elected council appears to be the primary form of “political” accountability. However, this does not preclude the possibility of the direct recall of the executive, elected by the people, as a form of direct political accountability. Moreover, the Venice Commission has deemed the recall of mayors as “an acceptable, though exceptional, tool for political accountability”.²⁴

76. Act No 83/2022 amended the provisions of the Local Authorities Act on elections within municipalities. Previously, such elections were conducted in keeping with the Elections Act, but now they are conducted on the basis of a ministerial regulation. The Act includes various amendments to the conduct of elections within municipalities, e.g. provisions on postal elections and the possibility to use

²³ See Recommendation 113 (2002) on relations between the public, the local assembly and the executive in local democracy (the institutional framework of local democracy).

²⁴ Venice Commission, CDL-AD(2019)011, Report, and Opinion No. 910/2017 on the recall of mayors and local elected representatives.

mobile polling stations, which is a novelty within Icelandic electoral practice. Municipalities are also given permission to lower the voting age from 18 years to 16 years and to hold elections about matters where foreign nationals are given the right to vote.

77. Voter turnout in local elections has traditionally been exceptionally high in the Icelandic context; however, this trend has experienced disruption in recent elections. The turnout dipped below 80 percent for the first time in 2006 and continued to decline in 2010 (73.4 percent) and again in 2014 (66.4 percent). It then saw a slight increase in 2018, reaching 67.6 percent, but subsequently fell again, reaching a negative record of 62.7 percent in 2022 (refer to the table below). The decline is particularly pronounced in larger municipalities, whereas in smaller municipalities (with populations below 1000 citizens), the turnout still averages above 80 percent. Younger individuals and citizens with foreign backgrounds are notably less likely to participate in voting at the polling stations compared to older people and Icelandic citizens²⁵. On the other hand, it should be noted that the turnout of female voters has consistently been higher since 1992, while in the last elections of 2022, the difference from male voters reached a record of 2.8 percent.

Year	Female	Male	Total
1990	82.2	81.7	82.0
1994	86.6	86.1	87.1
1998	82.3	81.5	83.0
2002	83.2	82.3	84.0
2006	78.7	78.1	79.4
2010	73.5	73.0	74.0
2014	66.5	65.7	67.3
2018	67.6	66.5	68.8
2022	62.7	59.9	64.4

Table 3: Turnout in municipal elections per year and sex (Statistics Iceland)

78. The political participation of women in Iceland has a longstanding history, with a notable event occurring as early as 1908. In that year, a group of four women ran on an all-female list, and all four successfully secured seats in the city council of Reykjavík. However, such instances were exceptional, and the presence of women at the local level did not begin to increase significantly until the 1970s. Women were more frequently found in councils in urban settlements but were largely absent in smaller or more rural municipalities. In 1980, the proportion of female council members was 12 percent, and this number steadily increased in subsequent local elections, reaching 28 percent in 1998 and a substantial 47 percent in 2018. Concurrently, the number of female mayors also increased, albeit not as dramatically, reaching 34 percent after the 2018 local elections. Notably, the 2022 municipal elections in Iceland marked the first instance where female councillors outnumbered their male counterparts (see the following figure).

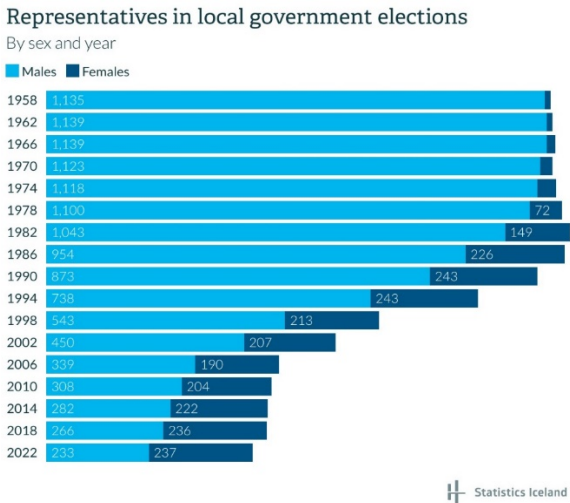


Figure 4: Elected representatives in municipalities by sex and year (Statistics Iceland)

25 Eva Marín Hlynisdóttir, Sub-National Governance in Small States. The Case of Iceland. Palgrave MacMillan, Cham 2020, p. 62.

79. Local councils in Iceland have been directly elected since the establishment of the current local government system in 1872, granting local council members significant political authority throughout this period. Traditionally, Icelandic local governments have possessed a high level of discretion and access to the national government and central bureaucracy, while their level of legally assigned functions has been comparatively low. However, since the 1990s, functional decentralisation has further empowered local councils, enhancing their autonomy.²⁶

80. The political division within the council is structured on the majoritarian rule, leading to the categorization of councils into majority and minority parties. Coalitions are common in larger municipalities, whereas in smaller municipalities, a single-list majority is the typical norm. Each council independently determines the number of its members within the range stipulated by law. However, there is a prevailing tendency for councils to opt for the lower limit. It has been argued that ruling parties in the council often prefer to keep the council size small, as this makes it more challenging for new parties to enter the council, thus functioning as an informal threshold.²⁷

81. In comparison to local government councils in other Nordic countries, Icelandic local councils are notably smaller. While Nordic councils generally operate as assemblies, the Icelandic local council functions more as a management council. In this context, council members often have direct responsibilities for various tasks and issues. Research findings have indicated that local council members put in long hours, with an average of 70 percent of all councillors assuming leadership roles on political committees at the local level. This trend holds regardless of whether they are in the minority or majority position on the council.²⁸

82. According to Article 8 of the Local Authorities Act (LAA), the municipal council (labelled as 'the highest authority within each municipality' by Article 10 par. 1) governs the municipality as provided in legislation. Local authorities have decision making powers as regards the use of income bases, borrowings and the allocation of assets, and the execution of the tasks of the municipality. A municipal council may pass resolutions upon any matters it deems relevant to the interests of the municipality. According to Article 9, municipal councils shall prepare a special ordinance on the governance and administration of the municipality and procedures in the matters handled by the municipality. This must also provide for the rules of order of the municipal authorities and its committees.

83. According to Article 13 of the LAA, the council shall elect a leader and one or more deputy leaders at the first meeting. The electoral term of the leader and deputy leader is the same as that of the council unless otherwise decided by the council. If the leader or his deputy no longer enjoys the support of the council, a new election shall be held for these positions.

84. According to Article 35 of the LAA, a council consisting of more than five members may decide in the ordinance on the government of the municipality that a municipal executive board shall be elected. The council shall elect the Chairman and Vice-chairman of the executive board from among elected executive board members (LAA 36 para. 5). The executive board shall, together with the Managing Director, have executive and fiscal authority in the municipality, insofar as these are not allocated to other parties. Article 37 LAA stipulates that the council shall elect representatives on committees as provided by law and the ordinance on the government of the municipality. Such committees are considered the council's permanent committees. According to Article 40 LAA, a council shall determine the competences of committees and boards it elects, unless this is provided for by law. Act No 96/2021 gave the municipalities permission to allow representatives of the local authority or other municipal committees to participate in the meetings of the committees through electronic means.

85. According to Article 54 LAA the council shall employ a municipal administrator to implement the decisions of the council and the tasks incumbent upon municipalities. Two or more municipalities may appoint a shared municipal administrator. The municipal administrator is the highest authority over other municipal employees. He/She shall be responsible for ensuring that the administration of the municipality is in accordance with law, ordinances and the appropriate instructions of superiors (Art. 55 LAA).

86. It should be underlined that the Local Autonomy Act includes a series of provisions stipulating several forms of citizens' participation, such as 'influence rights' (Art.102: Consultation, Appointment of

26 Eva Marín Hlynisdóttir, op. cit.

27 Kristinnsson, G. H. (2014). Hin mörgu andlit lýðræðis: Þátttaka og vald á sveitarstjórnarstiginu. Reykjavík: Háskólaútgáfan.

28 Eva Marín Hlynisdóttir, op. cit., p. 99.

Users' and Residents' Committees, Collaboration etc.), 'information on municipal affairs' (Art. 103), 'public content provision on municipal finances (Art. 104), 'Public Meetings' (Art. 105), "Residents' Assemblies" (Art. 106, issuing non-binding resolutions), "Residents' Votes" (Art. 107, Referenda on regarding specific issues), "Initiative of the residents of a municipality" (Art. 108 to request public meetings or referenda).

87. Considering the above, the rapporteurs conclude that Iceland fully complies with this paragraph.

3.3 Article 4 – Scope of local self-government

Article 4

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
3. Public responsibilities shall generally be exercised, in preference, by those authorities who are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

3.3.1 Article 4.1

88. The Contemporary Commentary emphasizes that Article 4.1 requires clarity and legal certainty for the regulation of the "basic powers and responsibilities" of local government bodies. They should be prescribed by the constitution or by statute, to ensure predictability, permanence, and protection for the benefit of local self-government. Therefore, the tasks of local authorities should not be assigned on an ad hoc basis and should be properly enshrined in written parliamentary legislation. Legislative processes in the parliament facilitate the implementation of other Charter principles and safeguards, such as prior consultation (art. 4.6, 9.6) and commensurability (9.2).

89. Establishing local powers and competencies through administrative regulation should therefore be avoided. But this general rule is not incompatible with the assignment to local authorities of powers and responsibilities "for specific purposes" (e.g. implementation of EU law) in accordance with the law (art. 4.1, last sentence). This exception allows the assignment of specific tasks not already included in the national legal framework for local government. This can be done by administrative regulation but must in any case be an exceptional mechanism. In Iceland, the basic powers and responsibilities of local authorities are, in principle, prescribed by statute while a certain margin of self-regulation is given to local authorities.

90. While Icelandic municipalities wield significant powers and responsibilities across various local domains, it is crucial to note the absence of a comprehensive or codified set of competences for municipalities within Iceland's legal system. The LAA lacks such a list, and the Ministry regularly publishes and updates the list of municipalities' legal responsibilities. The specific competences of municipalities in different governmental sectors are identified by the applicable laws and regulations in each respective sector. Consequently, a "hard core" of essential or "inherent" competences for municipalities is absent from the legislation. Furthermore, deriving this "hard core" from the Constitution's Article 78, which refers to the "affairs" of municipalities without defining them, is not feasible through interpretation.

91. In general, however, no significant complaints were raised during the meetings regarding the scope of functions assigned to local authorities by the legislator. In fact, as it has already been analysed, the scope of municipal responsibilities has been considerably growing since the early nineties. The number and importance of powers and competences currently held by Icelandic municipalities are generally considered "fair" or "reasonable" by local representatives.

92. Consequently, the rapporteurs conclude Article 4, paragraph 1 is respected in Iceland, but they would, nevertheless, encourage the Icelandic authorities to elaborate a piece of legislation that would systematically present the competencies and tasks of municipalities in the various sectors.

3.3.2 Article 4.2

93. Local authorities must have the right to exercise their initiative on matters not explicitly excluded from their competence by law. In this area, national legal traditions range from the “ultra vires” principle, which requires a statutory basis for any local government action, to the “general competence” clause for municipalities in France or the “Aufgabenerfindungsrecht” in Germanic legal systems. Article 4, para. 2 of the Charter envisages the right of local authorities to be proactive and to be treated as having a general jurisdiction, as enjoying the power to handle any matter any kind of public affairs as set out by Article 3, para. 1 and “work for the common welfare of the residents, as far as they are able at any time” (Art. 7 para. 2 LAA).

94. The right of municipalities to exercise their initiative is explicitly recognised by Article 7, paragraph 3, of the Local Government Act (LAA), which specifies that municipalities may undertake any task related to the residents of the municipality if it is not assigned to others by law. However, initiatives can face discouragement or confusion when existing legislation includes 'grey zones' where it is unclear whether a specific matter is excluded from local government authority or assigned to a state authority (e.g., certain health issues of disabled persons, planning responsibilities, etc.). This concern was raised during the monitoring visit by representatives of local authorities, emphasising once again the need for comprehensive and systematic legislation on local governments' responsibilities, as previously highlighted in this report.

95. Despite these shortcomings, the rapporteurs acknowledge that Iceland, in principle, complies with this paragraph.

3.3.3 Article 4.3

96. Paragraph 3 of this article introduces the “subsidiarity principle,” where public responsibilities should be exercised “in preference” by those authorities or bodies closest to the citizen. In this regard, it is fundamentally a political principle, aiming to bring decision-making as close as possible to the citizens. The Contemporary Commentary notes that the subsidiarity principle has a dual rationale when applied to local authorities: on the one hand, it enhances transparency and the democratic foundation of governmental decision-making through proximity, and on the other hand, it improves the efficiency of governmental action since local bodies are best suited to fulfill certain tasks (such as providing social assistance or housing) due to their direct knowledge of citizens' needs.

97. Representatives from the Ministry of Infrastructure have emphasised that over the last three decades, efforts have been ongoing to shift the provision of proximity services from the State to local authorities. The primary and lower secondary levels of education were transferred in 1996, and the policy area and services for persons with disabilities in 2011. However, services for the elderly and healthcare remain under the responsibility of the State. The transfer of services for persons with disabilities to local authorities, which were already providing general social services at that time, eliminated the existing grey areas between the two.

98. The primary obstacle hindering further transfers of proximity services to local authorities is the sparse population in many Icelandic municipalities, despite a considerable number of municipal mergers in recent years. It could be argued that some municipalities in Iceland are too small to provide the services currently allocated to the municipal level.

99. On the flip side, there have been complaints, voiced by representatives from the city of Reykjavik, that in recent years, the central government has, in some ways, sought to diminish the powers of municipalities regarding planning. For instance, an Act related to the planning of Austurvöllur (in front of the parliament and within Reykjavik's municipal boundaries) was not passed. Additionally, according to a new act on aviation, the planning authority of local authorities regarding airports has been transferred to the central government. This entails a change in planning legislation that had been in place for decades. The impact of such changes is that municipalities do not have full decision-making power on land use within their municipal boundaries, resulting in limitations in revenue generation and land development. In this context, representatives of the city of Reykjavik have underscored that planning authority is the cornerstone of the self-government of municipalities.

100. The rapporteurs acknowledge that in previous years, many additional responsibilities have been transferred to municipalities. On the other hand, the absence of the explicit introduction of the subsidiarity principle at the constitutional or, at the very least, legislative level poses risks of adverse developments towards recentralization of tasks. The argument that there are sparsely populated areas and very small municipalities should not stand against the explicit establishment of the subsidiarity principle, as this principle inherently includes the criteria of feasibility and capacity. Therefore, the rapporteurs conclude that Iceland partially complies with this paragraph.

3.3.4 Article 4.4

101. According to Recommendation CM/Rec(2007)4²⁹ of the Committee of Ministers to Member States "on local and regional public services", lawmakers should establish a clear definition of the responsibilities of the various tiers of government and a balanced distribution of roles between these tiers in the field of public services. Such distribution of roles, accepted by the stakeholders concerned, would make it possible to avoid both a power vacuum and the duplication of powers. Moreover, this allocation of responsibilities should promote predictability and guarantee continuity in the provision of certain local public services that are essential for the population.

102. Representatives of local authorities have highlighted that the delegation of responsibilities can introduce ambiguity or undefined areas in service provision. Specifically, determining whether certain services should be offered by the municipality or state authorities can lead to overlapping jurisdiction. Topics of "hybrid" responsibility include civil protection, cultural affairs, social welfare (where the municipal share is larger), and elderly care (elderly health care is a state responsibility). A notable example is distinguishing between assistance to individuals with disabilities, a mandate of local municipalities, and healthcare, the responsibility of the central government. This delineation becomes particularly complex when an individual with disabilities requires ongoing medical assistance, as these services frequently intersect. The complexity of such distinctions may have been less pronounced when both tasks were the exclusive responsibility and financial obligation of the central government.

103. The Ministry of Infrastructure noted that much work has been carried out to analyse the scope and expenses related to transferring the policy area of persons with disabilities. A working group under the Ministry of Social Affairs recently concluded analytical work related to this issue. Consequently, in December, an agreement was reached with local authorities on additional contributions to services for people with disabilities. The agreement includes provisions on the work of working groups to reduce grey areas, including in the area of services for children with diverse problems and secure internment for adults with mental challenges.

104. The Ministry hopes that this work will yield targeted results in delimiting the areas of responsibility between the levels of government and erasing grey areas more effectively than achieved through the work of the Grey Book Committee (Grábókarnefnd) in recent years. In resolving the grey areas, both the immediate opportunity to clarify the division between the State and local authorities must be utilised, and a forward-looking view towards whether transferring additional policy areas to local authorities might clarify the division. Actions to that effect are included in the action plan of the newly adopted parliamentary resolution on a policy-making plan concerning municipalities (2019-2023). During the consultation procedure, the Ministry added that the work was ongoing in clarifying competences between the state and municipalities in short and long term, on the one hand through the action plan of the Local Government Act on the revision of the division of labour between the state and municipalities, and on the other hand through ongoing work to eliminate grey areas in services to people with disabilities.

105. The rapporteurs appreciate the efforts made to address grey areas of responsibility and the commitment to implementing more systematic initiatives in the future, as outlined in the policy-making plan. Considering these developments alongside the continued existence of pertinent grey areas, the rapporteurs conclude that Iceland partially complies with this paragraph.

²⁹ Adopted by the Committee of Ministers on 31 January 2007 at the 985th meeting of the Ministers' Deputies.

3.3.5 Article 4.5

106. According to Recommendation CM/Rec(2007) of the Committee of Ministers to member States³⁰ "on local and regional public services," the proximity of local public services to the population is deemed a fundamental necessity. Local authorities are recognised to have a vital role in providing these services. To ensure that services are tailored to citizens' needs and expectations, local entities should enjoy a high degree of decentralization and possess the capacity for independent action in service provision.

107. Article 8 par. 8 LAA stipulate that local authorities have decision making powers regarding the execution of their tasks. Representatives of local authorities have emphasised, however, that in recent years, the central government has shifted towards legislation detailing individual rights to specific services of a certain quality or quantity, rather than allowing municipalities the freedom to adjust services in accordance with their policies. The central government has implemented these changes without adequately estimating the cost effects these improvements will have on the finances of local governments, despite being required to do so by law. This has resulted in problems concerning the financing of these services, affecting the ability of municipalities to self-govern. As a consequence, strains have emerged in communication between the two levels of government. A notable example is Law No. 38/2018 on services to people with disabilities. Article 3 of the act expressly states that a person with disabilities shall receive no less than 15 hours of social services a week. However, this obligation was not mentioned when the task was transferred to the municipalities.

108. The rapporteurs acknowledge that the legislator is willing, in good faith, to broaden the range and enhance the standards of services offered to citizens, and to recognize additional rights and claims of service users. However, such initiatives should be approached with more caution, especially when municipalities are the entities responsible for delivering these services, responding to relevant rights, and meeting the required level of quality and standards mandated by the law. This necessitates prior and effective consultation with local authorities whenever such decisions are made by state bodies. Therefore, the rapporteurs conclude that Iceland partially complies with this paragraph.

3.3.6 Article 4.6

109. According to the Contemporary Commentary, consultation is a key principle of the Charter and local authorities should be consulted by State (or regional) bodies in the discussion and approval of laws, regulations, plans, and programmes affecting the legal and operational framework of local democracy. This principle ensures the genuine participation of local stakeholders in the decision-making process of State (or regional) government entities having the power to define the rights of local authorities. This also increases democracy insofar as central government politicians have to listen to the voices of local representatives and their associations. Moreover, this is required by the principles of transparency in government action, and by the principle of subsidiarity.³¹

110. Article 2, para. 3 of the LA, provides that "No matter which specifically involves the interests of a municipality may be resolved without consultation with the municipal council". Paragraph 4 of the same article stipulates that "the Ministry, the Icelandic Association of Local Authorities and municipalities are to be consulted when preparing proposals for policy formulating schedules and action plans". Article 98.3 provides that "When the Minister establishes general administrative directives based on this Act, he/she shall always consult with the Icelandic Association of Local Authorities as regards their substance".

111. Chapter XIII of the Act is dedicated to "relations and consultation between the central government and the municipalities". According to Article 128, para. 1, "The Government shall ensure formal and regular collaboration with the municipalities regarding important issues of governance relating to the position and responsibilities of the municipalities. Formal collaboration shall take place regarding, amongst other things, the presentation of draft legislation with a bearing on the municipalities and the control of public finances, the division of responsibility between the central government and the municipalities, and other important issues with a bearing on the interests or finances of the municipalities".

30 Adopted by the Committee of Ministers on 31 January 2007 at the 985th meeting of the Ministers' Deputies.

31 Resolution 368 (2014), debated and adopted by the Congress on 27 March 2014, rapporteur: Anders Knappe, Sweden (L, EPP/CCE). See also Resolution 437(2018) on the consultation of local authorities by higher levels of government, of 8 November 2018.

112. Two main bodies have been established by Article 128: a Consultation Committee of State and Municipalities (para. 2) and a Collaborative Committee of State and Municipalities (para. 3). The first, which shall meet at least once each year, is integrated by the Minister of Infrastructure and the Chairman of the Association of Local Authorities. Other Ministers shall attend meetings of the Consultation Committee as the occasion arises at any given time. The Collaborative Committee is composed of the permanent undersecretaries of the Ministry of Infrastructure and three representatives nominated by the committee of the Association of Local Authorities. If necessary, the collaborative committee may decide to summon representatives from more ministries. The collaborative committee shall function under the auspices of the consultation committee and be the forum for regular discussion and communication between the state and the municipalities. The collaboration agreement (para. 4) between the Association of Local Authorities and the Government establishes structures for the consultation and collaboration procedures between the association and the ministries.

113. As the Ministry of Infrastructure admits, the efficiency of consultation varies depending on whether the government is obliged to consult with the Icelandic Association of Local Authorities, other stakeholders' representatives, or directly with the local authorities when developing legislation and other policies concerning the municipalities. Either way, the government ensures that proper consultation is carried out with local authorities when developing legislation and other policy initiatives. The only exception relates to political aspects such as taxation and the Budget.

114. Usually, the State and local authorities develop policies together from the beginning. A parliamentary resolution on a policy-making plan on matters concerning municipalities for the next 15 years and an action plan for the next 5 years was adopted by Althingi on the 5th of December. A working group on policymaking was composed of the chairperson and the vice chairperson of the Icelandic Association of Local Authorities, together with two representatives of the Minister (one of whom was the chairperson). Never has there been more direct consultation with the local authorities during this policymaking and it is safe to say that most of the projects included in the action plan will be implemented in close cooperation between the administrative levels. Examples of these projects are ongoing cooperation between the State and local authorities on the review of local government laws and cost estimates. The government places an emphasis on consultation in policymaking and bills are almost without exception submitted to an open consultation portal on the web.

115. The highest-ranking collaborative committee of the State and local authorities (Jónsmessunefnd) meets every month to discuss common issues affecting the administrative levels. The three representatives of the local authorities are the chairperson and the manager of the Icelandic Association of Local Authorities together with the mayor of Reykjavik. The two representatives of the State are the Permanent Secretaries of the Ministry of Infrastructure and the Ministry of Finance and Economic Affairs. Three sub-committees of the committee cover financial matters, digital development, and grey areas in service. Broad consultation with local authorities under the aegis of different ministries includes fields like sustainability, climate issues, and regional plans of action.

116. Representatives of the city of Reykjavik have stressed, that the formal and legal mechanisms, according to Articles 128 and 129, for consultation are functioning on the interface between the central government and the Association of Local Authorities, on behalf of the municipalities. It is important to note that not all municipalities have the same interests or face the same challenges. Therefore, the Association often must take a diplomatic stance in matters somewhere between different opinions of the municipalities.

117. A relevant cooperation agreement is in force between the central government and municipalities, signed on April 2, 2008. The agreement stipulates the promotion of mutual understanding of the issues and needs of each party individually in social and economic terms. The necessity to establish regular communication between the parties, promote a common vision of the development, status, and future of the local government level, and coordinate, as far as possible, the policies of the state and municipalities in public finances and operations, to achieve the economic goals that the government and Alþingi determine at any given time. Also, to promote restraint and responsibility in public operations, and promote an informed debate on local government issues.

118. Based on the current cooperation agreement, a cooperation committee was appointed, on which the mayor of Reykjavik has a seat. Furthermore, the central authorities occasionally invite the City to participate in legislative and policy work by providing the City the right to name a representative in committees and groups, but it is not stipulated in law as a duty. Additionally, central authorities typically seek the city's formal opinion on legislative projects that may impact its interests. However, there is no

specific legal obligation to notify the city of legislative projects and all matters directly concerning it, and such notification is not guaranteed.

119. Other interlocutors from other municipalities have acknowledged that consultation mechanisms function on behalf of municipalities, but they have also underlined that access to these procedures is not open to all municipalities, furthermore that relevant procedures do not offer enough time to prepare, formulate and submit thoroughly elaborated alternative solutions to the ones proposed by decision makers.

120. Considering the aforementioned the rapporteurs conclude that important steps have been made towards an inclusive and efficient system of consultation, but there is space for improvement, especially concerning decisions having a particular impact upon certain municipalities. The Conclusion is that Iceland partially complies with this paragraph.

3.4 Article 5 – Protection of local authority boundaries

Article 5

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

121. Iceland is a country where extreme differences in population density between regions exist. On 1 January 2019, the population density in the Reykjavík city-region was 218 persons per km² (pop. 228.000), followed by the Reykjanes peninsula with 33 persons per km² (pop. 27.000). At the same time, Eastfjords with 0.7 persons per km² (pop. 10,700) and the Northwest with 0.6 persons per km² (pop. 7200) were the least densely populated regions. The Reykjavík city-region and the Reykjanes peninsula do not have large uninhabited areas, unlike the other regions.

122. The minister of local government initiated a large-scale local referendum on the issue of amalgamation in 1993, with the aim of reducing the number of municipalities at the time from around 200 to 44. The results were meagre, with only one amalgamation occurring as a direct consequence of the referendum. Another attempt in 2005 met with similar results. Nevertheless, the number of municipalities has dropped dramatically since 1990.³²

123. With increased decentralisation, the pressure on Icelandic local authorities to upscale through amalgamation has also risen. It can be argued that this represents a certain level of recentralization from below, as local authorities are expected to become larger in population to provide a more coherent and systematic organization at the local level. Consequently, disputes between those adhering to the traditional way of doing things and those advocating for more 'modern' approaches are common, often taking the form of a debate based on urban–rural or capital city–periphery cleavages.³³

124. Law 138/2011 dedicates the Chapter XII to “Amalgamation of municipalities”, setting detailed rules on the amalgamation procedure. Article 120 para. 1 LAA establishes that “No municipality may be amalgamated with other municipalities unless more voters in a referendum [...] are in favour of the amalgamation than are opposed to it”. The second paragraph of the same Article stipulates that municipal councils in municipalities where a proposed merger is approved by the inhabitants may decide to merge those municipalities, even if the proposal of the joint committee is not approved by the majority of voters in all the municipalities concerned.

125. A parliamentary resolution on a policy-making plan on matters concerning municipalities for the year 2019-2033 and an action plan for the years 2019-2023 was adopted by Althingi in 2020. The focus was on the government policy that each municipality would have at least 1,000 inhabitants. In the meantime, Althingi decided, through Act No 96/2021, to add a provision to the Local Authorities Act, stating that the policy would be for each municipality to have at least 1,000 inhabitants. Any municipalities with fewer inhabitants are obliged to submit to the Ministry, in two steps dependent on their population size, an opinion on the municipality's ability to carry out its legally mandated tasks and on the benefits of merging with other municipalities. When the local authority in question has received the Ministry's comments on its opinion, it is obliged to present both to the inhabitants and arrange for

³² Eva Marín Hlynisdóttir, op. cit., p. 115.

³³ Eva Marín Hlynisdóttir (2018). Autonomy or Integration: Historical Analysis of the Debate on the Purpose of Icelandic Local Self-Government. Icelandic Review of Politics and Administration, 14(1), 81–100. <https://doi.org/10.13177/irpa.a.2018.14.1.4>.

two discussions within the local council on whether to aim for merging with one or more other municipalities.

126. During the monitoring visit, the rapporteurs visited Arborg city (pop. 11.850). In 1998 three town municipalities merged. The population has been stagnating for decades, now the city leadership aims at increasing the population, and housing is offered to attract new inhabitants. Following the amalgamation, the biggest challenge was “to become one” and this is still pending. Important components like the fishing economy have vanished and therefore many people have the feeling they lost their identity alongside their old municipality that was amalgamated. It proved to be more expensive to incorporate 3 towns and offer schools and services to a big area. The new municipality used to have the highest costs in the country. Concerning relevant consultation procedures, the local mayor noted consultation for new bills is too short but it is online and it is possible to put it on their platform. Experience has shown, that the opinion of municipalities is taken into account.

127. Therefore, taking into consideration the legal framework and the practice, the rapporteurs concluded that Article 5 is fully respected in Iceland.

3.5 Article 6 – Appropriate administrative structures and resources

Article 6

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

3.5.1 Article 6.1

128. According to the Contemporary Commentary, this paragraph asserts that local authorities should have the discretion to determine their internal administrative structures or organisation. The power to organise their affairs is a part of the autonomy enjoyed by local entities. However, this discretion, like other elements of local autonomy, is not absolute and must comply with the general statutory framework of government organisation. The goal of the paragraph is to safeguard local autonomy by allowing local authorities to establish internal administrative structures and arrangements that enable them to meet the various needs of residents and provide a full range of public services. Consequently, domestic local government legislation may establish fundamental guidelines for the internal administrative organization of local authorities but must leave room for local authorities' discretion so that they can choose and set up their organisational structure.

129. According to Article 9 LAA, municipal councils shall prepare a special ordinance on the governance and administration of the municipality and on procedures in the matters handled by the municipality. This must also provide for the rules of order of the municipal authorities and its committees. Provisions must also be included in the ordinance on meeting procedures for the municipal council and its committees. Important aspects of the municipal organization, such as the committees, councils, boards (including an executive board to be established), and the appointment and qualifications of the chief executive officer, are left to the discretion of the municipal council. This circumstance explains the variety of models of administrative organization that exist among Icelandic municipalities.

130. In light of this information, it can be concluded that Article 6, paragraph 1 of the Charter is complied with in Iceland.

3.5.2 Article 6.2

131. The recruitment of personnel is, according to the Contemporary Commentary, an essential aspect of local government administration and autonomy. Local bodies need to have the necessary human resources to carry out their tasks, as the local authority would otherwise be an empty and powerless government structure. Local authorities are supposed to be capable of defining and implementing their own human resources policy to attract, recruit, train, and retain skilled administrative staff.

132. Fundamentally, administrative capacity is about resource management. If elected members and other decision-makers are to be able to make intelligent choices in their policy-making, the local

administration must have the capability to support such decision-making. Thus, the following definition argues that public-sector capacity is essentially the ability ('knowledge and expertise') of the permanent machinery of government to implement policies ('technical competence'), deliver services ('staffing resources and qualification of street level bureaucrats') and provide policy advice to decision-makers' (level of "professionalism").³⁴

133. Previous analysis of the Icelandic case revealed many of the problems often assigned to small states' public administration, such as low expertise, lack of staff, lack of formalisation and an overall low system capacity of the local government administration, combined with a high level of political influence over the municipal bureaucracy and pervasive rumours of clientelism. The analysis of the Icelandic case also indicates that the 'critical mass' argument does have some bearing on the Icelandic case, as the capacity of the central government to provide expert advice and assistance to local authorities is low. In this regard, the Icelandic case is an example of a small state that has successfully decentralised tasks onto the local level 'despite, and not because of their small size. In addition, the disproportionately large size of the capital city of Reykjavík further complicates matters, as the administrative capacity of the capital city may in some cases exceed that of the central administration.'³⁵

134. Nowadays, Icelandic municipalities do have the power and autonomy to recruit high-quality staff based on merit and competence. There is no centralized system for recruitment, akin to a nationwide, French-type territorial public service. Article 56 of the LAA stipulates that the council shall appoint staff to major management posts for the municipality and shall be responsible for their release from employment. The employment of other staff is under the purview of the municipal administrator, provided that the council has not decided otherwise in the ordinance on the government of the municipality or through general instructions. According to Article 57 LAA, the terms of employment, salaries, rights, and obligations of municipal employees shall be subject to collective wage agreements in force at any time and the terms of the employment contract.

135. Apart from some very small municipalities, where the recruitment of high-qualified personnel is mostly not possible, Icelandic municipalities do have the possibility to offer adequate conditions of service to their staff and this paragraph is respected in Iceland.

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

Article 7

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

3.6.1 Article 7.1

136. According to the explanatory report to the Charter, "this article aims at ensuring that elected representatives may not be prevented by the action of a third party from carrying out their functions". The Contemporary Commentary points out that the first paragraph requires local authorities to provide all elected officials with the facilities, equipment, and technical support needed to carry out their tasks. This must be done irrespective of the officials' political affiliation, so local authorities must not discriminate, on material grounds, against the different political factions or groupings forming part of the council.

137. Article 25 of the LAA introduces the principle of "Independence at work" and underlines that Councillors are independent in their activities. They are only bound by law and their own convictions as regards opinions on individual issues. Article 26 LAA guarantees the freedom of speech, the right to submit proposals and voting rights. "Councillors shall have the right to speak at the meetings of the

34 Prud'homme, R. (1995). The Dangers of Decentralization. The World Bank Research Observer, 10(2), 201–220. <https://doi.org/10.1093/wbro/10.2.201>; Randma-Liiv, T., & Sarapuu, K. (2019). Public Governance in Small States: From Paradoxes to Research Agenda. In A. Massey (Ed.), A Research Agenda for Public Administration (pp. 162–179). Cheltenham: Edward Elgar Publishing; Eva Marín Hlynisdóttir, Sub-National Governance in Small States. The Case of Iceland. Palgrave MacMillan, Cham 2020, p. 115.

35 Eva Marín Hlynisdóttir, op.cit.

council, as further provided for in rules of procedure. They have the right to submit proposals and have voting rights in the meetings of the council. Those who are entitled to participate in council debates are entitled to have recorded in the minutes their brief comments on their position on the matter under discussion. Should a municipal councillor not wish to accept a ruling by the council leader regarding rules of procedure, the ruling may be appealed to the council, which shall rule without prior debate". Article 27 LAA stipulates the "right to raise issues", and Article 28 the Access to information for councillors. Finally, Article 29 stipulates that the council is to establish a code of conduct for itself.

138. The turnover of elected representatives appears to be a significant phenomenon. A study on the voluntary retirement of Icelandic councillors revealed that the fluctuation on local councils is very high. After the local elections in 1990, an average of four out of 10 elected councillors on local councils were new recruits, compared to six out of 10 following the 2018 local election. Additionally, women tend to leave more rapidly than men, and turnover increases as the municipality size decreases. It is also noteworthy that threats against local politicians are not uncommon in Iceland. During the monitoring visit, a mayor reported that she had been placed under police protection due to such threats.

139. On the other hand, political experience at the local level has often opened gateways into national politics, and in 2016, it was estimated that around 40 percent of parliamentarians had previously been elected members of local councils.

140. The legal framework and the practice seem to offer conditions required by the Charter for local elected representatives and thus Iceland complies with this paragraph. However, awareness about the possibility of threats or even violence against local politicians should not be neglected.

3.6.2 Article 7.2

141. It is widely acknowledged that the complexity of decision-making at the local government level has increased over the past three decades, requiring a higher level of expertise from local councillors. This trend has created a growing distinction between regular councillors, often referred to as backbenchers, and those in leadership positions. A relevant study also indicated that Icelandic local council members, in general, carry a high workload. This is particularly noteworthy as the Icelandic system is fundamentally a traditional layperson system. Adding the tasks of local council duties to their daily schedules imposes significant constraints on individual council members. This is further evidenced by the high turnover, with an average of 60 percent of all council members being recruits following each local election. Consequently, there has been a strong call in recent times to increase remuneration for local council members or even make council work a full-time occupation. This suggests that Icelandic local council work is highly managerial and time-consuming, which diverges from the layman principle, assuming that this is a leisure-time activity open to all citizens.³⁶

142. Article 32 of the Local Authorities Act (LAA) outlines the obligations of local authorities regarding the remuneration of councillors for their work. If a councillor has to travel a considerable distance from their home to the council's meeting place, the council may determine a reasonable payment for travel and accommodation expenses. Similarly, if a councillor travels on behalf of the municipality, as per the council's decision, they are entitled to appropriate travel and accommodation expenses. The article also empowers the council to establish detailed provisions on councillors' rights, including pension funds, parental leave, and severance pay. Importantly, councillors cannot waive the payments allocated to them under this article.

143. Furthermore, the local authority is mandated to determine suitable remuneration for elected representatives serving on the municipality's committees and boards, following the council's assessment and rules outlined in Article 51 of the Local Authorities Act. The council may also decide to provide remuneration for those holding observer status on municipal committees and boards.

144. It is noteworthy that employment termination based on running for office or being elected as a municipal councillor is prohibited by law. If such termination occurs, the employer must prove that it is unrelated to these events. Councillors are entitled to be absent from work for mandatory attendances at council meetings, committee meetings, and other relevant events. However, employers can deny requests for absence if the employee's presence is necessary due to specific and justified circumstances.

³⁶ Ibid, p. 99.

145. While the Ministry of Infrastructure does not assess local authorities' remuneration, it recognises the wide range of wage systems across different municipalities. The salaries vary, with representatives in small municipalities typically paid per meeting, those in larger municipalities receiving a fixed monthly amount and additional payment per meeting, and only elected members of the Reykjavík city council working full time for the municipality. An average salary survey by the Icelandic Association of Local Authorities in 2021 indicated a range of ISK 100,000 to 149,000 per month (EUR 700 – 1000) for local authorities. Dissatisfaction with salaries among local authorities was reported by 43% of respondents in a survey at the end of 2020.

146. In response to the high turnover in local authorities, the Minister of Infrastructure appointed a working group in fall 2021. The group submitted a final report with eleven proposals in September 2021, aiming to improve working conditions and social rights for elected representatives. An ongoing analysis of the committee's proposals, including considerations on increasing the number of representatives, compensating for loss of income, and introducing child allowances, is part of the review of the Local Authorities Act. The Minister aims to present a bill for the revised law in parliament in autumn 2024.

147. Considering the above, the rapporteurs conclude that Iceland complies with Article 7.2.

3.6.3 Article 7.3

148. According to the Contemporary Commentary, restrictions on holding elected office should be as limited as possible and set out in national laws. The main restrictions on holding office should be related to potential conflicts of interest or involve a commitment that prevents the local representative from professionally discharging his or her duties for the local authority.

149. The Local Government Act includes provisions for disqualification from participating in the examination and final decisions regarding individual matters (Article 20). In such cases, an alternate should be summoned to examine and make final decisions on the matter. As per the delegation's knowledge, there are no rules regarding disqualification from holding local elective office.

150. According to Article 4 of the Elections Act, No. 112/2021, of 25 June 2021, any Icelandic citizen who has reached the age of 18 at the time of polling and is domiciled in the municipality is entitled to vote in municipal elections. This Article also entitles some categories of foreign nationals to vote in municipal elections under certain conditions. Article 6 stipulates that anyone entitled to vote in a municipality under Article 4 and in possession of full civil rights may stand for election to the municipal council. If a councillor loses eligibility for election, they are required to step down from the municipal council (Article 30, Law 138/2011). In such cases, their alternate should take their seat (Article 31).

151. Functions and activities deemed incompatible with the holding of elective office are determined by statute (LAA), and the rapporteurs conclude that Iceland fulfils the requirements of this paragraph.

3.7 Article 8 – Administrative supervision of local authorities' activities

Article 8

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

3.7.1 Article 8.1

152. The Contemporary Commentary highlights that Article 8 of the Charter addresses "administrative" supervision of local authorities' activities. The Explanatory Report specifies that this provision pertains to supervision carried out "by other levels of government," namely central authorities or bodies (such as line ministries or the Ministry of the Interior) or regional authorities. According to Article 8, paragraph 1, any form of administrative supervision of local authorities can only be exercised if explicitly established

by law, either in a statute or a constitutional provision. Both supervision on legality and expediency should have a legislative or constitutional basis, ruling out ad hoc procedures.

153. In its influential 2019 Recommendation to member States on the supervision of local authorities' activities³⁷, the Committee of Ministers of the Council of Europe outlined key principles and guidelines for supervision. The Committee of Ministers distinguished three types of supervision: administrative, financial, and democratic, with only the first falling under the scope of Article 8 of the Charter. The justification for administrative supervision lies in the necessity to align "with the principles of the rule of law and with the defined roles of various public authorities, as well as the protection of citizens' rights and the effective management of public property."

154. In Iceland, the supervision of local authorities is legally established and carried out in both specific and general manners. Specific supervision is conducted through various authorities, such as specific complaint panels or regulatory bodies and ministries. These entities are responsible for overseeing particular aspects of local authority administration, such as procurement, environmental matters, planning and construction, social welfare, and more. Examples of specific supervisory bodies include the Public Procurement Complaints Commission, the Appeals Committee for Environmental and Natural Resource Matters, the Welfare Appeals Committee, the Icelandic Construction Authority, the National Planning Agency, the Quality Inspectorate for Welfare Work, the Competition Agency, the National Energy Authority, among others.

155. If there isn't a designated authority for supervising a specific issue, the Ministry of Infrastructure, responsible for municipal matters, conducts general administrative supervision of local authorities (excluding employee matters) according to Chapter XI of the Local Authorities Act (LAA). Article 110 stipulates that "before the Minister makes a decision on employing measures pursuant to this Chapter, he/she will grant the council the opportunity to submit their opinions". In this Chapter, the next Article 111 regulates the appealability to the Ministry of decisions made by local authorities concerning the rights and duties of individuals. According to para. 2, "complaints instructions, deadlines and processing of complaints" are governed by the provisions of the Administrative Procedures Act.

156. The Ministry also has the authority to initiate a review of a local authority's administration under Article 112 of the LAA. In such cases, the Ministry can issue opinions or recommendations, provide directives to amend the administration to comply with legal requirements, or annul decisions made by local authorities 'or otherwise bring matters into line with the law' (para. 2 nr.3). If a local authority fails to comply with the Ministry's directives, the Ministry can impose periodic penalty payments or suspend payments from the Local Authorities Equalisation Fund.

157. Article 114 of the LAA empowers the Ministry to "partly or wholly invalidate decisions" when processing cases under Articles 111 (administrative appeal) and 112 (Ministry's own initiative). However, the Ministry is restricted from making new decisions on behalf of a municipality (substitution is not allowed). Nevertheless, under "special circumstances," the Ministry can decide to "postpone the legal effects of a decision made by the municipality" (decide for a suspension effect) while processing the case.

158. Cases and procedures of administrative supervision in Iceland are regulated by statutory law, primarily in the Local Authorities Act (LAA). The rapporteurs conclude that Iceland fully complies with this paragraph of the Charter.

3.7.2 Article 8.2

159. According to the explanatory report to the Charter administrative supervision should normally be confined to the question of the legality of local authority action and not its expediency. One particular but not the sole exception is made in the case of delegated tasks, where the authority delegating its powers may wish to exercise some supervision over how the task is carried out. This should not, however, result in preventing the local authority from exercising a certain discretion as provided for in Article 4, paragraph 5 for delegated tasks (s. below).

³⁷ Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities' activities (adopted by the Committee of Ministers on 4 April 2019 at the 1343rd meeting of the Ministers' Deputies). This recommendation includes an appendix with *Guidelines on the improvement of the systems of supervision of local authorities' activities*.

160. As the Contemporary Commentary points out, with checks on legality, the supervisory body may verify, for instance, whether the local authority has acted within its powers, whether substantive regulatory standards or requirements have been met, and whether powers have been exercised following legal procedures and within applicable time-limits, etc. In the case of checks on legality, the supervisory body cannot replace the local authority's power of discretion with its own.

161. The relevant provisions in Chapter XI of the LAA primarily focus on legality control and explicitly exclude measures of substitution (Art. 114 para. 1). While the rapporteurs did not have the opportunity to confirm whether the "specific supervision" cases also adhere to legality control, they conclude, under this reservation, that Iceland complies with this paragraph.

3.7.3 Article 8.3

162. The third paragraph of Article 8 emphasizes the principle of proportionality in the administrative supervision of local authorities' activities by higher-tier bodies. This principle, widely recognized across various legal contexts, asserts that the intervention of the supervisory authority should be proportionate to the importance of the interests it aims to protect. In 2019, the Committee of Ministers recommended that member States' governments implement suitable measures to establish a legal, institutional, and regulatory framework for the supervision of local authorities' activities that is proportionate, both in law and in practice, to the interests it seeks to protect.³⁸

163. Article 110, paragraph 2 of the Local Authorities Act (LAA) specifies that "when the Minister needs to employ measures according to this Act in connection with monitoring the administration of municipalities, he shall select the measures that are the most likely to achieve the desired goals having taken into account municipal self-government." The integration of the principle of proportionality into the legal framework regulating administrative supervision, coupled with the absence of complaints from representatives of local authorities about excessive supervision practices, leads the rapporteurs to conclude that Iceland complies with this paragraph.

3.8 Article 9 – Financial resources

Article 9

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
5. The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

3.8.1 Article 9.1

164. The Explanatory Report to the Charter points out that the legal authority to perform certain functions is meaningless if local authorities are deprived of the financial resources to carry them out. Paragraph 1 seeks to ensure that local authorities shall not be deprived of their freedom to determine expenditure

³⁸ Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities' activities.

priorities. According to the Contemporary Commentary to the Charter, this paragraph is the opening provision of Article 9 and establishes two basic principles in the area of finance: first, local authorities should have adequate financial resources of their own; second, they should be free to decide how to spend those resources.

165. This provision about “adequate” resources is closely linked with the following paragraph 2 (principle of commensurability of local finances) and with paragraph 4 (which requires local finances to be diversified and buoyant). The wording “adequate financial resources” incorporates the requirement to ensure proportionality between mandatory functions of local authorities and the funding available. The right to “adequate” resources is not absolute but has to be exercised “within national economic policy”.

166. The second principle is that of the freedom of local authorities to dispose of (at least) their “own resources” within the framework of their powers. Consequently, Article 9.1 enshrines both a right (to have their resources) and the freedom (to freely spend those resources). This freedom takes the form of various spending decisions, the most important being the adoption of an annual budget. This freedom is not limitless, since it is subject to restrictions stemming from relevant national policies, accounting principles, and controls applied to public spending. Local authorities are also subject to financial supervision. In addition, some municipalities are compelled to limit themselves to fulfilling mandatory tasks due to insufficient financial leeway for their own initiatives and spending preferences. In such cases, the role of these municipalities is often confined to that of a service delivery agency for the central government.

167. Article 77 of the Icelandic Constitution stipulates that “matters concerning taxes shall be regulated by law. The power to decide whether to levy a tax, change a tax or abolish a tax may not be vested in administrative authorities”. Article 78 para. 2 of the Constitution provides that “the income sources of the municipalities, and the right of the municipalities to decide whether and how to use their sources of income, shall be regulated by law”. According to Article 3 para. 1 Nr. 5 of the LAA, “municipalities are to have independent revenue bases and self-determination as regards the price lists they are authorised to establish”. Relevant provisions are included in the Local Government Finance Act (Law 4 of 1995).

168. Icelandic municipalities do have a considerable degree of financial autonomy; nevertheless, the small size of many municipalities constrains their spending and revenue capacities. In larger municipalities, such as the capital city of Reykjavik (as mentioned above in part 2.2.), the demand for specific services is notably high, resulting in a surge in associated costs. The level of local expenditure in GDP and total public spending in Iceland has been increasing for 40 years (with some short-lived disruptions. Figure 2) but it is still below the OECD average, amounting to 14.7% of GDP and 28.3% of public spending in 2020.

169. Icelandic local authorities are one of the biggest employers in the country. The share of staff expenditure in subnational government expenditure is above the OECD average (34.4%), the subnational government staff spending in public staff spending is below the OECD average (61.2%), and below the average for OECD unitary countries (41.4%). Administrative costs tend to weigh more on the smallest municipalities due to their prevalence. Overall, current expenditure accounted for around 89.1% of subnational government expenditure in 2020.³⁹

³⁹ <https://www.sng-wofi.org/country-profiles/iceland.html>

■ SUBNATIONAL GOVERNMENT EXPENDITURE BY ECONOMIC CLASSIFICATION

2020	DOLLARS PPP / INHABITANT	% GDP	% GENERAL GOVERNMENT	% SUBNATIONAL GOVERNMENT
Total expenditure	8115	14.7%	29.1%	100.0%
Inc. current expenditure	7234	13.1%	28.3%	89.1%
Compensation of employees	3886	7.0%	43.8%	47.9%
Intermediate consumption	2607	4.7%	45.2%	32.1%
Social expenditure	227	0.4%	3.6%	2.8%
Subsidies and current transfers	292	0.5%	12.4%	3.6%
Financial charges	222	0.4%	10.0%	2.7%
Others	0	0.0%	0.0%	0.0%
Incl. capital expenditure	881	1.6%	37.3%	10.9%
Capital transfers	80	0.1%	26.9%	1.0%
Direct investment (or GFCF)	801	1.5%	38.8%	9.9%

Table 5: Local Government Expenditure in Iceland by economic classification (Source: OECD-WOFI)

170. The rapporteurs conclude that the situation of municipal finance and discretionary spending power is quite asymmetrical, given the big deviations in fiscal capacities among the different municipalities. Especially the smaller municipalities face considerable restrictions in the factual financial autonomy. Therefore, Iceland partially complies with this paragraph.

3.8.2 Article 9.2

171. The second paragraph of Article 9 emphasizes the need for a balance between the revenues and mandatory tasks of local authorities to ensure that the available financial resources are adequate for the assigned legal responsibilities. When new tasks are delegated or transferred to local authorities, corresponding funding or income sources must accompany these assignments to cover the additional expenditure. The Contemporary Commentary highlights the importance of a meticulous calculation of service delivery costs borne by local authorities when transferring powers and tasks. Regular checks and updates of the costs of local services are crucial, as the initially estimated costs during the transfer of a function may differ from the actual expenses incurred in service delivery and development.

172. Municipal representatives emphasized that over the past three decades, Icelandic municipalities have been legally entrusted with intricate and costly responsibilities formerly managed by the central government. These responsibilities include the administration of local elementary schools and providing services for individuals with disabilities. Initially, these responsibilities were transferred based on specific assumptions regarding their costs, funded through a combination of increased council tax and contributions from the Municipal Equalisation Fund. Unfortunately, the initial assumptions or estimated costs associated with these tasks often prove to be miscalculated or underestimated. Consequently, after the completion of the task transfer, additional obligations related to task performance or enhanced rights for service recipients are introduced through legislation, lacking adequate cost estimation, and leaving municipalities without sufficient compensation for the expanded service.

173. Additionally, the assignment of responsibilities has the potential to create uncertainty and unclarified domains in service delivery. In particular, the allocation of certain services between the local municipality and the central government may lead to overlapping jurisdictions. An illustrative case is the challenge of distinguishing between aid to individuals with disabilities, falling under the jurisdiction of local municipalities, and healthcare, a responsibility of the central government. This differentiation becomes intricate, especially in cases where individuals with disabilities require continual medical support, resulting in frequent intersections between these services. The intricacy of these distinctions may have been less evident when both tasks were exclusively managed and financially supported by the central government.

174. In recent years, the central government has increasingly moved towards legislation that details individual rights to certain services of a certain caliber or quantity rather than allowing municipalities the freedom to adjust the services under their policy. The central government has done so without adequately estimating the cost effects these improvements will have on the finances of local

governments, even though the central government is required to do so by law. This has led to problems regarding the financing of these services and affects the ability of municipalities to self-govern. This has led to strains in communication between the governments. A good example of this is the law no. 38/2018 on services to people with disabilities. In Article 3 of the act, it is expressly stated that a person with disabilities shall receive no less than 15 hours of social services a week. No mention was made of this obligation when the task was transferred to the municipalities.

175. From the perspective of the Ministry, representatives highlighted the adjustment made to municipal revenue from income tax, which is shared between the State and municipalities in Iceland. In most cases, this division has been adjusted to reflect the transfer of the related cost pool when delegating the responsibility for providing public services. This approach was employed in 1996 when elementary schooling was transferred to municipalities, and again in 2011 when services for persons with disabilities were transferred. In the case of the latter, it was found that the financing had been insufficient, considering the increasing demands for the quality of service. Consequently, the central government re-estimated the cost and allocated a further share of the State's income tax to municipalities.

176. During the consultation procedure, the Ministry of Infrastructure also pointed to a significant increase in funds for municipalities in the last few years, while acknowledging that in some cases smaller municipalities tend to have more financial difficulties than larger ones. It highlighted that the government's goal of a minimum of 1,000 inhabitants intended to promote improved services and more efficient operations within these municipalities. In addition, in relation to services to disabled people, the authorization was granted to local authorities to increase the local government's tax rate by 0.21% in 2023 and then by 0.23% in 2024, which according to the government resulted in the improved fiscal performance of the municipalities in 2023.

177. Currently, a temporary committee, comprising delegates from the Ministries of Infrastructure, Finances and Economic Affairs & Justice, and the Association of Local Authorities, is reviewing the rules regarding the cost evaluation of legislation concerning municipalities. The focus is on evaluating costs for municipalities as early in the process as possible to guard against unexpected transference of cost pools from the State to municipalities or the creation of new cost pools for municipalities. This also aims to ensure harmony between the state and local authorities in the professional process of assessing the impact of legislative proposals and other public policies, particularly when the costs may be borne by municipalities.

178. During the consultation procedure, the Ministry also emphasized that the highest consultation committee of the state and local authorities (Jónsmessunefnd) was tasked with revising local government sources of income. Additionally, the Ministry of Finance was drafting a bill to abolish the property tax exemption for power structures within municipalities, while highlighting that only a few local authorities fully utilized their potential to levy real estate taxes. Another purpose of the bill is to help reach an agreement on how disputes will be resolved when different levels of administration cannot agree on the final impact of public policies on local government finances.

179. From the municipalities' perspective, there are complaints that financing problems always emerge when tasks are transferred, such as with immigration. The central government is consistently improving the standards for services, but municipalities are responsible for providing them without receiving commensurate funding, leading to ongoing discussions about the proper calculation of service costs. In some cases, costs are rising due to external and social reasons, such as the costs for Icelandic language tutoring in elementary schools due to increased migration or the costs for disabled persons who are also elderly, reflecting demographic changes.

180. The lack of commensurate funding is also increasing the pressure on municipalities to raise tax rates to the maximum limit, which is not beneficial to the local economy and can trigger a vicious circle. In some instances, municipalities try innovative approaches, such as offering the first six hours of daily childcare for free and charging only for additional hours of this service, resulting in a decrease in demand for childcare. Regarding the Kindergarten service, a major problem arises from the fact that it is not a formally obligatory service of municipalities, and the state does not provide funds, despite the service being expected and demanded by citizens and having a beneficial impact on various state policy targets, such as increasing women's participation in the labour market or addressing the birthrate in an aging society.

181. Taking into consideration the acknowledgment from interlocutors at the local level that adequate financial resources are not provided for certain essential services delivered by municipalities, the

rapporteurs strongly encourage Icelandic authorities to continue and intensify their efforts in developing universally accepted definitions of services (along with corresponding user claims) and calculation methods for costs. This step is crucial to ensuring that funding aligns appropriately with the services provided.

182. Furthermore, the rapporteurs wish to emphasize the situation concerning the kindergarten service. While not formally an obligatory task for municipalities, it is, in reality, an indispensable local service for modern local societies and should, therefore, receive commensurate funding.

183. The rapporteurs conclude that the current situation does not meet the requirements of Article 9, paragraph 2.

3.8.3 Article 9.3

184. The Explanatory Report to the Charter emphasizes that "the exercise of political choice in balancing the benefit of services provided against the cost to the local taxpayer or the user is a fundamental duty of local elected representatives. It is accepted that central or regional statutes may set overall limits to local authorities' powers of taxation; however, they must not prevent the effective functioning of the process of local accountability."

185. According to the Contemporary Commentary, the power to levy local taxes and charges is not only a significant source of funding for local authorities but also direct evidence of local financial autonomy. Local authorities are entitled to raise revenues based on the local situation, including socio-demographic and socioeconomic conditions, and make political choices that influence the behaviour of residents and companies, fostering local economic development. In the light of Article 9.3, a tax is a genuine local tax only if the local authority is entitled to determine the rate within the limits that may be determined by law.

186. Municipalities in Iceland enjoy a significant degree of autonomy in determining their independent tax revenues. Local authorities are free to choose the level of taxation on both income tax and property tax, albeit within certain boundaries. Only a few municipalities impose the highest level allowed for both taxes, enabling them to increase their revenues beyond the current level. It is noteworthy that some municipalities, despite being small, are affluent due to factors such as tourism, energy plants, or factories. Since the 1990s, Iceland has been aligning itself with the Scandinavian countries, moving away from traditional centralism. Approximately 65% of municipal revenue is derived from own taxes, especially income tax and property tax.

■ SUBNATIONAL GOVERNMENT REVENUE BY CATEGORY

2020	DOLLARS PPP / INHABITANT	% GDP	% GENERAL GOVERNMENT	% SUBNATIONAL GOVERNMENT
Total revenue	7601	13.8%	32.9%	100.0%
Tax revenue	5922	10.7%	32.5%	77.9%
Grants and subsidies	766	1.4%	-	10.1%
Tariffs and fees	647	1.2%	-	8.5%
Income from assets	265	0.5%	-	3.5%
Other revenues	0	0.0%	-	0.0%

Table 5: Local Government Revenue in Iceland by economic classification (Source: OECD-WOFI)

187. Iceland boasts the highest proportion of tax revenues in subnational government revenue among all OECD countries, with the OECD average standing at 42.4%. Consequently, Iceland also exhibits the lowest percentage of intergovernmental transfers (10.1%, compared to the OECD average of 41.2%). Tariffs and fees contribute a relatively small portion to subnational government revenue when compared to the OECD average (13.3%). However, subnational government revenue, constituting 13.8% of the GDP and 32.9% of public revenue, falls below the OECD average (17.1% and 36.6%, respectively).

188. Because Icelandic municipalities have a very high proportion of tax revenues and also have the power to determine tax rates, the rapporteurs conclude that Iceland fully complies with this paragraph.

3.8.4 Article 9.4

189. According to the Contemporary Commentary, the principle of diversification of income sources is crucial if local authorities are to maintain their autonomy during fluctuations in economic cycles. At the same time, income sources should be diverse to ensure local authorities' resilience to external economic factors. The diversification of revenues is a key aspect of financial autonomy, reflecting the ability to generate or adjust revenues. In this way, even though the different sources of local authorities' income may be shaped by national economic policy, municipalities will have room for manoeuvre to offset the economic difficulties resulting from one specific source of income. The second principle introduced by this paragraph is "buoyancy", which means that local finances should be able to adapt to new circumstances, needs, and macroeconomic scenarios and be sufficient to cover service delivery.

190. The Association considers that the revenue sources of municipalities are not adequate and diverse enough to fulfil the tasks assigned to them by law.

191. As for diversity, the rapporteurs note that Iceland does not have a tax-sharing arrangement, and all municipal tax revenues are generated through own-source taxation. The primary source of revenue is the municipal personal income tax (PIT), constituting 80.4% of municipal tax revenue in 2020, equivalent to 62.6% of total municipal revenue and 8.6% of GDP. The municipal PIT, levied by both central and local governments, represents a flat percentage of total taxable income, with rates varying slightly across municipalities. The municipal income tax withheld at source is 14.45%, but the final assessment rate ranges from 12.44% to 14.52%, depending on each municipality (Article 23 of Law 4/1995).

192. The second major source of local tax revenue is the property tax on residential and commercial buildings, accounting for 19.6% of subnational government tax revenue and 15.3% of total subnational government revenue in 2020. Property tax rates vary (up to 1.65%) based on the municipality and property type (Article 3, Law 4/1995). The municipal property tax rate for residential housing (A-tax) is capped at 0.5% by the central government, and for commercial premises (C-tax) at 1.32%. Local authorities can impose a special A and C tax of 25%. Government buildings like schools and hospitals pay a 1.32% rate for property tax (B-tax). Overall, property tax amounted to 1.7% of GDP, exceeding the OECD average (1.0% in 2020). Additionally, there are several small taxes on goods and services, contributing to 2% of subnational government tax revenue.

193. Local authorities have autonomy in setting local fees and charges on operating utilities for water, electricity, and heating. They also receive revenue from sewage disposal fees, rental fees, license fees, and a newly introduced parking fee outside urban areas. However, the share of user charges and fees is below the OECD average. Property income, including rents, asset sales, and revenues from local public companies (dividends), accounts for 3.5% of subnational government revenue.

194. Transfers primarily come from the Municipal Equalisation Fund, established in 1937 and governed by Law 4 of 1995. In 2020, total amount of the various grants accounted only for 10.1% of municipal revenue; 88.8% of grants were current grants, while 11.2% were capital grants. Relevant discussions have focused on reforming the equalisation scheme to encourage mergers and inter-municipal cooperation for greater policy efficiency.

195. The Rapporteurs conclude therefore that resources of municipalities are of a sufficiently diversified and buoyant nature and Iceland complies with Article 9, para. 4 of the Charter.

3.8.5 Article 9.5

196. According to the relevant OECD definition, "fiscal equalization is a transfer of fiscal resources across jurisdictions with the aim of offsetting differences in revenue-raising capacity or public service cost". The Contemporary Commentary on the Charter emphasizes that fiscal equalisation is country-specific since it is shaped by the wider institutional framework such as the size, number, and geographical distribution of local governments and the responsibilities and fiscal resources allocated to each type of authority. Some equalisation arrangements involve the simple redistribution of fiscal resources while others help central governments closely shape and adapt public service delivery at the local level. The Charter uses the term "financial equalisation procedures or equivalent measures", with the aim of including a range of different institutions, mechanisms, and arrangements designed to redress the effects of the uneven distribution of funding.

197. In Iceland, the Equalization Fund aims to equalize municipal tax revenue, enabling all municipalities to provide services. The central government contributes an annual amount equivalent to 2.12% of its total tax revenues and 0.264% of the previous year's PIT base. Local governments also contribute 0.77% of their PIT base (earmarked for elementary school expenditure) and 0.95% of the PIT base (earmarked for disabled persons' expenditure). The Fund's revenues are distributed among municipalities based on a complex formula considering municipal expenditure and resources. It is managed by the Minister with guidance from a seven-member advisory committee.

198. According to the Ministry of Infrastructure, municipalities' financial situations vary from very good to poor. Those municipalities that have faced financial difficulties in recent years have all done so after experiencing over-growth in population. It is worth noting that in each case local authorities can choose their fate regarding population growth as they have authority over land use, building permits etc. Another potential source of financial distress is because of natural disasters. Although this has not materialised in modern history, it is of concern during the present seismic activity in the Reykjanes peninsula.

199. The Minister of Infrastructure's Bill on a comprehensive law on the Local Authorities Equalisation Fund, proposing a new equalisation system, is currently before Althingi. The Bill entails a potential lowering of contributions to some municipalities, and the local authorities involved have submitted comments on the Bill. During the consultation procedure, the Ministry indicated that the current Minister of Infrastructure emphasised that the Althingi should pass the bill on more targeted equalisation of the Municipal Equalisation Fund as soon as possible.

200. According to representatives of local authorities, the Equalisation Fund should support smaller municipalities. Now it seems that Equalization is rather vertical. Relevant rules should become more transparent and need-oriented. The focus should not be on equalizing size effects but on helping municipalities to provide the services and address their concrete needs (also depending on the number of recipients etc.). According to the Equalisation bill, if a municipality does not use the full potential of taxation, it will be excluded from equalization funds. Reykjavik had used the full potential of taxation (the city cannot introduce new taxes, e.g. a tourist tax, because of the Constitution) but the city needed more because of the specific needs of users in its area. Up to now, the Equalization Fund does not calculate situations like the one in Reykjavik. In other cases, equalisation is working as an anti-incentive to amalgamations.

201. Taking into consideration the shortcomings of the current equalisation system and the fact that a new system has not been introduced yet, the rapporteurs conclude that Iceland partially complies with this paragraph of the Charter.

3.8.6 Article 9.6

202. According to the Explanatory Report to the Charter, when redistributed resources are allocated based on specific criteria outlined in legislation, the requirements of this paragraph will be fulfilled if local authorities are consulted during the preparation of the relevant legislation. The Contemporary Commentary on the Charter clarifies that under Article 9.6, consultation is not merely a compulsory procedure that must occur in a timely manner before a final decision is made. It must also encompass the decision-making process and the criteria used, not just the decision itself. Considering recurring issues in monitoring reports, the Congress has advocated for increased involvement of local authorities or their representatives in financial matters. This includes estimating the costs associated with any new state legislation that needs to be implemented at the local level.

203. Concerning specific consultation in financial matters a cooperation agreement is still in force between the central government and municipalities, signed on April 2, 2008. The agreement stipulates the promotion of mutual understanding of the issues and needs of each party individually in social and economic terms. The necessity to establish regular communication between the parties, promote a common vision of the development, status, and future of the local government level, coordinate, as far as possible, the policies of the state and municipalities in public finances and operations, with the aim of achieving the economic goals that the government and Alþingi determine at any given time. Also, to promote restraint and responsibility in public operations, and promote an informed debate on local government issues.

204. Article 129 of the LAA stipulates a formalised Cost Assessment Procedure. If it is foreseeable that a proposal for a legislative bill, proposal for administrative instructions, or other policy formulating decisions on the part of state authorities will have a financial impact on municipalities, a special

assessment shall be made of such impact on the finances of municipalities. The Ministers in question shall be responsible for ensuring that such assessments are prepared. When such an assessment of the financial impact has been prepared, it must be immediately submitted to the Association of Local Authorities for comment. An assessment of the financial impact on municipalities shall be prepared before a bill is processed by the government for submission to the Alþingi or planned administrative instruction or other actions on the part of the authorities are finally decided. In the event of a dispute as regards the results of the financial impact of a legislative bill, a cost report thereto must be attached to the bill when it is submitted to the Alþingi. The Ministry responsible for local government affairs shall annually collate a summary of cost assessments, including any disputes. Formal discussions concerning the summary and its conclusions shall be conducted by the consultation committee according to Article 128 (s. supra comments to Art. 4.6.).

205. According to information provided by state representatives during the monitoring mission, a temporary committee with delegates from the Ministries of Infrastructure, Finances and Economic Affairs & Justice, and the Association of Local Authorities is reviewing the rules regarding cost evaluation of legislation concerning the municipalities. Its focus is to evaluate costs for the municipalities as early in the process as possible to safeguard against unexpected transference of cost pools from State to municipalities or the creation of new cost pools for the municipalities.

206. Considering the above and also taking into consideration that differences in calculation of needs and costs of services seem to be a major problem in the relations between Icelandic local governments and the central government, the rapporteurs conclude that consultation on financial matters is not sufficient and efficient, the relevant institutional framework needs therefore to be considerably improved, according to principles and guidelines for consultation adopted by the Congress and also taking into consideration good practices in other countries. Iceland partially complies with this paragraph.

3.8.7 Article 9.7

207. According to the Explanatory Report to the Charter, block grants or even sector-specific grants are preferable, from the point of view of local authority freedom of action to grants earmarked for specific projects. It would, however, be unrealistic to expect all specific project grants to be replaced by general grants, particularly for major capital investments and projects funded by higher levels of governance. The Contemporary Commentary points out, that the allocation of specific grants should be based on objective, transparent criteria justified by spending needs. A trend towards earmarked grants might limit local authorities' ability to exercise policy discretion.

208. Icelandic local authorities have independent sources of revenue, primarily through income tax. Furthermore, earmarked grants are virtually non-existent, and Icelandic local authorities possess significant discretion over their financial resources. Despite not having the authority to levy taxes, the unconditional nature of financial resources and transfers contributes to the substantial fiscal autonomy enjoyed by local authorities.⁴⁰

209. The rapporteurs conclude that Iceland complies with paragraph 7 of Article 9 of the Charter.

3.8.8 Article 9.8

210. According to the Contemporary Commentary, the law may establish requirements, procedures, criteria, limits, or ceilings concerning local authorities' financial activities but, in any event, those standards should not deter them from borrowing on the national capital market or make it extremely difficult in practice. Some restrictions imposed by national (or regional) governments on borrowing by local authorities aim to prevent excessive debt among those authorities and ensure their financial viability and liquidity. Public entities with low debts and high revenues have a greater capacity to carry out mandatory and even voluntary tasks, while municipalities with high debts and low incomes are less viable in the long run.

211. As a consequence of investments made in the pre-crisis years, many municipalities faced significant debt denominated in foreign currencies indexed to inflation. When the króna collapsed in 2008, local debt surged, creating a financial burden. Nevertheless, fiscal policy has made substantial strides in reducing public debt. In 2001, the Local Government Act introduced a debt rule, capping total subnational government debt and liabilities at 150% of total revenue (Art. 64 of LAA). Local governments

⁴⁰ Eva Marín Hlynisdóttir, op.cit., p. 100.

exceeding this limit must bring the debt ratio below this benchmark within ten years. In 2020, local debt levels were below the OECD average for both GDP share (27.9%) and public debt (20.2%). The total outstanding debt comprises financial debt (65%), insurance pensions (21%), and other accounts payable (14%). Financial debt includes loans accounting for 52.6%. The Municipality Credit Iceland (MCI), a capital loan fund owned by local authorities, provides 25% to 30% of the financing needs of Iceland's municipalities.

Central and local governments gross debt as percent of GDP

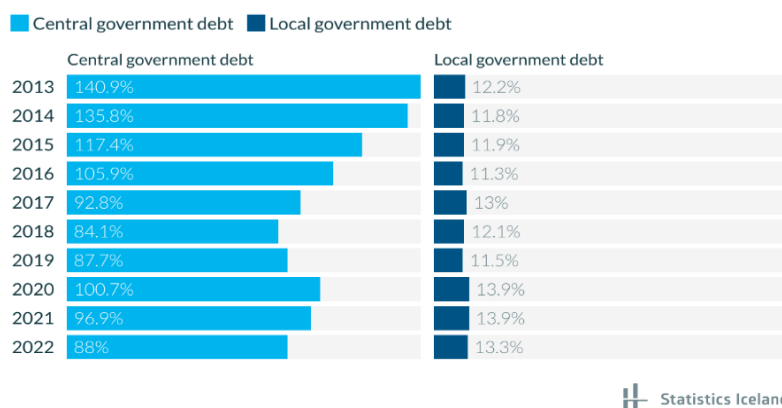


Figure 5: Central and local government gross debt as percent of GDP (Source: Statistics Iceland)

212. Local authorities have access to the national (and international) capital market, within the limits of the law (debt ratio of a municipality should not be higher than 150 percent of its revenues).

213. The rapporteurs conclude that Article 9, para. 8 of the Charter is respected in Iceland.

3.9 Article 10 – Local authorities' right to associate

Article 10

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

3.9.1 Article 10.1

214. According to the Contemporary Commentary, local cooperation is another manifestation of local government because it is one of the many ways in which local authorities may choose to overcome their lack of resources or small size. The decision on whether to co-operate or not or to devise a distinct strategy is accordingly a reflection of the functional autonomy of local authorities. Local cooperation may take different forms: from "de facto" mutual assistance or simple bilateral agreements to the establishment of separate, joint administrative organisations. Although the Charter only mentions "consortia", the specific right to create joint institutional structures, separate from the participating local authorities, may take various forms, for instance, the establishment of private-law foundations and companies or public-law bodies such as agencies, consortia, unions of federations or pools.

215. The legal provisions for inter-municipal cooperation are outlined in Chapter IX. of the Local Authorities Act (LAA) and it can be said that their cooperation can occur in the three following ways:

1. Cooperation that does not entail delegation of powers to make administrative decisions. This is based on a contract between local authorities that is not subject to any requirements of form.
2. Cooperation stipulated or permitted by other law. There are examples where local authorities establish companies, such as limited liability companies or partnerships to carry out specific tasks, such as operating a harbour or water distribution.

3. Cooperation entailing delegation of powers to make administrative decisions affecting the rights and duties of people. This can inter alia occur in regional partnerships or when one local authority assumes the tasks of another one. Strict rules of form, which are provided for in the Local Authorities Act, apply to this type of cooperation and such cooperation is subject to confirmation from the relevant Ministry to enter into effect.

216. The Ministry conducted a special survey of the cooperation between local authorities in 2018-2020 and reviewed around 200 contracts between local authorities. The survey revealed various deficiencies in contracts between local authorities and contracts that had not been adequately updated. Since then, the Ministry has been working with local authorities to update cooperation contracts to bring them into compliance with the law. The revision of the Local Authorities Act is currently taking place, with a special focus on the chapter on cooperation. In that work, more attention is given to the rules of form that shall apply to cooperative contracts of local authorities. The Ministry of Infrastructure does not have a general role in coordinating tasks, but other ministries may play such a role within their fields of competence.

217. The main tasks that are shared by municipalities are projects in the field of welfare and education. However, there are also large municipal cooperative organisations in the capital area that operate public transport and waste operations. According to information provided by the Association of Municipalities, inter-municipal cooperation is mostly single-purpose with many territorially overlapping schemes. Political accountability for decisions and performance of these schemes is frustrated because it is not clear to the voters who is responsible for what. In Iceland, around the half of municipalities have less than 1000 inhabitants and they take advantage of inter-municipal cooperation, which is positive.

218. Considering the possibilities offered by the legal framework for inter-municipal cooperation and the relevant practice, the rapporteurs concluded that Iceland complies with the first paragraph of Article 10.

3.9.2 Article 10.2

219. According to the Contemporary Commentary, the Charter is unusually categorical: this right "shall be recognised in each State" (having ratified the Charter and not having made a reservation to this paragraph). This is the only passage in the Charter where this wording is used, which reinforces the directly enforceable nature of the paragraph. The recognition of such a right in a given Party will usually be achieved by including it in the general legal framework for local government. Although the Charter only speaks of the right to "belong" to or join an (already existing) association, it is clear that this should also be seen as recognising the inherent right to set up such associations. Otherwise, the very possibility of setting them up would be seriously hampered.

220. The Icelandic Association of Local Authorities, established in 1945, plays a crucial role in representing the municipalities in Iceland under the LAA (Article 98). As per the act, "the Association of Local Authorities in Iceland is the common representative of the municipalities in Iceland." The association advocates for their interests in negotiations with the government, both domestically and internationally. It formulates unified policies on various issues and maintains close collaboration with the government and the Althing. A specific cooperation agreement is in effect between the association and the government, outlining formal provisions for their relationship. Article 98.3 mandates that the central government consults the Association when issuing general administrative directives on the basis of the LAA. While all municipalities have the option to be members of the Association of Local Authorities in Iceland, their active participation in its activities is voluntary.

221. The rapporteurs conclude that this paragraph is fully respected in Iceland.

3.9.3 Article 10.3

222. As the Contemporary Commentary points out, although transfrontier co-operation is presented as a right of local authorities, this is not incompatible with two specific aspects. The first is that domestic local government legislation may establish steps, procedures, or requirements concerning the exercise of such a right (such as the duty to report any planned cooperation with foreign local bodies). These requirements may be considered legitimate unless they seriously hamper the possibility of fruitful transfrontier cooperation. The second aspect is that this local activity may overlap or conflict with the conduct of foreign affairs, which is a central government responsibility. In this case, the exercise of State

powers and responsibilities should not mean arbitrary restriction of this right of local authorities, and in any case dialogue and negotiation mechanisms should be established to resolve any possible disputes.

223. As already pointed out in the introduction to this report, Iceland has signed, but not ratified yet: the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.106), the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.159),; the Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation, (ETS No. 169), and the European Charter for Regional or Minority Languages of 5 November 1992 (ETS No. 148). Iceland has not signed Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euro-regional Co-operation Groupings (ETS No. 206).

224. Nevertheless, the Icelandic Association of Local Authorities is legally entitled and active in international cooperation (for instance within the framework of EEA), therefore the rapporteurs conclude that this paragraph is respected in Iceland.

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.

225. According to Article 70 of the Icelandic constitution (that corresponds to Article 6(1) of the European Convention on Human Rights), everyone shall, for the determination of their rights and obligations, be entitled, following a fair trial and within a reasonable time, to the resolution of an independent and impartial court of law. There is no special mention of municipalities in Article 70, but there is no controversy about whether the municipalities should be entitled to full access to Icelandic courts, and municipalities do, as legal entities, have access to the Icelandic courts under law no. 91/1991 on civil proceedings. In addition, Article 117 of the Local Government Act provides for the right of municipalities to appeal against decisions of central state authorities in the exercise of administrative or financial supervision and refer the case to the courts according to general rules.

226. Furthermore, in court cases regarding their rights or obligations, municipalities can challenge the validity of legislation that they believe goes against the self-government guaranteed to them by the provisions of Article 78 of the Constitution. By the rules set out in the Constitution, it is up to the courts to assess whether a law violates the Constitution, and the courts can set aside concrete provisions of law that do so. Like many of the old parliamentary democracies, Iceland follows the diffuse model of judicial review of legislation, the municipalities – as any other person or entity – can directly challenge legislation in court on the grounds of unconstitutionality.

227. According to information provided by the Supreme Court, there have been several cases concerning the independence of municipalities and how that independence is construed considering Article 78 of the Constitution. The Charter has not been directly quoted by the courts; however, the courts do consider the Charter, just as other international legal obligations that can influence the resolution of a case.

228. For instance, in its Judgement from 25. October 2018 in case no. 106/2017 (Arnar Helgi Lárusson et al vs. Reykjanesbær) the Supreme Court noted that the municipality of Reykjanesbær had fulfilled a duty laid down in the Act on the Affairs of Disabled People to devise a strategy for improving access to public buildings and that the strategy had been put into action. The responsibility for matters relating to people with disabilities had been transferred from the State to the municipalities in 2010. Under Article 78 of the Constitution, municipalities had autonomy in the matters entrusted to them by law, as well as in the use of their funds. Municipalities were, therefore, the only entities competent to decide on the kinds of accessibility improvements that the plaintiffs had demanded and had a wide margin of appreciation in how to prioritize the allocation of funds available to them in pursuit of their goal of improving access.

229. For example, in a judgment dated October 25, 2018, in case no. 106/2017 (Arnar Helgi Lárusson et al vs. Reykjanesbær), the Supreme Court highlighted the autonomy granted to municipalities under Article 78. 234. The court recognized Reykjanesbær's fulfillment of duties outlined in the Act on the

Affairs of Disabled People and stressed that municipalities, with autonomy in matters entrusted to them by law, had the competence (and a wide margin of appreciation) to decide on accessibility improvements and allocate funds accordingly.

230. The European Court of Human Rights rendered a judgment on May 31, 2022, in the case of Arnar Helgi Lárusson v. Iceland no. 23077/19, concluding that the applicant was not discriminated against in his right to respect for private life. The court acknowledged the considerable measures taken by the Icelandic State and Reykjaneshreppur to assess and address accessibility needs in public buildings, considering budget constraints and cultural heritage protection.

231. In another judgment on May 14, 2019, in case no. 34/2018 (Grímsnes- og Grafningshreppur vs. the Icelandic state), the Supreme Court emphasized that the purpose of Article 78(2) of the Constitution was to place decisions regarding municipalities' income sources in the hands of the legislator, not the executive power. It found it contrary to the Constitution for the minister to decide on cancelling contributions and determining the level of income that would be considered significantly above the national average.

232. Taking into account the judicial review of constitutionality, the full access of municipalities to the courts, and relevant case law, the rapporteurs maintain that Article 11 is respected in Iceland.

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

233. Throughout the pandemic, the Icelandic government utilised State resources extensively to alleviate the economic repercussions across all sectors. Special support was extended by the State to companies compelled to close, aiming to sustain demand. Concurrently, employment support was offered to other companies, safeguarding employment relationships. This comprehensive approach ensured that municipalities did not bear the brunt of the pandemic's adverse effects, given that their income relied on the earnings of their residents.

234. To streamline the pandemic response, numerous targeted policies were enacted, fostering a productive collaboration between central and local authorities with minimal criticism. Notably, legal frameworks were adjusted, permitting local authorities to conduct their meetings online, exemplifying the adaptability and responsiveness of the government during these challenging times.

235. Over the past two years following the onset of the pandemic, there has been a notable surge in refugees seeking international protection in Iceland, surpassing previous figures with over 4,000 applicants annually compared to around 1,000 in preceding years. Since the initiation of the Russian invasion of Ukraine in early 2022, the Icelandic government has extended a welcoming hand to 4,094 refugees from Ukraine. Of these, 2,348 arrived in 2022, 1,613 in 2023, and 133 up to 8 February 2024. Concurrently, a significant number of refugees from Venezuela have also sought international protection during this period, with the majority being women and children.

236. Responding to the increased influx of refugees, the government established a coordination team comprised of representatives from relevant ministries and institutions dedicated to managing the reception of refugees. The team's objective is to provide an overview and enhance coordination in refugee reception across ministries, institutions, and municipalities. A major challenge has been ensuring that the basic infrastructure can accommodate the rapid population increase, as Iceland experienced a historic surge in population by approximately 11,510 inhabitants (3.1%) in 2022, primarily driven by immigrants.

237. The Ministry of Social Affairs and Labour has entered into contracts with 15 local authorities for refugee reception, with a concentration in the south-west of Iceland. However, smaller municipalities often lack the capacity to receive refugees. These contracts involve financial support from the State to cover the costs of social workers' work.

238. While the population increase has brought positive economic effects for local authorities, it has also heightened pressure on local services. Immigrants require specialised support and services, necessitating their development, particularly in areas such as kindergartens and schools. A new parliamentary resolution on matters concerning municipalities focuses on multiculturalism in local authority staff and the development of services for residents of foreign origin.

239. To address the accumulating housing shortage, increased residents, and reduced occupancy per apartment, the government has collaborated with the Icelandic Association of Local Authorities on a housing construction initiative. This initiative includes support for local authorities and individuals to boost the number of apartments, assisting renters and individuals with low incomes in finding housing. The overarching goal is to augment the total number of apartments by 35,000 nationwide over the next ten years.

240. In accordance with Article 5c of Act No 70/2012 on Climate Matters, local authorities in Iceland are mandated to formulate a climate policy for their operations, including institutions like schools and nurseries. This policy must encompass specific objectives for reducing greenhouse gas emissions and carbon offsetting, along with corresponding actions to achieve these goals. Oversight of the adoption of a climate policy by local authorities is managed by the Icelandic Environmental Agency (Umhverfisstofnun), following the regulations outlined in the Act on Climate Matters concerning their own operations.

241. The involvement of other government agencies in municipal climate initiatives is not explicitly defined. To support municipalities in aligning with Act No 70/2012 and fostering climate-friendly practices, the Icelandic Association of Local Authorities received a grant from the Ministry of the Environment, Energy, and Climate. They developed a Toolbox for Municipalities in Climate Matters, providing various tools and information to help municipalities assess their emissions, set goals, and implement effective climate policies. Currently, 13 municipalities out of the total 64 have a verified climate policy for their operations.

242. Some local authorities and regional associations have voluntarily adopted an ESR (Effort Sharing Regulations) emission policy, and Reykjavik city and Akureyri are members of the Covenant of Mayors, actively working towards carbon neutrality. The city of Reykjavík is also part of Net Zero Cities, collaborating with over a hundred other cities in the pursuit of carbon neutrality.

243. The participation of local authorities in national climate initiatives includes representation in the Task Force for the Government's Action Plan in Climate Matters and the Climate Council. However, there is room to define more active roles for local authorities in reducing greenhouse gas emissions. Regular emission information updates are crucial for municipalities to implement effective measures.

244. Discussions are ongoing between the Icelandic Association of Local Authorities and the Ministry of the Environment, Energy, and Climate to ensure municipalities have access to estimated ESR emissions in their areas, with Iceland's national emissions distributed among the 64 municipalities. Similar projects exist in other Nordic countries.

245. For addressing natural disasters, the Icelandic Avalanche and Landslide Committee and Fund can approve and fund risk assessments and defence constructions in municipalities. Iceland has a robust history of dealing with natural disasters, such as earthquakes, volcanic eruptions, and floods. Support is typically implemented through ad hoc regulations and laws, with governance bodies for civil protection, emergency management, and public insurance. The Icelandic Natural Disaster Insurance (NTÍ) has been in place since September 1, 1975, providing national disaster mitigation insurance.

246. While environmental issues might pose challenges for most municipalities, the country has a well-organized and longstanding tradition in civil protection. In the event of major disasters, the National Association steps in, with the Minister responsible for funding. While the initial response is well-structured, there may be room for improvement in subsequent phases. The national commissioner of police assumes primary responsibility, and fire brigades, both professional and volunteer-based, operate at the local level. Civil protection operates as a hybrid model, with elements of cultural affairs, social welfare (more municipality-oriented), and elderly care (elderly health care is state-managed).

5. ADDITIONAL PROTOCOL TO THE CHARTER ON THE RIGHT TO PARTICIPATE IN THE AFFAIRS OF THE LOCAL AUTHORITY

247. As already mentioned in the introduction, Iceland has signed on 16 November 2009 and ratified on 22 May 2017 (with entry into force on 1 September 2017) the Additional Protocol to the European Charter of Local Self Government on the rights to participate in the local government affairs (CETS N° 207).

248. The Local Authorities Act (No 138/2011) is dedicating a whole Chapter (X.) containing 8 articles to different mechanisms of citizens participation, also empowering local authorities to enable citizens participation as provided by Article 2 of the Additional Protocol. Article 102 LAA refers to the “rights of residents to influence the management of a municipality”. It introduces a general obligation of the council, which “shall seek to ensure that residents and those who enjoy its services have an opportunity to influence and participate in the municipality’s administration and policy formulation preparations”. This target can be ensured by the following mechanisms:

1. effective supply of information to residents;
2. consultation with residents, such as by means of town meetings, residents’ assemblies and in residents’ elections;
3. appointment of residents’ and user committees;
4. by organising the operations of the municipality according to local circumstances;
5. collaboration or alternative assistance to residents who wish to be involved in the affairs of the municipality.

249. According to Article 103 LAA, the council shall inform its residents about any issues that the municipality has under consideration and determination and which concern the residents. Article 104 LAA stipulates that the Ministry and the Icelandic Association of Local Authorities shall, in co-operation with Statistics Iceland ensure that information on the finances of the municipality and other important information relating thereto is made accessible to the public in an open electronic database or comparable manner. These provisions do not, however, introduce procedures for access, to official documents held by local authorities as provided by the Additional Protocol (Article 2). The LAA provides for access to information by the councillors (Art. 28 LAA), the Auditor (Art. 72), the Municipal Finances Committee (Art. 80), and the Ministry (Art. 113). Therefore, access of citizens to municipal documents seems to be possible as far as the general administrative rules provide it.

250. Article 105 LAA stipulates that the council decides whether to hold public meetings in the municipality (unless there is a binding request by 10% of voters as provided in Article 108 para. 1). Participants can be given the opportunity to participate in discussions and submit queries and proposals and a vote on a proposal of the council can be taken during the meeting. Voting rights can be restricted to those included in the electoral register, otherwise, all those attending the meeting are eligible to vote. Resolutions issued by general public meetings are not binding upon the council. Municipal councils also have the possibility to hold residents’ assemblies (Art. 106 LAA- also Art. 2 par. 2 ii b), which may, for instance, be restricted to certain areas within a municipality. Resolutions issued by residents’ assemblies are not binding upon the council.

251. Article 107 stipulates that the council decides (unless there is a binding request of 20% of voters as provided in Article 108 para. 2) whether a referendum (s. Art. 2 para. 2 ii a) of the Protocol) is held among the residents of the municipality as regards individual issues relating to it. The council shall present the proposal to be submitted to the vote and the information that voters need to make an informed decision on the issue. Entitled to participate in the vote are those who are eligible to vote in the municipality according to the Local Government Elections Act. Voting must be secret and voting rights equal. Voting is advisory unless the council decides that it shall bind the council to the end of its term of office. Such decision may be bound by the restriction that a certain proportion of those in the electoral registry participated in the voting.

252. Referendums cannot be requested for the substance of the municipal budget, on the income base of municipalities or the levying of other lawful dues, on recruitment to positions within the municipality, on the wages and other employment terms of municipal council members or other employees of the municipality or for proposals that contravene laws or would lead to the failure of the municipality to fulfil legal requirements (Art. 108 para.5).

253. Iceland has a history of local referenda especially concerning amalgamations⁴¹ and the Local Authorities Act includes several articles on citizens participation, also providing for referenda on amalgamations (art. 119-120) or the names of municipalities (Art. 5). However, It appears that the existing legal framework has not fully incorporated the complete range of participation possibilities and

41 Grétar Thór Eythórsson, Icelandic Municipal Referendums Solve Few Problems, Journal of Nordregio, No. 5 December• Volume 5 – 2005, p. 4-6.

mechanisms outlined in the Additional Protocol. The rapporteurs would like to urge Icelandic authorities to enact relevant legislation after thorough preparation and consultation with local authorities.

6. CONCLUSIONS

254. Iceland is a country with a high quality of democracy, strong institutions enjoying high levels of citizen trust, very low levels of corruption, a robust welfare state, and a high quality of life. Moreover, per capita income levels and human development are among the highest in the world. The country quickly overcame the challenges of the economic crisis without succumbing to strong trends of centralisation, as happened in almost all countries affected by the crisis. Local self-government is strong and enjoys a very high level of fiscal autonomy. It is noteworthy that Icelandic municipalities are at the forefront globally in terms of women's participation, with women surpassing men both in the voter turnout rate and in the election to elective offices during the last municipal elections in 2022.

255. However, the rates of strengthening local autonomy are no longer as robust as in the past, and many structural problems of local self-government persist, such as the fact that almost half of the municipalities (29 out of 64) still have fewer than 1000 residents. The fragmentation into many small municipalities is largely a result of the very low population density, and efforts are rightly being made to address it also through the development of inter-municipal cooperation. However, according to the relevant information provided during the monitoring mission, these inter-municipal cooperation entities are usually single-purpose, resulting in territorial overlaps and making political accountability for the services provided almost impossible. As a result, citizens in municipalities participating in numerous inter-municipal cooperation schemes find themselves at a disadvantage in terms of the quality of local democracy.

256. Furthermore, despite the high degree of fiscal autonomy, a serious problem persists: the disproportionate financial burden on many municipalities for the responsibilities transferred to them by the state. The problem of the lack of commensurate funding for primary education and people with disabilities has been acute for several years. This is exacerbated by the fact that the needs to be covered are constantly increasing due to changes in the user population, the continuous improvement of quality standards, the expansion of the services provided, and the rights recognized for users of these services. The problems regarding the cost of these services are not limited to smaller and usually financially weaker municipalities but also affect larger municipalities, such as the capital, where users of these services with special and costly needs tend to concentrate. There is an urgent need for reform of the state grants system, especially the equalization fund, as well as for a decisive upgrade of consultation processes and institutions for financial matters. A relevant problem that must be addressed is also the funding of kindergartens which formally are not an obligatory task of municipalities, but the municipalities are compelled to provide relevant services since this is considered to be nearly self-evident by the citizens.

257. Some issues highlighted in Recommendation 402 (2017) have been improved such as state grants have been increased, accompanied by efforts to refine the calculation of costs for specific services such as public transport, along with exploration of special revenue bases. Secondly, plans have been put in place to revise procedures and enhance consultation between state and municipalities regarding public finances. Furthermore, a systematic review of the equalisation system is underway, with expectations of implementing a new system once contentious aspects are addressed. Finally, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in local authority affairs (CETS No. 207), was ratified in May 2017, becoming effective on 1 September 2017.

258. Despite efforts, other issues pointed out in Recommendation 402 (2017) remain unresolved or inadequately addressed such as the lack of clarity regarding the division of responsibilities between central government and local authorities based on the subsidiarity principle. Moreover, legislation to provide legal force to the European Charter of Local Self-Government within the domestic legal system has yet to be adopted. Furthermore, measures ensuring that local authorities possess sufficient financial resources corresponding to their competences and allowing them to undertake optional tasks for community welfare are still lacking and the equalisation mechanism requires modernisation to meet the current needs of local authorities effectively.

259. Lastly, granting Reykjavik special status, as recommended by Congress Recommendation 452 (2021), and establishing distinct legal arrangements considering its unique circumstances compared to other municipalities remains pending.

APPENDIX – Programme of the Congress monitoring visit to Iceland (23-25 January 2024)**MONITORING OF THE APPLICATION OF THE EUROPEAN CHARTER OF
LOCAL SELF-GOVERNMENT IN ICELAND****Reykjavik, Árborg, Vik, Reykjanesbær, Kópavogsbær****23-25 January 2024****PROGRAMME****Congress delegation:****Rapporteurs:**

Mr Matthias GYSIN

Rapporteur on local democracy
Chamber of Local Authorities, ILDG⁴²
Municipal Councillor (Duggingen)
Switzerland

Ms Gudrun MOSLER-TÖRNSTRÖM

Rapporteur on local democracy
Chamber of Local Authorities, SOC/G/PD
Municipal Councillor (Puch bei Hallein)
Austria**Congress Secretariat:**

Ms Stéphanie POIREL

Head of the Division of Statutory Activities,
Secretary to the Monitoring Committee**Expert:**

Mr Nikos CHLEPAS

Member of the Group of Independent Experts on
the European Charter of Local Self-Government
(Greece)**Interpreters:**Ms Thora GUDNADOTTIR
Mr Vilhelm STEINSEN

The working language of the meetings will be Icelandic. Interpretation from and into English will be provided by the Congress.

42 SOC/G/PD: Group of Socialists, Greens and Progressive Democrats
EPP/CCE: European People's Party Group in the Congress
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

Tuesday 23 January 2024
Reykjavik

**JOINT MEETING WITH MEMBERS OF ICELANDIC NATIONAL DELEGATION TO THE CONGRESS,
NATIONAL ASSOCIATION AND INDEPENDENT EXPERT:**

- **National delegation of Iceland to the Congress**

Ms Heida Bjorg HILMISDOTTIR, Deputy Head of Delegation, Municipal Councillor, Reykjavik

- **National Association of Local Authorities of Iceland**

Mr Arnar Thor SAEVARSSON, Chief Executive Officer

- **Independent expert**

Prof. Eva Marín HLYNSDÓTTIR, Head of Faculty of Political Science, University of Iceland

SUPREME COURT:

Mr Benedikt BOGASON, President

Ms Ása ÓLAFSDÓTTIR, Justice

Ms Björg THORARENSEN, Justice

Ms Ólöf FINNSDÓTTIR, Secretary General

MINISTRY OF INFRASTRUCTURE:

Mr Sigurður Ingi JÓHANNSSON, Minister

Mr Sigtryggur MAGNASON, political advisor

Mr Hermann SÆMUNDSSON, permanent secretary of the ministry

Mr Aðalsteinn ÞORSTEINSSON, director of the department of local government and regional affairs

Ms Anna G. ÓLAFSDÓTTIR, senior specialist at the department of local government and regional affairs

Mr Árni Sverrir HAFSTEINSSON, financial specialist at the department of local government and regional affairs

Mr Björn Ingi ÓSKARSSON, lawyer at the department of local government and regional affairs

PARLIAMENTARY OMBUDSMAN:

Mr Skúli MAGNÚSSON, Ombudsman

Ms Særún María Gunnarsdóttir, Director General of the Ombudsman's Office

Wednesday 24 January 2024
Reykjavik, Árborg, Vik

PARLIAMENT (ALTHINGI):

Mr Birgir ÁRMANNSSON, Speaker (Independence Party)

Mr Andrés Ingi JÓNSSON, Member of the Environment and Communications Committee and Deputy Speaker of Althingi (Pirate Party)

Mr Jakob Frimann MAGNÚSSON, Observer to the Environment and Communications Committee (People's Party)

Mr Jörundur KRISTJÁNSSON, Director General of Communications and International Affairs

REYKJAVIK CITY HALL:

Mr Einar THORSTEINSSON, Mayor
Ms Björg MAGNÚSDÓTTIR, Political Advisor
Mr Thorsteinn GUNNARSSON, Chief Executive Officer
Mr Theódór KJARTANSSON, City Attorney Office
Ms Sólveig ÓLAFSDÓTTIR, International Relations Officer

ÁRBORG:

Ms Fjola KRISTINSDOTTIR, Mayor
Mr Bragi BJARNASON, Chairman of the Town Council
Mr Kjartan BJÖRNSSON, President of Town Managers
Ms Sigríður VILHJÁLMSDÓTTIR, Attorney
Ms Heiða Ösp KRISTJÁNSDÓTTIR, Head of Family Division
Ms Unnur Edda JÓNSDÓTTIR, Chief Financial Officer

VIK:

Mr Einar FREYR ELÍNARSON, Mayor

Thursday 25 January 2024
Reykjanesbær, Kópavogsbær

REYKJANESBÆR:

Mr Kjartan KJARTANSSON, Mayor

KÓPAVOGSBÆR:

Ms Ásdís KRISTJÁNSDÓTTIR, Mayor
Mr Pálmi Þór MÁSSON, Deputy mayor and Head of Administration
Ms Auður FIMMBOGADÓTTIR, Strategy manager
Ms Kristín EGILSDÓTTIR, Head of Finance
Mr Jakob Sindri ÞÓRSSON, Project manager

Skjal sótt af '9999999999' dags: 06.06 2025