

International Experiences in Establishing the Roles and Responsibilities of Members of Local Councils

**Prepared by
Carol Kardish - Bridges Consulting**

September 2024

Copyright © 2024 Parliamentary Centre and Agency for Legislative Initiatives

All Rights Reserved

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, via photocopying, recording, or otherwise – without prior permission of the Parliamentary Centre and the Agency for Legislative Initiatives. The views expressed herein do not necessarily represent those of Global Affairs Canada (GAC).

This publication was carried out with the aid of a grant from GAC.

IMPLEMENTING ORGANIZATIONS

Founded in 1968, to provide research support to the Parliament of Canada, The Parliamentary Centre is one of Canada's most experienced non-partisan, non-governmental organizations. The Centre supports inclusive and accountable democratic institutions. To date, we have supported thousands of democratic actors and over 120 legislatures at regional, national, and sub-national levels, across more than 70 countries. Our approach is non-partisan, non-prescriptive, and rooted in the active participation of all citizens; particularly women and marginalized groups. The Centre focuses on supporting institutions and actors that enable countries to reach their full democratic potential. Through uniquely tailored projects developed with our local partners, we build partnerships that advance and protect democratic practices. Such aims are necessary for peaceful, secure, and prosperous societies. We are Canada's global leader for democracy.

Website: <https://parlcent.org/>

The Agency for Legislative Initiatives is a not-for-profit research organization that places a particular focus on conducting analytical work, in order to strengthen democratic institutions in Ukraine. The Agency was founded on April 28, 2000, by Alumni of the National University of Kyiv-Mohyla Academy. We have grown, from our formative years, into a powerful think tank that has implemented many socially important projects. We aim to achieve even more vital goals in the future. The mission of The Agency for Legislative Initiatives is to strengthen democratic values and develop political culture. We wish to increase the legal awareness of citizens and politicians, and disseminate best international practices. Our mandate is to create effective public institutions, which will go a long way to support the Euro integration vector of Ukraine's development.

Website: <https://parlament.org.ua/>

Appreciations

Much gratitude must go to the elected officials in Canada and representatives of the national associations of local government in Ukraine, Lithuania and Poland as well as selected local government specialists for their thoughtful contributions and assistance with validating the data collected for this study.

My sincere appreciation to the project staff at the Canadian *Parliamentary Centre* and the *Agency for Legislative Initiatives* in Ukraine for providing important background and contextual information and for guiding the development of the study to ensure it meets the needs of Ukraine's Verkhovna Rada *Committee on State Building, Local Governance, Regional and Urban Development*.

Carol Kardish
Senior Consultant
Bridges Consulting – Ottawa, Canada
Former Director, Ukraine Program,
Federation of Canadian Municipalities

At a Glance: Study on International Experience in Establishing the Roles and Responsibilities of Members of Local Councils

Project: Parliamentary Accountability for the Security Sector Project (PASS II): April 2023 – March 2025

This study is an initiative under the PASS II Project funded by Global Affairs Canada (GAC).

Implementing Partners. Parliamentary Centre (Ottawa, Canada) (<https://parlcent.org>) and the Agency for Legislative Initiatives (Kyiv, Ukraine) (<https://parlament.org.ua>)

PASS II. To support the Ukrainian Parliament's role in providing improved democratic oversight, focusing on Ukrainian resilience and non-military resistance to Russian aggression (emphasizing the differential impacts on women and girls, as well as men and boys). The third component of the project focuses on strengthening the efficiency of the Rada and civil society actors to support the rebuilding of regional and local democratic institutions and processes of governance in newly liberated regions, regions along the front lines and other territories affected by the war. This component addresses the critical importance of local self-governance and other regional and local democratic institutions for Ukraine's resilience and reconstruction .

The Study. This study focuses on gathering and comparing international experience on mandates and conditions of service for local council members in 6 countries (Canada, France, Lithuania, Norway, Poland and the United States). The findings will contribute to equipping the Verkhovna Rada's *Committee on State Building, Local Governance, Regional and Urban Development* with knowledge and tools to assist in debating and passing policy and legislation for rebuilding infrastructure at the regional and local level; effectively engaging civil society in these processes; adopting governance processes that promote increased inclusivity and equity; and considering and addressing the differential impacts and needs of women and men, boys and girls in newly liberated regions and along the front line.

Table of Contents

Appreciations

At a Glance

Table of Contents

Acronyms and Abbreviations

1.0	Background and Introduction	5
2.0	Purpose and Scope of the Study	5
3.0	Methodology, Data Sources and Limitations	6
3.1	Methodology	6
3.2	Concepts and Terminology	7
3.3	Data Sources	7
3.4	Guiding Principles, Conventions and Institutions	7
3.5	Limitations of the Study	8
4.0	Study Findings: Comparative Analysis of Focus Areas in Selected Countries	9
4.1	Overview of Countries	9
4.2	Imperative Mandate and Recall	12
4.2.1	Imperative Mandate	12
4.2.2	Recall, Revocation and Impeachment	14
4.2.3	Change in Party Affiliation (Floor Crossing or Party Switching Practices)	16
4.3	Accountability, Ethical Conduct and Termination of Local Council Members	18
4.4	Remuneration for Local Council Members	21
4.5	Guarantees, Protection and Safeguards for Local Council Members	25
4.6	Combining a Representative Mandate with Employment/Other Activities	27
5.0	Conclusions and Insights	29
Annex A-1	Country Profile: Canada	
Annex A-2	Country Profile: France	

Annex A-3	Country Profile: Lithuania
Annex A-4	Country Profile: Norway
Annex A-5	Country Profile: Poland
Annex A-6	Country Profile: United States
Annex B	Quick Reference Country/Topic Comparison Table
Annex C	Resource People List
Annex D	Key Reference Documents
Annex E	Summary of Roles and Responsibilities of Municipalities
Annex F	Municipalities and Autonomy
Annex G	Imperative Mandate
Annex H	Recall, Revocation and Impeachment
Annex I	Selected Best Practice Guides and Tools

Acronyms and Abbreviations

AMO	Association of Municipalities of Ontario
AUC	Association of Ukrainian Cities
BC	British Columbia
CEMR	Council of European Municipalities and Regions
CoE	Council of Europe
CoR	European Committee of Regions
CPI	Corruption Perception Index
EU	European Union
FCM	Federation of Canadian Municipalities
GAC	Global Affairs Canada
IDP	Internally Displaced Person
IRCANTEC	Supplementary Retirement Benefit Scheme (France)
KS	The Norwegian Association of Local and Regional Authorities (in Norwegian Kommunesektorens organisasjon)
LG	Local Government
LSG	Local Self-Government
MP	Members of Parliament
NALAS	Network of Local Authorities of Southeast Europe
NORAM	(UCLG) North America
OECD	Organization for Economic Cooperation and Development
RIC	Référendum d'initiative Citoyenne
PASS	Parliamentary Accountability for the Security Sector Project
PC	Parliamentary Centre
TOR	Terms of Reference
UCLG	United Cities and Local Governments
UCM	Union of Canadian Municipalities
UN	United Nations

1.0 Background and Introduction

Ukraine's Verkhovna Rada *Committee on Organization of State Power, Local Self-Government, Regional Development and Urban Planning* is examining possible amendments to the “*Law on the Status of Members of Local Councils*” (July 11, 2002, No 93-IV). This law outlines the legal status and guidelines that govern councillors (deputies) in the representative bodies of villages, towns, cities, districts and regional councils along with procedures for recalling them. However, the legislation is considered outdated, has inconsistencies, contains references to invalid legislation and terminology and some provisions contradict the democratic principles of functioning of a representative body.

Updated legislation will contribute to and support the continued process of reforming local self-government and transforming administrative and territorial structures as well as the restoration and further development of local self-government in the postwar period. The Rada Committee is interested in learning about the legislative and practical experiences of other countries in a select number of areas related to the role of local council members. To that end, this study has been commissioned under the *Parliamentary Accountability for the Security Sector Project* (PASS II) which is funded by *Global Affairs Canada* (GAC) and implemented by Canada's *Parliamentary Centre* (PC) in partnership with the *Ukraine Agency for Legislative Initiatives*.

The context for this PASS II initiative includes the high-level dialogue¹ on democratic governance reforms that was launched in the *Council of Europe* (CoE) following the initiative of the Parliament, Government and *Central Election Commission* of Ukraine. A subsequent Joint Declaration signed by the CoE's *Directorate General of Democracy and Human Dignity* in cooperation with the *Venice Commission*, Ukraine's *Parliamentary Assembly* and the *Congress of Local and Regional Authorities* aims to advance local self-government reform and help transition local self-government bodies from military administrations to regular (civilian) legal regimes when the war is over.

2.0 Purpose and Scope of the Study

This research paper provides an overview and comparative analysis of how four European countries (France, Lithuania, Norway, Poland) and two non-European countries (Canada and the United States) legislatively and

¹ High-Level Dialogue II on “Good Democratic Governance in Ukraine”, Kyiv, December 2023.

practically handle six specific topics identified by the Rada Committee related to the roles and responsibilities of local council members. These are:

- *Imperative mandate and recall*
- *Accountability* of a local council member
- *Early termination* of a local council member's power
- *Compensation* for executing the duties of a local council member
- *Providing guarantees*² for the activities of a local council member
- *Combining mandates*, i.e. the representative mandate of a local council member with other activities

The study is organized into five sections: (1) an introduction providing background to and context for the work; (2) a section on the purpose and focus of the study; (3) a description of the methodology used, data sources, terminology³ and limitations; (4) summary analysis and key findings from the information collected; and (5) conclusions and recommendations for consideration by the Rada Committee. A series of annexes provide complementary information to the main document.

Note #1: The Terms of Reference (TORs) for this study did not call for examining the extent to which the laws, policies and by-laws found for the topics under review address gender equality⁴. Nevertheless, no studies were found that examine the regulations and policies applicable to local elected officials during their terms of office and assesses whether women local elected officials are treated the same or differently from their male counterparts. A review of the constitutions and local government acts of the focus countries reveals all confirm the principle of gender equality except for the **United States** which doesn't mention gender at all. Otherwise, these documents mostly take a gender-neutral approach in their language, A few go further, for example:

- **Norway's** Local Government Act mentions gender 26 times in terms of gender balance, preventing discrimination and setting percentages for representation of women and men in elected office.
- The principle of gender equality is in the Preamble to **France's** Constitution. It guarantees women equal rights to those of men in all spheres and calls for statutes to promote equal access by women and men to elective offices and posts as well as to positions of professional and social responsibility. (Article 1) The Local Government Act establishes quotas of women and men for office and speaks about women's leadership and representation and the equal treatment of men and women regarding access to employment and working conditions.
- **Canada** has expanded its policies to include not just gender but also aboriginal peoples and other intersecting identity factors such as Indigeneity, race and ethnicity, culture, sexual orientation, and disability, among others.
- **Poland's** Constitution states men and women shall have equal rights in family, political, social and economic life as well as education, employment and promotion and the right to equal compensation for work of similar value, to social security and to hold offices.

Ukraine's constitution goes the furthest in ensuring "equality of the rights of women and men in providing women with opportunities equal to those of men, in public, political, and cultural activity, in obtaining education and in professional training, in work and its remuneration; by special measures for the protection of work and health of women; by establishing pension privileges, by creating conditions that allow women to combine work and motherhood; by legal protection, material and moral support of motherhood and childhood, including the provision of paid leaves and other privileges to pregnant women and mothers". (Article 24)

It must be noted that many other acts and laws (employment, justice, education, human rights, pay equity, etc.) focus more specifically on gender equality and how it is implemented. But the question remains: to what extent has legislation affecting local elected officials been subjected to a systematic gender-based analysis (GBA+) to scrutinize it

² Understood to broadly mean "rights".

³ This includes key concepts and definitions, important because of the different countries, histories, traditions and languages of the selected countries.

⁴ Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men.

from a gender perspective and assess the differential impact of proposed and/or existing policies, programs and legislation on women and men. Parliamentary staff can assist legislators to ensure all local elected officials – women and men – are treated equally in terms of the policies applicable to them during their terms of office – UN Women’s *Practical Guide to Gender Analysis of Legislation and Draft Regulations*, available in Ukrainian, is a practical tool for those involved in the legislative process.

Note #2: Some issues related to exercise of powers, in the Ukrainian analytical document titled Part II – *Constitutional and Legal Principles on the Status of a Local Councillor in Ukraine*, are raised vis a vis the context of martial law. Under martial law, representative local governments operate subject to the requirements of special legislation that directly affects the status of local councillors. However, the terms of reference for this study did not request comparative international information for such a context. Therefore, none has been researched nor included. It should be noted, however, that the representatives of the *Association of Ukrainian Cities* (AUC) interviewed for this study, have stressed the war in Ukraine has weakened local self-government significantly. Their main concern currently is how to assist local councils to continue their work during war time. Online participation is not effective yet and there is discussion on lowering quorum to help keep councils active. Another pressing issue is how to revive local councils where they have been dismantled, i.e. where fighting is active. AUC representatives also noted there are many questions needing resolution before the next local elections, e.g., how to organize, security, status of internally displaced people (IDP), etc. Finally, the association urges the Rada Committee to ensure the new draft laws on local self-government and status of deputies are reformed in a complementary manner.

3.0 Methodology, Data Sources and Limitations

3.1 Methodology

Attempts have been made to find the most salient comparative information and data for the six areas of inquiry to assist the Rada Committee in understanding international legislative standards and options for improving Ukraine’s legislative tools for local councils. However, the amount of information available on most of the topics of the study is staggering and much is outdated. Therefore, the study has primarily focused on including what is available since 2018 although some older references have been added where relevant to provide a historical perspective and/or to illustrate the evolution of the legislative framework governing the selected topics. In addition, because legal references and examples will be most relevant for the Rada Committee in its work, most of the source information and data for this study has been liberally quoted from legal instruments (constitutions, legislation and by-laws⁵) that govern elected municipal council members in each country. Sources have been provided for these references. Lastly, in some cases, information from countries beyond the 6 focus countries is included to better inform the topic, for example, imperative mandate and recall.

Activities undertaken for the study:

- Held orientation discussions with the Canadian *Parliamentary Centre’s* Regional Director and Staff for Asia and Europe on rationale, expectations and terms of reference for the study
- Reviewed background documentation on the PASS II project
- Researched candidate countries for the study and agreed on Canada, France, Lithuania, Norway, Poland and the United States
- Prepared a “one pager” on imperative mandate for project representatives
- Reviewed legal instruments (constitutions, laws) in the selected countries plus relevant “best practice” guides and training approaches
- Conducted a desk study of international instruments and reference documents including relevant studies and reports, e.g., from the Venice Commission
- Reviewed contextual trends/studies/data from the *United Nations (UN)*, the *Organization for Economic Cooperation and Development (OECD)*, *European Union (EU)*, *Council of Europe (CoE)*, *United Cities and Local*

⁵ “Ordinances” in the United States.

Governments (UCLG), Council of European Municipalities and Regions (CEMR) plus the latest indexes for the annual Economist Intelligence Unit's Democracy Index; the European Union's Decentralization Index; and Transparency International's Corruption Perception Index (CPI)

- Consulted experts in the Ukraine Agency for Legislative Initiatives and other local government specialists
- Held validation interviews with three Canadian local council officials : Mayor Berry Vrbanovic of the City of Kitchener, Ontario; Councillor Randy Goulden of the City of Yorkton, Saskatchewan; and former Councillor Renee Giroux of Mayo, Quebec
- Surveyed via an email questionnaire national associations of local government in France, Lithuania, Norway, Poland – responses have been received from Lithuania and Poland
- Developed country profiles (Annex A) for Canada, France, Lithuania, Norway, Poland and the United States
- Compiled, analyzed and compared findings on the selected topics across the selected countries
- Prepared a *Quick Reference Country/Topic Comparison Table* summarizing main points for each topic by country – see Annex B.
- Drafted, then finalized the study based on research and inputs from those consulted and the PC team

A list of resource people who contributed to the study is in Annex C.

3.2 Concepts and Terminology

The concepts and terminology used in the study may not be reflected in the different countries and languages. Countries use different terms although they may have or are close to the same meaning. To facilitate an understanding of terms used in the findings for the country profiles and analytical section, terms have been defined - in the context of local government - and synonyms offered where applicable in the text of the study.

3.3 Data Sources

References for the study were drawn from a multitude of sources. Some of the main documents researched are found in Annex D.

3.4 Guiding Principles, Conventions and Institutions

Certain principles are embedded in documents that regulate the roles and responsibilities of local council members in each country, primarily in national constitutions and municipal or local government acts - these are reflected where appropriate. In addition, this study has considered and been mindful of the overarching principles and guidance provided by the institutions and conventions listed below:

- According to the United Nations, local governments have a special role in implementing the *United Nations (UN) Sustainable Development Goals* since they not only contribute to the socio-economic growth of their respective country but also raise awareness in their own communities as well as influence the process of overcoming barriers and biases. *Target 7 of Goal 16: Peace, Justice and Strong Institutions* states "Ensure responsive, inclusive, participatory and representative decision-making at all levels".
- Founded in 1992, the *European Union* is an economic and political partnership between 27 European countries (member states). The EU consists of seven institutions – *European Council, European Commission, European Parliament, Council of the European Union*⁶ (*Council of Ministers*), *Court of Justice, European Court of Auditors and the European Central Bank* - plus dozens of smaller bodies that make laws, coordinate foreign affairs and trade and manage a common budget. (www.european-union.europa.eu) Ukraine is a candidate country for the EU.

⁶ Canada and the United States have had observer status at this body since 1996.

- *The European Committee of the Regions (CoR)* is the voice of regions and cities in the European Union (EU). It comprises 329 representatives of local and regional authorities across the EU and advises on new laws that have an impact on regions and cities, 70% of all EU legislation. (cor.europa.eu)
- *UCLG United Cities and Local Governments (UCLG)* is the global network and voice of local and regional governments around the world. Its *2030 Agenda* aims to renew the “social contract” and rethink relationships in the so-called “implementation decade”. The international municipal movement is also giving priority to protecting and fostering local democracy while remaining loyal to its values and the principles of decentralization, subsidiarity and accountability. UCLG has seven regional sections that reinforce UCLG’s policies. The *Council of European Municipalities and Regions (CEMR)* represents the interests of Europe’s local and regional governments (including in France, Lithuania, Norway and Poland) and their associations in 46 countries. Canada and the United States are members of *NORAM*, UCLG’s section in North America. (www.uclg.org)
- The *European Charter on Local Self-Government* (June 27, 1985), ratified by member states of the *Council of Europe*. While the *Charter* provides an international standard to harmonize and protect the rights of local authorities and against which national standards may be assessed, very few of its provisions are directly applicable to the status of local representatives, whether mayors or councillors.
- The *Congress of Local and Regional Authorities* of the *Council of Europe* monitors and measures compliance with implementation and collects statistics for comparative analysis. All European countries under review have ratified the Charter: Ukraine – September 11, 1997, France – January 17, 2007. Lithuania – June 22, 1999, Norway – May 26, 1989, Poland – November 22, 1993. (www.portal.cor.europa.eu)
- The *European Commission for Democracy through Law* – better known as the *Venice Commission* because it meets in Venice – is the *Council of Europe*’s advisory body on constitutional matters. The Commission comprises 61 member states: the 46 *Council of Europe* member states and 15 non-European members including Canada and the USA. Its role is to provide legal advice to member states and help those wishing to bring their legal and institutional structures into line with European standards and international experience in the fields of democracy, human rights and the rule of law. Recently, the Commission has been working on constitutional reforms including issues related to constitutional provisions, delegation of legislative powers, local self-government and decentralization.

3.5 Limitations of the Study

Some constraints emerged in researching and preparing the study:

- An overall challenge was to produce reliable and comparable data in a relatively short period of time.
- Although topics for the study were provided, specific questions did not accompany them making it difficult to select information from the massive amount of data generally available for each topic.
- A number of comparative studies of certain topics were found but most are outdated and were not considered *au courant* enough to act as a valid reference for the study. Information sources from 2018 to the present were given priority as references.
- Some statistics related to the topics under investigation were also found to be out of date and varied from country to country making it difficult for comparison’s sake.
- A few documents, studies, articles and monitoring reports that could have been useful have not been translated into English which meant limited access to possible data.⁷ In addition, a few translations of

⁷ No English translation was found for “*Novelties of the Law on Local Public Service in Ukraine* of 2 May 2023: commentary and comparative analysis” which was presented to and discussed by more than 540 local representatives from Ukraine’s 24 regions on May 23, 2024. The presentation was organised by the Program titled “*Strengthening Good Democratic Governance and Resilience in Ukraine*” which is implemented by the *Centre of Expertise for Good Governance, Congress of Local and Regional Authorities* of the *Council of Europe*.

municipal acts and other documents were quite poor affecting the quality of information provided; Poland is an example.

- One or two documents that may have proven useful were not available online but rather required purchasing and would have taken too long to access in time for input to the study. These are noted in the document.
- There is a vast amount of information available (on the internet) on local council structures, systems, rights, powers and responsibilities as well as policies governing mayors and councillors during their terms of office. Hence, efforts were made to validate the research and findings by interviewing local elected officials (Canada and United States) and surveying associations of local authorities (France, Lithuania, Norway, Poland). Elected officials in Canada were interviewed and the associations in Lithuania and Poland provided very thorough responses to questions sent to them. Unfortunately, responses were not received from Norway, France and the United States. Therefore, it is possible the information used in the study may not be current in these latter cases.

4.0 Study Findings: Comparative Analysis of Focus Areas in Selected Countries

The organization and functioning of local governments around the world vary considerably. This makes direct comparison complex. Different names are used for local government entities in different countries: county, prefecture, district, city, town, borough, parish, municipality, village, etc. Local governments exist geographically both in urban and rural settings. In population size, they range from very tiny to very large.

The terms “local government” and “local self-government” are sometimes used interchangeably but given the fact that “local government” has different forms in different countries, these two concepts should be differentiated. Local public administration can be exercised not only by local self-government entities (e.g. municipalities, towns, villages) but also by local units of state administration where they exist. The former are directly elected by the local population and enjoy wide-ranging autonomy, whereas the latter act as agents of higher authorities (the state) and their officials are appointed by and accountable to those authorities. Local self-government is thus based on the principle of decentralization, and local state administration is based on the principle of de-concentration.

“Local government” is commonly defined as the lowest tier of public administration within a given state. In unitary states, local government usually comprises the second or third tier of government while in federal states, it is constituted as the third or sometimes fourth tier of government. Local government aims at bringing government to the grass roots and enabling citizens to participate effectively in the making of decisions affecting their daily lives. As the level closest to citizens, local government is, in principle, in a much better position than central government to deal with matters that require local knowledge and regulation on the basis of local needs and priorities.

4.1 Overview of Countries

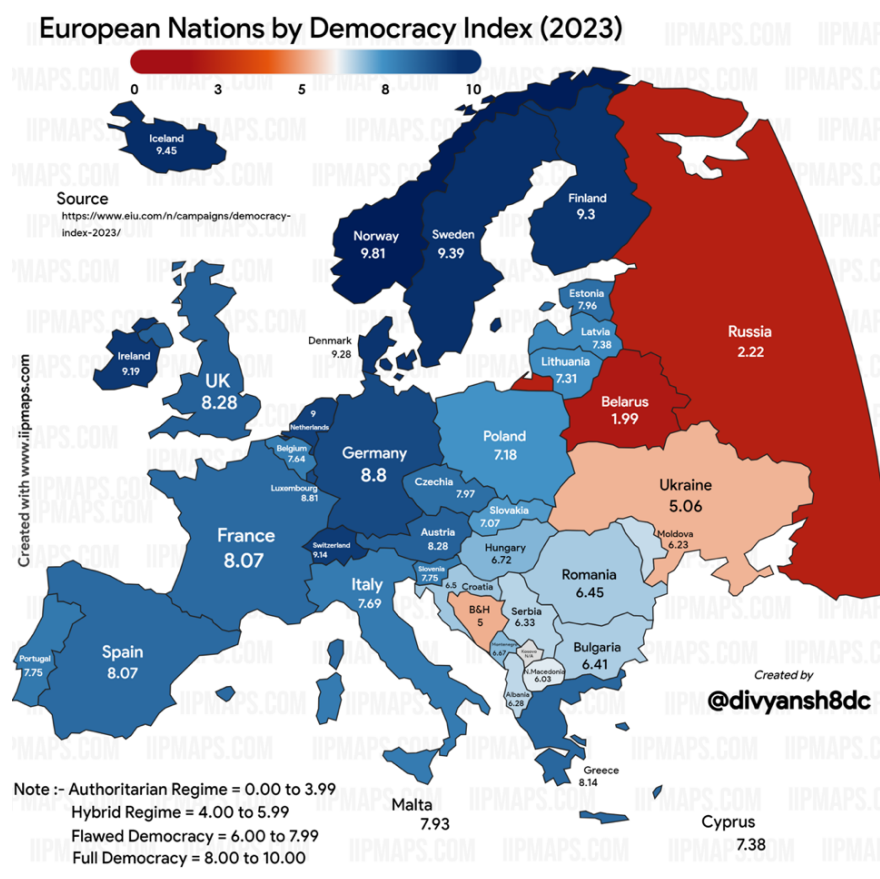
A profile (Annex A) has been developed for each country selected for comparative review with **Ukraine**. The profiles include an introductory section on each country’s national government, information regarding local (self) government rights, powers, responsibilities and autonomy along with scores and rankings for each country on the *Economist Intelligence Unit’s Democracy Index*, the *European Union’s Decentralization Index* and *Transparency International’s Corruption Perception Index*. Finally, each profile contains a summary of findings for each of the topics under review. In addition, as already noted, Annex B provides a *Quick Reference Country Comparison Table*.

The following general information vis a vis local government in the countries under review is pertinent:

- *Six countries* were selected by the Rada Committee. These include four European countries (France, Lithuania, Norway, Poland – all members of the European Union save Norway⁸) and two non-European countries (Canada and the United States). Two countries are constitutional monarchies (Canada and Norway) and four are republics

⁸ Norway is associated with the European Union through a comprehensive legal framework including economics and defense.

(France, Lithuania, Poland, United States). All are parliamentary democracies. The populations of these countries range from 2.8 million (Lithuania) to 342 million (United States). This graphic illustrates democracy scores for France, Lithuania, Norway and Poland for 2023.



- Lithuania and Poland have enshrined “*local government*” in their constitutions. France’s constitution refers to “self-government of territorial communities” which is broader and includes several tiers of government. In Canada, local governments are not mentioned in the constitution other than to say they are the responsibility of the 10 provinces and 3 territories⁹. The *Tenth Amendment to the United States Constitution* makes local government a matter of state rather than federal law, with special cases for territories and the District of Columbia. As a result, the states have adopted a wide variety of systems of local government. Norway’s Constitution does not mention local government – their *Local Government Act* uses the term “municipalities”.
- Every country has a myriad of *acts, laws, regulations, codes* etc. governing the powers, authority, mandate, rights and responsibilities of its subnational government structures including local authorities. These instruments outline rules for organizing local government and relationships with state bodies, have been developed over long periods of time and vary greatly within and between countries.
- *Local government models (structures and systems)* used by the countries chosen for comparison with Ukraine also vary, are sometimes complex and ambiguous in how they operate and there is often an overlap, and sometimes even sharing, of responsibilities between local and other orders of government. Some local government models have a multi-tier system (United States, France and 3 provinces in Canada) while the remainder have a single tier local government system. Local administrations in Europe follow two models which differ in their division of local political and executive power. The mandate of the mayor depends on the model used. The “mayor-council model”

⁹ They are formed by a charter or act granted to them.

involves an elected political representative (mayor) sharing political power with a political representative assembly (local council). The mayor is either elected directly by citizens or is elected from and by the council. S/he has a dual role: politician and chief administrator responsible for implementation of council decisions – this model is common in the newer established local democracies in Central and Eastern Europe and in France and Germany. Alternatively, executive power is vested in a group of elected politicians (executive committee) co-governing under the leadership of one of them, designated as mayor. This is common in countries of Southern Europe (Spain, Portugal and Italy) and in Scandinavia. In a very few countries (Belgium-Flanders, Netherlands and Luxembourg), the mayor is appointed by the central government or head of state, usually at the recommendation of the municipal council. In most countries the duration of the local mandate is fixed for a period 4 to 6 years.¹⁰

- Legislation dictates the level of *autonomy and authority* of local governments to establish and enforce local policies and bylaws/ordinances for its operations and for the provision of municipal services. In some cases, like Lithuania and Poland, municipalities have both independent and delegated *roles and responsibilities*, meaning they have additional responsibilities assigned by central government. In the United States, the lack of consistency from state to state in the classification of municipalities, along with differences in power and authority granted to municipalities, creates significant complexity and ambiguity in how government operates at the local level. The scope of roles and responsibilities assigned to local government across the countries under review is illustrated in Annex E but should be seen as indicative as some conflicting information was found. Information on municipalities and autonomy is found in Annex F.
- *Decentralization* processes have been introduced in most countries which have brought profound changes to local authorities in terms of increasing their independence, ensuring closer communication between local councils, their members and the community and implementing the subsidiary principles in local self-government¹¹. However, decentralization is an ongoing process and challenges remain. In France, for example, simplification of administrative systems remains a major challenge. The countries under review and where applicable are ranked as follows among all 27 member states on the EU's Decentralization Index.

Country	Overall Decentralization		Administrative Decentralization		Political Decentralization		Fiscal Decentralization	
	Score (out of 3.0)	Ranking among 27 states	Score (out of 3.0)	Ranking among 27 states	Score (out of 4.0)	Ranking among 27 states	Score Revenue ratio ¹²	Ranking among 27 states
Canada	Not a member state							
Lithuania	1.5	17	2.0	8	2.2	4	3%	24
Norway	Not a member state							
Poland	1.5	8	2.4	3	1.8	14	14%	9
USA	Not a member state							
Ukraine	Not a member state							

It should be noted the *Council of Europe* recently stated it welcomes proposed amendments to the Ukraine's Constitution on the decentralization of power which they feels constitutes a significant step forward in the

¹⁰ CEMR Study: Status of Local Elected Representatives in Europe, Council of European Municipalities and Regions (CEMR), December 2010

¹¹ The principal of subsidiarity holds that "decision-making authority is best placed where responsibility for outcomes will occur and in close proximity to where actions are taken. This principle emphasizes matching authority with responsibility and situating them as close as possible to operations for well-informed decisions". International Encyclopedia of the Social and Behavioral Sciences, 2001 (www.sciencedirect.com)

¹² Revenue ratio is the relative share of subnational "own revenues (excluding grants) compared to total government revenues

democratization of the country and opens the door for finalizing decentralization reform in line with European standards and best practice. At the same time, the *Council of Europe* has provided Ukraine with a number of recommendations for further improvements, among them: to improve the definition of local self-government, clarify relations between levels of sub-national government, and streamline, simplify and clarify the powers of prefects as well as the procedures of administrative supervision.

4.2 Imperative Mandate and Recall

4.2.1 Imperative Mandate. Broadly, the term ‘mandate’ means an order or an authorization. The term stems from the Latin “*mandatum*” which means “a charge, order, command”. Mandates are a complex subject. In politics, one must also differentiate between “free” and “imperative mandates”. A **free mandate** grants authorization without any preconditions, meaning that the holder of the mandate is free and bound solely to the confines of her/her conscience. An **imperative mandate** is a political system in which representatives are required to enact policies in accordance with orders or instructions received from their voters. Failure to follow these instructions may result in the representative being dismissed or recalled.

Historically, the “imperative mandate” was a medieval convention that arose in a context in which power was not monopolized by the state but rather distributed in a plurality of municipalities and assemblies (councils) with specific political authority. Its implementation evolved and then mostly was abandoned over time save for a few Socialist regimes. Today, no European country uses the “imperative mandate” as it is widely understood to be contrary to democratic principles of the modern state. Most representative democracies follow a system of a free mandate where once elected, a representative may enact any policy free from any orders.

In *Council of Europe* member States, national parliamentarians have a so-called **representative mandate** which has the distinction of being general, free and irrevocable. They can exercise their mandate freely and not be bound by any undertakings, orders or instructions from their voters or issued by their party or political group in the parliament. From a legal viewpoint, elected representatives enjoy absolute independence with respect to their electorate and their party and are not bound by instructions from their voters and are not obliged to follow the instructions of their party. Moreover, the *Statute for Members of the European Parliament* also asserts: “Members of the *European Parliament* must be free and independent and vote on an individual and personal basis.” Neither reference specifically mentions mandates with respect to local governments nor their council members. However, “dual mandates” exist in some countries. In France, Belgium, Luxemburg and Finland, more than three quarters of legislators simultaneously hold both a national and a (sub)national mandate. In Hungary, Sweden, Portugal and Germany, local officers are less dominant in national legislatures - percentages range from between 25 to 50%. (Navarro 2009, Varnagy 2023).

While imperative mandate *stricto sensu* is unknown in Europe, in practice, a kind of “quasi-imperative mandate” continues to operate in a few parliamentary institutions through the threat of suspension or expulsion from one’s political party or group. Party discipline is an inescapable feature of how parliamentary institutions operate today, which may lead to a “kind of imperative mandate” through pressure to resign exerted on parliamentarians or threats of sanctions. In addition, In the last few years, irregularities have occurred in some CoE *Parliamentary Assembly* delegations, bringing to light gaps and shortcomings in the internal regulations, or current practices of the national parliaments concerned regarding the appointment of national delegations, the composition of committees and the participation of their members in assembly sessions and committee meetings.¹³

Ukraine. A few countries including Ukraine still have laws reflecting the so-called “imperative mandate” to try to deal with party defection or party switching. The *Ukrainian Verkhovna Rada* has expanded the application of this party-related mandate governing state level to local self-government councils. Since independence and at the request of Ukraine’s *Constitutional Court*, the *Venice Commission* has provided independent opinions on several proposed Constitutional/legal amendments relating to “imperative mandate” and the grounds for early termination of an MP’s mandate. The Commission advised Ukraine that the free and

¹³ Resolution passed by the Council of Europe: The Nature of the Mandate of Members of Parliamentary Assembly, June 6, 2016 DOC. 14077 Rapporteur: Ms. Natasa Vuckovic, Serbia, SOC. (www.assembly.coe.int)

independent mandate of deputies should be explicitly guaranteed and it counselled against proposed provisions in the draft laws. Further, it has repeatedly underlined the incompatibility of these laws with European standards and with the role a deputy must play in a free parliamentary system.

Imperative mandate was used in **France** going back to the Middle Ages but disappeared by the beginning of the 19th century. Today, the French Constitution explicitly prohibits imperative mandate under Article 27 which states “no Member shall be elected with any binding mandate”. Article 59 of **Lithuania**’s Constitution allows that “members of the Seimas shall act in the interests of the State as well as their own conscience and may not be restricted by any mandates” which *de facto* means imperative mandate is explicitly prohibited. Although there have been attempts to re-introduce imperative mandate in some former Communist regimes including Lithuania, its *Constitutional Court* has ruled on a number of occasions that the mandate means electors have no right to revoke a member of the Seimas and his/her freedom cannot be limited by parties or organizations that nominated them.¹⁴ No references on binding mandates for local government were found for **Norway**. In **Poland**, the local municipal councillor’s mandate is a free one which means that the councillor is not bound by instructions from his/her constituents

Canada. The “imperative mandate” concept does not exist in Canadian governance. The powers, authority, mandates and well as rights, responsibilities/duties and accountabilities of local government are prescribed in substantial detail in the municipal acts of each province and territory. In the province of Saskatchewan, municipalities have considerable autonomy to govern local matters and council members are elected to make decisions that they consider appropriate and in the best interests of the municipality. These decisions may be based on citizens’ expectations but also on a council member’s own judgement. In the opinion of Councillor Randy Goulden of the City of Yorkton, “although Canadian councilors may be accountable to the public, in reality, your mandate comes from the Municipal Act”.

United States. Some state constitutions in the 18th century such as the *Constitution of Massachusetts (1780)* allowed for imperative mandate as well as recall – addressed in Section 4.2.2. No helpful references were found regarding mandates for local council members today but much has been written about their accountability to voters. The American political system is a representative democracy in which voters elect legislators to make policy decisions and enact laws on behalf of citizens and the legislative process is designed to include different interests and to search for compromise acceptable to the majority. Nonetheless, citizens may challenge decisions through various means allowed under state law.

The Venice Commission has done considerable research on the topic of imperative mandate as well as recall. Annex G provides opinions of the Commission on imperative mandate. In its *2009 Report on the Imperative Mandate and Similar Practices*, the Commission firmly asserts the incompatibility of the “imperative mandate” with the “European tradition of the free mandate of parliamentarians” and concludes the prohibition of imperative mandates “must prevail as the cornerstone of European democratic constitutionalism”.

4.2.2 Recall, Revocation and Impeachment. Recall as a political procedure which differs from the imperative mandate. Unlike the imperative mandate where the binding will of the electorate forms the permanent framework for the action of elected officials, the recall only comes into operation as an ad-hoc corrective instrument when and if it is activated. It is dependent on the political will of a prescribed number of voters and under specific procedural conditions that gives the power directly to voters to remove an elected official from office before the end of their term as a tool for enforcing political accountability.

¹⁴ Venice Commission Report on the Imperative Mandate and Similar Practices, March 14, 2009. Reference: Constitutional Court rulings. 26 November 1993; 15 January 2001; 30 May 2003; 1 July 2004

Recall must be distinguished from *revocation*¹⁵ or *destitution*¹⁶ (*impeachment*). Revocation is the power of another body to withdraw a mandate - in principle one it has conferred. Recall and revocation are political instruments versus “impeachment” (“destitution” in French) which is a sanction following a legislative violation which may be imposed by the body to which the concerned official belongs or by a judicial or other body with authority to supervise the municipal body or official.¹⁷

Ukraine: The *Special Law of Ukraine “On Status of Deputies of Local Councils” No. 93-IV of 11 July 2002* – Section on “*Recalling a Local Councillor on a Popular Initiative*” - sets out the grounds for recalling a local councillor on a popular initiative¹⁸, the procedures for submitting a proposal to recall a local councillor on a popular initiative, notifying such proposals, collecting signatures in support of the proposal, and decision-making on recalling a local councillor on a popular initiative. It addresses the issue of appealing against decisions, actions, or inaction of the election commission and re-raising the issue of recalling a local councillor. It also mentions the guarantees of the rights of local councillors when considering the issue of their recall. Further, amendments to this law in July 2020 increased the influence of political parties on local councils by regulating the right of political parties to use the recall mechanism for local councillors – this contradicts international democratic standards. AUC representatives say recall is not used currently.

Importantly, European and other international treaties and standards do not explicitly prohibit or firmly authorize recourse to recall. Mainly, its existence depends on the constitutional traditions and openness of each country to such an instrument. This is true for mayors and local elected representatives as it is for other authorities. *The European Charter of Local Self-Government* recognizes the free exercise of the functions of local elected representatives – as does the *Congress of Local and Regional Authorities* – while it remains at the same time open to direct democracy processes as complementary tools.

The *Venice Commission* has studied recall extensively and produced several reports. A summary of their analysis, findings, conclusions on recall is provided in Annex H. According to the Commission, in Europe, recall has rarely been used in practice though research reveals it has drawn some renewed interest in recent years¹⁹. Recall is more common at local level with different degrees of activation in practice across at least 15 European States. Recalls have most frequently been initiated against mayors in Croatia (where 20% of total local voters or 2/3 of local representative bodies is required), Germany, Moldova, **Poland**, Romania, Russia, Slovakia, Spain, Switzerland and **Ukraine**. Recall of mayors has been abolished in Serbia and North Macedonia. Attempts to introduce recall have failed in Slovenia and in the United Kingdom.²⁰ There are a few European countries that allow recall at regional level (Russia, Croatia, **Poland** and in 6 cantons of Switzerland and 5 states of Germany but, while these states allow for the recall of the entire legislature by triggering a new election, the recall of individual members is not allowed.

In the 6 focus countries, we find the following:

- **Canada.** No nation-wide recall statute exists but two provinces, Alberta and British Columbia (BC) have recall laws. Alberta’s *Citizen Initiative Act and Recall Act (April 7, 2022)* enables voters to apply for recall petitions. *Elections Alberta* administers the process at provincial level and local jurisdictions and school boards administer

¹⁵ “Revocation” is the power of another body to withdraw the mandate; in principle the one it has conferred. It is a political instrument – see Venice Commission Report on the *Recall of Mayors and Local Elected Representatives*, 2019.

¹⁶ “Destitution” implies the removal from a mandate resulting from proceedings brought against mandate holders on the grounds that they have committed an illegal or criminal act. Unlike recall, destitution is not a political measure – See Venice Commission, Report on the Recall of Mayors and Local Elected Representatives, 2019.

¹⁷ The terms defined here may not be exactly reflected in the different countries and languages.

¹⁸ Also known as a petition.

¹⁹ One of the reviewers of Egger and Magni-Berton’s book “The Politics of Recall Elections” Shalini Randeria, Director of the Albert Hirschman Centre on Democracy in Geneva, Switzerland states “The recall of elected officials is often neglected in democratic theory. Yet if the idea of democracy is grounded in our political equality and if it also applies to the relationship between ordinary citizens and elected officials, then the politics of recall is crucially important.”

²⁰ Venice Commission, 2019, p. 8 – 10.

recall processes for locally elected authorities and school trustees.²¹ A comprehensive *Recall of a Municipal Councillor Handbook*²² provides information on who may petition, timelines, procedures, limitations and templates. In BC, the *Recall and Initiative Act* (1995) provides a process for recalling members but is applicable only to members of the provincial legislature, not local councils. More typically, rather than use recall, citizens in Canada hold their municipal government accountable through three different mechanisms: *political pressure* through persuasion or lobbying council members individually or in council or committee meetings or writing letters to the editors of local newspapers; *changing their vote* at the next election or seeking office themselves; and in situations where a municipality or council member has allegedly acted contrary to the Municipal Act or other legislation, *challenging decisions* in the courts or making a complaint to the ombudsman.²³

- In **France**, any citizen can challenge and argue with the council. In the event of serious malfunction, the council may request a dissolution decree from the *Council of Ministers*. Recently, there have been social demands, e.g. emerging out of the *Yellow Vests* movement, for legally affirming recall but this has not yet been successful.
- **Lithuania**. Constitutional courts have rejected attempts to revoke or recall elected officials and have stated that the parliamentary mandate is a representative one on behalf of the whole nation.²⁴
- **Norway**. Section 4.1 of the *Local Government Act* contains no provisions concerning local or regional referendums (recall). The municipal and county councils have the power to make all decisions; therefore, referendums can only be consultative (“changes in school district, languages used for writing in a primary school”) unless a law provides otherwise.
- **Poland**. The Polish Constitution provides for the possibility of local referendum/recall in which citizens may decide on the dismissal of a local government body that has been directly elected by voters. Between 2010 and 2014 (latest information found), local recall elections took place in 111 municipalities – 16 resulted in mayors’ dismissals. In at least one case (Warsaw), a referendum failed because it only had 25% instead of the required 29% participation in the vote. Recall cannot be invoked until after 12 months from the last election or last recall or within 6 months prior to a new election.
- Recall is an active practice in the **United States** that exists at the state and local levels allowing citizens to remove and replace a public official through recall or impeachment which are different. While impeachment is a judicial proceeding against an elected officer because of some crime, recall is a political process. In at least 29 states, there are specific rules for managing the process to remove mayors and council members.
- **In other parts of the world** – mainly the Americas – recall is more frequently used and mostly at regional or local level. Each province’s constitution in Argentina includes recall, but its use varies; more often a no-confidence vote is used. Recall of mayors and governors in Colombia is a political right of citizens. But members of local councils are not subjected to recall. In Ecuador, recall of mayors and local council members is in Article 61 of the Constitution and in Peru, recall is constitutionally protected as a citizen’s participatory right (Articles 2.17, 31.1). Mayors and local council members directly elected are subject to recall (Article 194.3). In Costa Rica, *The 1998 Municipal Code* has a mechanism for mayors’ removal based on recall. Other countries (Bolivia, Venezuela, Taiwan) allow recall at all levels and in Japan, recall can occur at sub-national level. In Korea, recall of mayors and local council members, excluding those elected by the proportional system, can happen at the request of 15% of the constituents (10% in metropolitan municipalities).

The Venice Commission has stated “in the context of the context of representation, recall could introduce a further threat for the stability of representative democracy. Subject to a variety of factors such as level of political culture and influences, even manipulation by the authorities in some cases, it may be instrumentalized and used for different kinds of interests”²⁵. It is the opinion of the Venice Commission that the recall of mayors (not councillors) may only be seen as an acceptable, though exceptional, democratic tool when it is provided for by national or regional law, if it is regulated very carefully and coupled with adequate and effective procedural safeguards to prevent its misuse. From

²¹ Elections Alberta (www.elections.ab.ca)

²² Recall of a Municipal Councillor Handbook, Municipal Affairs, Government of Alberta, May 10, 2024 (<https://www.alberta.ca/alberta-kings-printer.aspx>)

²³ A Citizen’s Guide to Shaping Council Decisions (2020) Saskatchewan, Canada – Municipal Powers, Responsibility and Accountability

²⁴ Report on the Recall of Mayors and Local Elected Representatives, European Commission for Democracy Through Law (Venice Commission), June 2019

²⁵ Ibid

this perspective, several key conditions must be fulfilled. More information on the Commission's recommendations in this regard are in Annex H.

4.2.3 Change in Party Affiliation (“Crossing the Floor”²⁶ Practices). A problem in modern democracies is the practice of elected representatives abandoning parties in whose lists they were elected. Switching parties, or “crossing the floor” in the Westminster tradition terminology, is not an uncommon practice. In some countries, practices of floor crossing or party switching has been curtailed by specific mechanisms that avoid depriving representatives from their mandates. Crossing the floor mainly takes place in national or provincial parliaments.

The Venice Commission has consistently argued that losing the status of representative because of crossing the floor or switching parties is contrary to the principle of a free and independent mandate. And again, that the basic constitutional principle which prohibits imperative mandate or any other form of politically depriving representatives of their mandates “must prevail as a cornerstone of European democratic constitutionalism”.

- In **Canada's** province of Manitoba, public concern on high-profile defections of three federal Members of Parliament (MPs) prompted a reactive legislation amending the provincial *Legislative Assembly Act*. It now mandates members of the Legislature who quit their political party must serve out the remainder of their term as “independents”. However, as noted by Mayor Berry Vrbanovic (Kitchener), there are virtually no political parties (therefore no partisanship) at local level in Canada which essentially eliminates the potential of excessive influence of political parties on the formation and operation of local councils. The exception in Canada is in the cities of Vancouver, Montreal and as of June 2024 Calgary where municipal political parties exist. None of these are affiliated with the country's five mainstream political parties²⁷ although their ideologies mirror national parties ranging from left-wing (democratic socialism) to centre right (conservatism) to centre left (social democracy) to green policies. In a 2022 Ontario survey²⁸, citizens were clear about their preference for the status quo: 40.3% stated they prefer independent (no party) candidates while only 22.6% would like to see parties at the local level. However, 37.1% had no opinion.
- In the **United Kingdom**, there are no rules requiring the resignation of an MP who leaves one political party for another. And there are no formal sanctions but rather discouragement which comes in many forms. Occasionally, there are calls for members to resign or for by-elections to be triggered if they change parties, for example, in 2010, there were calls for members to be required to cause a by-election if they defected to a different party. However, the government declared such a change would be a major constitutional reform of the role of members of parliament and their independence and had no plans to do so. Regardless, instances of crossing the floor are rare. In the 15 years between 1995 and 2010, only 3 MPs moved from the official opposition to the governing party; none went the opposite direction. (www.commonslibrary.parliament.uk)
- The *Constitution of Ukraine* promulgated in 1996 did not initially contain provisions against floor crossing practices. Article 81 regulated situations for termination of mandate which can be considered standard with European practice. However, there was a growing number of MPs switching parties - about 60% of Ukrainian parliamentarians switched their party affiliation at least once and in a few cases as much as 10 times in the 3rd and 4th legislatures (1998 – 2006). Despite a *Venice Commission* opinion against reforming the Constitution to address terminating deputies because of their lack of links with the nominating party, the *Verkhovna Rada* approved 3 laws reforming the Constitution in 2004. Among these, Article 81 now includes the termination of the mandate of a deputy in circumstances related to his/her relationship with the nominating party. It should be noted these references were explicitly aimed at national deputies. However, the Rada later extended its reach to the *Crimea Autonomous Parliament* and to local councils. This legislation also called for deputies to be removed by means of recall of electors. In 2007, there were efforts to further amend the law on the status of

²⁶ In the United Kingdom and Canada, “crossing the floor” means to change sides: to leave one political party and join another.

²⁷ The five major federal parties are the Liberal Party, the Conservative Party of Canada, the New Democratic Party, the Bloc Quebecois and the Green Party of Canada.

²⁸ “Do Ontarians want political parties in municipal elections?”, Policy Options, the digital magazine of the Institute for Research on Public Policy. Chris Eril, Jack Lucas, Michael McGregor. February 20, 2023

MPs which deprived those who did not join their nominating political party, by splitting from the party or even for the participation in activities of other parties.²⁹

The *Venice Commission* reiterated its earlier positions adding further qualifications: the request that People's Deputies shall not be out of any faction (Article 13, item 5) was considered a clear and blatant violation of the European tradition of the free mandate of parliamentarians by establishing an exclusive role for parties to represent the voters. The Commission's concluding view was there are very few countries among the Council of Europe member states which have legislation giving the power to political parties to make members of the elected bodies resign if they change their political affiliation. And that the mechanisms of control of individual representatives proposed in the Ukrainian (also Serbian) case cannot be equaled to "imperative mandate" which is a practice forbidden in virtually all European countries. These mechanisms come closer to the model of "party administered mandate" characteristic in countries such as India or South Africa.

4.3 Accountability, Ethical Conduct and Termination of Local Council Members

Accountability is meant to promote democratic control, compliance and continuous improvement in the use of public authority and resources. In each country reviewed, legislation sets out the roles and responsibilities of locally elected officials. How elected officials conduct themselves as individuals and collectively as part of a decision-making body is key to carrying out those responsibilities and providing good governance to their communities including

- Providing for the stewardship of a community's public assets
- Providing services, laws and other matters for community benefit
- Acting in a way that is accountable, transparent, ethical, respectful of the rule of law, collaborative, effective and efficient.

Termination of local council members should be addressed in legislation and cover judicial and other grounds, process procedures, right of appeal and financial settlements if applicable.

Ukraine: Numerous laws lay out the principles and rules of ethical conduct for local elected officials including the laws *"On Local Self-Government"*, *"On the Status of Local Councillors"* and *"On Service in Local Government Bodies"* as well as *"On Approval of the General Rules of Ethical Conduct of Civil Servants and Local Government Officials"*. In addition, there are applicable sectoral legislative acts: *The Labour Code*, *the Code of Administrative Offences*, *the Criminal Code of Ukraine*, *the Criminal Procedure Code*, *the Code of Administrative Proceedings of Ukraine*, *the Civil Procedure Code* *inter alia*. Some municipalities have adopted their own code of conduct and conflict of interest policies, e.g. the city of Lviv. However, there is no requirement in law that they must do so.

No body provides oversight on compliance with codes of ethics or conduct or conflicts of interest although, according to representatives of the *Association of Ukrainian Cities (AUC)*, the *National Agency on Anti-Corruption* touches on these issues. AUC admits they could do more as an association to help their member municipalities improve in this area. The association does have a *Committee on Ethics* but it has had no serious impact on AUC's membership. AUC also mentioned ethics committees also exist at local level but rules and sanctions are unclear. Supervision (audit) of local council/councillors has also been highlighted as important by the experts who are currently reviewing legislation governing local self-government in

²⁹ Note: Ukrainian experts are currently deliberating on the additional question of banning certain political parties and termination of local councils during martial law and the implications for local government – this study does not address these issues.

Ukraine. No one interviewed mentioned the very good guidelines outlined in the *Ukraine Handbook on Transparency and Citizen Participation* produced in 2021³⁰.

A Ukrainian local councillor may be terminated early based on (a) a decision of council or (b) without a decision of the relevant local council. Under the first category, councillors may be terminated if a court judgment comes into force, but they are not imprisoned; they have resigned; or failed to pay child support for 12 months. Under the second category, councillors may be terminated when they are recalled by a popular initiative (referendum); have terminated their citizenship; been elected or appointed to an incompatible position or to a councillor position in another local council; been declared incompetent or missing by a court; imprisoned; or have died. Several of these issues are under consideration for legislative reform including those related to citizenship, being elected to more than one position at a time, letters of resignation and failure to pay child support (debt).

Canada. Canadian local council members must comply with numerous national and provincial ethical or *integrity* laws as well as bylaws set by local councils. The legal framework includes a range of laws governing the conduct of members of local councils.

Municipal Example. Statutory provisions³¹ regulating conduct in the City of Ottawa, Ontario include the city's own Code of Conduct as well as

- the *Municipal Act 2001*
- the *Municipal Conflict of Interest Act*
- the *Municipal Elections Act 1996*
- the *Municipal Freedom of Information and Protection of Privacy Act*
- the *Provincial Offences Act*
- the *Occupational Health and Safety Act*
- the *Ontario Human Rights Code*
- the *Criminal Code of Canada*
- and the by-laws and policies of Council as adopted and amended from time to time.

Mayors and councillors swear and sign an oath of office and in some provinces like Saskatchewan, every council member must sign a document committing to comply with the code of conduct and confidentiality, conflict of interest and transparency policies. Council members are also required to declare information about their personal property and potential conflicts of interest when they take office. In fact, in order for the council to receive provincial funds (transfers), every council member must sign this document annually. In terms of transparency, the salaries of mayors, councillors and municipal staff - making more than \$50,000 CAD - are also published in the media every year.

In the province of Ontario, training (via online modules) for councillors is mandatory and covers accountability, roles, ethical behaviour, codes of conduct as well as other topics such as accessibility, alcohol and drugs in the workplace, occupational health and safety awareness, respectful workplace, violence and harassment, security awareness and protective measures. Training is not mandatory in other provinces although according to Councillor Goulden (Yorkton), many councillors are asking for more training in her province. She also noted the majority of violations relate to conflicts of interest most often related to blurred lines between governance and administration. Interestingly, in 2021, the *Association of Municipalities of Ontario* (AMO) provided recommendations to the *Minister of Municipal Affairs and Housing* to strengthen the application of municipal codes of conduct for elected officials in the province. Then in 2023, AMO reaffirmed its recommendations and wrote to the Minister and Premier to request new legislation to enact the recommendations, now under consideration. In all provinces, a “municipal

³⁰ Ukraine Handbook on Transparency and Citizen Participation, Congress of Local and Regional Authorities of the Council of Europe, February 2021 (2nd edition).

³¹ Subsection 223.3(1) of the Ontario Municipal Act 2001

accountability” or integrity officer or municipal or provincial ombudsman and auditor general investigate complaints and where warranted, may impose disciplinary measures³² up to and including dismissal of local council members for gross violations of the accountability legal framework. In Saskatchewan, anyone who is dismissed may not run for office for 12 years. See Annex I for the *Ontario Municipal Integrity Commissioner: Best Practice Guide*.

The system in **France** is similar to Canada. Local council members must carry out their duties with “impartiality, diligence, probity and integrity” and among other principles in the *General Code* ensure that any conflict of interest is prevented or ended immediately. Representatives may consult a *Compliance Officer* responsible for providing advice regarding compliance with the ethical principles enshrined in the Code. Certain council members must declare their financial situation and any potential conflicts of interest between their municipal role and employment. Financial overview is the responsibility of regional audit offices while department prefects “control” mayors and council members to ensure decisions are in line with national interests and the Code. They have power to suspend a local council member while only national government may dismiss a mayor.

According to **Lithuania’s Law on Local Self-Government**, each municipal council is obliged to form an *Ethics Commission* comprised of a representative sub-group of council members for the duration of council’s mandate. Its role is to ensure mayors and councillors comply with the above mentioned law plus the *Code of Conduct* for state politicians, the *Law on the Adjustment of Public and Private Interests* and other legal acts regulating the activities and conduct of councillors. Where warranted, the *Ethics Commission* may submit a recommendation to the *Central Elections Commission* to terminate a councillor on certain grounds, e.g. missing 3 consecutive meetings of municipal council without a justifiable reason or on other grounds. Mayors and councillors do not receive mandatory training when they take office, but the *Special Investigation Service* organizes training for mayors and councillors and investigates corruption offences.

Norway. The *Local Government Act* gives the municipal council ultimate responsibility for ensuring the municipality acts in accordance with statutes and regulations of which there are more than a dozen, that ethical standards are followed, and that services are provided in line with policy objectives. Local council members are not obliged to declare their property interests but municipalities have been encouraged to establish council property registers on a voluntary basis. (Section 5.6) Chief administrative officers have overall responsibility for internal control in the municipality’s administration. A *Control Committee* appointed by council supervises and controls activities on behalf of council. Norway has a well-functioning system to prevent fraud and corruption though there are circumstances in which corruption exists. *KS and Transparency International Norway* have produced “*Protect Your Municipality: An Anti-Corruption Handbook*”³³ for elected officials, managers and employees in local and county municipalities and their enterprises. It provides guidelines for developing a cultural of trust, outlines areas of risk, discusses forms of corruption and includes policies and programs to mitigate corruption. It also includes a *Code of Conduct* for employees and elected officials and guidelines for implementing a sound system of self-monitoring and internal control.

In **Poland**, councillors take an oath before they begin their mandate. A *Code of Ethics for Councillors* is adopted by the council and there are regulations for lodging and resolving complaints in the *Act on Municipal Government, March 8, 1990*.³⁴ Under the *Act of June 5, 1998 on Provincial Government*, the provinces do not have any authority over districts and municipalities and they must not violate the independence of districts and municipalities. They are not supervisory, control or higher authorities in administrative proceedings either.³⁵ Rather, supervision of local

³² The Integrity Commission has authority to recommend a reprimand; suspension of the remuneration paid to the council member for a period of 90 days; written or verbal public apology; return of property or reimbursement of its value of monies spent; removal from membership of a committee; and removal as chair of a committee.

³³ *Protect Your Municipality: An Anti-Corruption Handbook*, Transparency International Norway and the Norwegian Association of Local and Regional Authorities (KS), 2014

³⁴ Reliable English translations of the Act on Municipal Government (March 8, 1990) or the Code of Ethics for Councillors were not found.

³⁵ The Municipal Council in the Polish Local Government Structure: Selected Aspects, Malgorzata Kmak, Administrative Systematic Law, 2020 (www.ejournals.eu/RAP/)

government authorities is solely the responsibility of the prime minister and provincial governors while regional audit chambers oversee financial management. All are guided by detailed regulations for supervision. A local government authority may be dissolved by the Sejm at the request of the Prime Minister, however, only in cases where the authority grossly violates the Constitution or Acts of Law. The Polish Constitution also provides for the possibility of local referendum in which citizens may decide on the dismissal of a local government body that has been directly elected.

All local council members in the **United States** swear an oath of office at the start of their term. State law requires every member of a governing body to receive training (online course for mayors and council members) no later than 90 days after assuming their duties. Each councillor must take a refresher course at least every four years. State laws include codes of conduct which govern the ethical behaviour of local governments. The consequences of violating these rules are severe. A municipal officer may be subject to a financial penalty on top of other possible civil or criminal penalties and may have to forfeit their office. In addition, any contract made by a councillor in violation of rules is void and acting in good faith is not a defense. A municipality may adopt its own ethics code that includes additional restrictions not covered by state law, e.g., among others, local nepotism rules regulating the hiring of or contracting with relatives or an “appearance of fairness” rule which requires government decision-makers to conduct quasi-judicial hearings and proceedings in a way that is fair and unbiased in both appearance and fact.³⁶ States oversee (supervise) local governments but voters may also call for the dismissal of a local council member through the recall process.

4.4 Remuneration for Local Council Officials

The *European Charter of Local Self-Government* calls for “appropriate financial compensation for expenses incurred in the exercise of the office” as well as “where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.” (Article 7.2)

Ukraine: Mayors are full time but do not receive a salary, benefits or vacation. Councillors (deputies) work on a voluntary basis and are not compensated for their work during their 5-year terms. However, they are compensated for their time when attending council meetings and performing other related duties. They must substantiate this time administratively but many just don’t bother according to representatives of AUC. Positions on oblast councils and special committees are full time paid positions. Also, in special cases, the secretaries of local councils may be paid. This is a complicated area that needs more discussion according to the experts reviewing Ukrainian legislation.

Canada. Deputy Mayor Shawn Lewis of London, Ontario says the position of councillor is more than just a full-time job. “It’s a job that people are privileged to have. But it is work. It is not volunteerism, it’s real, legitimate work. Our decisions carry serious consequences for almost half a million people.” He also noted that an equivalent job in the private sector would pay more. While there are no official hour requirements for councillors, many say meetings, communications with constituents and external board participation add up to more than a full-time job. Mayor Lewis estimates an average week for him is between 50 – 55 hours.³⁷ This table summarizes a survey³⁸ conducted in the City of Guelph to determine the range of hours councillors spent in their municipal related work.

³⁶ This information is an example taken from the website of the Municipal Research and Services Centre (MRSC), a nonprofit organization that has helped local governments across Washington State for more than 90 years better serve their communities by providing legal and policy guidance on any topic. (www.mrsc.org)

³⁷ (source: Global News report by Benjamin Harrietha, May 10, 2024)

³⁸ Study: Full Time or Part Time Councillors, Watson & Associates, Mississauga, Ontario. Circa 2019-2020.

City of Guelph Councillor Activities	Average Hours Per Month ³⁹
• Attending council/committee meetings	• 10 to 24 hours: average 17 hours/month
• Reading and preparing for council/committee meetings	• 5 to 34 hours: average 15.27 hours/month
• Attending other committee meetings, e.g., police board, conservation authority	• 1 to 13.5 hours: average 5.64 hours/month
• Time spent meeting with constituents on their issues	• 4 to 20 hours: average 10.5 hours/month.
• Meeting other councillors and staff on internal municipal matters	• 2 to 10 hours: average 4.05 hours/month
• Time on municipal issues beyond the scope of the town/city (e.g. municipal association involvement).	• 1 to 10 hours: average 3.33 hours/month
• Other Council related work not listed above	• 4 to 54.4 hours: average 18.93 hours/ month
• In total, direct council business	• 35 to 135.4 hours: average 78.36 hours/month or 9.80 days⁴⁰ per month
• Plus, councillor time spent on service with other community groups not directly related to City of Guelph business but important for the role of councillor (e.g. service clubs, recreation associations, faith-based organizations)	• 2 to 29 hours: average 9.64 hours/month or 1.21 days per month
• The grand total for time spent on both council and community activities	• 39.5 to 143.4 hours: average 85.68 hours/month or 10.71 days per month

According to the study, Guelph's council has several retired councillors who spend almost full time on council activities. Others are entrepreneurs or have freelance employment allowing them to control their own hours. Only two have full time employment; one with an understanding employer who allows them flexible hours. The study also suggests there are implications of having full time councils: they would likely need and want full time office assistance adding significant cost of compensation and related expenses for the municipality estimated at \$100,000 CAD per staff member. The situation in Mayor Vrbanovic's city is similar to the City of Guelph.

Across Canada, how much council members are paid and for what work varies by municipality. The 23 largest cities (over 100,000 residents) in Canada have full time times who are paid a salary. Smaller municipalities are more likely to pay an honorarium or stipend. Ms. Renee Giroux who was a councillor for 18 years in Mayo, Quebec (population 601) confirmed "in small communities, most local elected officials are retirees, the independently wealthy and people who have time". She added it is very hard to hold a full-time job and undertake council work and, also it is also difficult to attract young people while they are building their careers.

A survey of 75 local governments conducted by the *Union of BC Municipalities (UBCM)* in September 2019 revealed 27% of respondents had a formal policy in place for municipal council remuneration, 45% had a remuneration bylaw and 21% had both. Following the survey, UBCM developed the *Council and Board Remuneration Guide* which now provides comprehensive direction for municipal councils seeking to put in place or improve their remuneration policy and includes a set of 24 recommended best practices for elected official remuneration.⁴¹

In Ontario, most councillors and heads of council are paid less than \$40,000 CAD (26,653 Euro) per year. The average annual council salary in small communities is between \$7,500 – 15,000 CAD (7995 - 9994 Euro). Many municipalities provide reimbursement for mileage for travel expenses and funding for attending conferences, training and professional development. Larger municipalities are more likely than smaller ones to provide optional benefits such as

³⁹ The figures have been transcribed accurately from the study but do not add up to the totals given – perhaps it has to do with averaging methodology for the study.

⁴⁰ Using an 8-hour day

⁴¹ Council and Board Remuneration Guide, Union of BC Municipalities, First Edition, September 2019gi

life and dental insurance (33%), cell phone reimbursement (40%) or a pension contribution (16%) while 14% provide a car allowance and 8% provide a budget for printing newsletters and other materials.⁴²

Working hours of local representatives are not well regulated across Europe. Fourteen European countries participated in a survey on financial compensation of local and regional elected representatives conducted by the *Network of Associations of Local Authorities of Southeast Europe* (NALAS) in 2019. The survey concluded “the national remuneration of local elected representatives and public officials is not uniform and has exceptions”. The main criteria for setting the level of remuneration appears to be the number of residents in the municipality. This even though local councils have the same roles and responsibilities regardless of whether they are a small municipality or a large city.⁴³ Mayors in larger municipalities usually work full time and in smaller municipalities, they may hold office on a part time basis.

France. No salaries are paid to local elected officials. Mayor and deputy mayor positions are voluntary and paid a duty allowance determined by the *General Code* according to the size of the commune. Councillors are given allowances in communes with at least 100,000 inhabitants. The *Act of 28 November 1990* states: “The deliberating assembly⁴⁴ of each territorial authority or the board of a public establishment shall fix the allowance systems within the limit of those enjoyed by the different services of the State.” This provision aims to maintain the principle of equity of treatment for the exercise of similar functions between local government officers and state officers. The general practice in communes is to hold council meetings on weekends or in the evenings, while for the general councils and regional councils, meetings tend to be during working hours. An important factor to note is the significant increase in the workload of local councillors resulting from decentralization.

French mayors are provided a pension (*IRCANTEC Supplemental Retirement Benefit Scheme*), health and unemployment insurance but no holidays or travel insurance. Councillors receive a pension and health and travel insurance. There is no specific statutory provision granting elected representatives leave entitlement. Elected representatives' remuneration is liable to income tax. Members have the option of choosing between deductions at source or incorporating their payments into their other taxable income. Legislation provides for additional benefits including free travel on the municipal transport system, coverage for certain health issues and cash benefits for education and research plus a retirement gratuity. Expenses are reimbursed for costs incurred for special mandates and activities, travel for council or committee work or representation. Representatives also have the secretarial services of the assembly of which they are members, and the use of offices in the official buildings of the authority. No recent data was found on exact Euro amounts for compensation or allowances provided.

Lithuanian mayors have full time positions and are paid a monthly salary in accordance with ratios established by law. Lithuania provides pensions, health benefits, paid leave for holidays, maternity, paternity, educational and unpaid leave if elected to the Seimas or European Parliament, travel insurance and unemployment benefits. Mayors also receive funds to assist them to represent their municipality within the country and abroad. Councillors are part time and historically did not receive a salary until July 2023 when Lithuania's parliament voted to introduce salaries for municipal councillors. This was initiated after a scandal that revealed some local politicians were using maximum amounts without providing proper documentation. Under the bill, local council members get payments equivalent to 20% of the salary of the mayor in their municipality. If a councillor holds several positions at the same time, s/he is paid the highest salary of these positions which is usually the municipal councillor salary. The salary of a councillor is reduced in accordance with the number of missed council, committee or commission meetings per month unless on a business trip for the purpose of performing her/his duties as a councillor.

The new law eliminates the previous legislation allowing councillors reimbursements for expenses covering office, postage, telephone, internet, transport, office lease and other activities related to their municipal duties. The estimated net salary for councillors ranges from 640 to 805 Euros depending on the size of the municipality. They also

⁴² How Much Does a Municipal Council Member Make in Ontario? Updated March 20, 2024 (www.opencouncil.ca)

⁴³ Financial compensation of local and regional elected representatives in the exercise of their office, Governance Committee, Congress of Local and Regional Authorities, 36th Session Council of Europe, April 3, 2019 – based on a survey carried out by the Network of Associations of Local Authorities of Southeast Europe (NALAS)

⁴⁴ “Deliberating assembly” here means local council of a commune.

receive bonuses depending on work experience and other factors. Councillors are entitled to the same benefits and leaves as mayors. In addition, they must be granted leave from work or official duties upon written request for up to 30 days to campaign for election during which time they are protected from prosecution, arrest or having their freedom restricted without the consent of the *Central Electoral Commission*. The leader of the opposition of the municipal council and committee and standing commissions of the municipal council receives a salary that is 20% higher than councillors. The deputy chairmen of these committees and commissions are paid 10% more than the salary of councillors.

Norway. The position of mayor is full time while councillors are part time. A person may hold office both in a municipal and county council. Positions are voluntary and no salaries are paid to mayors or councillors. However, Norway's *Local Government Act* stipulates "compensation is paid for loss of income and expenses incurred while holding office up to a prescribed sum per day set by the municipal council or county council and which are subject to tax deductions. These include allowances for transport, subsistence and accommodation during travel, training and education". (Section 8-3). Specifically:

- Mayors receive a pension⁴⁵, unemployment and travel insurance but no health insurance nor holidays. Councillors receive no social benefits but do receive travel insurance.
- Elected representatives whose municipal council role is their main occupation may apply for a termination payment when they resign from office based on council regulations on the length of termination payment period. The right to termination payment shall be reduced "krone for krone" against other income that an elected representative may have. (Section 8-6).
- Municipality and county authorities must ensure that popularly elected representatives for whom the office is their main occupation have the same right to sick pay as employees; (Section 8-8) and to benefits for occupational injury. (Section 8-9)
- Leaves of absence may only be granted in accordance with relevant sections of the *Working Environment Act*. During a leave of absence, the representative retains remuneration for up to two weeks unless s/he forgoes this. During maternity leave, personal days leave, parental leave and leave in the event of a child or child's caregiver's illness, the municipality and county authority must ensure the representative has the right to retain the remuneration according to the same rules that apply to municipal/county employees. (Section 8-10)

Poland. The municipal council sets the remuneration of the mayor considering her/his assigned activities which they must report on to council. Allowances of councillors may not exceed the basic amount specified in the *Finance Act* for persons occupying managerial state positions and related laws. Councillors receive unpaid leave for the term of office and for 3 months after the terms has expired. Holiday leave is provided regardless of any employment relationship the mayor or councillor may have. Specific data has not been found on remuneration amounts for Polish local councillors or mayors.

United States. Compensation paid to mayors and local council members in the US ranges widely. Some council members receive regular salaries while others only receive stipends for attendance at regular and special council or commission/board meetings and are reimbursed for expenses. In very small communities, positions are considered voluntary and unpaid. A council has two options for determining the salary for its members and the mayor: it may set the salaries directly by ordinance⁴⁶ in line with state statutes or establish an "independent salary commission" whose members are usually appointed by the mayor or city administrator that will review and set compensation for local elected officials. Salaries are taxable and cannot be increased or decreased during the term of office unless an ordinance establishes an automatic fixed salary increase. In some cases, elected officials may voluntarily choose to waive, refuse or donate a portion (or all) of the salary established for the position back to the local government allowing the official to receive a tax deduction.

⁴⁵ According to the Act, the municipal and county council may decide to establish or join a pension scheme for elected representatives. In addition, the King may, through regulations, lay down further provisions concerning such pension schemes.

⁴⁶ Ordinance or bylaw means a piece of legislation made by a local authority

State law defines whether an elected official is eligible for certain employment-related benefits and that depends on how the term “employee” is defined. In most cases, elected officials are not considered employees and are therefore not covered under the state’s *“Minimum Wage Act”*, *“Paid Sick Leave Law”* or the federal *Fair Labor Standards Act*. Elected officials may also receive health, retirement and other benefits – some are mandated by the state while others are dependent on local government policy. Alternatively, a stipend may be given to an elected official instead of health insurance, but it is treated as extra compensation. Elected officials may be reimbursed for standard expenses incurred while performing their official duties which typically include mileage for use of personal vehicles, air tickets, accommodation, meals and registration fees for conferences or workshops .⁴⁷

4.5 Guarantees, Protection and Safeguards for Local Council Members

Guarantees may be considered personal, organizational, social and labour “rights”. Some rights information is found in other sections of the study. Constitutions and related legislation generally grant judicial protections to local governments. But legal immunity exists in only a few countries, Ukraine included. And the same is the case for indemnification policies that help councillors with damages. Without these protections, local councillors are personally responsible in the event of any breach or error resulting in damage.

Ukraine: According to AUC representatives, local council members are expected to be impartial, speak openly and freely and not be persecuted or sanctioned politically. Thus, councillors are not legally liable for what they say during meetings unless it is defamatory. Applicable laws include Article 7.1 and Article 11 (*Legal Protection of Local Authorities*) which state that local authorities have the right of resource to a judicial remedy 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. Representatives of AUC did not mention liability insurance or indemnification policies.

In **Canada**, towns and cities may develop an *Indemnification*⁴⁸ *Policy* for members of council.

Municipal Examples

Toronto’s indemnification policy states: “Where a Member of Council is charged with an offence under the *Criminal Code*, or under any other statute(s), arising out of an act done in the performance of his/her official duties:

- The Member shall, in the first stance, be responsible for his/her own defence including the retaining of legal counsel or a paralegal.
- Where the Member is acquitted and is seeking reimbursement for legal expenses, the matter shall be referred to the Executive Committee and City Council for their consideration on advice from the City Solicitor”.
- Where a civil action or proceeding which is not covered by the City’s insurance policy is brought against a Member, which in the opinion of City Council arises out of acts or omissions done or made by such Member in his/her capacity as a Member of Council, the City may pay damages or costs awarded against such Member or legal expenses incurred by him/her as may be determined by City Council on advice from the City Solicitor, as provided for by Section 218 of the City of Toronto Act 2006, as amended.”⁴⁹
- Upon approval of the Executive Committee and Council, members may be reimbursed for legal expenses up to a maximum of \$25,000 CAD if warranted under the circumstances.

Edmonton City councillors have strong protection from liability through Section 535(2) of the Province of Alberta’s *Municipal Government Act* as it limits the liability of councillors (except for defamation) by providing that they “are not

⁴⁷ Salaries, Compensation and Benefits for Local Elected Officials, Municipal Research and Services Center (MRSC) Washington State, 2024

⁴⁸ “Indemnification” means compensation for harm or loss, that is, security against legal liability for one’s actions.

⁴⁹ Indemnification Policy for Members of Council, City of Toronto, July 16, 2008.

liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Act or any other reenactment”.

British Columbia has similar wording in Section 755.1 (1) of the province’s Municipal Act: “No action for damages shall be instituted against a municipal public officer⁵⁰ or former municipal public officer for anything said or done or omitted to be said or done by him in the performance or intended performance of his duty or the exercise of his power or for any alleged neglect or default in the performance or intended performance of his duty or exercise of his power.” In addition, local councils may, by a vote of not less than 2/3 of all members pay a sum required for the protection, defence or indemnification of an officer or employee of the municipality or a member of its council when an action or prosecution is brought against her/him in connection with the performance of his/her duties. Councils may pay damage claims arising out of the performance of a councillor’s duties and/or pay legal costs incurred in a court case arising out of the claim. However, the council may seek indemnity against a member of council where the claim arises out of the gross negligence of the council member or where s/he wilfully acted contrary to terms of his/her office or to an order of a superior. The council does not pay fines imposed on a member of council on her/his conviction for a criminal offence.

In **France**, legal protection of local authorities in the exercise of their duties is guaranteed by the *Constitution*⁵¹, by the *European Charter of Local Self-Government* and by the *Constitutional Court*. Administrative courts decide hundreds of cases each year opposing the State and local and regional authorities or between those bodies. France has a specialized administrative jurisdiction that traditionally has had the monopoly on regulating government bodies and agencies in their relations with citizens and in their relations together. Local authorities can challenge decisions taken by state authorities or other local bodies providing judicial protection. For offences committed outside the public function, there is no immunity but a “privilege of jurisdiction” enabling the case to be tried outside the electoral district in which the functions are exercised.

Lithuania. The Constitution provides for special legal status and therefore certain immunities for the President, members of the Seimas, government and judges. Mayors and councillors of municipal councils do not enjoy the same immunities - this has been validated by the *Association of Lithuanian Municipalities*. And Lithuania’s *Labour Code* does not apply to councillors except for provisions regulating compensation for damages and the health and safety of employees. Article 22.6 (*Status of Municipal Councillor*) prohibits persecution of councillors for their voting or opinions expressed in municipal council or committees. But councillors may be held liable in accordance with general procedures for “person’s insult or slander, dissemination of information which is humiliating to individual honour and dignity and not in keeping with the truth”. Municipalities may appeal to the courts for any violation of their rights considering the nature of the violation.

Norway. Chapter 18 of the *Norwegian Local Government Act* does provide for “unlimited financial liability for participants in a local council”. However, detailed information could not be found on indemnification or other guarantees or protections for local elected officials.

Poland. Article 165(2) of the *Polish Constitution* states “The self-governing nature of units of local government shall be protected by the courts.” Like Norway, detailed information was not found on indemnification or other guarantees or protection for local officials. The *Association of Polish Cities* did share, however, that although it is written in law that their local officials have the status of “public official”, there is no special protection except “increased penalties for violating bodily integrity” of a public official.

United States. States typically authorize a municipality to provide by ordinance (bylaw) for the indemnification of its municipal officials against claims for damages and the costs of legal proceedings arising out of the performance of

⁵⁰ “Municipal public officer” means member of council, director of a regional board, trustee of an improvement district, a member of any civil commission (library board, advisory planning commission, board of variance, etc.)

⁵¹ *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 as local self-government as are enshrined in the constitution or domestic legislation.

their duties and the conduct of municipal business. In addition, municipalities carry liability insurance to help public officials, and the agencies, commissions or authorities they serve, address risks related to allegations of wrongful acts in the course of their duties. Intentional misconduct such as assault, battery, infliction of distress and any acts which constitute a crime under city, state or federal law is, of course, not protected in any way.

4.6 Combining a Representative Mandate with Employment/Other Activities

The *European Charter of Local Self-Government* states: “Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.” (Article 7.3)

Ukraine. Article 42 of the Constitution states “the entrepreneurial activity of deputies, officials and officials of state power and of bodies of local self-government is restricted by law”.

Canada. Mayor Berry Vrbanovic confirms being a councillor requires commitment and hard work, but usually the role can be done flexibly around part- or full-time employment, studying or voluntary commitments. The *Ontario Municipal Act* makes no legal distinction between full-time and part-time councillors – each has the same powers and duties regardless of the amount of time spent at the job. The difference is a matter of level of pay and accompanied expectations which has steadily been increasing as government activity and expectations of residents increase. Some councillors serve on both regional and local municipal councils, each on a part time basis. Dual mandates through elections in Canada are rare and mostly prohibited by legislation at the federal, provincial and local level. Not surprisingly though, at the provincial level, provisions vary from one province to another. In most circumstances, an elected official resigns their first post when elected to another.

France. *Chapter III – Conditions for Exercising Municipal Mandates* in the *French General Code of Local Authorities* contains detailed guidelines related to employment and being a council member. Note that mayors and deputy mayors are subject to certain different provisions. The Code guarantees, *inter alia*

- An elected member of a municipal council time to attend and participate in sittings and meetings provided notice is provided to their employer in advance - the elected representative and her/her employer are required to agree on a suitable arrangement and conditions of remuneration for time off for the exercise of their duties. However, employers are not “obliged” to pay for the time spent by the elected councilor at council and related meetings.
- In the case of part time work, a credit of hours is given in proportion to the hours set out in the employment contract and in accordance with a detailed formula set out in the Code
- Losses of income by municipal councillors who are employed or self-employed, and who do not receive an allowance, may be compensated by the municipality they represent for exercising their duties but it is limited to 72 hours per year based on a formula outlined the Code
- Military personnel on active service who hold elected public office also benefit from these provisions, subject to the requirements linked to the preparation and conduct of operations as well as the mission of the armed forces.
- At the end of their term of office, persons who have held one of the elected offices mentioned in the Code may benefit from an end-of-mandate differential allowance and professional refresher training provided they meet the conditions set out in the article.

Holding dual or several mandates (called “*cumul des mandats*” in France) at the same time is a common practice. Officials may simultaneously hold two or more elective offices at different levels of government – local, regional, national and European. Sometimes, officials hold as many as four elected positions. The “*cumul des mandats*” is controversial in France with accusations of fostering absenteeism and cronyism. Several laws to limit the practice have been introduced in recent decades.

Lithuania. The mayor and deputy mayor may not work in other institutions, establishments, undertakings and organizations and receive any other payment with the exception of payment for scientific, pedagogical or creative activities.⁵² Employers must provide unpaid leave for time spent by part time councillors in council or committee /other meetings related to municipal matters.⁵³ Municipal councillors may not hold positions with duties incompatible with the mandate of municipal councillor such as the position of mayor or municipal staff or positions with any enterprise owned or controlled by the municipality. The office of municipal councillor is also considered incompatible with many positions: President, member of the *Seimas*, *European Parliament* or government, head of a government agency or an agency under a ministry whose work is related to the supervision and control of activities of municipalities, auditor general, deputy auditor general or director of administration of the regional council of which the municipality is a member. In such cases, the councillor must, within certain time restrictions relinquish the duties or renounce the mandate of councillor. The office of municipal councillor or mayor is also incompatible with the positions of servicemen fulfilling active military service.

Norway's Local Government Act guarantees that participation in council meetings is a valid reason for absence from work. Chapter 8 of the Act states “Employees who hold full or part time municipal or county authority office are entitled to leave of absence from their work for four years or the remainder of the election period.” Additionally, the municipal and county council are obliged to adopt regulations relating to leaves of absence for elected representatives for whom the office is their main occupation. Positions incompatible with municipal or county council roles include county and deputy county governor, chief municipal or county executive or deputy, head of any branch of the municipal or county administration, chief municipal or county treasurer, secretary or auditor (Section 5.2) There are no restrictions on holding several elected offices at the same time, e.g. an individual may be a municipal council or county members and be a member of parliament at the same time. (Section 5.5)

Poland's councillors may continue part or full-time employment if it does not conflict with the exercise of their local council mandate. Their employer must provide time for the councillor to take part in municipal council and related activities. If a councillor takes a leave of absence from their employment, a councillor may return to work at the end of their term of office to the same or an equivalent position with corresponding remuneration. Councillors may not perform work in the municipal administration nor the work of mayor or deputy-mayor. More Information on dual mandates was only found for members of parliament and other positions and not for mayors and councillors.

United States. Unless a municipality has an ordinance against it, council members may be employed part or full-time providing they have sufficient time to devote to municipal business and there is no conflict of interest. Council members in small cities and villages often have full time jobs. Some state statutes directly address dual office holdings. Some states allow multiple offices at the same time, for example, a mayor may serve two cities or towns with permission from her/his council; offices of treasurer and clerk may be combined by ordinance in smaller towns and cities; the fire district commission may be the fire district secretary; elected officials may be appointed as members of a health district board etc. Other states have rules prohibiting certain officials from holding multiple offices. The most common one is no elected official may hold an employee position within the municipal administration. A set of rules has been developed over time through case law and attorney general opinions that prohibit an individual from simultaneously holding two offices that are considered “incompatible” with one another. Offices are incompatible when, “by their nature and duties, it is deemed improper from a public policy standpoint for one person to simultaneously serve in both”. There are also times when statutory election rules apply and prevent an elected official from running for another elected position.

⁵² Article 19.9 of the Law on Local Self Government

⁵³ Article 26.3 of the Law on Local Self-Government

5.0 Conclusions and Insights

1. The only common theme across the countries examined for this study is that **there is little commonality on the practical application for the topics under review** due to historical, geo-political and many other factors.
2. The European countries of France, Lithuania and Poland have all enshrined “**local government**” as a **separate order of government** in their constitutions while Canada and the United States have not. Norway’s constitution does not mention it at all. The organization, functioning and language/terminology of local governments around the world differ considerably making comparisons challenging.
3. **Powers, authority, mandates, rights and responsibilities of local authorities** vary widely in how they are applied in each country. Local government models (structures and systems) are complex in how they operate and there is often overlap and even (confused) sharing of responsibilities between local government and other orders of government. In the comparison countries, local government has its own independent roles and responsibilities but in some countries (e.g. Lithuania and Poland), they also have delegated roles and responsibilities from central government. The mandates of mayors depend on the model used. Councillor mandates and roles are more harmonious.
4. Although the *European Charter on Local Self-Government* provides an **international standard to harmonize and protect the rights of local authorities** and against which national standards may be assessed in Europe, compliance is not consistent across member states. Surprisingly, very few of the Charter’s provisions are directly applicable to the status of local representatives, whether mayors or councillors. However, there are many international best practice examples of principles and regulations governing the conditions of services for local elected officials in this study that could be adapted to Ukraine’s context.
5. **Imperative mandate** is not practiced in the countries under review. In fact, France, Lithuania and Poland prohibit it. No reference on binding mandates were found for Norway and imperative mandate is an unknown concept in the United States and Canada. Rather, all these democracies follow a system of representative (general, free and irrevocable) mandate. Attempts to revive imperative mandate, for example in Lithuania, have failed. The *Venice Commission*⁵⁴ is firmly opposed to the imperative mandate on the grounds it is incompatible with the “European tradition of the free mandate.” A kind of “quasi-imperative” mandate does operate in a few parliaments through the threat of suspension or expulsion from political parties or groups. Changes in party affiliation (“crossing the floor”) is not an uncommon practice at national and provincial levels but has not been used much recently. The Venice Commission argues that losing the status of representative because of crossing the floor is contrary to the principle of a free and independent mandate.
6. **Recall** is neither prohibited or condoned by European and other international treaties but it is recognized under law and to some extent used in some countries - it is popular in Latin America - where conditions are outlined in regulatory frameworks. The recall of individual local council members is found in one province in Canada (Alberta) and in Poland (local council and mayors). Often recall referendums fail due to a lack of sufficient votes required to trigger the process. While the *European Charter of Local Self-Government* recognizes the free exercise of the functions of local elected representatives – as does the *Congress of Local and Regional Authorities* – it remains open to direct democracy processes as complementary tools. The *Venice Commission* has written that recall could introduce a threat for the stability of representative democracy and used for all kinds of interests. Its view is that recall should only be seen as an acceptable, though exceptional democratic tool when it is provided for by national or regional law.

⁵⁴ The Venice Commission benefits from the perspectives and experiences of 46 Council of Europe members states plus 15 non-European members including Canada and the United States; its consensus conclusions and advice should count and have weight.

7. **Accountability and Ethical Conduct.** In all countries reviewed, local council members must comply with a large number of national, provincial and local laws governing their accountability and ethical behaviour. Most swear an oath and in some countries, must declare their personal assets. Salaries are published in some countries to increase transparency. A few countries (or provinces) have mandatory training for councillors when they take office which covers accountability, ethical behaviour, codes of conduct, confidentiality, transparency, etc. All countries have a mechanism for monitoring local council performance although they differ in approach and, it seems rigour. Supervision of local government in Europe is generally the responsibility of a body of central government (ministry) but may be delegated to a subnational level such as in **France** where regional prefects represent the State and oversee communes and in **Norway** where county governors supervise local authorities. Supervision in **Canada** is undertaken by provincial and territorial authorities and by state authorities in the **United States**. Under specific laws that define legitimate grounds, council members may be disciplined and even terminated in most countries.
8. **Compensation.** There is consensus in every country that the position of local council member is real, legitimate work that has consequences for large numbers of people. Mayors are more likely to be full time while councillors are almost always part time – the exception is in Lithuania where councillors became full time in July 2023. Decentralization reforms have been implemented over several decades in most countries with the intention of bringing profound changes to local authorities in terms of increasing their independence, ensuring closer communication between councils and community and implementing the subsidiary principle. However, local elected officials and their associations report, *inter alia*, they have increased workloads and insufficient recognition through compensation and other benefits for what often amounts to more than a full-time job. Standards are not yet harmonized even within countries. Rather, there is a diversity of compensation packages and arrangements in place for local elected representatives in France, Lithuania, Norway and Poland which mirrors the spectrum of structures and systems of subnational government in Europe. The same is true for Canada and the United States.
9. **Legal immunity and indemnification protection** exists in only a few countries (Canada, the United States and it appears Norway – not confirmed). There is no immunity per se in France or Lithuania but a “privilege of jurisdiction” exists in France to allow for cases to be tried outside the electoral district in which the situation occurred. No information for Poland was found in the desk research or provided by association representatives on this topic.
10. Councillors may continue and combine **part- or full-time employment** with their duties as elected officials in Canada and the United States. Typically, in every country, local elected officials must work out an arrangement with their employer for time off to attend to municipal business or take a leave of absence under certain rules. **Dual mandates** are rare and prohibited by legislation except in France where it (“cumul des mandats”) is a common practice. In fact, elected officials in France may hold up to 4 elected positions. However, this has been strongly criticized as fostering absenteeism and cronyism. All countries have statutes that cite positions that are incompatible with local elected positions.

Country Profiles

Because of the length of the Country Profiles, they have been organized separately and include:

Annex A-1	Canada
Annex A-2	France
Annex A-3	Lithuania
Annex A-4	Norway
Annex A-5	Poland
Annex A-6	United States

Quick Reference Country/Topic Comparison Table

Topic	Canada	France	Lithuania	Norway	Poland	United States
General	• Pop: 39.7m • Constitutional monarchy • Federal bicameral • Parliamentary democracy	• Pop. 68m • Republic • Unitary parliamentary democracy (semi-presidential)	• Pop. 2.8m • Republic • Parliamentary democracy (semi-presidential)	• Pop. 5.6m • Constitutional monarchy • Unitary parliamentary democracy	• Pop. 38m • Republic • Bicameral parliamentary democracy	• Pop. 341.9m • Presidential Republic • Bicameral parliamentary democracy
Local government (LG) structure and system	• LG not recognized in constitution • 3600 municipalities subordinate to 10 provinces and 3 territorial governments • Mostly single tier system • Strong local democracy • Provincial and territorial ministers oversee LGs.	• LG is recognized in constitution • Nearly 37,000 communes (municipalities), 101 departments, 18 regions • 80% of communes have fewer than 1000 inhabitants • 40 years of decentralization has brought greater democratic governance but simplification of administrative systems still a challenge	• LG is recognized in constitution • 60 municipalities and 10 regions (territorial and statistical units) • Ranks low on decentralization index - more work needed	• LG is recognized in constitution • 428 municipalities, 19 county authorities • Local democracy is strong and local government well established • Decentralization has brought 4 new regions and redistribution of responsibilities among levels of government • No EU decentralization index for Norway as it is not part of the European Union	• LG is recognized in constitution • 2477 municipalities, 314 counties and 16 regions • Decentralization is enshrined in the constitution; however, Poland still ranks low on decentralization 8/27 EU States; needs improvement	• Constitution makes LG a matter of state not federal law • Complex system with 35,705 township and municipal, 39,555 special purpose, and 3,131 county governments in 50 states & 5 territories. • Commitment to representative democracy has been weakened though political and special interests at federal and state levels; less attention to the status of local democracy.
Local government rights, powers, responsibilities and autonomy	• Powers, authority, mandates, rights and responsibilities detailed in municipal acts in each of 10 provinces and 3 territories • Responsibilities mostly similar but also vary from province to province • Municipal autonomy and recognition gradually increasing (decentralization)	• Constitution gives freedom of administration and financial autonomy to sub-national levels of government • Law outlines responsibilities for sub-national governments but approaches vary • No authority can impose on another but cooperation is encouraged • Department Prefects coordinate with LG and represent the State to	• Constitution guarantees LG rights • Law on Local Self-Government (2022) changed role and power of mayors: now have executive authority; no longer council members, cannot vote. Now chair councils and have veto power - some skepticism on new approach • Municipalities have independent and State delegated responsibilities	• All municipalities despite size have same rights and responsibilities • The <i>Local Government Act</i> outlines rules for organization, relationships with state bodies etc. • Municipalities and councils have wide scope in organizing themselves • The County Governor supervises municipalities while central government has overriding authority	• Act on Municipal Self-Government and Act on Three-Tier Territorial Organization of the State regulate local authorities • Responsibilities are direct and delegated by central government • Province governors are mainly responsible for supervision and control.	• Municipalities have no power beyond those granted them by their state constitutions and statutes which vary. • Variety of LG models used which creates significant complexity and ambiguity in how government operates at local level. • Councils have power to enact laws and policies consistent with state law.

Topic	Canada	France	Lithuania	Norway	Poland	United States
		sub-national governments	Supervised by central government			
Mandate and recall of local authorities <i>Imperative mandate</i> <i>Recall, revocation and impeachment</i> <i>Changing party affiliation</i>	“Imperative mandate” concept does not exist in Canadian governance - No nation-wide “recall” statute exists but 2 provinces have recall laws. British Columbia permits recall of provincial legislature members. Alberta allows for recall petitions for provincial and local level under strict rules.	- Constitution explicitly prohibits imperative mandate for national level – no mention of local - Citizens are politically active and referendum to recall a public official from office is permitted with consent of parliament or the president - Social demands for recall to be a legal right continue	- The Constitution prohibits imperative mandate; some attempts to reintroduce for members of Seimas but failed - No reference to imperative mandate or recall by voters for local government	- Imperative mandate and recall by voters are not permitted - Councillors and mayors may be suspended or removed if they are convicted of a criminal offence. - With at least 90% of votes, a municipal/county council may remove a mayor from office for inappropriate conduct or seen to be unfit.	- No imperative mandate in Poland - Councillor mandates are free and not bound by instructions from their constituents - However, referendums are permitted for mayors and councils as a whole - Local governments may be dissolved by the Sjm at the request of the Prime Minister.	- Imperative mandate does not exist today - Impeachment (federal level only) and recall can be used to remove state and local officials from their positions. 19 states permit recall of state officials and at least 30 states allow recall and has been more successful at local level. Methodologies differ widely.
Accountability, ethical conduct and termination of local elected officials <i>Codes of ethics and conduct</i> <i>Conflicts of interest and Confidentiality policies</i> <i>Local integrity/ accountability officers</i> <i>Disciplinary action and termination</i>	- Rigorous framework governing accountability and ethics - Mayors and councillors swear an oath of office. - Accountability and transparency policies including codes of conduct, conflict of interest and “open meetings” are included in all municipal acts. - Municipalities may appoint accountability officers, municipal ombudsmen, auditor-generals (mandatory in some provinces) or use provincial ombudsmen to monitor conduct.	- Central government defines public powers including those delegated to sub-national level - Mayors have wide powers and are not accountable to council – they represent central government in the commune - Conduct codes guide exercise of functions by councillors - Compliance officers provide advice to councillors and Prefects monitor - Only national government can dismiss a mayor or councillor	- Mayors and councillors swear an oath of office. - Rules of conduct are in Law on Local Self-Government - Councillors may terminate or dismiss mayors and deputy mayors if they violate laws and one third express non-confidence in them and vote to dismiss - The municipal council is the “ethics commission” and Special Investigations Service investigates corruption and non-transparency.	- Norway has a well-functioning anti-fraud and corruption system - There are many requirements in law calling for integrity of councillors. - Under the <i>Local Government Act</i>, councils must ensure ethical standards are followed - The CAO is responsible for internal controls. - Control Committees appointed by councils have right of access to perform investigations.	- Mayors and councillors swear an oath. - A Code of Ethics may be adopted by councils and there are regulations governing complaints in the municipal act. - The Prime Minister, governors and regional audit chambers supervise local authorities	- Mayor and councillors swear an oath of office and must undergo training within 90 days. - State laws include codes of conduct governing ethical behaviour of local governments. - Municipalities may adopt their own expanded ethics code(s). - States supervise local governments.
Compensation for local elected officials <i>Remuneration/salary</i> <i>Expenses and allowances</i> <i>Social benefits</i>	- Semi-common approach but compensation varies depending on size of municipality - Councillors are part time and receive stipend/honorariums for time on council	- Decentralization has increased workload for council members - No salaries are paid to local elected officials - Mayors receive a duty allowance	- Mayors work full time and are paid salaries approved by municipal council in accordance with applicable law. - Mayors are entitled to paid and unpaid leaves and receive funds to	- Mayors are full time while councillors are voluntary - no salaries are paid to either. - The <i>Local Government Act</i> provides for compensation for loss of income/ expenses	- Municipal councils set mayor’s remuneration who must report back to council - Allowances are governed by the Finance Act	- The range of compensation for council member is huge. - Some offer regular salaries; other just stipends; some

Topic	Canada	France	Lithuania	Norway	Poland	United States
	business; exception is largest cities where councillors are full time/ paid - Generally, mayors and councillors receive allowances for expenses incurred while doing municipal business - Many have life, health and other insurances and are part of a pension plan - Councils set policies	- Councillors in communes with populations over 100,000 receive an allowance - Councils set the allowance system - Expenses are reimbursed for travel and lodging according to a state formula - Elected representatives join a retirement benefit scheme	represent their municipality. - After a Parliament vote in July 2023, councillors work full time and receive a salary. - Councillors receive the same benefits and leaves as mayors.	while holding office up to prescribed amounts set by councils - Allowances include transport, subsistence and accommodation during travel and training - Mayors receive a pension, unemployment and travel insurance but no health insurance or holidays; councillors receive no social benefits; only travel insurance. - Both may apply for a termination payment.	- Councillors are entitled to unpaid leave for the term of office and 3 months after - Holiday leave is provided	positions are voluntary and unpaid. - Some states provide benefits, leaves - Reimbursement of expenses while performing their council duties is common.
Protection and safeguards for local elected officials <i>Liability insurance</i> <i>Indemnification bylaws</i>	Most municipalities develop an indemnification policy and acquire liability insurance to protect councillors and mayors from legal liability while conducting municipal business unless charged with criminal offence	- Legal protection of local authorities is guaranteed by the Constitution, European Charter of Local Self-Government and the Constitutional Court - Local authorities can challenge decisions taken by State authorities or judicial bodies. - There is no immunity for offences committed outside the public function.	- Local council members do not have special legal status /immunities provided the president, judges, Seimas and government members - Persecution of councillors for their voting or opinions expressed in council or committees is prohibited - Municipalities may appeal to the courts for rights violations	No information was found confirming indemnification policies or other safeguards for local officials.	there is no special protection for local elected officials except the constitution states “the self-governing nature of units of local government shall be protected by the courts” - Article 165(2)	- States typically authorize municipalities to provide by ordinance for the indemnification of their officials for damages and legal costs arising out of performance of their duties. - Municipalities typically carry liability insurance to help officials in case of allegations of wrongful acts in the course of their duties.
Combining a representative mandate with employment/other activities	- Majority of mayors and councillors are employed part- or full-time - Time off from work for council business is negotiated with employers - Councillors work to up 85+ hours per month	- General Code provide guidelines related to employment and being a council member - Councillors negotiate with employers for time off and remuneration during exercise of their council duties - Councillors may receive an allowance for loss of	- The mayor and deputy mayor may not work in other institutions and receive payment except for scientific, pedagogical or creative activities. - Councillors must be released from their jobs for time spent in	- Councils establish regulations for councillors for whom the office is their main occupation. - Under the <i>Working Environment Act</i> councillors may be granted maternity, personal and parental leaves.	- Councillors may continue employment if it does not conflict with their mandate or take a leave of absence - Employers must give time off for councillor work and if a councillor takes a leave, they may return their position or an equivalent one	- Council members may be employed part or full time provided they can devote sufficient time to municipal business. - Some state statutes define positions that mayors and councillors may not hold concurrently

Topic	Canada	France	Lithuania	Norway	Poland	United States
	Dual elected mandates are rare and mostly prohibited by legislation	income by municipality up to an hourly limit per year Mayors may hold up to 4 elected positions – controversial topic in France today	municipal council or committee meetings. Positions incompatible with a councillor mandate: member of municipal staff, the Seimas, European Parliament, government or government agency.	Positions incompatible with a councillor mandate: county and deputy county governor, chief municipal/ county executive or deputy, head of branches of the municipal/county administration, municipal/county treasurer, secretary or auditor.	(including remuneration) at the end of the term Councillors may not work in municipal administrations	Some prohibit officials from holding multiple offices while others allow multiple offices at the same time, e.g. some positions are combined by by-law in smaller towns and cities

Resource People List

These people contributed to the content/validation of this study through interviews, surveys and/or email exchanges.

No.	Name and Contact	Positions
Elected Local Government Officials		
1.	Ms. Renee Giroux rgiroux@gmail.com +1 819-281-1496	• Councillor (part time), Municipalité de Mayo, Québec, Canada • Senior Manager (retired), Program Services Unit, Federation of Canadian Municipalities, City of Ottawa, Canada
2.	Ms. Randy Goulden rgoulden@yorkton.ca +1-306-783-8707	• Councillor (part time), City of Yorkton, Canada • President, Saskatchewan Urban Municipalities Association • Board Member, Federation of Canadian Municipalities • Executive Director, Tourism Yorkton and Yorkton Film Festival
3.	Mr. Berry Vrbanovic Berry.vrbanovic@kitchener.ca +1-519-741-2300	• Mayor (full time), City of Kitchener, Canada, member of Waterloo Regional Council • Co-President of United Cities and Local Governments • President Emeritus (past), Federation of Canadian Municipalities
Association of Local Government Representatives		
4.	Ms. Linda Kreimeryte linda.kreimeryte@lsa.lt +370 6 543 51 56	• Municipal Administration Advisor, Association of Local Authorities in Lithuania, Vilnius, Lithuania
5.	Mr. Volodymyr Myahkokhod auc.communities@gmail.com	• Expert, Analytical Centre, Association of Ukrainian Cities, Kyiv, Ukraine
6.	Mr. Andrzej Porawski Andrzej.porawski@zmp.poznan.pl +48 61 633 50 50	• Executive Director, Association of Polish Cities, Poznan, Poland
7.	Mr. Yaroslav Raboshuk auc.communities@gmail.com	• Director, Analytical Centre, Association of Ukrainian Cities, Kyiv, Ukraine
8.	Ms. Roma Zakaitiene Roma.zakaitienne@lsa.lt +370 5 279 60 63	• Executive Director, Association of Local Authorities in Lithuania, Vilnius, Lithuania (www.lsa.lt)
Local Government Specialists		
9.	Mr. Oleksandr Kucherenko oleksandr.kucherenko@gmail.com	• Director (past), Partnership for Local Economic Development and Democratic Governance (2015-2021) – Kyiv, Ukraine • Deputy Director (past), Municipal Local Economic Development Project (2010-2014) – Kyiv, Ukraine
10.	Ms. Solomiya Rohzko solomiya.rozhko@gmail.com +38 095 684 80 30	• Field Office Coordination Officer (evacuated), European Union Advisory Mission (EUAM) – Kharkiv, Ukraine • Program Manager and Gender Expert, FCM International – Kyiv and Lviv, Ukraine • Consultant (international technical assistance, public relations, translation/interpreting services)
Agenda for Legislative Initiatives – PASS II Partners		
11.	Mr. Volodymyr Skrypets vs@parliament.org.ua	• Legislative Process Expert, Agency for Legislative Initiatives, Kyiv, Ukraine
12.	Ms. Fatima Tretiakova ft@parliament.org.ua	• Project Assistant, Agency for Legislative Initiatives, Kyiv, Ukraine
13.	Mr. Oleksandr Zaslavskiy oz@parliament.org.ua	• Manager, Agency for Legislative Initiatives, Kyiv, Ukraine

No.	Name and Contact	Positions
Parliamentary Centre – PASS II Partners		
14.	Mr. Ivo Balinov ivo.balinov.parl.gc.ca +1-613-884-43196	Regional Director - Asia and Europe, Parliamentary Centre, Ottawa, Canada
15.	Ms. Katie Kissick Katie.kissick@parlcent.org +1-613-947-4999	Junior Project Officer, Asia and Europe, Parliamentary Centre, Ottawa, Canada
16.	Ms. Anastasiya Shtaltovna anastasiya.shtaltovna.parlcent.org +1-438-873-2885	Senior Project Officer – Asia and Europe, Parliamentary Centre, Ottawa, Canada

Key Reference Documents

International Conventions and Charters and Local Government

- United Nations Sustainable Development Goals (SDG) (www.sdgs.un.org)
- European Charter of Local Self-Government and its Additional Protocol on the Right to Participate in the Affairs of a Local Authority, Congress of Local and Regional Authorities. Council of Europe, October 2013 (www.coe.int)

National Legislative Framework Governing Local Governments

- Constitutions and legislative documents for each of the focus countries and Ukraine – these are referenced in the country profiles (see Annex A)
- Constitute - provides a list of the world's constitutions (www.constitute.org)
- Division of Power, European Committee of the Regions (portal.cor.europa.eu)

Status of Local Elected Representatives

- Status of Local Elected Representatives in Europe, Council of European Municipalities and Region, December 2010 (www.ccre.org) – this study compared the status of local representatives of more than 30 European countries (100,000 local authorities) drawing upon CEMR's network of more than 50 associations in 39 European countries and on the legal texts outlining the duties of mayor and local municipal councillors in the participating countries. Although 14 years old, the study was a useful reference.

Recall and Referendums

- Democratic Elections: Holding Referendums at Local Level, Congress of Local and Regional Authorities of the Council of Europe, September 2022 (www.rm.coe.int)
- Revised Code of Good Practice on Referendums, Venice Commission, June 16, 2022
- The Politics of Recall Elections, Yanina Welp, Laurence Whitehead, February 28, 2020
- Report on the Recall of Mayors and Local Elected Representatives, European Commission for Democracy Through Law (Venice Commission) adopted by the Council of Democratic Elections at its 65th Meeting (Venice, 20 June 2019) and the Venice Commission at its 119th Plenary Session (Venice, 21-22 June 2019) (www.venice.coe.int)
- Updated Guidelines to Ensure Fair Referendums in Council of Europe Member States, Parliamentary Assembly, Council of Europe 2019 (Resolution 2251) (www.assembly.coe.int)
- Revised Code of Good Practice in Electoral Matters, Venice Commission 2002 (www.venice.coe.int)

Democracy, Decentralization, Transparency and Corruption

- The annual (2023) Economist Intelligence Unit's *Democracy Index* report analyses the relationship between democracy, war and peace and looks at the geopolitical drivers of conflict and In terms of democracy, it measures "the extent to which citizens can choose their political leaders in free and fair elections, enjoy civil liberties, prefer democracy over other political systems, can and do participate in politics and have a functioning government that acts on their behalf".⁵⁵ (www.eiu.com)
- The European Union's *Decentralization Index* compares political, administrative and fiscal dimensions of decentralization across the 27 EU Member States. Information for France, Lithuania and Poland for 2023 were accessed for this study. (www.portal.cor.europa.eu)

⁵⁵ The *Democracy Index* is published annually by the *Economist Group's Intelligence Unit*, a UK-based private company that publishes the weekly newspaper *The Economist*. The Index measures the quality of democracy across the world, currently in 167 countries and territories, using 60 indicators and categorizes each country into one of four regime types: full democracies, flawed democracies, hybrid regimes and authoritarian regimes.

- Transparency International's *2023 Corruption Perception Index (CPI)* scores and ranks countries by their perceived levels of public sector corruption as assessed by experts and business executives.
(www.transparency.org)

Ukraine Documents

- Action Plan for Ukraine 2023 – 2026, “Resilience, Recovery and Reconstruction”, Council of Europe (www.coe.int)
- Law of Ukraine “On Local Self-Government in Ukraine” May 21, 1997 No. 280/97-BP
- Special Law of Ukraine “On Status of Deputies of Local Councils” No. 93-IV of 11 July 2002

Summary of Roles and Responsibilities of Municipalities

Roles and Responsibilities	Canada	France	Lithuania	Norway	Poland	United States
Municipal operations, administration, public records and finance, bylaws/ordinances	X	X	X	X		X
Municipal companies, agencies, boards	X		X			
Municipal property and facilities	X	X	X	X	X	X
Inter-municipal/government cooperation on service delivery	X	X		X		
Local economic development and urban planning	X	Urban planning	X	X	X	
Land use: zoning, regulations and property assessment	X	X	X		X	
Local taxes: set policies, rates and collection)	X	X	X			X
Public health and safety: primary healthcare, long term care, ambulance)	X		X	Primary healthcare, elderly, disabled	Primary healthcare	
Local infrastructure: sidewalks, road maintenance, snow removal, storm sewers, airports, bridges, harbours	X	X	X	X	X	X
Public transportation (local)	X				X	
Public utilities: water, gas, sewer, electricity, heating, telecommunications	X		Heating, water	X	Electricity, gas, water, heating, telecommunications	X
Waste collection and recycling, landfills	X		X	X	X	X
Fire services	X					
Cemeteries and burial services			X		X	
Public order and safety, police services, defence	X**	X See note				X
Education: nursery, kindergarten, primary, non-formal, adult education, vocational		Nursery, kindergar'n, primary	Children, non-formal, vocational	Nurseries, kindergar'n, primary, lower secondary	Kindergar'n and elementary	X
Social welfare/services: seniors, disabled, housing, childcare, foster care	X	X	X	X	Foster care, housing	X
Promotion of entrepreneurship and business regulations; marketplaces	X		X	X	Markets	X
Animal control: domestic and wild and hunting	X		Hunting areas			
Environmental protection	X		X	X	X	
Arts and culture promotion and support: cultural centres, museums	X	X	X	X	X	X
Library service	X				X	
Sports, recreation, parks	X	X	X		X	

Roles and Responsibilities	Canada	France	Lithuania	Norway	Poland	United States
Tourism		X	X		X	
Local elections	X					

Note #1: Canada. As of November 2022, 138 municipalities operated their own stand-alone police force. Ontario, Quebec and Newfoundland and Labrador have their own provincial police forces. Additionally, there are tribal police forces in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec. The three territories and smaller municipalities (less than 50,000) negotiate service agreements for local services with provincial police services or with the national Royal Canadian Mounted Police.⁵⁶

Note #2: France. Article L1111-4 stipulates “Jurisdiction over the promotion of equality between women and men, culture, sport, tourism, the promotion of regional languages and popular education is shared between the communes, departments, regions and special-status local authorities such as city councils for children, youth and seniors.

Note #3: Lithuania. Municipalities also have delegated responsibilities (Art. 7) which include public registry services; management of local archives; state property management; provision of statistical data; administration and registration of agricultural activities; administration of rural development measures; participation in labour market measures; social benefits administration; social care for the severely disabled; organization of compulsory education (pre-school, primary, secondary and vocational); youth policy implementation; administration of rural development measures; participation in the organization of elections; surveys, initiatives and censuses; provision of state-guaranteed primary legal assistance; civil protection; fire protection; radiation protection; participation in mobilization efforts; participation in the management of national parks; organization of secondary health care; and health care at general education and vocational training schools.⁵⁷

Note #4: Norway. Counties have the following responsibilities: upper secondary school; regional development; county roads and public transport; regional planning and business development; culture (museums, libraries, sports); cultural heritage: environmental issues.

Note #5: Poland. Municipal authorities are also responsible for certain assignments delegated by the central government, for example: civil status (such as civil registration status, issuing a decision on the first and last names); civil registration (including registration events); national defence (including keeping a register of pre-recruits, conduct defence exercises and training, planning and preparation of medical cover for defence needs, keeping control of subordinate units in this area, etc.); civil defence (including updating civil defence plans, plan for protection of monuments, evacuation plans, creation of civil defence formations and supplying them with equipment, technical means, uniforms, conducting exercises, training of civil defence formations and population of common self-defence); and many others.

Note #6: United States. There are differences from state to state in the power and authority granted to municipalities as well as in their delegated roles and responsibilities creating significant complexity and ambiguity in how government operates and what services are provided at the local level.

⁵⁶ The Municipal Role in Policing, Institute on Municipal Finance and Governance, November 2022

⁵⁷ www.portal.cor.europa.eu

Municipalities and Autonomy

The *Local Autonomy Index*⁵⁸ created by the *European Commission* ranks 57 countries across 30 years (1990 – 2020) on the degree of autonomy their municipalities enjoy based on seven dimensions:

Dimensions	Description
• Legal autonomy (legal protection)	• The position given to municipalities within the country's legal framework
• Organizational autonomy	• The extent to which local authorities are able to decide aspects of their political system and their own administration
• Policy scope	• The range of functions or tasks where municipalities are effectively involved in the delivery of services, be it through their own financial resources and/or through their own staff.
• Effective political discretion	• The range of tasks over which local government effectively has a say and whether it enjoys a general competence clause.
• Financial autonomy	• Combines variables related to financial resources of local government giving them the possibility to influence their own budget.
• Non-interference	• Combines the importance given to municipalities within the state and the extent to which municipalities are controlled by higher levels of the state.
• Access	• The extent to which municipalities are able to influence political decisions on higher levels.

Over time, countries with the largest increases in ratings include Norway while the biggest decreases over time are found in Poland. Currently, countries referenced for this study ranked as follows:

- High degree of autonomy (index values above 70): **France** (75.63)
- Medium-high degree of autonomy (index values between 60 and 70): **Norway** (70.84), **United States** (67.10), **Lithuania** (62.77), **Poland** (61.16)
- Medium degree of local autonomy (values between 50 and 60): n/a
- Medium-low degree of autonomy (values between 40 and 50): **Ukraine** (49.09), **Canada** (45.52)

A Note on Canada

Despite significant progress in terms of autonomy from a legal standpoint in the last 25 years, Canadian municipalities, no matter their size, are still very much subordinate to the control of the provinces and the statutes that govern them which vary from province to province. Historically written in a narrow and restrictive way, the reforms of the 1990s and since have marked a major shift in the way provinces delegate powers to municipalities – they have evolved from specific to more general ones. In some provinces, these reforms also include the acknowledgement of municipalities as: an “order of government” (still in a context of legal subordination to the provinces), with natural person powers, and guarantees of consultation (or approval) prior to certain provincial actions and sharing of financial resources in the case of transfer of powers. The *Quebec Municipal Powers Act* is quite explicit in this regard, as it provides that “under this Act, municipalities are granted powers enabling them to respond to various changing municipal needs in the interest of their citizens”.

⁵⁸ Self-Rule Index for Local Authorities in the European Union, Council of Europe and Organization for Economic Cooperation and Development (OECD) Countries, 1990-2020, Directorate-General for Regional and Urban Policy, European Commission, December 2022

This new way of empowering municipalities and interpreting their powers was explicitly endorsed by the Supreme Court of Canada⁵⁹ following landmark statements by Supreme Court Justice McLachlin about the importance of local governments and the deferential approach courts should therefore adopt when ruling on the validity of by-laws or decisions of elected municipal councils. This broader and more liberal perspective on municipal governments has reached a consensus and become an essential part of the applicable legal approach to the judicial review of municipal decisions. However, despite these statutory and judicial milestones, several restrictions to this new legal autonomy persist across Canada – all of them reminders of the hierarchical relationship that exists in law between municipalities and provinces. For example, in environment and infrastructure, restrictions stand out. Some modernized statutes include a provision that explicitly gives precedence to provincial legislation in case of a conflict with a municipal by-law. In the environmental field where municipalities were given broad powers, the *Environment Quality Act* prioritizes provincial regulation – conflict or not – over municipal by-laws that have the same object, unless there is ministerial approval.⁶⁰

Twenty-five years after the enactment of important and historic statutory reforms, municipal powers in Canada, from a legal perspective, are still considerably limited by the provinces. The work of Alison Smith and Zachary Spicer who developed the first index to quantitatively measure the autonomy of large Canadian cities using indicators in three categories (legal and administrative autonomy, fiscal autonomy and political autonomy) confirms this. They found that “in light of international findings of local autonomy, Canada is clearly the laggard in devolving responsibility and autonomy to the local level” and that “provincial controls on local governments in Canada are among the strongest in the world.”⁶¹

⁵⁹ United Taxi Drivers’ Fellowship of Southern Alberta v Calgary (City).

⁶⁰ Journal of Law and Social Policy, Vol. 34 (2021), Art. 5

⁶¹ A Pipeline Story: The Evolving Autonomy of Canadian Municipalities, Benoit Frate, Department of Urban Studies and Tourism, University of Quebec at Montreal and David Robitaille, Faculty of Law, University of Ottawa, Journal of Law and Social Policy, Article 5, Volume 34, Toronto v Ontario: Implications for Canadian Local Democracy, Guest Editors: Alexandra Flynn and Mariana Valverde, February 2021
www.digitalcommons.osgoode.yorku.ca

Imperative Mandate

The origin of imperative mandate⁶² is found in Roman law. Historically, the “imperative mandate” arose in a context in which power and political authority was not monopolized by the state but rather distributed in a plurality of municipalities and assemblies (councils) with specific political authorities. Deputies⁶³ in municipalities were equipped with clear and detailed instructions from their communities and were not free to depart from these. Towns required their deputies to take oaths neither to vary from their instructions nor to overstep their mandates which were officially sanctioned by a public notary.

Starting in the 17th century, liberal democratic theory provided the foundations for “representative mandate” in connection with a new source of legitimacy and sovereignty: the nation had established that imperative mandate was incompatible with democracy, but that “representative mandate” characterized it. The imperative mandate gave way over time to the gradual enfranchisement of representatives and eventually was abandoned. Although, until the late 1980s, it was the rule in socialist countries. The law in those countries not only stipulated that parliamentarians were accountable to the electorate but also guaranteed the effective exercise of that responsibility in two provisions. First, parliamentarians were required to report regularly to the electorate on their individual actions and the actions of the assembly - in some cases, that obligation was laid down by law. Secondly, parliamentarians could be recalled by an electorate if they betrayed the voters’ trust or committed any act “unworthy” of their office (Hungary, Bulgaria, Czechoslovakia, Germany, **Poland**, Romania). In these cases, the electors (the people) were the final arbiters in a recall process. In China and Cuba, the possibility of party or other state organs intervening has been an option. Nevertheless, it should be noted that recall has not been exercised in these countries. Recall is the subject of Section 4.2.2 of the study and also Annex H.

Since the fall of the Berlin Wall, the imperative mandate has become even less common. Among the former Socialist countries of Eastern Europe, it has survived only in Belarus. However, it has not completely disappeared and still exists in many developing countries (Indonesia, Cuba, Fiji, Namibia and Seychelles and, also in the German Bundesrat⁶⁴. Some countries have a special body responsible for validating parliamentarians’ mandates (Denmark, Hungary, Latvia, Luxembourg, Netherlands, Romania, Russian Federation). The Clerk of the Crown is responsible for validation in the United Kingdom and State Governors in the **United States**.⁶⁵

Today, Constitutional provisions in most member states of the *Council of Europe* expressly prohibit imperative mandate as it is widely understood to be contrary to democratic principles of the modern state and many constitutions explicitly affirm officials do not represent their constituency or department but the nation as a whole and are free to vote as they wish. In **France**, imperative mandate has been banned since 1789 and Article 27 of Constitution of the Fifth Republic stipulates “imperative mandates shall be null and void”. Identical provisions are found in the constitutions of **Lithuania** (Article 59) and **Poland** and in the *Statute for Members of the European Parliament* which asserts: “Members of the European Parliament (MEP) must be free and independent and vote on an individual and personal basis.”

⁶² Defined as a political system in which representatives are required to enact policies in accordance with orders or instructions received from their voters.

⁶³ Members of council

⁶⁴ The German Bundesrat is a legislative body that represents the sixteen Lander (federated states) of Germany at the federal level.

⁶⁵ Chapter 3. The Imperative Mandate from the *Parliamentary Mandate: A Global Comparative Study*, Marc Van der Hulst, Inter-Parliamentary Union, Geneva, 2000, www.ipu.org

In most European parliaments, deputies have a “representative mandate” defined as general, free and irrevocable, implying freedom of action, opinion and expression and an individual right to vote. Common features of the representative mandate are (a) it is a general mandate; (b) parliamentarians do not represent their constituency or department but rather the nation as a whole; and (c) although some members of parliament are elected to represent their constituencies without, however, opting for an imperative mandate since members are free to vote as they wish. In practice, a few countries including Ukraine still have laws reflecting a kind of quasi-imperative mandate to try to deal with party defection or party switching. The Ukrainian Rada has expanded the application of this party-related “mandate provision” from state level to local self-government councils. See more on this topic in Section 4.2.3 of the study under *Change in Party Affiliation* (“Crossing the Floor Crossing Practices”).

The *European Commission for Democracy through Law* – commonly known as the *Venice Commission* – is the *Council of Europe’s* advisory (non-binding) body on constitutional matters. Since independence and at the request of *Ukraine’s Constitutional Court*, the *Venice Commission* has provided independent opinions on several proposed Constitutional/legal amendments relating to imperative mandate and the grounds for early termination of an MP’s mandate. The Commission has advised Ukraine that the free and independent mandate of the deputies should be explicitly guaranteed and has counselled against proposed provisions in the draft laws. Further, it has repeatedly underlined the incompatibility of these laws with European standards and with the role a deputy must play in a free parliamentary system.

In its 2009 *Report on the Imperative Mandate and Similar Practices*, the *Venice Commission* asserted the incompatibility of the “imperative mandate” with the “European tradition of the free mandate of parliamentarians”. The Commission concluded “the prohibition of imperative mandates must prevail as the cornerstone of European democratic constitutionalism”.⁶⁶ The Commission also stressed “Even if constitutional provisions expressly prohibit imperative mandate of parliamentarians at national level, the same principles should apply to all representatives at regional and local level as well.” The Commission has also counselled that even if a few member states have legislation giving the power to political parties to make members of the elected bodies resign if they change their political affiliation, the basic constitutional principle prohibiting imperative mandate, or any other form of policy depriving representatives of their mandate must prevail.

As stated above, the Commission firmly concluded the basic constitutional principle which prohibits imperative mandate or any other form of politically depriving representatives of their mandates “must prevail as a cornerstone of European democratic constitutionalism”. However, the Commission does concede there are still legislative provisions and related practices allowed by national political and constitutional traditions which deviate from this principle, and it has observed “in these countries, these practices have been considered consistent with their own constitutions”.

With regard to the Commission’s opinions about the case of Ukraine, it states a clear distinction needs to be made between cases involving the legal accountability of the elected official that should be established in court, and situations where the political accountability of the official is at issue and may be settled as an exceptional measure, by recall. In addition, the Commission asserts, in its view, it would be more appropriate to provide for the termination of a mandate “through a legal procedure which would comply with the principle of the rule of law and avoid the use of vague concepts likely to result in arbitrary interpretations that are essentially motivated by political reasons”.⁶⁷

Annex H

⁶⁶ European Commission for Democracy through Law (Venice Commission) *Report on the Imperative Mandate and Similar Practices* adopted by the Council for Democratic Elections at its 28th meeting in Venice on March 14, 2009 and by the Venice Commission at its 79th Plenary Session in Venice June 12-13, 2009, <http://venice.coe.int>

⁶⁷ *idem*

Recall, Revocation and Impeachment

Recall. Research reveals accountability⁶⁸ of local governments, and the recall instrument has been and remains a controversial topic. Today's democracies are primarily representative democracies and, therefore most constitutions explicitly prohibit imperative mandate and proclaim that parliament represents the people and parliamentarians are representatives of the whole country and not of their constituency.

In a democracy, local politicians are, in principle, primarily accountable to the citizens who elect them. In practice, the links are often tenuous and politicians are increasingly perceived as disconnected from their voters, as they tend to be accountable first to their party leadership and to political decision-makers, and only secondarily to citizens. This has motivated attempts to introduce mechanisms for strengthening the relationship between the electors and the elected officials, and for more effective and direct participation, including regulations on recall to help restore the links between voters and elected officials and to enable voters to provide feedback on the performance of the elected, including removing them as a sanction for a poor record or unethical behaviours.

Few European legal systems provide for recall. However, based on national constitutional traditions, exceptions are permitted mainly at local level by constitutions, statutes and doctrine. As an instrument of direct democracy, the recall is part of a set of direct democratic mechanisms of control, agenda setting and accountability beyond elections which may operate according to the national legal and constitutional traditions as a complement to representative democracy (the popular initiative, the referendum, the petition, the recall and the veto).

According to information collected by the *Venice Commission*, "at least 15 European countries have recall (seen as a "loss of confidence" by the electorate) at the local level with different degrees of activation in practice":

- **Croatia.** The municipal prefect (mayor) and deputy may be recalled through a popular vote (20% of total voters or 2/3 members of the local representative body). Legislation forbids recall for members of local representative bodies.
- **Germany.** Mayors may be recalled in 5 states (lander) under two variants of recall mechanisms, either by citizen voters or by the local council.
- **Latvia.** Recall exists but only for parliament as a whole
- **Liechtenstein.** Recall exists only for parliament as a whole
- **Moldova.** Recall of the president is possible.
- **Poland.** Legislation including the Constitution provides for local referendums and includes recall. Between 2010 and 2014, local recall elections took place in 111 municipalities – 16 resulted in mayor's dismissal; in at least one case – Warsaw – it failed because it only had 25% instead of 29% participation in the vote.
- **Romania.** The local council may be dissolved, and the mayor removed as well as the president.
- **Russian Federation.** Members of regional parliaments may be subject to recall. Grounds for initiating recall of a municipal official must be established by the municipality's Charter but are limited to "specific unlawful acts" established by a court judgment. Legislation varies from region to region and in some cases have been recognized as unconstitutional by the Constitutional Court. Some case-law has established safeguards.
- **Slovakia.** Mayors may be recalled by local popular vote. In such votes, only about a third have been successful.
- **Slovenia.** Attempts to introduce recall have failed.
- **Spain.** A special case of recall is in place whereby citizens may initiate and pass a motion of non-confidence in small municipalities (called "concejo abierto").
- **Switzerland.** Recall of local authorities is possible in 6 states (cantons) but most attempts have failed usually due to insufficient numbers of signatures.
- **Ukraine.** Citizens may recall only mayors by way of popular vote.

⁶⁸ An obligation or willingness to accept responsibility or to account for one's actions in the performance of one's functions/duties.

- **United Kingdom.** Recall exists for members of parliament based on specific grounds. Attempts to introduce recall have failed.
- Recall was allowed in the past but is now abolished in **Serbia** and the former **Yugoslav Republic of Macedonia**.

Most legislation and practice examples of recall are actually found outside Europe where it is allowed in more than 25 countries⁶⁹ with significant differences regarding the level of regulation (national or subnational), the level at which it may be applied (national, regional or local), the authorities concerned and related grounds and procedure.

Country Examples

- **Argentina:** some provinces have regulated recall for provincial and municipal level. It amounts to a “no-confidence vote” due to poor management of the community. Participation in the recall vote is compulsory and the percentage to approve recall varies depending on the province.
- **Canada.** Two provinces provide for the recall of members – British Columbia allows recall for members of the provincial legislature and Alberta has recall for local council members.
- **Colombia:** only mayors and governors may be recalled but not members of local councils.
- **Ecuador:** recall is in Article 61 of the Constitution providing the right “to recall authorities elected by universal suffrage”. This means recall is possible for mayors and members of local councils, but certain rules apply.
- **Japan.** Recall exists for all subnational authorities and concerns member of legislative bodies more often than the executive.
- **Peru:** recall is also constitutionally (Article 2.17 and 31.1) protected as a citizen’s participatory right and is used extensively at the local level. Reasons must be given for initiating recall. In 2017, 27 votes took place; only 13 were successful.
- **Costa Rica:** Mayors may be removed based on regulations in the Municipal Code (1998).
- **United States.** Recall of state officials exists in 19 states. At least 30 states have recall rules for removing locally elected officials including mayors and members of local councils. See Annex I for reference on California Procedure for Recalling State and Local Officials.
- Recall at all levels is allowed in **Bolivia, Venezuela and Taiwan**. In **Japan**, it applied to all authorities at subnational level. **Korea** has recall for mayors and members of local council excluding those elected by the proportional system.

Revocation (by another body) exists in Spain, Estonia, Serbia and Italy.

On November 7, 2017, the *Congress of Local and Regional Authorities* of the *Council of Europe* asked the *Venice Commission* to examine the compatibility of local recall votes with international standards and best practice because of an ongoing practice in Moldova to recall mayors through popular vote. The Commission prepared an analysis⁷⁰ by which representatives can lose their mandate and examined the concept of local recall vote as a mechanism of direct participation and justification in representative democracy and its impact on local governance. Their work looked at practice examples in both Europe and beyond in light of the principles of representative democracy. The following text borrows liberally from the Commission’s analysis.

- The Commission defines “recall” as a popular vote that directly gives voters the power of removal of an elected official. Recall must be clearly distinguished from “revocation” which is the power of another body to withdraw a mandate - in principle one it has conferred. Recall and revocation are political instruments versus “impeachment” (“destitution” in French) which is a sanction following a legislative violation which may be imposed by the body to which the concerned official belongs or by a judicial or other body with authority to supervise the municipal body or official.⁷¹

⁶⁹ Some of these are: Bolivia, Ecuador, Venezuela, Taiwan for all elected authorities; Ethiopia, Kyrgyzstan, Kiribati, Nigeria, Liberia, Panama, Palau and Uganda for members of parliament.

⁷⁰ The Recall of Mayors and Local Elected Representatives – Venice commission (www.te.gob.mx). June 2019

⁷¹ The terms defined here may not be exactly reflected in the different countries and languages.

- The Commission listed the European and international instruments and documents of relevance for the analysis of the concept of local recall and related topics at the local level such as free and imperative mandates and local self-government principles including citizens' participatory rights – some of these are listed in Annex D – Key Reference Documents

The Commission's main analytical points and conclusions:

- Political representation and representative institutions are at the core of contemporary democracies. The principle of free political mandate and its corollary, the prohibition of any imperative mandate, are at the foundation of representative democracy.
- Imperative mandate has given way through history to the graduate enfranchisement of representatives and been replaced by a system of representative government where "representatives do not exclusively represent their local electors but an abstract body - the nation - whose will is superior of, and different from local constituencies".⁷²
- The recall of elected officials provides the electorate with a tool for enforcing political accountability through a popular vote (referendum) thus enabling them to remove their elected officials from office before the end of their term, i.e. without waiting for the next regular election.
- The recall touches upon the very essence of a representative democracy, a system based by definition, on the principle of representation where citizens transfer their sovereignty – that is, the right to rule – to their elected representatives who, on behalf of the citizens, make decisions and establish policies in the interest of all. In this system, regular elections, where voters opt for renewing/or not the mandate of elected representatives, constitute the main mechanism by which political accountability is realized.
- Based on classical theory of political representation⁷³, a distinction has to be made between representatives of a local council (deliberative body) and those who hold executive functions, i.e., the mayor.

The Commission concludes prohibition of the imperative mandate only concerns members of local councils who must reach their decisions through the process of consultation and debate which is at odds with the notion of imperative mandate. Further, that revocation and recall of elected representatives appear at odds with the representative principle at the executive branch of government, nationally or at subnational levels.

Common Features. The Venice Commission has observed a number of common features in national legislation and practical examples of recall:

Common Features/Practical Examples

- Recall is provided for by legislation in a limited number of today's democracies and in those, there is no commonality: some countries provide for recall at all levels, some at national level only, others at regional or local level and no preference for recall of executive officials versus members of representative bodies or assemblies as a whole.
- Recall is rarely used in practice except in a few countries (Romania for President, for regional and (mostly) local executive authorities, in Europe: Poland and Slovakia; outside Europe: Peru, United States, Ecuador and Japan),
- Recall, as a rule, is associated with the direct election by the voters and there are virtually no examples of recall by voters of officials who are not elected by direct vote – this is true for members of legislative assemblies (commonly elected directly) and also executive officials including mayors.
- There are some examples of national and subnational systems where regional or local council members whose mandate is the result of popular vote may be subject to recall. In some cases, recall may concern a regional or municipal council as a whole, in others, individual members of council.
- Where mayors are not directly elected, preference is given to a system of a no-confidence motion enabling the local council to decide on termination or not.

⁷² For a brief historical and theoretical background on the imperative mandate, see Venice Commission, Report on the Imperative mandate and similar practices, CDL-AD(2009)027, par. 4-7.

⁷³ E. Burke and Sieyès agreed during the 18th century on the free mandate of representatives as a basic characteristic of political representation.

The Commission concludes “the election system for the office of mayor (whether by direct or indirect elections) has a direct impact on the choice of the mechanisms in place in different countries for the removal of mayors, before the end of their term. If a mayor is directly elected by the people, revocation by the municipal council does not seem an option unless it is confirmed by a popular vote or it implies new elections to the municipal council, following its automatic dissolution, as is the case in Italy.”⁷⁴

Conditions and Procedures. The Venice Commission believes it is important, in terms of equality of municipalities and elected representatives, but also for reasons of predictability and stability of the applicable rules that the general framework for the recall be established by the law, at national or regional level and not left to the decision for individual municipalities. The recall process must be a strictly regulated and institutionalized mechanism. The Commission stresses... should be no confusion - recall is a political institution and destitution a legal one. Typically, legislation illustrates several common aspects in procedure:

- The initiative for the recall (grounds/justification should be clearly embedded in legislation)
- Timeframe and/or time limits for the process
- Minimum number of signatures as an activating condition
- Quorum requirements (turnout and approval majority)
- Possible involvement of the municipal council
- Judicial control of the procedure

Initiative. In most cases, legislation provides that the popular recall may be initiated directly by citizens. The number of signatures activating the recall should be high enough to prevent too frequent votes on the recall⁷⁵ with the necessary percentage higher in small than in big municipalities.

Quorum. Apart from the number of signatures or voters or of members of the local council required to initiate the process, a minimum number of voters taking part in the vote and/or approval quorums often must be reached.

Timeframe. In virtually, all countries where the recall is allowed, there are strict rules establishing time limits, during the mayor’s term, within which the procedure for recall may be initiated, typically six months to one year after the start and before the end of the term.

Judicial Review. Information on steps and conditions regarding judicial review is limited. However, judicial review of the procedural requirements is essential. In the absence of sufficient judicial guarantees, the recall cannot be considered compatible with international standards.

Elected Official Response. When recall is activated, the Venice Commission finds it is essential for the concerned elected officials to be provided adequate opportunities to give explanations and make known his/her views on the action/inaction complained of and the shortcomings having led to the activation of the recall.

The Commission has completed several analytical reports including its *2009 Report on the Imperative Mandate and Similar Practices* in which they took note of legislative provisions and related practices, allowed by national political and constitutional traditions that deviate from the principle that “the basic constitutional principle which prohibits imperative mandate or any other form of politically depriving representatives of their mandates must prevail as a cornerstone of European democratic constitutionalism”. In such countries, these practices are considered consistent with their own constitutions. Accordingly, in the case of Ukraine, the Commission acknowledged the difficulty to articulate a direct criticism of such mechanisms, “since there are precedents in democratic countries” (para 35).

⁷⁴ Report on The Recall of Mayors and Local Elected Representatives, European Commission for Democracy Through Law (Venice Commission), Opinion No. 910/2017. CDL-AD(2019)011rev. Section 60. Common Features, Pg. 15, Strasbourg, July 4, 2019. Adopted by the Council of Democratic Elections at its 65th Meeting (Venice, June 20, 2010 and the Venice Commission at its 119th Plenary Session, Venice, June 21-22, 2019.

⁷⁵ The number of signatures required for the recall request or petition usually represents a percentage of the votes obtained by the mayor upon election, the range is wide from 5 or 10% up to 40% of the number of those having elected the mayor. (check against countries studied)

However, the Commission believes a key principle which should be a prerequisite for any recourse to recall, when grounds for curtailing the elective mandate imply legal judgments is that these situations should be dealt with neutral and independent legal bodies. In other words, “a clear distinction needs to be made between cases involving the legal accountability of the elected official, to be established in court, and situations where the political accountability of the official is at issue and may be settled, as an exceptional measure, by recall. Accordingly, in their opinion on Ukraine, the Commission stressed “it would be more appropriate to provide for the termination of a mandate through a legal procedure...and avoid the use of vague concepts likely to result in arbitrary interpretations essentially motivated by political reasons”.

It is useful to include here the potential and risks of recall identified by the Venice Commission:

Potential/Pros

- Recall can in principle play a role as a protective and preventive mechanism from corrupt and irresponsible holders of political power.
- Recall thus has the potential to bring elected officials closer to their voters and by enabling permanent control of the elected officials make them more accountable and more responsive to the needs of the people they serve. It could help bridge the democratic gap engendered by often lower levels of participation in elections and motivate public participation and interest in public affairs between elections.
- Recall is a mechanism that shifts the balance of power between electors and the elected. Recall may also be an instrument to settle conflicts between mayors and local councils if both are directly elected and provide unable to cooperate.

Risks/Cons

In the view of the Venice Commission, there are considerable risks.

- If not precisely defined and established, recall can be abused as a tool by political acts/parties in the battle against the political opponents but also by incumbents to artificially alter the conditions of electoral competition and becomes a “political weapon”.
- Recall can be misused by various interest or pressure groups to destabilize the governance and make it inefficient by preventing selected politicians from taking certain steps or decisions because of the danger of being removed by citizens. This makes public office less attractive and may lead to irresponsible behaviour.
- At the local level, the danger of manipulation is even higher: the recall may be used by the ruling parties at central level to exert a pressure on opposition-led municipality leaders thus reducing both local autonomy and the political pluralism in the country.
- There are different risks according to the different forms of recall, e.g. by electors versus local council which, as already stated, is problematic.
- Further, vulnerabilities include in addition to the often prominent role of money in the recall process, societal costs: climate of confusion, suspicion and division, undermining the trust of the electorate in people they elected as well as in politics and representative democracy as a whole.

The Venice Commission has made the following **recommendations** regarding recall:

- Recall be permitted only in respect of mayors who are directly elected, when and if prescribed by the Constitution or national/regional law and should be only complementing other mechanisms of representative democracy. Relevant provisions should attempt to find a balance between the need for voters to be able to remove an elected officials having lost their confidence and the necessity to prevent misuse of the process. Individual recall of local council members should not be allowed.

- In those situations where the reasons for terminating the mandate imply legal assessments (destitution/impeachment), the end of the mandate should be the subject of a judicial decision taken in an urgent judicial procedure within the timeframe enshrined in the law and not of a popular vote; therefore, a clear distinction must be made between the legal and political responsibility of elected mayors, and between the institutions of recall, revocation and destitution.
- Recall should be used as an exceptional tool and national or regional legislation should regulate it very carefully and only as a complement to other democratic mechanisms which are available in a representative system.
- Legislation should provide for adequate procedural safeguards, ensuring transparency, legitimacy and legality of the recall process; clearly identify the actors of the process and define sufficiently high thresholds for initiating (number of signatures or of members of the local council) and validating the recall; provide for a clear and reasonable timeframe; and for judicial review of the different steps and conditions in the process.

The European Charter of Local Self-Government and Recall. The *Congress of Local and Regional Authorities* has stated “Local democracy is a constituent part of European democracy.” This implies local elected representatives must be able to exercise their functions freely, in fact and in law, in the same way that elected representatives at the national level must be able to exercise theirs in any democratic state.” Accordingly, the *European Charter of Local Self-Government*⁷⁶ confirms the primacy of representative democracy with all its implications at local level but it also remains open to direct democracy processes as complementary tools⁷⁷.

The Charter itself does not explicitly prohibit the recourse to recall of a local representative including a directly elected mayor nor does it contain clear guidance as to the advisable limited use of the recall. At the same time, neither does it explicitly authorize recall. In fact, the Charter – ratified by all member states of the Council of Europe – provides for a variable system of implementing its principles in which each country may choose which articles to select or opt out of giving States the choice to be or not be legally bound by some of its provisions to formulate standards or principles.

The *Congress* quotes the doctrine of the **Venice Commission** on the recall for parliamentarians and is of the view that this doctrine – which considers the recall of (individual) parliamentarians as a form of imperative mandate – “should also be applicable *mutatis mutandis* (comparing two cases) to local elected representatives.”

Another Point of View on Recall. An interesting research article titled “*Can the Recall Improve Electoral Representation?*” by Pierre-Etienne Vandamme of the Université Libre de Bruxelles explores several dimensions of “recall” as well as pros and cons which may be of interest to the Rada Committee. Vandamme concludes the concept of “representative government” is no longer unquestioned and demands for additional mechanisms of accountability has increased and is widespread (Whitehead, 2018, p. 1354) thus having a say every 4-6 years may not be enough. Vandamme notes recall is mostly ignored but where it is known and used, it is popular, not so much because it is initiated, but because theoretically it offers more control over elected officials who represent the people. Further, Vandamme argues recall could be valuable as it expands the means for monitoring representatives “without jeopardizing their necessary independence” and it could “strengthen accountability and responsiveness to the majority”.

However, because it shares many traits with elections, recall remains prone to many of elections’ shortcomings (lack of information, manipulation of voters, costly campaigns, irrelevant votes). In addition, Vandamme contends “misuses and perverse effects are frequent and teach us to be careful when designing the mechanism.” He calls for consideration of the following: “forbidding recalls in the first part of a term in office, extending terms, having recall initiatives’ justifications check by a non-partisan body, providing a “cooling-off period” and organizing a public hearing

⁷⁶ The European Charter of Local Self-Government is a unique international treaty which is the cornerstone of local democracy in Europe that commits the parties to applying basic rules guaranteeing the political administrative and financial independence of local authorities.

⁷⁷ See Accountability, Ethical Conduct and Termination in the body of the study.

of both sides”. Lastly, Vandamme notes “recall might contribute to improving electoral representation, but provided it is part of a larger bundle of reforms aimed at making representative institutions more inclusive, more deliberative and more reflexive.”⁷⁸

Impeachment. According to British constitutional principles, impeachment procedure makes it possible to dismiss, for treason or serious misconduct, any servant of the State or minister, with the notable exception of the king. When the **United States** was founded, it borrowed the impeachment concept from the British and, in its Constitution, extended the procedure to the head of state - president, vice-president and all civil officers....upon indictment for and conviction of treason, bribery or other crimes and misdemeanors. Under the concept of separation of powers, the impeachment procedure is legal in nature. It is in no way a political sanction. While it is present at the federal level, it also exists in each of the American states, except Oregon. At this level, it can concern *any official*, including the governor.

Since US independence, about 60 impeachment procedures have been initiated although only 21 indictments have passed including 15 federal judges, a secretary to the Cabinet, a Senator and 4 Presidents: Andrew Johnson (charged with adopting a policy of appeasement with the defeated Confederate states – acquitted as two-thirds majority of Senate votes was not reached); Richard Nixon (charged with abuse of power and obstruction of justice - resigned before the Senate trial); Bill Clinton (charged with lying under oath before a federal grand jury and obstructing justice - the Democratic majority Senate dismissed the charge); and Donald Trump (charged with abuse of power re the Ukrainian affairs and obstructing the work of Congress – acquitted by the Senate.) The recent procedures have created a precedent which could transform the provision of impeachment into a sort of habit.

The impeachment procedure was subsequently included in other constitutions such as those of Peru, Venezuela, **Lithuania**, South Korea and Brazil. In **France**, the procedure for dismissal of the President was introduced in the Constitution of the Fifth Republic in the event of high treason.

Annex I

Selected Best Practice Guides and Tools

Ethics, Responsible Behaviour and Transparency

1. **Ukraine Handbook on Transparency and Citizen Participation**, Congress of Local and Regional Authorities of the Council of Europe, February 2021 (2nd edition). Developed as part of the regional partnership project “Strengthening Institutional Frameworks for Local Governance (2015 -2017), then updated as part of the project “Strengthening Democracy and Building Trust at Local Level in Ukraine” 2018 – 2022. Includes chapters on public ethics and accountability; corruption risks; transparency; citizen participation.
2. **Code of Conduct for Members of Council (By-law No. 2018-400)**, City of Ottawa, Ontario, Canada. www.ottawa.ca. Includes an accountability framework and describes policies and procedures governing local council members related to a wide range of integrity and good governance measures.

⁷⁸ *Can the Recall Improve Electoral Representation?* Pierre-Etienne Vandamme, Cevipol, FNRS& Université Libre de Bruxelles, Brussels, Belgium, *Frontiers in Political Science*, September 2020 (www.frontiersin.org/journals/political-science/Articles/10.3389/fpos.2020.00006/full)

3. **Foundational Principles of Responsible Conduct for BC's Local Governments**, British Columbia, Canada. www2.gov.bc.ca. Poster format outlining principles of integrity, respect, accountability, leadership and collaboration.
4. **Ontario Municipal Integrity Commissioners: Best Practice Guide**, Canada July 2023
www.publications.gov.on.ca
5. **Protect Your Municipality: An Anti-Corruption Handbook**, Transparency International Norway and Norwegian Association of Local and Regional Authorities (KS), 2014

Recall and Referendums

6. **The Politics of Recall Elections**, Yanina Welp, Laurence Whitehead, February 28, 2020 (not available online) – a comprehensive analysis of recall processes which have spread globally since the end of the Cold War and which are now re-configuring the political dynamics of electoral democracy. Drawing on the expertise of country experts, the book provides a coherent and theoretically informed framework for mapping and evaluating this fast-evolving phenomenon.
7. **The Revised Code of Good Practice on Referendums, Venice Commission June 17-18, 2022** (www.venice.coe.int). This document replaces the first Code published in March 2007 and is a counterpart document to the *Code of Good Practice in Electoral Matters*. It sets out the principles of European electoral heritage applicable to both referendums and elections (universal, equal, free, secret and direct suffrage) and the conditions for implementation of these principles (rule of law, respect for fundamental rights, stability of the law, organisation of control by an impartial body, existence of an effective appeal system in particular).
8. **Democratic Elections: Holding Referendums at Local Level**, Congress of Local and Regional Authorities of the Council of Europe, September 2022 (www.rm.coe.int) – effectively a best practice booklet that providing comprehensive general information on referendums and effective guidelines on holding referendums at local level.
9. **Recall of a Municipal Councillor Handbook**, Municipal Affairs, Government of Alberta, Canada May 10, 2024 www.alberta.ca/alberta-kings-printer.aspx - A comprehensive guide for recalling municipal councillors.
10. **Procedure for Recalling State and Local Officials**, Prepared by the Office of the Secretary of State, State of California, Revised January 2024. (www.elections.cdn.sos.ca.gov/recalls/recall-procedures-guide.pdf)

Compensation/Remuneration

11. **Council and Board Remuneration Guide**, Union of BC Municipalities, First Edition, September 2019 (www.ubcm.ca). The guide sets out why remuneration for elected officials is important; how and when to conduct remuneration reviews and advice on expenses and benefits.