

Correspondence from Mark Ruskell MSP, 12 February 2026

Dear Ariane,

European Charter of Local Self-Government (Incorporation) (Scotland) Bill: Reconsideration Stage

Thank you for your letter of 2 February inviting my views on proposed amendments to the European Charter of Local Self-Government (Incorporation) (Scotland) Bill at Reconsideration Stage.

I welcome the Reconsideration Stage process for this Bill. To ensure that it could proceed, I fulfilled my role as Member in Charge of the Bill by lodging and moving the motion on reconsideration, which the Parliament agreed to on Wednesday 4 February.

During the debate on that motion, I set out my comments on the Scottish Government's proposed amendments to the Bill, and these are [recorded in the Official Report](#). My contributions to the debate as recorded in the Official Report are set out in full in the Annexe to this letter. For ease of reference, my comments on the proposed amendments specifically are set out in bold. I do not have any further comments on the proposed amendments at this stage.

I am pleased that the Committee is engaging with key stakeholders, including COSLA, in relation to the proposed amendments, and I thank the Committee for its continued work.

As the Scottish Government has agreed to take responsibility for drafting and lodging amendments, any issues highlighted by stakeholders on the detail of the proposed amendments should be directed to the Scottish Government.

The views expressed by stakeholders will also be helpful in informing the debate on the amendments during the formal Reconsideration Stage proceedings, and I look forward to engaging with that process.

Yours sincerely,
Mark Ruskell MSP
MSP for Mid Scotland and Fife

Annexe - Contributions by the Member in Charge to the debate on reconsideration motion

Mark Ruskell (Mid Scotland and Fife) (Green)

I am happy to move the motion to enable the reconsideration of the European Charter of Local Self-Government (Incorporation) (Scotland) Bill. Some members may be surprised to hear me speak to a second member's bill, just days after seeing my Greyhound Racing (Offences) (Scotland) Bill through stage 1, so a little explanation is perhaps required, especially for members who were not present in session 5.

The Euro charter bill, as I call it, was introduced by Andy Wightman in May 2020, and it passed stage 3 on 23 March 2021, shortly before dissolution.

The bill incorporates the European Charter of Local Self-Government into Scots law. The fundamental purpose of incorporation is to strengthen the standing of local government in the democratic governance of Scotland through a range of measures relating to the Scottish ministers, the courts and this Parliament.

The bill was widely supported on a cross-party basis. I pay tribute to Andy Wightman for seeking to elevate the status of local government at a time when concerns about the centralisation of decision making in Edinburgh were rife and the Verity house agreement had yet to be signed.

In summary, the bill places a duty on the Scottish ministers to act compatibly with the charter and to promote self-government. The bill requires the courts to give effect to legislation in a way that is compatible with the charter. It also enables them to declare legislative provisions to be incompatible with the charter and require the Scottish ministers to take remedial action, as well as giving them powers in relation to decisions of Scottish ministers that breach their duties under the charter. Finally, the bill says that bills introduced in the Parliament need to be accompanied by a statement on their compatibility with the charter.

Following stage 3, the bill, together with the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, was referred to the United Kingdom Supreme Court by the Attorney General and the Advocate General for Scotland under section 33(1) of the Scotland Act 1998. In October 2021, the Supreme Court found that the referred provisions were outside the Scottish Parliament's legislative competence.

The two bills were drafted differently and, therefore, the issues before the court were slightly different, but the key question on the Euro charter bill was whether the bill conferred powers on the courts to interpret and scrutinise the legality of legislation passed by the sovereign UK Parliament and whether that modified the effect of section 28(7) of the Scotland Act 1998, which states that the conferral of power on the Scottish Parliament "does not affect the power of the" UK Parliament "to make laws for Scotland."

The first provision in question was section 4(1A) of the Euro charter bill. Section 4(1) provides that legislation referred to in section 4(1A) must be “read and given effect in a way which is compatible with the Charter”.

The Supreme Court ruled that that would sometimes require the courts to modify the meaning and effect of acts of the UK Parliament, which would produce results that the UK Parliament did not intend. Accordingly, the court decided, for the same reasons as applied to the similar section 19(2)(a)(ii) of the UNCRC bill, that section 4(1A) of the Euro charter bill would be outside the legislative competence of this Parliament.

The second provision of this bill that was in question was section 5(1), which confers on the courts the power to declare that a provision of an act is incompatible with the charter. For the same reasons as applied to the similar section 21(5)(b)(ii) of the UNCRC bill, the court decided that section 5(1) of the Euro charter bill would affect the power of the UK Parliament to legislate for Scotland, because it would modify section 28(7) of the Scotland Act 1998, so it fell outside the legislative competence of the Scottish Parliament.

If members in the chamber are still with me, we will move to session 6. With Mr Wightman not being returned as an MSP, the responsibility fell to me, as the designated member now in charge of the bill, to decide whether to move towards a reconsideration stage.

Martin Whitfield (South Scotland) (Lab)

Will the member take an intervention?

Mark Ruskell

If there is time in hand, I will.

The Presiding Officer

There is a little.

Martin Whitfield

I am grateful to Mark Ruskell for taking the intervention and explaining the anomaly that we face. There are proposals with regard to how the bill, if the motion is agreed to this evening, can be rectified, but does he agree that the parliamentary process does not involve quite the same questions as confronted us with the UNCRC bill? There will have

to be careful consideration of how we propose to amend this bill so that, if it comes back, we do not find ourselves in a horrible roundabout that takes us back to where we were.

Mark Ruskell

I agree with the member on that. Clearly, a long time has elapsed, and there have been considerable conversations as well as consideration by both Governments

about what would be a legally robust way forward. I look forward to hearing the cabinet secretary's comments later in the debate, but I think that we have enough time to process the bill efficiently towards a reconsideration phase.

In May 2022, John Swinney gave a statement to Parliament with an update on next steps following the judgment. He said that, although the Euro charter bill was a member's bill, the Scottish Government remained committed to supporting it. Since then, my approach as the designated member has been to respect the will of the Parliament that was expressed in session 5 and to allow the Scottish and UK Governments the opportunity to resolve the issues at the heart of the Supreme Court judgment.

During session 6, I have kept the opportunity to fix the bill open, and I have liaised with both the Scottish Government and the Convention of Scottish Local Authorities throughout.

In October 2024, the Scottish Government confirmed that it would lodge and speak to the necessary amendments, given its experience with the 2023 bill reconsideration stage.

Under standing orders, only the member in charge of a bill may propose that the Parliament reconsider a bill following a reference to the Supreme Court. I have lodged the motion to do so, which we will consider today. I urge members to vote for the motion so that we can allow amendments to be made and so that the bill can, I hope, be agreed to again and move towards royal assent.

I thank the cabinet secretary for engaging with me on the bill. As I said, it has taken a long time to get to this point. I am aware that there are many bills up for debate at this late stage of the parliamentary session, but I hope that it will be a relatively easy and efficient process to get the bill back over the line to the satisfaction of all who are concerned and that there will be no further delay.

I move,

That the Parliament agrees to reconsider the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

[...]

Mark Ruskell

I thank members for their contributions, and I thank COSLA and, in particular, those in its political leadership, who have been absolutely relentless over the past four years in driving towards the line and trying to get the bill back over the line. It has been great to work with them. I also thank Roz Thomson from the non-Government bills unit, who has kept the bill on life support over the past five years.

Before returning to Holyrood in 2016, I spent five years as a councillor in Stirling, and it really left a mark on me, with the importance of strong, accountable, empowered local government. It is absolutely critical; it is the level of government that works closest to the people.

Comments have been made about the Verity house agreement. I do not view it as an end point; it is a start, and it has helped to reset the relationship. I agree with Alex Cole-Hamilton and Alexander Stewart that there is a long way to go.

The bill gives us an opportunity to embed the principles further into the work of both the Scottish Government and the Parliament in the next session. I note that the Verity house agreement committed the Government to embed the European charter into law. That is what local government wants, and it is normal across Europe. If we can get the amendments through and get the bill over the line, that is exactly what it will do.

I will make some brief comments about the amendments that the Government will be proposing. Sections 4 and 5, on interpretation and declarations of incompatibility, will be amended to restrict their application to acts of the Scottish Parliament and Scottish statutory instruments. As the cabinet secretary has outlined, the Government amendments will go further than the two sections of the bill as considered by the UK Supreme Court. They will include amendments, under section 2, to the duty on Scottish ministers to act compatibly with the charter.

We have heard that that is being done on the basis that the Scottish Government, through engagement with the UK Government, has not been able to rule out the possibility of a further referral if section 2 is not amended during the reconsideration stage. That is regrettable. I would ask Mark Griffin to reflect on the fact that there has been a conversation between two Governments—a Labour Government and an SNP Government—and I would have preferred those amendments on section 2 not to have been drafted. However, we are where we are. The amendments will reduce the reach and effect of the bill, because much legislation in devolved areas, such as in education, is still contained within the UK legislation.

My priority, as the designated member, is to see the bill pass the reconsideration stage, avoiding any further referral to the UK Supreme Court. COSLA is content with that approach. It is disappointing that it has taken so long to get clarity on that point from the UK Government but, on balance, it is a lot better to have a bill moved to royal assent than for it to be struck down again and to have an uncertain future, dragging into session 7 of the Parliament.

I will end with the words of Andy Wightman, who said in the stage 3 debate five years ago:

“We are strengthening our democracy; in particular, we are strengthening the institution of our system of government that lies closest to the people ... so that it might serve them better and more effectively and be more responsive to the wishes of local communities, rather than the political imperatives in Edinburgh.”—[Official Report, 23 March 2021; c 80.]

I agreed with those words then and I agree with them now. I urge members to back the motion for reconsideration of the Euro charter bill.