

Agenda Supplement – Legislation, Justice and Constitution Committee

Meeting Venue:

Hybrid – Committee Room 4, Tŷ Hywel,
and Video conference via Zoom

Meeting date: 18 September 2023

Meeting time: 13.05

For further information contact:

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Committee Clerk

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Hybrid – Supplementary Pack

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

3 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered

(14.35 – 14.40)

3.2 SL(6)370 – The Traffic Signs (Amendment) (Wales) Regulations and General Directions 2023

(Pages 1 – 8)

Attached Documents:

LJC(6)-24-23 – Paper 23 – Report

LJC(6)-24-23 – Paper 24 – Welsh Government response

5 Papers to note

(14.45 – 14.50)

5.4 Correspondence from the Minister for Climate Change to the Climate Change, Environment and Infrastructure Committee: Retained EU Law (Revocation and Reform) Act 2023

(Pages 9 – 11)



Attached Documents:

LJC(6)-24-23 – Paper 25 – Letter from the Minister for Climate Change to the Climate Change, Environment and Infrastructure Committee, 15 September 2023

5.5 Written submission: UK–EU Governance inquiry

(Pages 12 – 16)

Attached Documents:

LJC(6)-24-23 – Paper 26 – Written submission by Mr Chesnais–Girard, Chair, Committee of the Regions–UK Contact Group

SL(6)370 - The Traffic Signs (Amendment) (Wales) Regulations and General Directions 2023

Background and Purpose

The Traffic Signs (Amendment) (Wales) Regulations and General Directions 2023 (**the TSRGD 2023**) amend the Traffic Signs Regulations and General Directions 2016 (**the TSRGD 2016**) in relation to Wales. The TSRGD 2016 sets out what traffic signs in Great Britain must look like, what they mean and how they may be placed and illuminated.

These amendments are consequential on and supplementary to the Restricted Roads (20 mph Speed Limit) (Wales) Order 2022, which will reduce the general speed limit for restricted roads in Wales from 30mph to 20mph when it comes into force on 17 September 2023.

The amendments made by the TSRGD 2023 include:

New road safety signs

For example, this new sign to warn of a speed camera and remind drivers of the 20mph speed limit:



Removal of existing signs

For example, this sign (which warns of the end of a 20mph zone and indicates that the national speed limit applies) will no longer be needed when the general speed limit for restricted roads is reduced to 20mph:



New temporary signs

For example, this new temporary sign indicating the commencement point of a new 20mph speed limit (which may be placed during the first 12 months that the 20mph is in force):



Procedure

Negative.

The TSRGD 2023 was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the TSRGD 2023 within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

The following 5 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 3(1)(b) introduces Welsh text to accompany the following sign:



The Welsh text to be used with this sign is “Ysgol”, “Hebryngwr”, “Maes chwarae”, “Plant anabl”, “Plant dall” or “Plant byddar”.

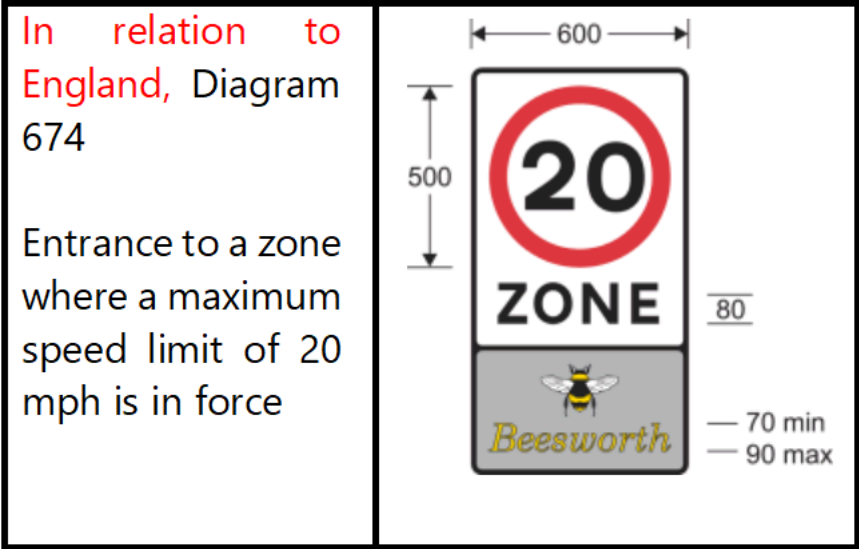
The English-language general description given for this sign in the TSRGD 2023 is “children going to or from school or playground area”. However, in the TSRGD 2016, the general description that accompanies this sign is “children going to or from school or playground ahead”. As a result, following the coming into force of regulation 3(1), this sign will have a different description in Wales than it does in England.

We would welcome clarification as to whether the change from “playground ahead” to “playground area” is intended and, if it is intended, what difference does that make to the placing and effect of this sign?

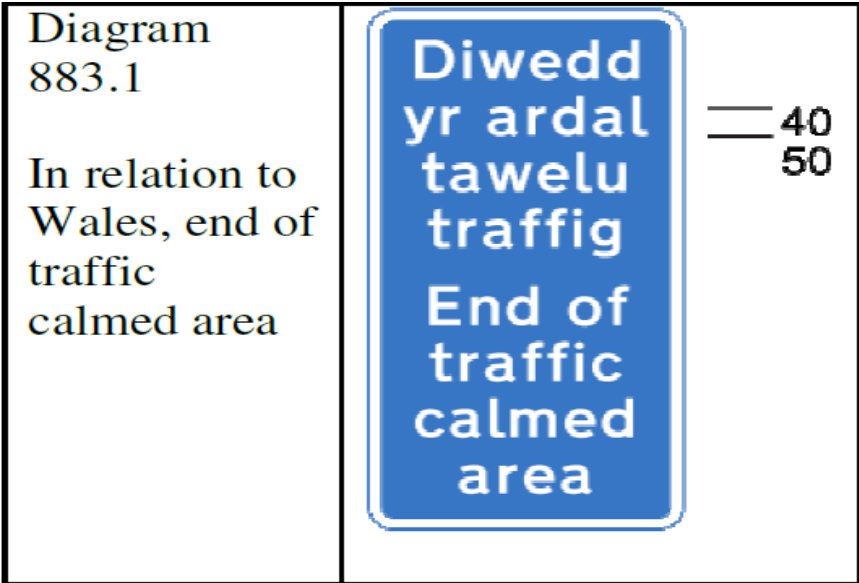
2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Because the TSRGD 2023 applies in relation to Wales, some existing road signs that apply in England and Wales need to apply in England only (i.e. Wales needs to be carved out from the application of some signs in the TSRGD 2016). The TSRGD 2023 achieves this by inserting the words “In relation to England” in respect of some signs in the TSRGD 2016. The words are to be inserted “at the beginning” of the relevant column, but it is unclear precisely where those words should be inserted.

For example, regulation 4(a) of the TSRGD 2023 suggests that the words (i.e. the red text below) will be inserted as follows, **before** the diagram number:



However, where the TSRGD 2023 introduces a new sign for Wales, the words “In relation to Wales” are placed **after** the diagram number. For example, regulation 5 of the TSRGD 2023 includes this new entry:



We would be grateful for clarity as to where the words “In relation to England” should be inserted in the TSRGD 2016. We add that consistency in approach to issues such as this are important to the clarity and accessibility of legislation.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In general direction 9 of the TSRGD 2023, the new paragraph 2 begins with the words “This sign...”. However, this is inconsistent with the drafting of the existing paragraph 2 and of all the other paragraphs in Part 4 of Schedule 10 to TSRGD 2016 which begin with the words “The sign...”.

4. Standing Order 21.2(i) – that there appears to be doubt as to whether it is intra vires; Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In relation to Part 3 of the TSRGD 2023, we raise the following points:

- The preamble does not state which enabling powers the Welsh Ministers are relying on to make Part 3. While we believe the Welsh Ministers do have the powers to make Part 3 under the Road Traffic Regulation Act 1984, those powers should be cited in the preamble. The enabling powers for Parts 1 and 2 have been cited in the preamble.
- The preamble confirms that the consultation requirements set out in the Road Traffic Regulation Act 1984 have been complied with as regards Parts 1 and 2, but there is no mention of consultation on Part 3. We note that the Road Traffic Regulation Act 1984 requires consultation **before regulations can be made** and **before general directions can be given**. We therefore ask the Welsh Government whether any of the consultation requirements in the Road Traffic Regulation Act 1984 apply to Part 3 and, if they do, whether such consultation was carried out before the TSRGD 2023 was made.
- Parts 1 and 2 expressly include provisions to state that they commence on 17 September 2023. However, Part 3 does not include a commencement provision. While it appears from the overall context that Part 3 is also intended to commence on 17 September 2023, there should be express provision stating when Part 3 comes into force.
- It is unclear how Part 3 should be cited. Regulation 1(1)(a) states that Part 1 may be cited as the Traffic Signs (Amendment) (Wales) Regulations 2023. Regulation 1(1)(b) states that **Part 1 together with Part 2** may be cited as the Traffic Signs (Amendment) (Wales) Regulations and General Directions, i.e. the TSRGD 2023. However, it appears to us that Part 3 is also part of the TSRGD 2023, not least because the name of the instrument as a whole is The Traffic Signs (Amendment) (Wales) Regulations and General Directions 2023.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

The numbering of the provisions of the TSRGD 2016 begin with “1” at the beginning of both the regulations in Part 1 and the general directions in Part 2. However, the numbering in the TSRGD 2023 does not re-commence from “1” at each Part; instead, the numbering continues through Parts 1, 2 and 3.

We also note that the provision at 11(4) in Part 3 refers to itself as a “regulation”. However, general directions 9 and 10 are also referred to as “regulations” (see general direction 8 in Part 2).

This further adds to the confusion as to the citation of various provisions of the TSRGD 2023.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

6. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

Part 3 of the TSRGD 2023 contains transitional and saving provisions; as the Explanatory Memorandum says:

Once the TSRGD 2023 is in force, a number of traffic signs and road markings currently in use will no longer be necessary and will therefore not be permitted in Wales. These transitional and savings provisions effectively provide a 'grace' period for certain traffic signs and road markings allowing traffic authorities additional time after the TSRGD 2023 comes into force to ensure the correct traffic signs and road markings are in place and non-compliant/redundant traffic signs and road markings are removed.

We would be grateful if the Welsh Government could explain what this means for the enforcement of road traffic offences during the 'grace' period.

Welsh Government response

A Welsh Government response is required to each of the reporting points.

Committee Consideration

The Committee considered the instrument at its meeting on 11 September 2023 and reports to the Senedd in line with the reporting points above.

Government Response: *The Traffic Signs (Amendment) (Wales) Regulations and General Directions 2023*

Technical Scrutiny point 1:

The Government confirms the use of “playground area” instead of “playground ahead” is a typographical error. The Government does not consider the difference materially affects the operation of the provision, but for consistency will correct the typographical error at the next available opportunity.

Technical Scrutiny point 2:

The Government considers that the words “In relation to England” are inserted into the Traffic Signs Regulations and General Directions 2016 (“TSRGD 2016”) in the same way as when a new sign relating to Wales is introduced in the Traffic Signs (Amendment) (Wales) Regulations and General Directions 2023 (the “Instrument”) (i.e., after the diagram number).

Technical Scrutiny point 3:

The Government notes the minor inconsistency identified but considers there is no room for misunderstanding as a result.

Technical Scrutiny point 4:

The Welsh Ministers make the regulations in Part 3 of the Instrument in reliance on the same enabling powers relied upon in relation to Parts 1 and 2, namely section 64 (1), (2) and (3), section 65 (1) and section 85 (2) of the Road Traffic Regulation Act 1984.

The consultation requirements which apply to Parts 1 and 2 of the Instrument set out in section 65 (3ZC), 85 (10) and 134 (10) and (13) also apply to Part 3 of the Instrument. The transitional and savings provisions within Part 3 of the Instrument have been consulted upon before regulations were made and before the general directions were given in the same consultation exercise involving Parts 1 and 2.

Part 3 will come into force on 17 September 2023 at the same time as Parts 1 and 2.

Part 3 forms part of the Instrument, together with Part 1 and 2.

The Government notes the points made and acknowledges that express provision could have been made for Part 3 in respect of the points clarified above. However the Government considers that it is clear from the context of the Instrument — in particular from the fact that Part 3 makes transitional and savings provision relating to the other parts — that Part 3 is made using the same enabling powers as the other parts, was consulted in the same way and comes into force at the same time.

Technical Scrutiny point 5:

The Government has taken the view that this is effectively one instrument of 3 parts and has therefore only used one set of numbered paragraphs.

The Government notes the minor inconsistency identified at general direction 8 and intends to pursue a correction of this by correction slip.

Merit Scrutiny point 6:

In drafting this Instrument, the Government has considered the effect of the transitional and savings provisions on the enforcement of road traffic offences during the transitional period and considers there will be no impact. The traffic signs caught by these provisions mainly relate to 20mph zones (see items 5 – 7 in the table in Part 2 of Schedule 10) and 20mph repeater signs (see item 1 in the table in Part 2 of Schedule 10) and road markings (see item 9 in the table in Part 2 of Schedule 10). The speed limit on the roads on which these signs are currently placed will not be changing and will remain at 20mph and therefore although highway authorities will be afforded a period after the Instrument comes into force in order to remove redundant traffic signs and ensure all traffic signage complies with the TSRGD 2016 as amended by this Instrument, the signage currently in place will not inhibit highway authorities from enforcing the correct speed limit.

The “*NEW 30MPH SPEED LIMIT IN FORCE*” sign (see item 38 in the table at Part 6 of Schedule 13) will no longer comply with the TSRGD 2016 as amended by this Instrument, but is also caught by the transitional and savings provisions. This is a temporary sign which can only be placed during the period of six months beginning with the day on which a 30mph speed limit comes into force. The transitional and savings provisions in the Instrument are necessary to allow highway authorities to keep these signs in place (for the remainder of the 6 month period for which they can be used under general direction 13 within Part 12 of Schedule 13) on roads where a 30mph speed limit has recently been imposed (and where a 30mph speed limit is remaining in force by way of exception to the Restricted Roads (20 mph Speed Limit) (Wales) Order 2022 (the “20mph Order”)). The Instrument inserts a new sign into the TSRGD 2016 (indicating a new 20mph speed limit – see regulation 6(b)) to be used on roads in Wales where a 20mph speed limit has been imposed as a result of the 20mph Order.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Ein cyf/Our ref: JJ/PO/308/2023

Llyr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

15 September 2023

Dear Llyr,

Thank you for your letter of 25 July 2023 regarding the implications of the Retained EU Law (Revocation and Reform) Act 2023 on environmental legislation.

We share the Committee's concerns about the potential negative impact of the REUL Act on environmental law in Wales. Overall, we maintain the view the REUL Act as an unnecessary, imprecise and politically motivated initiative. It was not a sensible basis for a reasonable reform of retained EU law, which could have been undertaken in a more considered fashion gradually over a period of years.

As it stands, we are confident that revocation of the legislation listed in Schedule 1 to the Act does not do any immediate and substantial impact to environmental law in Wales. However, we have particular concerns about the powers given by the Act to UK Ministers to reform existing pieces of retained EU law (now known as "assimilated law") by statutory instrument. We do not currently have information on exactly if, how, when and in what areas these powers could be used to reform environmental law, and we are seeking further clarity with Defra. Although any such reform in areas of devolved competence would not normally be extended into Wales by decisions of UK Ministers and the UK Parliament, the cross-border implications of any such changes could have negative impacts in Wales. My officials continue to work with Defra to understand their intentions in this area and will keep the Committee informed of developments.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Could you share the Welsh Government's assessment of the environmental retained EU law listed in the Schedule with this Committee?

We have assessed the Schedule through a light touch policy review and agree with the UK Government's assessment that the Schedule contains largely redundant pieces of legislation that are no longer needed, particularly in the context of the UK no longer being a member of the EU. Should any instrument in the Schedule be identified as still being of use, it can be retained by 31 October through a further SI.

However, the schedule includes Provisions 9 and 10 of The National Emission Ceilings Regulations 2018, the decision to revoke these in their entirety was made without consideration of devolved governments through the Air Quality Common Framework. These provisions relate to the Secretary of State's duty to prepare and review a National Air Pollution Control Programme to set out how the UK can meet air pollutant emission reduction targets. Having revoked these provisions with no clear plans to replace them may now lead to a lack of transparency in information made available to stakeholders regarding the emission reduction pathway the UK intends to take.

I believe transparency and public scrutiny are important principles to retain, and have asked the Secretary of State for Environment, Food and Rural Affairs to engage constructively with all governments of the UK on this matter. Meaningful discussions are now beginning to take place through the Air Quality Common framework.

What impact will the revocation of the REUL listed in Schedule 1 have on environmental law in Wales?

For the reasons set out above we do not believe there is any meaningful impact, apart from the provisions related to the National Emission Ceilings Regulations 2018 as mentioned above.

Can you provide assurances that the revocation of environmental retained EU law listed on the Schedule will not result in reduced environmental protection in Wales?

As mentioned above, our initial policy review of the schedule indicates we don't anticipate a reduction in environmental protection in Wales

How can the revocation of Schedule 1 be reconciled with the Welsh Government's long-term ambition to increase standards post-Brexit?

As explained above, none of the instruments in Schedule 1 have any continuing substantive legal effect.

Has the Welsh Government conducted formal or informal consultations with stakeholders regarding the potential impact of revoking the REUL listed in the Schedule to the Act?

Through the EFRA Inter-Ministerial Group I urged the Secretary of State to make public the list of legislation to be revoked as soon as possible. However, due to the nature and timing of the UK Government approach no such formal consultation was possible. The change in approach to revocation in the REUL Bill was made by the UK Government late into the Westminster Parliamentary process in the second half of April, and the Schedule itself published in May.

Prior to the publication of this list, I had received correspondence from concerned stakeholders regarding the potential impacts of losing environmental legislation (which was not subsequently included in the Schedule 1 list of legislation the UK Government intends to revoke). I have encouraged these organisations to continue to make any concerns known to both myself and the UK Government.

As explained above, there are powers to retain, by 31 October, any instrument listed in the Schedule that is found to still have any benefit. We will keep the Schedule under review, continuing to speak to expert advisors to ensure our review has not missed vital legislation. HSE have already provided advice on two commission decisions related to biocides which had been included in the Schedule but are still necessary. The UK Government will now be removing this legislation from the Schedule. Where stakeholders identify further legislation which is still in use, I would be open to considering any reasoned argument to propose a similar approach if necessary.

How do you plan to ensure ongoing engagement and consultation with stakeholders during the implementation of the Act, particularly regarding any potential amendments, exemptions, or modifications to the Schedule?

My officials continue to engage with Defra to understand their approach to changes to the Schedule and on implementation of the Act. More generally, we do not have plans at this stage to use any powers under the REUL Act to revoke or reform assimilated law.

We do not yet have a full understanding of the UK Government's intentions to use its powers to revoke or reform assimilated law. We wish to work closely with the UK Government on any such proposals and we will need to consider how to respond on a case-by-case basis. We expect any future UK Government reforms due to the REUL Act to go through proper routes of engagement with both ourselves and with stakeholders. I will be reiterating this point to the UK Government during my inter-ministerial discussions. For any changes proposed by the UK Government we will first need to understand any impacts in relation to Wales and then consider appropriate mitigating measures where necessary. We will have to consider how to engage with stakeholders if and when UKG makes clear its intention to reform in areas that affect devolved policy in Wales.

Does the Welsh Government plan to introduce new legislation or regulations to replace any REUL that may be revoked under the Act? If so, what will be the process and timeline for this?

The Welsh Government has no plans to use its powers under the Act to revoke any further pieces of assimilated law, or to introduce new legislation to replace legislation contained in the Schedule 1 of the Act

I am copying this to Huw Iranca-Davies MS, Chair, Legislation, Justice and Constitution Committee.

Yours sincerely,



Julie James AS/MS

Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 5.5



**European Committee
of the Regions**

CoR-UK Contact Group

The Chair

Brussels, *date of official registration*

LCG/ED/ms – D/1611 (2023)

Huw Irranca-Davies, MS
Chair of the Legislation, Justice and
Constitution Committee
Welsh Parliament - Senedd Cymru

Dear Mr Irranca-Davies,

I wish to thank you for your letter of 3 July 2023, requesting the views of the Committee of the Regions and its CoR-UK Contact Group in preparation of a report/opinion on UK-EU governance by the Legislation, Justice and Constitution Committee of the Welsh Parliament - Senedd Cymru.

Having consulted with the CoR members participating in the CoR-UK Contact Group, and following the meeting held on 7 September at the Committee of the Regions between the Senedd delegation and Contact Group member councillor Michael Murphy (IE/EPP), I have the pleasure to transmit a synthesis of the responses to your inquiry in annex to this letter. The CoR CIVEX commission secretariat is at your disposal for any follow-up questions: UK-ContactGroup@cor.europa.eu.

Allow me to note that we remain committed to advocating that the role of local and regional authorities (LRAs) in the EU-UK relationship should be adequately acknowledged, in particular in areas that are directly connected with their competencies and in line with the principles of subsidiarity and multi-level governance, and to working together to improve opportunities for citizens on both sides, creating better conditions for international and local businesses.

I am looking forward to our forthcoming exchanges on this highly important matter, including in the context of the upcoming meetings of the CoR-UK Contact Group.

Yours sincerely,

Loïg Chesnais-Girard (FR/PES)
Chair of the CoR-UK Contact Group
President of the Regional Council of Brittany

Annex:

European Committee of the Regions' contribution to the report/opinion on EU governance of the Committee on Legislation, Justice and Constitution of the Senedd Cymru (Welsh Parliament)

Views on the role given to regional and local authorities in the governance structures of the Withdrawal Agreement and the TCA

The CoR has, notably through its opinion on Strengthening the EU-UK relationship at subnational level and remedying the territorial impact of the UK's withdrawal from the EU¹, expressed its position that the EU-UK agreements lack "territorial depth" as they do not formally recognize the role of local and regional authorities (LRAs) in the EU-UK relationship. The TCA includes very limited recognition of/references to local and regional realities, for example when it comes to adaptation measures to regional conditions in relation to sanitary and phytosanitary measures.

This may be due to the nature of the TCA as an association agreement under Article 217 TFEU, which covers areas either falling under the exclusive competence of the EU (e.g. common commercial policy – free trade area) or where EU legislation already exists (e.g. law enforcement and judicial cooperation). The agreement, therefore, operates as a trade agreement and not as a partnership. This strictly legal approach does not take into account the reality that local and regional authorities are affected by the implementation of the TCA.

Given that the agreements involve the EU and the UK as parties under international law, it is only the EU institutions (notably the Commission) and the UK government that are formally involved in the governance of the agreements. The Member States take part in the meetings of the relevant committees and bodies established under the agreements as observers and discuss the preparation of these bodies' meetings in the Council working groups. When the agreements provide that the bodies established by them are to take decisions with legal effects, the Council (Member States) needs to define the position that is to be adopted by the EU representative (the Commission) by adopting a decision under Article 218(9) TFEU. The CoR does not at present have information whether Member States consult with their subnational levels in these processes.

Contrary to civil society, which has a defined consultative role in the implementation of the TCA in the form of the Domestic Advisory Groups and the Civil Society Forum, there is no formal role given to local and regional authorities under the TCA.

The lack of involvement by LRAs in the governance of the TCA is identified as problematic in general, because territorial impacts of the TCA are not taken into account either in the agreement's implementation or in its monitoring. Some concrete indications of this problem:

- Discussions of the local fisheries' management aspects mostly remain at the highest level (Specialised Committee), de facto excluding local stakeholders and LRAs;
- Difficulties for LRAs to react in case of non-compliance with the agreement (i.e. Sewage management with impacts on coastal tourism activities);
- Lack of transparency of EU-UK discussions, before annual EU-Council on TACs and Quotas in December.

The CoR has urged the European Commission to re-examine the structures of the Partnership Council, which oversees the implementation and application of the TCA, and to seek to address the lack of territorial depth by involving LRAs in the monitoring and governance of the TCA.

¹ Rapporteur Michael Murphy (IE/EPP), Member of the Tipperary County Council, <https://cor.europa.eu/en/our-work/Pages/OpinionTimeline.aspx?opId=CDR-108-2022>

Has there been sufficient engagement of regional and local authorities in decision-making on implementation of the agreements?

In line with the above, the engagement of local authorities in EU-level decision making on the implementation of the agreements is not considered sufficient. This is regardless of the fact that the actual implementation of certain provisions of the agreements falls within the competences of local and regional authorities (e.g. citizens' rights under the Withdrawal Agreement, environment or law enforcement cooperation under the TCA).

The CoR encouraged the European Parliament to adopt a formalized interaction in a mutually beneficial way on points of common concern between the CoR and the European Parliament's Delegation to the UK (D-UK) to the EU-UK Parliamentary Partnership Assembly (PPA) with the aim to provide territory-based evidence about the implementation of the TCA. This has resulted in the CoR being invited to the meetings of the PPA as an observer.

The CoR has established in February 2020 the CoR-UK Contact Group which is the only institutional channel for providing a forum for continued dialogue and political partnership between the EU and UK local and regional authorities and for exchanging know-how, in particular on territorial cooperation and cross-border issues.

The Contact Group provides space for mutual benefit and shared interest to discuss problems or opportunities, particularly in relation to thematic areas that know no boundaries (e.g. climate change, tourism, the digital and green transition and common cultural heritage) arising from the UK's withdrawal from the EU. It also gives CoR representatives the means to discuss such issues with UK local and regional authority representatives, and thus allows for the CoR to maintain and foster such fruitful relationships at the subnational level.

The Contact group does not formally have the implementation of the EU-UK agreements under its remit². Nevertheless, it has discussed issues pertaining to the agreements' implementation, but the discussion up to now has been about institutional aspects of such implementation and has not so much looked at the role of LRA in this.

Views on the transparency of the governance structures and decision-making and whether any improvements are needed

As Member States themselves are formally not parties to the agreements and there is at present no information as to whether Member States consult with their subnational authorities when the implementation of the agreements is concerned, it is difficult to have an overview of different layers of governance.

There is furthermore no obligation to inform the CoR of the discussions or decisions in the meetings of the agreements' governing bodies.

² According to the decision of Bureau of 29 June 2020 on the political objectives and the working methods of the CoR-UK contact group, the groups aims are:

- (a) to act as a forum for continuing dialogue and political partnership between EU local and regional authorities and UK local government and devolved parliaments and assemblies, and to exchange know-how, in particular on cross-border issues;
- (b) to provide local and regional authorities with the opportunity to discuss problems or opportunities regarding the relationship between EU LRAs and UK local government and devolved parliaments and assemblies arising from the UK's withdrawal from the EU;
- (c) to give EU LRAs and UK local government and devolved parliaments and assemblies a means of discussing European Union legislation and possible changes to EU legislation currently applicable in the UK where it would affect them even after the United Kingdom's departure from the European Union. These authorities may continue to be bound by the *acquis communautaire* during the transition period and potentially as a result of any future trade deal.

The meetings of the governing bodies of the agreements are not public. Although decisions or deliberations are often accompanied by press releases, these do not provide a lot of detail about the discussions and the positions taken.

In past Contact Group meetings there has been feedback about developments in the governance of the agreements, or their implementation by the representatives of the Commission participating in the meetings. However, such feedback mostly remains general, "institutional" in nature and does not enter in specificities relevant to the local/ regional level.

The CoR considers that LRAs should be fully involved in the governance structures and decision making within EU Member States. It is noted that civil society is fully engaged in the Civil Society Forum and this level of interaction should be afforded to LRAs.

The CoR has urged the European Commission to re-examine the structures of the Partnership Council, which oversees the implementation and application of the TCA, to seek to address the lack of territorial depth by involving LRAs in the monitoring and governance of the TCA.

The CoR has called for a formal recognition of the CoR-UK Contact Group under the TCA in order to provide an assessment of the subnational dimension of the key policy and legislative issues that will have an impact on the EU-UK bilateral relationship. Thus the Contact Group, bringing together EU and UK representatives at the subnational level, could gain its place in the governance structure of the TCA, much like the PPA or the Civil Society Forum. This would however require eventual amendment of the TCA, agreed by both parties.

Which are the ways to improve the engagement of local and regional authorities in the operation and implementation of UK-EU agreements in the future?

A number of ideas exist for the more effective involvement of local and regional authorities in the EU-UK agreements in the future, as also outlined in the CoR opinion. Whereas the governance of the TCA cannot be changed unilaterally by the EU or the UK, the TCA does not prohibit preparatory meetings in advance of Specialised Committee meetings or the setting up of working groups by the Specialised Committees. As such, ideas range from relatively flexible dialogue structures or preparatory meetings, to the establishment of local working groups and the creation of specific structures for local and regional authorities under the TCA. Some ideas can be implemented informally, other require a decision under the TCA or its amendment.

Ideas could be:

- To establish local dialogues (technical consultation) to address topics of local competences (fisheries, training, mobility, territorial cooperation...); these could also contribute to an improvement in EU/UK relations at the macro level.
- To provide for technical preparatory meetings involving sector representatives and local and regional authorities in advance of the meetings of the TCA bodies, where the interests of local communities are more prominent (e.g. in advance of the meetings of the Specialised Committee on Fisheries).
- To create local working groups dedicated to fisheries' management with the participation of sector representatives and concerned LRAs.

The aim of the latter idea would be to re-establish, with the Commission and the United Kingdom in the lead, fora for dialogue between the fishing industry and the concerned territories both in the EU and the UK. This could take the form of reciprocal participation by fishermen when establishing marine protected areas or new local management rules.

Since the LRAs are involved in managing fishing ports, supporting the sector, managing coastal and marine areas, and even managing resources, they should be fully involved in these new bodies. To facilitate the

integration of local proposals in decision-making at the highest level, the representatives of the United Kingdom and the European Union should be effectively associated. Consultation can help to redevelop a common approach to the management of both fishing resources and marine ecosystems. In this sense, it will contribute to the common interests of the EU and the UK. The creation of such local bodies/fora should be established for marine areas where it is relevant.

It could furthermore be considered to experiment with the application of this approach to the fishing areas including the Channel Islands.

Further possibilities include:

- To use the CoR-UK Contact Group to reinforce the cooperation and exchanges between EU and UK local and regional authorities.
- To request the participation of representatives from local and regional authorities in the Civil Society Forum. Sectoral fora (e.g. on fisheries) could also be created with the participation of representatives from the sector and concerned LRAs.
- To call for a formal recognition of the CoR-UK Contact Group under the TCA in order to provide an assessment of the subnational dimension of the key policy and legislative issues that will have an impact on the EU-UK bilateral relationship.

The pursuit of ideas listed above, some of which would require a formal decision under a TCA body, could be presented as a request on behalf of EU LRAs to the European Commission and UK LRAs to the UK government. It could be also considered whether requests can be co-signed and presented at the same time. The CoR-UK Contact group could constitute a key platform to prepare common initiatives and support their follow-up.