



Social action, local and regional authorities and the Lisbon Treaty

ELISAN makes a review of the factors in the amended European Union Treaty that have welcome implications for local and regional authorities in Europe.

1- European integration and the role of local authorities : the background

Under the European Union's cohesion policy (the EU's top item of expenditure) nearly 37.5% of Community funding is earmarked for local and regional authorities, which also implement nearly three-fourths of the decisions taken in Brussels but the part they play in the decision-making process continues to be quite tiny. This is particularly true in the case of France, where the central state is the sole representative to the EU. If the Lisbon Treaty is ratified there will be one or two changes on the cards.

The local and regional authorities originally did not have any direct involvement in the European decision-making process.

♦ **The Council** is the EU's main decision-making body, enjoying legislative and budgetary powers on the basis of the co-decision procedure, which it shares with the European Parliament. Decisions have to be adopted by a qualified majority (55% of the Member States representing at least 65% of the population), or by unanimity. If the Lisbon Treaty comes into force, qualified majority voting will apply to another 40 areas, including cooperation between the police forces and the courts, education and economic policy. The unanimous voting system will continue to apply to foreign policy, social security, taxation and culture.

♦ **The European Parliament (EP)** is the elected body that represents European citizens. It exercises political supervision over the EU's activities. It takes part in the European Union's legislative activities via the

- Cooperation procedure
- Assent procedure
- Co-decision procedure

The Parliament and the Council share budgetary powers, being required to adopt or reject the EU's budget. Prepared by the European Commission, the budget goes to and fro between the Council and the Parliament.

Members of the European Parliament (MEPs) also enjoy the power to rebuke the Commission by acting by a two-thirds majority to adopt a motion of censure. They also keep a close watch over the day-to-day management of EU policy-making by asking the Commission and the Council written or oral questions.

♦ **The European Commission** is one of the key bodies in the EU's institutional system. Its members are elected for a term of five years on the basis of the Member States' mutual agreement, subsequent to a vote of appointment by the Parliament to which the Commission is accountable. The institution currently has one European Commissioner per Member State but this will change if the new Treaty is ratified.

The Commission enjoys a great deal of independence in the exercise of its powers. Embodying the common interest, the institution is not beholden to the orders of any Member State. In its role as guardian of the Treaties, it oversees the implementation of regulations and directives the Council and Parliament adopt, while being empowered to appeal to the European Court of Justice to enforce EU laws.



As an administrative body, the Commission is required to execute Council decisions but it does have extensive powers for conducting common policies, when entrusted with the relevant policy budget, as in the case of regional cohesion.

Not included in the institutional process, local and regional authorities have had their role extended since the signing of the Maastricht Treaty in 1992.

◆ **The Committee of the Regions**

The Committee of the Regions (CR) was created in 1994, in the wake of the Maastricht Treaty ratification process. As three-quarters of Community laws are implemented locally or regionally, the idea is to allow them to express their views on legislation adopted at European level.

The CR also caters for the need for the EU to improve its democratic legitimacy, using local elected representatives to get in closer touch with its citizens. Nonetheless, the Committee's role is limited to an advisory one.

The Commission and Council are required to consult the Committee about any proposals made in a policy field that has local or regional level implications. The Maastricht Treaty defined five areas:

- Economic and social cohesion
- Trans-European infrastructure networks
- Health
- Education
- Culture

The Amsterdam Treaty added another five areas:

- Employment policy
- Social policy
- The environment
- Vocational training
- Transport

Apart from these areas, the Commission, the Council and Parliament are entitled to consult the Committee about any proposals they believe make a major impact at local and regional level. The Committee is also empowered to issue own-initiative opinions, as a way of having certain issues featured on the EU agenda.

However, the Committee has hitherto been an advisory body whose advisory opinion has had only a very limited impact.

If ratified by all the EU Member States, the Lisbon Treaty, signed on 13 December 2007 by the Heads of State and Government, should boost the role local and regional authorities play in the Community decision-making process.

2- Challenges

ELISAN welcomes the bigger role the Committee of the Regions could be called upon to play.

In common with what was specified in the draft Constitution in 2005, article 8 of the Lisbon Treaty's Protocol on the application of the principles of subsidiarity and proportionality grants the Committee of the Regions the right to draw the European Court of Justice's attention to legislative acts violating the principle of subsidiarity. This right is restricted to acts for which there is an obligation to consult with the Committee.

Added to the Lisbon Treaty, the second Protocol on the application of subsidiarity and proportionality boosts the importance of these principles.



As soon as the new Treaty comes into force the parliaments of the 27 Member States will be allowed an eight-week period within which to react to a Commission proposal.

The amended draft Treaty also proposes giving a direct boost to the role local authorities play in the decision-making process

Apart from the greater supervision of the subsidiarity principle, the Lisbon Treaty allows local authorities to play a bigger part: traditionally covering the relationship between the Community and the Member States, this principle is also due to be applied for the benefit of local authorities, according to the text.

Acknowledging the principle of regional autonomy

For the very first time, the Treaty explicitly recognises the principle of local and regional autonomy. Article 4 of the new Treaty specifies that the EU “shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government”.

Local autonomy has been defined in a Charter drawn up by the Conference of Local and Regional Authorities of Europe, an advisory body for the Council of Europe. This refers to “the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population” France signed this Charter on 15 October 1985 but has yet to ratify it. A bill tabled towards this end in 2004 was adopted by the Senate on 17 January 2006 but it has still not been passed by the MPs.

The Treaty may make an explicit reference to the powers of local authorities but the EU text’s acknowledgement of local autonomy has had only a limited impact in France, whose official recognition of this concept has yet to be granted. What is more, France does not have any regional parliaments enjoying legislative power.

Territorial cohesion becomes an EU objective

The text treats territorial cohesion as an EU objective, such that the Community now has to factor in the local and regional implications of its policies. Consequently, the Commission has to seek to minimise the financial burdens local authorities have to bear when implementing Community legislation.

ELISAN believes the principle of territorial cohesion set forth as an objective in the Lisbon Treaty is an essential component in the construction of the European edifice, supplementing and strengthening the principle of social and economic cohesion. Nonetheless, these principles have to be imagined as applying on a complementary basis.

Public services operating within the field of local social action – which we represent – regard this territorial cohesion principle as offering an opportunity for European citizens to gain access to social services close at hand, irrespective of where they live.

The concept of equality in public services and territorial equity therefore seems to be re-emphasised. The members of ELISAN nonetheless point out that the relevance of the territorial cohesion principle is related to the way the subsidiary principle is applied and hence the resources provided so that local authorities may develop a fully-fledged local social action policy



The Treaty's indirect implications for local authorities

Co-decision becomes the standard procedure

As a result of the European Parliament's powers being reinforced, this institution enjoys the status of being the one most sensitive to the interests of local authorities. The Parliament's powers have continued to grow ever since the Single European Act was introduced in 1987.

Subsequent to the Maastricht Treaty, the co-decision procedure invested the Parliament with the status of a genuine joint legislator, on the same footing as the Council of Ministers, because the procedure allows MEPs the right, during the second reading of a proposal, to prevent a Commission text from being adopted.

In the light of its greater powers, the Parliament is more effective in defending local interests, as MEPs are particularly sensitive to these interests.

The areas covered by the co-decision procedure are closely linked with the local authorities. In the wake of the Maastricht Treaty, the procedure applied to a variety of issues, including the freedom of establishment and the freedom to provide services, the trans-European networks, the environment, culture and health. The Amsterdam Treaty extended the procedure to cover the ERDF, employment, social policy ...

The Lisbon Treaty plans to extend the co-decision procedure so that it becomes a standard procedure. As result of boosting the Parliament's powers it will have the indirect effect of making it easier for the interests of local authorities to be factored into the Community's decision-making process.

A legal basis for legislation on services of general interest

The Netherlands and France have succeeded in securing the addition of a Protocol on public services, to stress the importance of services of general interest, while highlighting "the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest". Providing a legal basis for horizontal legislation on services of general interest, this measure succeeds in living up to the expectations of local authorities.

Although French local authorities have been clamouring for this, the European Commission has so far refrained from introducing a framework Directive on services of general interest.

Also shunned is the idea floated during these debates of having a sector-specific Directive on social services of general interest.

However, ELISAN is planning to use the opportunity of the French Presidency of the European Union to ensure the progress of the debate on the uniqueness of these social services, where local authorities are often called upon to be strong, immediately adjacent players for the most vulnerable and most disadvantaged citizens.

When the conditions for applying the draft version of these Treaty articles are met, ELISAN will ensure that each social issue is addressed



For further information

Websites

- ◆ European Parliament www.europarl.europa.eu
- ◆ European Commission <http://ec.europa.eu/>
- ◆ Committee of the regions www.cor.europa.eu
- ◆ Treaty of Lisbon http://europa.eu/lisbon_treaty/index_en.htm

Glossary

◆ Subsidiarity

Featured in the Treaties as soon as the Committee of the Regions was created, this principle means EU decisions have to be taken at a level as close as possible to the citizen. The EU should not intervene if the aims of a planned initiative can be achieved more effectively by a national, regional or local administration.

◆ Proximity

All levels of governance should seek to be “close to the citizen”, particularly by organising their proceedings in a more transparent way so that citizens may easily identify those in charge and know how to get their views across.

◆ Partnership

Sound European governance means the various levels of governance – European, national, regional and local – have to work together, as they are all four vital components that have to be brought together throughout the decision-making process.

Document sources: Committee of the Regions, European Commission, UNCCAS service.