DISTRIBUTION OF COMPETENCES THROUGH LOCAL GOVERNMENT IN EU COUNTRIES

Răzvan VIORESCU

DOI: https://doi.org/10.18662/eljpa/2015.0202.08

European Journal of Law and Public Administration, 2015, Volume 2, Issue 2, pp. 69-83

Published by:
Lumen Publishing House

On behalf of:
Stefan cel Mare University from Suceava, Faculty of Economics and Public Administration, Department of Law and Public Administration
DISTRIBUTION OF COMPETENCES THROUGH LOCAL GOVERNMENT IN EU COUNTRIES

Răzvan VIORESCU¹

Abstract

The European Charter of Local Self-Government (ECLSG)² is the reference source of supranational local autonomy for all countries that are members of the Council of Europe. The Charter sets out several key principles of the highest relevance for the apportioning of competences to the local level, namely: the clause of general competence; the principle of subsidiarity; the principle of exclusivity of local powers; the principle of diversity in delivery systems; and consultation of local authorities for sector legislation. European Union treaties, as well as regulations from European Union institutions, are also a source for setting national legislative frameworks on the distribution of functions across levels of government.

Once ratified, the European Charter of Local Self-Government (ECLSG) of the Council of Europe is a source for legislation in signatory countries. The Charter establishes several principles that underpin local autonomy.

Keywords:
local government, regional powers, constitutional administrative competences, Committee of the Regions.

JEL Classification: H1, K3.

¹ Lecturer PhD, „Stefan cel Mare” University, Suceava, Romania, razvanv@usv.ro.
² Article 4 of the Charter sets out the principles and the scope of local self-government, namely: “The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.”
INTRODUCTION. GOVERNMENT LEVELS\(^3\)

According to its own constitutional organisation for each member state we could determine three types forms of the state. These types of government\(^4\) do not necessarily correspond to the official denomination in the country's constitution or legislation (if any); they are used because they correspond to standard terms used in comparative studies on government in Europe. Usually Constitutions give indications about the type of government, but not necessarily through the use of terms like federation or regions. There is no standard way of approaching regional and local government in the Constitutions of the EU countries. These types of government are divided into:

**FEDERAL STATES**

In federal states, there is a constitutional division of power between the centre and the constituent units, which cannot be changed unilaterally. Three of the states in EU, Germany, Austria, and Belgium, are federal. A distinction is often made between coordinate federalism and cooperative federalism. Under coordinate federalism, each level has its own legislative and administrative competences, which are exercised separately. Under cooperative federalism, they share competences, usually with the upper level passing most legislation and the lower level implementing it. Germany and Austria are examples of cooperative federalism. Belgian federalism was supposed to be coordinate, with a clear distinction between the tasks of the two levels; but in practise there is a need for much cooperation, as it is not easy to distinguish competences. In recent years, there have been efforts to 'disentangle' the tasks of the two levels in Germany and Austria, with some limited success. European integration and globalisation have increased pressures on federated units to enhance their competitive position and devise their own policies. Scholars now talk of a third type of federalism, competitive federalism, in which sub-state governments compete with each other for investment, technology, and innovation, and focus more on policy innovation. This is one factor leading to pressures to disentangle responsibilities and to devolve more competences.

---

\(^3\) The *government* notion (institution) is broader than in many others, where it only means the executive. The term *government* covers the assembly or council as well as the executive body and its administration.

\(^4\) Committee of the Regions of the European Union, Study on the Division of Powers between the European Union, the Member States, and Regional and Local Authorities, 2008.
REGIONALISED STATES

Several European countries have in recent years established an intermediate, 'meso', or regional level of government. There are several motives for this. One is a recognition of the importance of the region for economic development and planning. A second is the restructuring of the welfare state and the management of health and social welfare, including the relationship between welfare policies and labour market policies. A third is to respond to the demands of historic regions, stateless nations, and national minorities, as in Spain, Belgium, and the United Kingdom. A fourth is to encourage administrative modernisation and policy experimentation and innovation. A fifth is to bring government closer to the citizen by devolving powers from the center.

Regionalised states come in a variety of forms. Functional regionalism is limited to one task, usually planning and economic development. The need to administer European regional policies has been one reason for the emergence of this level. Multifunctional regionalism is broader in scope, covering a number of fields or constituting a tier of general-purpose government. Some regions have legislative power and others are limited to administration - although this distinction is not always a clear one, since some tasks covered by administrative action in one country require legislation in another. Regions may also have powers of secondary legislation, allowing them to change the detail of state-wide laws.

Some states have directly-elected regional governments, as in France, Spain, Italy, Poland, Denmark, and the United Kingdom. Where regional government is elected and multifunctional, the system starts to resemble federalism; some observers talk of Spain as an emerging federation.

In others, the regional level is selected from local government and sometimes also the social partners (business, trade unions, and social welfare bodies) and independent experts. Some countries have moved from non-elected or indirectly-elected regional development bodies to directly elected regional governments, as in France in the 1980s or Poland more recently. Moves to elect regional governments in Hungary have been stalled for some years. In England, a move to regional government failed in a referendum in one region in 2004, and now even the indirectly-elected body is being abolished.

Some states have a regional level over only part of the territory, responding to historical, national, or cultural differentiation or peripherality. The United Kingdom has devolution in Scotland, Wales, or Northern Ireland, but not in England. Portugal has regional government for the Azores and Madeira. Corsica and the overseas regions have a special status within the French Republic. These are examples of asymmetrical regionalism.

---

UNITARY STATES

In unitary states, there exists only administrative self-government\(^6\) at the provincial and local levels of government. At one time it was common to distinguish between southern European or Napoleonic systems (France, Romania, Czech Republic, Hungary, Latvia, Estonia, Lithuania, Bulgaria), and northern European systems. In the former, local government was weak and often fragmented and subject to close control by central government. A central government official (in France the prefect) was responsible for administration at the provincial level and had the power to disallow acts of municipal councils. In the latter, there was a stronger tradition of local autonomy or self-government. This distinction is now less clear after decentralisation reforms have limited the powers of prefects, usually to post-facto control of the legality of decisions, and given more autonomy to provincial and municipal levels.

Many countries have consolidated local governments into larger units since the 1970s. This is done in the name of efficiency and economy. France is an exception, since the political power of local mayors has made it difficult to suppress or merge communes. In central and eastern Europe, there was a tendency after the transition to democracy for the number of local units to increase, although more recently there have been efforts at consolidation. Where merging municipalities is not possible, governments have encouraged inter-municipal associations, which may be single-purpose or multi-purpose. In large cities, there have been metropolitan governments, above the municipal level, with planning and infrastructure tasks. These may be directly elected and independent of the constituent municipalities, or indirectly elected by the municipalities themselves.

LEVELS OF GOVERNMENT

In each EU member state, Constitutions often include an indication of the different levels of government of a country, but not always, and if they do, not always in a comprehensive manner.\(^7\)

The **regional level** refers to the constituent units in federal states and to the intermediate or 'meso' level in regionalised states. In purely unitary states, this level is absent.

\(^6\) Administrative self-government means that local government only has administrative competences. Self-government means that there is at least an elected council. Administrative self-government has thus to be distinguished from mere 'deconcentration', i.e. the organisation of territorial divisions of State administration.


---

The **provincial level** refers to the level below the regions or, in unitary states, below the state. Names used for this level include province, county, and department. In some countries, this level is primarily an administrative demarcation of the central government. In others, it is an autonomous level, with its own powers. In countries inspired by the French Napoleonic system, this level is both an administrative demarcation for de-concentrated central government, under a prefect or similar figure, and a level of local self-government.

The third level is the **local** or **municipal** one. This exists in all countries and is the basic unit of local democracy. Some countries also have a very local level of parish, community, or neighbourhood government. There may also be **metropolitan government** in the large urban areas. Under each level, there is an account of the institutions. This includes parliaments or councils and the executive level.

Some countries have a tier of central government administration at the territorial level. This is true especially of Napoleonic systems, where a provincial prefect is in charge of the field administration of the state. Where such field administrators have a degree of administrative discretion, the administration is said to be de-concentrated. In recent years, some de-concentrated systems of administration have evolved into elected self-government.\(^8\)

**ELECTORAL SYSTEMS**

Each level of government has an assembly, which may be known variously as a parliament or council or some specific local name. Sometimes the assembly is directly elected; in other cases, there is indirect election from a lower level. In some cases, regional institutions include social partners such as business, agriculture, and trade unions, as well as political representatives.

Where there are direct elections, electoral systems differ. Most are based on proportional representation to ensure that parties are represented in proportion to their votes. Proportional elections may be ‘at large’, with representatives elected across the whole territory of the respective government, or by multi-member districts (divisions of the territory). An exception is in England and Wales, where local councils are elected on the single-member plurality (first-past-the-post system). In this system, councillors are elected by single-member districts (called wards), with the candidate who gains the largest number of votes taking the seat. This distorts the relationship between votes gained by parties and seats won. Its claimed advantage is that it retains a link between a representative and a district and that it produces stable majorities, although the rise of third parties means that councils increasingly lack a single party majority.

\(^8\) Viorescu R., Deconcentrarea și descentralizarea – principii de organizare a serviciilor publice în administrația publică locală. Revista de Economie și administrație locală, nr. 11/2007, ISSN 1224-3124, p. 7
A system that retains the link between the representative and a district but does provide proportionality in the distribution of seats among parties is the additional-member version of proportional representation, as used in Germany, Scotland, and Wales. Here, some members are elected by single-member plurality in districts; others are elected on party lists from larger constituencies in such a way as to reflect the overall balance of votes received by the parties.

Another form of proportional representation is the single transferable vote, as used in the Republic of Ireland and Northern Ireland. Representatives are elected in multi-member districts. Electors rank all the candidates. The highest ranked candidates are elected and their second-preference votes redistributed until all the seats are filled. This ensures that smaller parties gain a share of the seats.

In proportional representation by party list, electors must choose among rival party lists, and the seats are then distributed among the parties according to the share of the votes received by each. The vote might be conducted by district or for the whole territory of the parliament or council concerned. In some cases, electors can only vote for the list as a whole; in other cases, they can change the ranking of the candidates on the list, so giving preference to individuals. Proportional representation systems have been praised for their fairness but criticised for their tendency to produce weak and unstable governments, without majorities. In recent years, some governments have sought to reconcile proportional representation with stable and strong government by giving a 'majority premium' to the list that gains the largest number of votes. In some cases, this list is given half the seats, with the remaining ones being distributed among all the parties in proportion to their votes.

Another form of electoral system is the two-ballot system, with votes on two days, a week or two apart. In the first ballot, anyone can stand. In the second ballot, participation is typically limited to the leading candidates from the first ballot or those crossing a certain threshold. It may be possible for parties to merge their lists between the two ballots, so simplifying voter choice.

Systems for the direct election of single candidates vary. In the single-ballot plurality system, the leading candidate is elected, even if (s)he does not gain an overall majority. In the alternative vote system, voters rank the candidates; votes are redistributed in successive rounds of counting, with the lowest candidate eliminated in each round and his/her second preference votes redistributed. In a two-ballot system, the two leading candidates from the first round go through to the second.

Executive powers at the local and regional level may be invested in the assembly or in a separate executive. There is a tendency across Europe to the creation of strong executive authorities at the regional and local levels and to the
separation of the executive function from the deliberative or legislative function of the assembly. The executive may be headed by a directly elected mayor or president, or by a leader chosen from among the members of the council or assembly. Executive members may be elected from the assembly or appointed by the mayor or president and in some cases do not have to be members of the assembly.

In Napoleonic systems, the provincial level is often shared by both central and locally-elected governments. Sometimes the executive power is also shared between a locally-elected leader and a centrally-appointed governor or prefect, although the tendency has been to separate these roles.

**ADMINISTRATIVE COMPETENCES**

Competences refer to responsibilities and powers, formally bestowed by law, with which public authorities are entrusted in each field of activity. To illustrate, this may refer to whether governments regulate, deliver, evaluate, finance, monitor, sanction or intervene in the way in which functions and services are discharged. Competence is a concept associated with countries of Napoleonic tradition such as France, Italy, Portugal and Spain. In Anglo Saxon countries, the preferred term is “responsibilities”.

For each EU country section, they are organised by levels of government (central, regional, provincial, municipal). Information on the competences of each level of government, on intergovernmental relations and relations with the EU, and synopses for all countries are to be found in the relevant topical reports.

The notion of 'competence' (plural 'competences') is commonly used in European literature, but remains unknown to the largest part of the literature of other world regions, especially that of the United States. Typically, the U.S. Constitution does not speak of 'competences', but of powers.

**ALLOCATION OF COMPETENCES**

The following principles are relevant for the distribution of competences among levels of government: self-government or autonomy; subsidiarity; proportionality; flexibility; diversity; and capacity to deliver. Most of the principles that inform the distribution of competences have their roots in the Treaties of the European Union or in the ECLSG of the Council of Europe. With respect to the principle of self-government (autonomy), Article 3.1 of the ECLSG states: “Local self government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share

---


10 [http://www.sigmaweb.org/publicationsdocuments/40987105.pdf](http://www.sigmaweb.org/publicationsdocuments/40987105.pdf)
of public affairs under their own responsibility and in the interests of the local population.” This principle means that local authorities can manage services and have a ruling capacity that defines how services should be delivered by municipal or municipal external bodies, as long as municipal ordinances on the matter do not contravene other sectorial legislation. In Article 4-4, the ECLSG further advocates for the exclusivity of local powers: “Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.” Autonomy of local authorities also implies that control is confined to legal matters (jurisdictional matters) and not to opportunity (political matters). From a legal point of view, the control includes the autonomy of municipalities to defend themselves, before the courts of justice, against undue interference from higher levels of government. Self-government can be compatible with constraints that advocate equality of minimal standards of living conditions. Central or state governments normally try to guarantee solidarity and, at least, equal starting conditions for all citizens.  

The constitutional allocation of competences among EU member states is usually indicating rather broad headings and needs therefore to be complemented by indications of legislation and sometimes implementing regulations, as well as by the case law of competent courts, such as the constitutional court, administrative courts, or other judicial bodies. In many countries, local and regional government benefit from a 'general competence clause' according to legislation, or to general constitutional principles regarding self-government that are interpreted by the relevant courts. Such a general clause empowers local and regional government to act beyond the fields expressly attributed to them, as long as they do not contradict the provisions of legislation giving a specific exclusive power to another level of government. The exact signification in legal terms of such clauses varies from country to country, and the reader should be therefore very cautious in examining national Constitutions.

Competences can be divided into legislative and administrative, although this distinction is also a rather formal one and the line is not always easy to draw. Only regional-level governments have legislative competences, and not in all states. In some cases, regional legislation is subject to national framework laws, setting out the broad principles that regional laws must follow. These in turn may be permissive or restrictive, giving the regional level more or less autonomy. The distinction between legislative and administrative competence is not as clear-cut as it seems, as administrative competences may well include the power to adopt general regulations that complement the formal laws. There is some degree of discussion about the nature of fiscal powers: in some unitary countries, the powers

11 Salvador Parrado, UNED, Madrid, 2005, Assigning competences and functions to local self-government in four EU member states: a comparative review, p.23
of taxation of local government are so broad that they are assimilated by politicians and practitioners to legislative powers. Federal systems may be coordinate or cooperative, as explained above. The distinction between legislative and administrative competences is often a source of confusion, as there is not necessarily a correspondence between both: typically in a unitary state, the legislative competences all belong to the state level, whereas administrative competences may be distributed through different levels. In federal or regional systems, the legislative competence in a specific field may be allocated to the regional level, whereas the administrative competence in the same field may be allocated to another level, or shared between different levels.

Provincial and municipal levels of government have administrative powers only. This is also true of some regional governments. Again, there is a great variety. In some cases, competences are shared among levels, while in others there is a clearer separation. In Napoleonic systems, there is a large degree of sharing of competences and tasks among the levels, although there have been efforts in recent years to clarify the division of powers.

There is no clear-cut correspondence between the fields of competence as set out in the constitution and laws of different countries, even when the vocabulary is the same, as demonstrated by countries sharing the same language (for example Dutch in Belgium and the Netherlands; English in Ireland and the UK; French in Belgium, France, Luxembourg and to some extent Italy; German in Austria, Germany and to some extent Italy and Belgium). It is therefore not possible to establish a general pattern of correspondence between the fields in which the EC Treaty provides for the necessity of an advisory opinion of the Committee of the Regions and the different fields of regional and local competence. Indeed, each of the legal bases (articles of the EC treaty) that gives a competence to EU institutions to regulate a specific topic and provides for the necessity of an advisory opinion of the CoR has to be interpreted according to principles of EU law as developed by the European Court of Justice; whereas the descriptions of competences of local and regional governments in the constitution and laws of Member States have to be interpreted according to criteria of national law. The principles of institutional autonomy and procedural autonomy of member states - which are consistently applied by the ECJ - impede any interference of the EU institutions in the organisation and procedures established for the implementation of EU policies and law, provided the goals set up at EU levels and the principles indicated in the treaties, directives, framework decisions, regulations, and decisions are complied with.

In federal states, where there is a constitutional\textsuperscript{12} division of powers, it is necessary to specify the competences of the national government. In other cases, national governments are competent over all fields but may be restricted in their

action by constitutional principles regarding local and regional selfgovernment, as interpreted by the relevant courts.

In federal countries and those with strong regional devolution, the regional level serves as a general level of multifunctional government. In the strongest form, only the national level competences are specified, with everything else belonging to the regional level. In other cases, there is only functional devolution, with the regional level confined to specific tasks, normally centred on economic development and planning.

Regional and local taxation powers are always restricted in Europe. In some cases, taxes are assigned, with regional and local governments getting the proceeds of specific taxes but not able to set the rates; in other cases, they can vary the rates, although often within specified limits. The main taxes are those on income, property, business, and sales, plus a variety of minor taxes. Local and regional governments also receive transfers from central government. This may be adjusted for the needs and resources of regional and local areas, to provide for fiscal equalization.

CORRESPONDENCE WITH THE COMPETENCES OF THE COMMITTEE OF THE REGIONS

The Committee of the Regions has a mandatory advisory competence in the following fields, as they appear on the CoR Website: economic and social cohesion; education and youth; culture; public health; trans-European networks; transport; employment; social affairs; environment; European Social fund; vocational training.

Furthermore, the CoR may adopt advisory opinions of its own initiative in any field of competence of the EU.

Any attempt to establish a correspondence between the competences of the Committee of the Regions and the competences of the different levels of government examined in this study has to be submitted to two series of severe limitations.

First, the list of fields of mandatory advisory competence that is being used here might be misleading, as its headings only summarise the EU’s competence in the field, which is in each case dependent upon the wording of the relevant legal basis in the Treaty on the Functioning of the European Union - TFEU - Treaty of Lisbon enters into force\textsuperscript{13}). In EU law, due to the principle of conferral, the Institutions of the Union may only act in a limited framework which is set by 'legal bases', that is, treaty articles that: i) indicate a field of competence, ii) indicate

\textsuperscript{13} Jeffery C., Ziller J., The Committee of the Regions and the implementation and monitoring of the principles of subsidiarity and proportionality in the light of the Constitution for Europe, Bruxelles, Committee of the Regions.
what kind of instrument may be used in this field (regulation, directive, decision - or 'measures' which include all of the preceding), iii) indicate the procedure to be followed (including the consultation of the CoR and/or of the European Economic and Social Committee if this is mandatory), and iv) in many cases indicate the objectives for which those instruments may be used. Furthermore, in the field of so-called coordinating, complementary and support action, a number of legal bases indicate that EU action excludes any harmonisation of the laws and regulations of Member States. All this means that the possibilities of action of the EU are usually much more limited than it appears from the mere description of the field of competence.\textsuperscript{14}

Second, even if there is a correspondence at first sight between a field of competence of the EU institutions and a field of competence of regional or local levels of government in a given country, the relevant field of competence may cover a much broader series of fields than at EU level. The field of education illustrates this.

INTERGOVERNMENTAL RELATIONS

Relationships between territorial governments and the state are concerned with:

- Controlling the legality and constitutionality of acts of local governments;
- Clarifying the distribution of competences;
- Resolving conflicts among levels of government;
- Providing for joint policy-making in areas where competences of more than one level are involved.

Mechanisms may be more or less formal.

In federal systems and some regionalised states, there is a constitutional court with the task of ruling on the distribution of competences and the legality of acts. In most cases, courts can strike down acts of both central and regional governments that exceed their constitutional powers, although in the United Kingdom only the acts of devolved governments can be struck down. Sub-state government acts may also be struck down as contrary to EU law or to international agreements. The jurisprudence of the constitutional court has been particularly important in the development of the Spanish autonomous system. Administrative courts also often have the power to strike down acts of regional and local government, be they administrative decisions or general implementing regulations. Administrative and constitutional courts may decide on the basis of a claim of private persons or public bodies, or of a specific action by the central state. The patterns are very variable from one country to another.

\textsuperscript{14} J Schwarze \textit{European Administrative Law}, (1992), Sweet & Maxwell.
In some countries, especially those with a Napoleonic tradition, there is a centrally appointed official (the prefect in France) whose task includes administering central government activities at the territorial level, exercising oversight over regional and local governments, and liaising with central government. There is a tendency for these controls to be less intrusive and concerned more with ex-post legal scrutiny than with intervention in policy-making. Typically, in France, Italy, and Spain, the ex-post legal scrutiny is now confined to the possibility for the representative of the central state to introduce a query for judicial review of local or regional acts by administrative courts.

In most countries, a specific central department has responsibility for dealing with territorial governments, although other functional departments are also involved.

In federal and regionalised states, there may be joint institutions or conferences dealing with intergovernmental matters, at a general level or organised by sector. These include the arbitration of conflicts and the making of joint policies. Such conferences may be formal and constitutionalised or informal and ad hoc. They may have binding authority. In Germany and Austria, there is a large network of joint policy-making bodies because of the tradition of co-operative federalism. Recent reform efforts have sought to limit these in the name of efficiency and transparency.

In some cases, the second chamber of the national legislature includes representatives of regional or local governments; this chamber must consent to legislation affecting the regions or their powers. The most extensive powers are those of the German Bundesrat, which has extended its powers to all matters of joint policy or administration, so covering wide policy fields, although these have now been reduced. In Belgium, on the other hand, the Senate does not have veto power, and its power is restricted to matters of regional and community competences. Proposals to reform the Spanish Senate to make it a chamber of territorial representation have not progressed. The French Senate is elected by local and regional assemblies or governments and their representatives and is generally considered as the expression of local interests, but it does not have a final veto power on national legislation.

All countries have representative organisations of regional and local authorities, which negotiate with central government over matters of mutual interest, including the allocation of financial support.
THE EU DIMENSION\textsuperscript{15}

The European Union has had a major impact on the distribution of roles between state and sub-state (local) governments.

- Many matters in which the EU is competent are devolved, domestically, to local and regional governments; yet it is the states that are represented in the Council of Ministers, although in some federal and regional states a member of a regional executive may represent both the state and the regions;
- Regions with legislative powers may be responsible for the transposition of European directives or framework decisions. This is not specified in the directives or framework decisions themselves. In some cases, coordination of transposition by central government leads to less flexibility in the transposition for regional assemblies than national government enjoys under the relevant provisions;
- Local and regional governments must implement EU policies\textsuperscript{16} across a range of policy fields. The relevant directives, framework decisions, decisions, and regulations do not specify which levels of government are responsible for the implementation of EU policies, as this is a purely internal matter. The Member States are held accountable for the implementation of policies by local and regional governments under the various procedures foreseen by the TFEU;
- Local and regional governments must comply with the principles of the EU and EC Treaties as well as regulations and decisions, according to the principle of direct applicability, without waiting for instructions from central government. The principles of Community law, especially the prohibition of discrimination according to nationality and the principles of freedom of movement of persons, goods, services, and capital impact upon a wide range of matters dealt with by local and regional governments, including state aids, tendering, and employment;
- Local and regional governments may be responsible for managing Structural Funds programmes, in partnership with the state, the Commission, and the social partners;
- EU sectoral policies may have a specific impact on particular regions.

Local government associations may have a role in representing sub-state interests to the government concerning EU matters.

\textsuperscript{16} Ibidem, p. 88.
Some states have intergovernmental conferences devoted to EU matters, in which regions and sometimes localities have an input to the national negotiating position. Regional and local governments may be involved in working groups preparing for EU initiatives or meetings of the Council of Ministers.

Under TFEU regulations, all Member States are represented in the Council of Ministers ‘at ministerial level’, and hence they may be represented by regional representatives, where there is a system of regional government with a ministerial structure. This applies to the three federations of Belgium, Germany, and Austria, and to the United Kingdom, Italy, and Spain, albeit in different ways.

Many regional and local authorities have established offices in Brussels. National laws on this have become more permissive over the years. At present there are over 250 such offices.

Regional and local authorities are widely involved in cross-border and inter-regional partnerships, often with EU funding. The new instrument of European Grouping for Territorial Co-operation provides an instrument for this.

Representation in the Committee of the Regions is usually divided among the levels of sub-state government. According to TFEU, members of the CoR are designated by the relevant national government amongst elected local or regional officers or officers who are politically accountable towards an elected local or regional assembly. Each Member State is free to choose the criteria for the composition of its list of representatives. The list is adopted by the Council by qualified majority voting, but this only amounts to endorsing the proposals made by national governments. The Committee of the Regions has a mandatory advisory competence in the following fields: economic and social cohesion; education and youth; culture; public health; trans-European networks; transport; employment; social affairs; environment; European Social fund; vocational training.

Furthermore, the CoR may adopt advisory opinions of its own initiative in any field of competence of the EU.

CONCLUSIONS

The allocation of administrative competences varies greatly among countries according to different levels of government. We can distinguish between exclusive competences, in which one level of government has complete authority, and shared competences. It is rare for a sub-state level to have exclusive competence in any area, although this comes closest to being the case at the regional level in some countries. Rather confusingly, however, the term 'exclusive competence' is used in some national documents to mean that the lower level government can act across the whole field, but without excluding a role for the national government, where it chooses to intervene.

Constitutions often include an indication of the distribution of competences between the state and different levels of government of a country,
but not always, and if they do, not always in a comprehensive manner. There is no standard way of approaching regional and local competences in the Constitutions of the thirty countries examined in this study. Furthermore, competences are usually further detailed by acts of Parliament, which more than often are not easily accessible in other than the vernacular language(s). Allocation of competences in legislation is not necessarily to be found in the legislation on regional and local government. It often results also from sectorial legislation. The precise allocation of competences may therefore vary rather quickly, due to policy changes.

REFERENCES


Ziller J., Jeffery C., *The Committee of the Regions and the implementation and monitoring of the principles of subsidiarity and proportionality in the light of the Constitution for Europe*, Bruxelles, Committee of the Regions

http://www.sigmaweb.org/
