



Consultation procedures within European states

Conseil des Communes
et Régions d'Europe
Council of European
Municipalities and Regions

An assessment of the systems for consultation
between central governments and the national
associations of local and regional government

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Introduction

In our complex, fast-changing 21st century societies, the concept of “multi-level governance” becomes increasingly recognized. In other words, neither the European Union, nor national governments alone, can successfully address the issues and problems which confront Europe’s citizens. The role of local and regional government becomes increasingly important, whether in implementing legislation that has been passed by the European Community or national governments, or as partners in implementing national policies which require a joint commitment, e.g. on social inclusion, economic development or climate change.

This concept of partnership was recently (March 2007) and explicitly recognized by the EU’s Heads of State and Government, in their Berlin Declaration, marking the 50th anniversary of the Treaty of Rome: *There are many goals which we cannot achieve on our own, but only in concert. Tasks are shared between the European Union, the Member States and their regions and local authorities.*

But if local and regional government are to perform their tasks effectively, and if this partnership between all levels is to be successful, effective consultation procedures are absolutely essential. That is why the Council of European Municipalities and Regions (CEMR) decided to compile and publish this book, which sets out and evaluates the current procedures for consultation by central governments, on national and EU issues, in 35 countries of our membership.

In 2001, we published a similar study on the national procedures then in place, in 15 countries. This time (2007) we have widened the geographical scope of our study, and also included information on *national* procedures for consultation on *European* issues. Readers will note that the arrangements for consulting local and regional government on EU affairs (for Member States) are still in most cases absent or minimalist, leaving much room for improvement in the coming years. Since local and regional government are responsible for the implementation of a large proportion of EU legislation and policies, their input is particularly important, and CEMR believes that central governments must do more to involve the local and regional levels, and listen to their views, when developing their national positions on draft European legislation.

The European dimension

This publication does not deal with the European Union's own consultation procedures, which are variable in quality depending on the subject and the responsible directorate of the European Commission. Indeed, this mirrors the national experience in many countries, in which the ministry responsible for local or regional government may consult quite often and well, whilst other ministries – whose legislation also has major consequences for the territorial authorities – ignore or minimize the need for consultation.

This is why, coming together at European level, the national associations of local and regional government have long sought to formalize and enhance the consultation procedures conducted by the European institutions, especially the Commission. So having lobbied hard on this point, we in CEMR were pleased that the EU Constitutional Treaty set out some new and important points on consultation, and the need to take account of the local and regional dimension in drafting new legislation.

Once it became clear to us that the Constitutional Treaty might not proceed, we have worked to ensure that these provisions should be included in any future Treaty, and the draft Reform Treaty – at the time of writing this Introduction (summer 2007) – indeed does maintain all of the points that are important for Europe's local and regional authorities and their associations.

But if the EU has been somewhat tardy in formally recognizing the role of local and regional government, and the need for consultation, the Council of Europe had already, in 1985, recognized the importance of consultation in the European Charter of Local Self-Government, now ratified by all EU Member States as well as about 20 others. Article 4(6) states, in particular: *Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.*

As regards financial issues, Article 9(6) provides: *Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.*

But even the European Charter needs to be strengthened and updated in this regard. Article 4 above does not expressly refer to consultation on draft legislation (though we would argue that it does so apply), and Article 9(6)

refers to only one aspect of local government finances, vital though the issue of redistribution is. Moreover, whilst requiring consultation in general terms it does not require there to be any agreed formal procedure, within each country, under which consultation should take place. If and when the Charter falls to be reviewed, perhaps by adding new Protocols, a strengthened and specific measure on consultation procedures should be added.

Lessons and conclusions

After the analysis of the situation in each country, which now follows, readers will find a synthesis drafted by our researcher for this publication, David Farge, CEMR Project Officer. This draws out some of the key trends and comparisons between the different national situations.

In general terms, for CEMR there are three key points to highlight.

(1) The importance of effective, timely consultation of local and regional government and in particular of their associations. In many countries, there is a specific process for consulting local and regional government, whose specific role is understood and recognized. In other countries, however, local government is seen not as a privileged governmental partner, but is the same way as other associations of civil society. We strongly believe that a specific partnership role and procedure needs to be adopted, in every country, for the associations of local and regional government.

(2) The need for a strictly defined framework, giving adequate time for responses and input. In more and more countries, there is now a clear procedure, laid down by or under legislation, or agreed in a formal manner with the national government. In general terms, CEMR would support the adoption of a legally binding process, wherever this is needed. If the consultation procedure is based on an agreement between the national association(s) and central government, it is vital that this agreement is not time-limited to the life-span of a particular government, but is accepted as an ongoing part of national governance. The degree of detail is a matter for national agreement – some associations prefer a somewhat more flexible process, whilst others need a more detailed one to ensure effective consultation. Above all, the timescale for local and regional government to respond to central government proposals needs to be adequate and reasonable, since the national associations will almost always need to

consult their own members and then formulate a response. Over-tight timescales is one of the key problems identified in many countries.

(3) Consultation and participation of local and regional governments should operate at all stages of the policy and law-making processes. Under many current national procedures, the formal or legal requirement is for consultation to take place once a legislative proposal has been drafted. In most cases, however, the earlier stage is the key one for consultation, i.e. from the point at which the concept of the new law is being considered, and during the drafting phase. Moreover, it is essential to ensure that all relevant ministries are obliged to consult effectively from the outset, not just the ministry responsible for local / regional government. There is also a need to ensure effective consultation during the Parliamentary process for adoption of new laws, so that the impact of any major amendments which affect the local or regional authorities may be assessed before the final adoption of the new law.

CEMR hopes that this publication will help the national associations of local and regional government in many countries to improve their consultation procedures, enabling them to demonstrate to national governments that more effective arrangements exist elsewhere, which could be adopted in part or whole.

We also hope that the national procedures for consultation on draft European legislation will be improved in many countries, since at present this is often an under-developed issue.

Good quality, effective consultation is a key element of good governance at national and European levels. We hope that this publication may help to develop the quality of consultation in different countries across our continent, by learning from each other's experience, and in this way help to improve the quality of legislation and governance, and to enhance the quality of partnership between all spheres of government.

Finally, CEMR would like to thank our national associations for their invaluable help and co-operation in relation to this publication. And our warm thanks to David Farge for his work in compiling and drafting this report. Most of the national contributions to this publication describe the situation as at late 2006.

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Albania



A. Introduction: the degree of decentralisation

A1- Background

After over 40 years under a communist regime, Albania faced many economic difficulties in the 1990's. The transition toward multi-party democracy and a market economy was thus delayed, and local self-government suffered as well. However, over the past 10 years, several major reforms have allowed local and regional government to assert themselves progressively.

Several laws adopted since 1995 define the relationships between the State and the municipalities. The Constitution of 1998 establishes the political and financial autonomy of local government, and in November 1999, a gradual decentralisation process was launched. In addition to the law of 2000 on the organisation and administration of local government, many laws have since strengthened municipal autonomy. A draft reform foresees the creation of a regional level.

A2- Legal framework for local and regional self-government

The constitution of 28 November 1998 recognises the principle of local self-government (art.15) endowed with an "independent" budget (art.111).

The law n°8652 of 31 July 2000 on the organisation and administration of local governments defines their functions, powers, rights and responsibilities.

Law n°8653 of the same date establishes the administrative division of the country and creates the regions.

B. Presentation of the institutional scene

Albania is made up of 12 counties, 36 districts, 65 municipalities and 309 towns.

B1- Counties

The 12 counties constitute the devolved level of the State. The governors, named directly by the central government, have two main missions: to guarantee the legality of administrative decisions taken by local government, and to coordinate the activities of the bodies in charge of State services at local level.

The new constitution establishes regions as local administrative units – a new level of local government. The regional government will be responsible for the same territory as the current county.

B2- Districts

Albania has 36 districts which constitute groupings of towns. Their role is essentially based on the coordination of activities of town- and city councils. The new constitution, following a transition period, foresees the elimination of the districts.

Currently, the districts' mission is to study and approve proposals by towns and municipalities regarding programmes in the following areas: environmental protection, social and economic development. Many ministries retain responsibility for decentralised services in the districts, particularly concerning agriculture, health care, culture and employment.

B3- Local Authorities

Albania counts 309 towns and 65 municipalities. It is possible to create smaller administrative units, which thus serve only part of a territory.

In accordance with the Constitution, town and municipal councils are competent in the fields of culture, youth and sports, education, registry office, social affairs, public health, environment, finances, roads and urban development.

As at the district level, several ministries retain responsibility for decentralised services at the local level.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Though consultation procedures are not strictly defined by law, the government is required to consult local government, as well as other partners.

Article 74, point 2 of Law n°8652 “on the functioning and organization of Local Government” stipulates:

“The duties of Council of Ministers:

1. The Council of Ministers is in Charge of preparing draft laws [...]
2. This obligation is realized through a process of collaboration and consultation with representatives of local governments, local units and civil society in general”

This requirement is met by including representatives of the Albanian Association of Municipalities (AAM) on various councils and consultation committees.

D. Detailed description of consultation procedures

D1- Partners in consultation

Due to the above-mentioned law and lobbying actions, the AAM maintains good relations with the Parliament.

D2- Structures related to consultation procedures

The National Committee of Decentralization, established by a government decree, includes a member of the AAM. The Committee is permanent as it does not depend on a government mandate.

The AAM is represented in the State Advocacy Council. This Council is established by law n°8551 on 18 November 1999, which stipulates that the “Council of State Advocacy is composed by a General Advocate, a Legal Consultant of the Presidency, [...], a lawyer representing the Association of Municipalities, ...” A lawyer of the AAM thus participates in the State Advocacy Council, and has the right to vote.

AAM is also a permanent member of the Consultative Council of Business, chaired by the Minister of Finance. An AAM representative thus participates at all meetings of this Council, and proposals of members of other associations are submitted when necessary.

According to the Law n°9464 of 28 December 2005, “On the State Budget for the Year 2006,” the Committee of Approval for Competitive Grants is established which manages the awarding of grants to local authorities according to the efficiency of the projects presented. A representative of AAM is member of this Committee.

D3- Methods of consultation procedures

All material prepared by various institutions that affects local government is sent for comment, opinions and suggestions to the AAM. The association uses its structures to, for example:

- Distribute to all municipalities and gather their views (when time allows)
- Organise meetings and forums of specialists in the relevant fields from municipalities, and to seek feedback
- Organise meetings of mayors

E. European Union Legislation and Policy

There is no specific national consultation procedure concerning EU legislation and policy.

F. Evaluation of consultation procedures

In most cases, the views of the local authorities are taken into account and proposed modifications accepted. Changes are thus often made to draft laws before they go for approval before the Parliament.

Moreover, AAM is consulted on the majority of draft laws that could have an impact on local governments.

G. Perspectives

AAM hopes to see the meetings of the Association Steering Committee with the Prime Minister be institutionalized and established with a regular frequency to ensure that discussions are successful for both sides.

Austria



A. Introduction: the degree of decentralisation

A1- Background

Austrian municipalities organised themselves quite early in order to better voice their positions and claims with the federal government. As early as 1887 they regularly organised general assemblies of cities in order to discuss issues of common interest. In 1915, an association of cities was created with a permanent secretariat in Vienna. This tradition of dialogue has provided Austria with a particularly efficient relationship between the federal State and the local and regional government.

Moreover, the principle of general competence has applied to the various local bodies. The Länder and municipalities thus have broad prerogatives and enjoy great autonomy.

A2- Legal framework for local and regional self-government

The federal constitutional law, adopted in 1920 and revised in 1929 and 1962, establishes the fundamental principles concerning the organisation of municipalities. Article 15 establishes the principle of general competence for

the Länder. Articles 115 to 120 lay out the basis for the administration and operations of local autonomous government.

The Länder have adopted municipal regulations in particular with regard to methods of municipal organisation and the different structures' tasks. There are nine municipal regulations which establish, in certain respects, very varied measures.

A3- Local and regional authorities' participation in total public spending

The Local governments cover less than 16% of total public spending.

B. Presentation of the institutional scene

Austria is a federal State composed of Länder and municipalities.

The distribution of competences respects the principle of subsidiarity: that which cannot be carried out at a lower level is taken up by the next higher level. As such, municipalities possess a general competence for local affairs, and the Länder for provincial affairs. The Bund (federal government) holds the competences which must remain at the national level, i.e. foreign policy, finances, trade policy, public safety and transportation.

B1- Länder

Regional entities, the 9 federated states possess certain attributes of sovereignty: their own administration, administrative tribunal system and parliament (*Landtag*), to which the members are elected by universal direct suffrage.

The Länder are competent in all fields for which the Bund is not responsible. They moreover have the competence of execution and administration of federal laws in the following areas: child and youth protection, hospitals, supply of electricity, primary and secondary schools, road traffic, citizenship, social welfare, housing, urban development.

B2- Municipalities

There are 2358 municipalities in Austria, of which 91% have less than 5000 inhabitants. The significant number of inter-municipal structures (over 1000) compensates for the small size of the municipalities.

Austrian municipalities have numerous competences in social services, healthcare, culture, road works and waste disposal, urban transport, maintaining law and order, security, urbanisation and planning, water and purification.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

A Consultation Mechanism is established by an agreement between the Bund, Länder and Local Authorities, which are represented by the Austrian Association of Municipalities and the Austrian Association of Cities and Towns (Federal Law Gazette I n°35/1999).

Separately, a procedure of general consultation on draft laws exists, implemented by the Federal Chancellor in a circular letter in 1954.

In addition, Art. 15 a B-VG of the Federal Constitution defines Austria's "Stability Pact", an agreement relating to the co-ordination of budget policy related to these authorities.

Finally, the Austrian Association of Cities and Towns and the Austrian Association of Municipalities and their regional institutions are consulted in matters of provincial legislation, fixed in either the Constitutions of the Länder, or in the Gemeindeordnungen (Municipalities acts of the Länder).

C2- Other agreements

The nomination process of national members to the Committee of the Regions is stated in Art. 23 c (1) and (4) B-VG. There is also an agreement between the Austrian Association of Municipalities and the Austrian Association of Cities and Towns regarding the composition of the local delegations in the CLRAE and other related bodies.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations are carried out exclusively through the liaison work of associations of local and regional authorities. The Austrian Association of Cities and Towns and the Austrian Association of Municipalities lead consultations on federal legislation. As a federal structure, the associations contact their institutions in the Länder in order to gather their views on draft laws. Each organisation collects the various individual positions and then works to synthesise a unique position reflecting the opinion of their members.

The competent government Ministry sends out draft laws during the introductory stage, which then must be examined within a four week period. During this time, the consultation mechanism can be invoked. In parallel to this procedure, the Austrian Association of Municipalities and the Austrian Association of Cities and Towns are invited to give an opinion on draft laws in the process of general consultation.

Both institutions will only invoke the consultation mechanism if the proposals outlined in the consultation meet certain conditions, such as that the proposals will have a major financial impact. If the consultation mechanism is invoked, the invoking Association will enter into negotiations with the federal government.

Each institution may also activate the consultation mechanism by other means: once the draft law has passed through the Council of Ministers, the Federal Chancellor sends out the draft law for further consultation to the two Associations. At this point only, the consultation mechanism – and not the general consultation – can be applied, on the condition that the draft produced in this consultation differs from the first version (as the opportunity to invoke the consultation mechanism was already possible in the first procedure of the competent government Ministry).

If the consultation mechanism is claimed and no negotiations follow, or if negotiations take place but are not conclusive, the consultation mechanism agreement allows a suit to be brought before the Austrian Constitutional Court for recovery of expenses.

Parliamentary bodies receive all statements of the Austrian Association of Cities and Towns and Austrian Association of Municipalities and publish these on their homepage.

The Länder are involved in the consultation mechanism in the same way as the two Austrian Associations. In addition, the general consultation procedure regarding the content of draft laws allows not only local and regional authorities, but also other associations – Chamber of Commerce, Trade Unions, etc. – to be involved in the normal consultation process.

D2- Structures related to consultation procedures

No consultation bodies or specific structures exist. However, negotiation meetings are a compulsory and official part of the consultation procedure. Informal meetings are rare.

D3- Methods of consultation procedures

Regional associations and institutions are consulted as a matter of course on provincial legislation, and on federal legislation through the two Austrian Associations.

General consultations are carried out some 600 times a year. The consultation mechanism is activated on average twice a year.

This will occur (upon the request of the regional member association or institution) if certain conditions are met relating to information, cost calculation, negotiation, expenditure compensation.

The instrument of consultation mechanism cannot be applied on:

- Mandatory implementation of European community law
- Specifications implemented by the regional and local authorities (as subjects of private rights)
- Federal financial compensation law and legal regulations established by the Länder
- Tax law in general

Measures taken by legislating authorities in the following areas are exempt from the first three obligations (information, cost-calculation, negotiation):

- Initiatives of members of either the Federal or Länder parliaments
- Laws proposed by committees
- Petitions proposed via referendums
- Law proposed by the federal council

E. European Union Legislation and Policy

Art. 23 d B-VG states that the Bund is obliged to send draft EU legislation out for general consultation to the extent that such legislation has an impact on provinces and municipalities. Both Austrian Associations have the right to issue an opinion on these matters. The “consultation mechanism” cannot be claimed.

F. Evaluation of consultation procedures

The general consultation offers the municipalities the opportunity to express their views on the legislation process. However, there is no effective administrative instrument to compel the federal government to accept these views.

The consultation mechanism enables the municipalities to save themselves enormous costs which could be caused by legislation. The internal Austrian Stability Pact requires the Bund, Länder and municipalities to balance their budgets. The consultation mechanism could be seen as an effective instrument to prevent federal state and Länder from burdening municipalities with laws that impose costs on communities whilst at the same time requiring them to maintain a balanced budget.

The general consultation procedure does not provide a means for municipalities to dictate the actions of the federal government. However, the municipalities can use the consultation mechanism as a means of forcing the federation to negotiate.

G. Perspectives

The Austrian Constitution Convention was formed in 2005 to reform the Austrian Constitution, but to date no legislative changes have been made or are foreseen.

The goal is to keep a balanced and equal relationship with the federal state and Länder by using the Consultation Mechanism in important cases, and also to provide support in socio-political and economical fundamental areas.

The goal of the general consultation is to present concerns to the authority responsible for draft legislation and to try to persuade the authority to take these concerns into account.

Belgium



A. Introduction: the degree of decentralisation

A1- Background

The federalisation process which began in 1970 has gone through several successive stages: in 1980 the federal state was established, and in 1988-1989, and in 1993 by the Saint-Michel accords, further steps were taken.

This process created a complex federal State in which certain competences overlap. In this context, the autonomy of local authorities differs depending on the region.

A2- Legal framework for local and regional self-government

In article 41, the federal Constitution guarantees autonomy to local governments.

In 1988, competences concerning the supervision and financing of municipalities were transferred to the Regions. Following the special law of 13 July 2001, which went into effect on 1 January 2002, the specific decrees concerning the municipalities and the organisation of local elections were transferred to the Regions.

Legislation concerning municipalities is laid out in the new municipal law (royal decree on coordination of 24 June 1988, ratified by the law of 26 May 1989) and the law of 22 December 1986 concerning inter-municipal cooperation.

For the provinces, the main reference comes out of the provincial law of 30 April 1836.

The main legislation concerning regions and communities is as follows: the special law of institutional reforms of 8 August 1980, the ordinary law of institutional reforms of 9 August 1980, the special law of 12 January 1989 concerning Brussels institutions, the law of institutional reforms for the German-speaking community of 31 December 1983 and the special law of 16 January 1989 concerning community and regional financing.

A3- Local and regional authorities' participation in total public spending

In 2002, local public spending approached 18 billion Euro, 13% of total public spending.

B. Presentation of the institutional scene

The federal State is today made up of six federated entities whose territories overlap: three regions and three communities. In addition, Belgium is divided into provinces and municipalities.

B1- Federated States

Though territorial bodies, the six federated States are not local governments. Each federated structure has its own Parliament and an executive body, the Government. The Flemish community and Flanders region have merged – their institutions as well – giving them one Parliament and one Government. A special status is applied to Brussels due to the bilingual nature of the Belgian capital.

The Regions are competent for employment policy, civil engineering, urban planning, and since the law of 13 July 2001, foreign trade, agriculture and organisation of local government.

Communities are competent in the fields of culture, social affairs, health and education.

B2- Provinces

Belgium's 10 provinces have seen their competences greatly reduced over the past 15 years.

Today, they are competent for housing, social infrastructures and policies, culture and economic development. In addition, they take on responsibilities in education as they have taken the initiative to create special paramedical and business schools.

B3- Municipalities

According to the Constitution, the 589 Belgian municipalities enjoy great autonomy in managing local affairs. Their competences are determined in practice according to the notion of "municipal interest".

Their field of competence covers registry office, public order, urban planning, water, sewage, household refuse, energy supply, urban transport, road works, green spaces, health, social services, education, culture, sports and leisure.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Federal level

There is no strictly defined procedure at the federal level aside from the fact that associations participate in numerous inter-institutional committees.

Since 1988, the supervision of local authorities was transferred to the regional governments. This has had serious consequences on the consultation procedures. The regional level is becoming increasingly important for local government.

Regions

In the Flanders region, strictly speaking, no formal consultation procedure exists. However, the Association of Flemish Cities and Municipalities (VVSG) sits on several inter-institutional committees at the Flemish level. Through this participation, many informal contacts are developed between the management and members of the VVSG team, and the cabinets and civil

servants of the Flemish administration. Occasionally the management or members of the VVSG team are invited to present the position of VVSG in committees or in the plenary session of the Flemish parliament.

In the Walloon region, the local governments have their own consultative council. This is the highest council of the cities, municipalities and provinces of the Walloon region. Instituted by the decree of 1 July 1993, its mission is "to provide an opinion concerning any draft decree of the Walloon Parliament that might influence the finances and/or administration of cities, public centers of social action (CPAS), provinces of the Walloon region." The Parliament or the Government may use this non-binding opinion when finalising their draft. The Union of Cities and Municipalities of the Walloon Region (UVCW) participates in this council, proposing the nominations of eight of the 16 municipally mandated members of the council, and taking part in the work of the council as experts. Furthermore, the UVCW participates in various committees and councils in different fields, both in the context of the Walloon region and in the "Communauté Wallonie - Bruxelles" (a non constitutional body that focuses on international relations of the French speaking Community). In addition, UVCW frequently has hearings with the national parliament and the Walloon parliament concerning draft laws or decrees of importance for local government. Finally, UVCW is often directly and informally consulted by the regional authority prior to decisions it wishes to take.

No formal procedure exists in the Brussels region. The Association of the City and the Municipalities of the Brussels-Capital Region (AVCB) participates in different committees and councils, both in the context of the Brussels region and in the community "Walloon Brussels".

C2- Other agreements

The nomination of Belgian members to the Committee of the Regions is carried out by the regions. There are therefore no representatives of local government to the Committee of the Regions. Despite protest from the associations, the regions defend this position, arguing that the Committee of the Regions is the only official body at European level where they can be represented as regions. The associations are, however, solicited for nominations of representatives for the Chamber of Local Authorities within the Council of Europe.

D. Detailed description of consultation procedures

D1- Partners in consultation

Federal level

For matters under the competence of the federal state that bear consequences for local government, the three associations consult together in order to possibly adopt a common position.

Regions

In Flanders, although the official positions of local authorities are transmitted through VVSG that speaks with one voice to the regional authority, cities may establish direct contact with ministries or cabinets in order to defend specific points. In such cases, municipalities negotiate with the ministries on an individual basis. The parliamentary commissions play an important role in the consultation procedures before the parliament takes a final decision.

In the Walloon region, UVCW plays a federating role: it defends the interests of the 262 Walloon municipalities with the regional authority. When individual contact is made between the region and a city or municipality, it concerns an issue particular to that administration. Ministries intervene most often in informal dialogue within the working group, task force, etc., and also at the level of committees and councils. Parliamentary chambers intervene through the mechanism of Parliamentary committee hearings.

In the Brussels region, AVCB has a very different situation due to the existence of a de facto, albeit informal, authority: the Conference of Bourgmestres of the Region of Brussels Capital. The Government will sometimes address itself directly to this body, and sometimes directly contact the AVCB and, although there are accords concerning the sharing of material and information as well as on dialogue on actions, this rarely occurs without difficulty. However, neither the Conference nor AVCB defend individual positions: only the City of Brussels – given its status – maintains specific relations with the Region. Consultations are undertaken both at the parliamentary level (hearings) and at the executive level: these may be in working groups, committees, etc. Consultations often are conducted by postal correspondence. The lack of a formal framework does not prevent these consultations from taking place frequently.

In each of the three regions, the social partners have an important role in the consultation procedures, especially regarding the status of civil servants and municipal staff. They negotiate the working conditions with the governments at regional level.

D2- Structures related to consultation procedures:

As stated in part C1, local government associations participate in many consultative committees and councils in every region. Moreover, informal contacts are usually very important in the different stages of consultation.

D3- Methods of consultation procedures

Given the number of councils and committees in which the associations are represented, local government is broadly consulted. However, consultation is not systematic and associations often must be vigilant in order to take action in time on an issue that would impact local authorities, particularly concerning finances.

The regularity of consultations is very variable, depending on the various committees and legislative calendar. As a general rule, relations between the associations and federal, community and regional bodies are well maintained.

Consultations are carried out in certain cases in the preparatory stages of a text, and in others following the decision, when the implementation of the legislation creates problems at local level.

E. European Union Legislation and Policy

There is no specific national procedure concerning European affairs. Consultations are complicated due to the fact that many competences related to European legislation and policy fall to the regions.

Given that the Belgian system is atypical, and that there is no hierarchy between the different levels of authority, Belgium must first reach agreement between the State, communities and regions before taking an official position. In this context, the voice of the local level is not taken into account. There is therefore an internal subsidiarity problem that is not yet resolved.

F. Evaluation of consultation procedures

Federal level

The participation in councils and committees as referred to under point C, as well as the possibility of taking a common position between the regional associations when appropriate, constitute the main positive aspects of the current procedures.

However, the inter-institutional complexity can slow the decision process. Furthermore, the regions are responsible for providing aid – particularly financial – to struggling municipalities: as this relationship does not exist at the federal level, often this level of power will turn around and try to charge the local authorities with the financial burden related to measures taken.

Without a doubt, it is at the federal level that consultations are the worst organised. It has happened that in certain ad hoc committees, the “consultation” deteriorates into confrontation and dispute.

Flanders region

The current procedure has allowed for a growing participation for VVSG on different consultation committees. Moreover, VVSG can assume the role of spokesman on behalf of all the local authorities with the governmental bodies of the country.

One of the persisting problems relates to the consultation of local authorities regarding distributions of the Municipal Fund. This important financial tool for local authorities is regulated by the Flemish Parliament, and local government is not involved.

Another problem concerns the Flemish administration’s approach to the planning, conventions, strategic models, etc., that local government is obliged to develop: there is an excessive requirement for planning. VVSG conducted a study and identified over 36 sorts of “local” plans. This leads to centralism in the Flemish administration concerning local government, and risks weakening local autonomy.

Finally, although VVSG is consulted by means of several committees, commissions, etc., there often remains the fundamental problem of time, as suggestions must be made within extremely short deadlines. This is the

result of the ministerial cabinets' methods which require almost immediate reaction, complicating the consultation process.

Walloon region

At regional level, consultation – formal or informal – is a constructive process (mostly via the highest councils of cities, municipalities and provinces of the Walloon region). UVCW maintains a completely representative role as it federates all 262 Walloon municipalities, all CPAS (*centers publics d'aide sociale*), all police jurisdictions and most inter-municipal groupings.

However, problems remain. When not institutionalised, consultation often occurs under very tight deadlines, which does not always allow for sufficient estimation of the measures' impact. As a general rule, UVCW requests the higher bodies (federal and regional) to ensure a budgetary balance for local authorities when drafting measures. Frequently UVCW is required to calculate the compensation to be requested for given policy, and not all measures that affect local government are necessarily or correctly compensated.

Brussels-Capital

Consultation is relatively simple and constructive: the size of the region – which allows the multiplication of personal contacts – facilitates consultation.

AVCB shares the same views as the other associations concerning the often very short deadlines that do not always allow for a thorough study of complicated issues, and rarely allows for consultation of the association's governing bodies for the validation of the AVCB position.

G. Perspectives

The reorganisation of the Flemish administration into 13 ministries and external and internal agencies, implemented as of January 2006, will further complicate the consultation procedures with local authorities. In addition, there is great risk that the "horizontal" impact that decisions may have on local government be forgotten. In the other regions, no coming reform should modify consultation methods.

Views vary according to association concerning how to improve the procedures:

At federal level

It is crucial that consultations on federal measures result systematically in a budgetary balance for local government – which currently is far from being the case.

Flanders region

A more systematic and formal approach to consultation is desired.

This is all the more important concerning European legislation currently in preparation: it will be necessary to create an advance warning system in every ministry through the early study of the effects that draft legislation might have on local government. It will subsequently be necessary to create a systematic consultation procedure.

For the VVSG, a new debate should take place in the future as the roles and competences of the various levels of government are subject to change. It will also be necessary to have this debate at federal level considering the fact that several decisions (on police, CPAS, justice) that have a direct impact for local government, are taken at federal level.

Walloon Region

The systematisation of consultation is more advanced in the Walloon Region. It should be underlined that it is very much in the interest of the Region to involve UVCW before decisions are taken, as this association alone – as the federation of local Walloon government – is in the position to inform the Government of the impact that a given policy may have at local level.

Finally, at regional level, it is also essential that consultations result every time in a budgetary balance for local government. The Region has made efforts in this regard, but it remains unfortunately not yet systematic.

Brussels Region

A more systematic and formal approach to consultation is sought, but only if this is not detrimental to the intense networking practiced in this region.

Bulgaria



A. Introduction: the degree of decentralisation

A1- Background

The political changes of 1990 were closely followed by the beginning of the process of decentralisation. As of 1991, the adoption of the Law on local self-government, the creation of the municipal level and the organisation of the first municipal elections restored the democratic rights of local authorities.

The process continued as laws were passed which particularly affected the country's administrative makeup in 1995, and municipal property, tax systems and budgets in 1997. In 2003, a new process of financial decentralisation was undertaken.

A2- Legal framework for local and regional self-government

Constitutional stipulations on local self-government are found in Article 2 of the preamble of the Constitution adopted on 12 July 1991 and developed in Chapter 7.

The main legislative text in this area is the Law on local self-government and administration, adopted in 1991 (J.O. n°77/1991) and which has since been amended more than 18 times. This law ensures municipalities' autonomy in

accordance with the Constitution. The local legislative framework was later supplemented by the Law on municipal budgets, the Law on municipal property and the Law on municipal taxes. The European Charter of Local Self-Government, which was ratified in 1995, is fully taken into account in Bulgarian legislation, and constitutes the basis of development in the normative context for municipalities.

The Law on regional development of 1999 created six planning regions.

A3- Local and regional authorities' participation in total public spending

In 2005, municipal spending represented 17% of total public spending in Bulgaria.

B. Presentation of the institutional scene

The law on the administrative divisions of the Republic of Bulgaria of 1995 established two administrative levels, the municipalities and the regions, to which can be added the planning regions, which were created in 1999 by the law on regional development. Only the municipalities have the status of local government; these constitute the only local level with elected authorities.

B1- Planning Regions

The six planning regions constitute the level which deals with the implementation of policies of regional development, planning, and the financing of programmes of pre-accession to the European Union, in the framework of the national programme for regional development. In the planning regions, the Law stipulates the creation of Councils of regional development, bodies of promotion of the State policy. The president of this Council is one of the prefects of the regions concerned, the members are representatives of ministries and national agencies related to regional policy, the prefects of the regions and only one representative from the municipalities.

B2- Regions

The administrative reform in effect since 1 February 1999 caused the number of Bulgarian regions to grow from nine to 28. These represent the devolved level of the central State. Their competences are broad, covering the harmonisation

of national and local interests, and participation in the regional development plan.

B3- Municipalities

The competences of the 264 Bulgarian municipalities are defined under Article 17 of the Law on local autonomy and administration of 1991. These cover both specific competences, and competences delegated by the State, defined by a Decree of the Council of Ministers.

They are thus responsible for many areas, including the construction and maintenance of urban infrastructure, the management of education institutions, health, social welfare, culture, public services, sports and leisure, water supply and treatment, the collection and management of waste, and roadways.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There are several consultation methods of Bulgarian local authorities, all of which are conducted through the National Association of Municipalities in the Republic of Bulgaria (NAMRB), which, under the stipulations of the Local Self-Government and Local Administration Act, is the unique legal representative of local government at national level.

With the Ministerial Council

Consultation procedures with the Ministerial Council are based on the *Agreement for Cooperation* signed between NAMRB and the central Government on 13 October 2005. A similar agreement had been concluded with the previous Government on 11 December 2001. By this Agreement for Cooperation, the Strategy for decentralisation and the Programme for its implementation for the period of 2006-2009 were jointly prepared before being adopted by the Government.

At the beginning of each year, the Ministerial Council and NAMRB hold a meeting to define an annual activities schedule for the implementation of the Agreement for Cooperation. At the end of each year, a report is prepared on the concrete achievements and discussed at a joint meeting.

With the Ministry of Finances

Relations between NAMRB and the Ministry of Finances are regulated by several legal acts. The majority of the specific indices of central financing for municipalities are consulted or negotiated with NAMRB according to Municipal Budgets Act. Article 37 of this Act stipulates that “during the budget procedure for the preparation of the draft State Budget Act for the respective year, NAMRB makes proposals for the general amount of relations of municipal budgets with the central budget and presents it before the Ministry of Finance.”

Another consulting procedure between NAMRB and the Ministry of Finances regarding finance distribution is stipulated in the State Budget Act for 2006. This relates to the distribution among municipalities of the amounts of co-financing for national programs. Moreover, NAMRB and the Ministry of Finances have signed a Programme for effective coordination for the period 2006-2009. This Programme foresees broadening the institutional dialogue.

With the Parliament

Consultations with the Parliament are defined by the Local Self-Government and Local Administration Act. This law stipulates that NAMRB “develops proposals for changes and improvement of the legislative framework for the local self-government” (Art 9,(3),2).

NAMRB experts participate in meetings of Parliamentary committees when draft laws are being discussed that concern local authorities. Certain points are discussed in working meetings between NAMRB’s management and the heads of Parliamentary groups.

Concerning local finances, NAMRB “prepares statements and proposals on the draft state budget, regarding items that concern municipalities” (Local Self-Government and Local Administration Act, Art.9,(3),3). In addition, Article 37, paragraph 5 of the Municipal Budgets Act stipulates that “disagreements on propositions according Paragraph 3 are recorded in a bilaterally signed protocol that is an appendix to the Draft State Budget Act.” In this way, NAMRB’s recommendations are taken into account when the draft law is submitted to the Parliament for vote.

C2- Other agreements

Based on an informal agreement with the central Government, NAMRB nominates the 12 Bulgarian observers from Bulgarian local authorities to the Committee of the Regions. For the Congress of Local and Regional Authorities in Europe, the members are nominated by the Council of Ministers based on the proposals of NAMRB.

D. Detailed description of consultation procedures

D1- Partners in consultation

The Agreement for Cooperation between the central Government and NAMRB establishes that consultations with the Council of Ministers are conducted respecting the following aims:

- To establish permanent dialogue for the implementation of the existing policies and for discussing proposals for new policies.
- To continue and expand the practice of setting up joint working groups on key issues of reforms concerning local government.
- To involve municipal representatives in the development of draft norms and regulations concerning important issues of local governance, and submitting the drafts to the Council of Ministers along with the NAMRB statement.
- To expand the participation of NAMRB representatives in consultative, management and monitoring bodies at the central executive authorities.
- To conduct regular meetings of the Prime Minister and other ministers with the Management Board of NAMRB, as well as meetings at expert level.
- To regulate the participation of NAMRB President in meetings of the Council of Ministers when important local government-related issues are discussed;

At the beginning of each governmental mandate, NAMRB initiates contacts with each Ministry, during which methods of cooperation are discussed. There are special contact groups within NAMRB for conducting the contacts with each ministry.

In accordance with the Local Self-Government and Local Administration Act, Parliamentary standing committees regularly invite NAMRB representatives to present the association's position at their meetings when drafts concerning local authorities are discussed. The association's position is then reported to the plenary session for the draft vote. In cases concerning very important acts for local authorities, hearings with the NAMRB Board of Directors are conducted by the respective standing committee chairs.

Moreover, NAMRB holds meetings before the final vote on the Law on the annual State budget with all the main parliamentary groups invited in order to defend the municipalities' proposals. During the annual meetings of local authorities, the leadership of the parliamentary standing committees on the most relevant themes for local authorities is invited, i.e. the committees on local government, budget, environment, economic affairs, social care...

D2- Structures related to consultation procedures:

Representatives of NAMRB are present in forty standing joint inter-institutional committees. Certain of these operate under the auspices of the Ministries, such as the Council on European communication, the national council on ethnic and demographic issues, the social assistance council, the higher consultative council on waters, the national expert council on territory regulation and regional policy and the national council on forest preservation.

The association is also represented in inter-institutional working groups such as on national health insurance, the higher medical council, the national council for protection of children and the consultative council for small and medium size enterprises.

D3- Methods of consultation procedures:

Meetings between NAMRB representatives and the main Ministries take place at least yearly. In addition, technical meetings are regularly organised concerning the implementation of policy decisions, in working groups for the elaboration of draft laws and other legislative and administrative regulations.

E. European Union Legislation and Policy

Consultation procedures with the central government are based on the Agreement for Cooperation with NAMRB and are conducted with the aim of involving local government representatives in all levels of the EU pre-accession process.

NAMRB also participates in structures that monitor pre-accession funds, as well as in the inter-institutional working groups set up by the Council of European integration and the Council of state administration modernization.

F. Evaluation of the consultation procedures

NAMRB has developed an effective consultation system, which covers all areas regarding local and regional authorities. However, the realisation of political accords with the expert level sometimes poses problems.

G. Perspectives

A Council of decentralisation was set up to follow the Strategy for decentralisation. It is an inter-institutional body, chaired by the Minister of regional development. It is composed on the principle of parity between representatives of central authorities and of the NAMRB. Its role is to monitor the decentralisation process and to plan the phases of implementation of the adopted Strategy.

Cyprus



A. Introduction: the degree of decentralisation

A1- Background

The decentralisation process began in 1985 with the adoption of a law on municipal administration. In 1997, the revision of this law simplified the island's municipal administration.

However, despite the law's recognition of their overall role, the competences of local government are limited, and the State's supervision tedious.

A2- Legal framework for local and regional self-government

Articles 173 and 178 of the Cypriot Constitution define the territorial structures of the island and the issues concerning the representation of the Greek and Turkish communities in the municipal councils.

Rules governing the organisation and administration of municipalities are laid out in law 111/85 on municipalities, which was modified in 1997.

The law of 1999, which replaced the old laws concerning villages, established a unique model for the administration of municipalities in rural areas.

A3- Local and regional authorities' participation in total public spending

Local and regional authorities cover only 4% of the total public spending in Cyprus.

B. Presentation of the institutional scene

Cyprus is a unitary state composed of districts, municipalities and rural communities. Only the municipalities and communities constitute levels of local government.

B1- Districts

Villages and groups of villages are organised into six development districts with the aim of facilitating good coordination between the local and State levels. The districts constitute the devolved level of the State.

These are competent for public health, roads, household refuse, trade and the promotion of the district.

B2- Municipalities and rural communities

There are two types of local authorities in Cyprus: 33 municipalities in urban zones and 739 rural communities. Of the 33 municipalities, nine are in the zone under Turkish control. These continue nonetheless to benefit from formal recognition, even though their elected representatives have little decision-making autonomy.

The municipalities and rural communities hold the same competences: in public health, urban planning, protection of the environment, water supply, land planning, household refuse.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

No formal consultation procedure has ever been defined between the local authorities and the State.

The Ministry of the Interior undertakes consultation processes on an ad hoc basis and only on some subjects of direct interest for the Union of Cyprus Municipalities (UCM).

Thus, a certain level of consultation does exist on some issues. The procedures followed are sometimes satisfactory yet, unfortunately, often undertaken on issues of minor interest only. In most cases, no consultation is undertaken on the very important issues.

C2- Other agreements

The nomination procedure of Cypriot delegates to the Committee of the Regions and CLRAE is not defined by an agreement or law. UCM submits proposals, which the government may modify at will.

D. Detailed description of consultation procedures

D1- Partners in consultation

The partners in Consultation depend on the issue in discussion. For horizontal issues, the consultation is carried out between the UCM and the Government, whilst for specific issues, the relevant local authorities are consulted on an individual basis.

The Ministry of Interior is the principal consultation partner of the Government.

No other partners are involved in these consultations.

D2- Structures related to consultation procedures

No specific consultation structures exist. The UCM presented a demand for the establishment of standard consultation structures, but the demand has not been accepted by the Government.

Informal contacts allow the positions of UCM to be taken into consideration to a certain degree.

D3- Methods of consultation procedures

Local authorities are not consulted on all issues that have direct bearing on their interests.

There is no regular scheduling of consultations, and these may take place at different stages in the decision process.

E. European Union Legislation and Policy

Consultation procedures on EU legislation and policy are very limited. The Government often considers such issues as purely technical – and thus non negotiable – and prefers to apply/transpose them quickly.

F. Evaluation of consultation procedures

For several issues, the positions of UCM are included in the final documents. This allows for local particularities to be taken into consideration, and the final implementation of the laws or measures to be better conducted.

Yet consultations are only carried out on minor issues, whilst important decisions are taken without any consultation.

G. Perspectives

Despite the demands of the UCM for the creation of a standard consultation procedure on all themes that directly concern local authorities, no reform is foreseen to-date.

Czech Republic



A. Introduction: the degree of decentralisation

A1- Background

Following the Soviet era, a first step towards decentralisation was taken in 1990 with the return of local self-government, the legal definition of municipalities and their competences as well as the definition of their financial means and resources. That same year, the first municipal elections were organised. In 1993, the new Constitution of the Czech Republic established the basic principles of local self-government.

However, for different reasons, and particularly due to the process of separation from Slovakia, the administrative division of the Czech Republic evolved slowly during the 1990's, and only as of 2000 were major reforms adopted.

Indeed, 13 laws went into effect in 2000 to support regionalisation. The most important concerned the creation and organisation of regions, the organisation of municipalities, the transfers of rights and duties and budgetary rules. The districts, which represented the central state at local level, were eliminated in 2002 and their authority was transferred to the regions, municipalities and the central State.

A2- Legal framework for local and regional self-government

Article 8 of the Constitution of 1993 guarantees autonomy to local government, and Chapter VII (Articles 99 to 105) define their organisation.

Law n°367 of 1990 on municipalities outlined the competences of these structures. Law n°128 of 2000, which replaced Law 367/1997, currently defines the organisation of municipalities and their basic competencies.

Constitutional law n°347 of 1997 on higher autonomous administrative structures (i. e. regions) – which went into effect on 1 January 2000 – defines the borders of 14 regions. Law n°129 of 2000 defines competences and organisational structure of regions.

A3- Local and regional authorities' participation in total public spending

Czech local and regional authorities cover almost a quarter of total public spending of the country.

B. Presentation of the institutional scene

Local authorities are organised into two levels: the regions (*kraje*) and the municipalities (*obce*). Prague, the capital, has special status (*and also law*) as it is both a municipality and a region.

B1- Regions

The Czech Republic is composed of 14 regions since 2000.

These are competent for secondary education, roadways, public transport, regional development, public health and in part for social aid, social services and the environment.

B2- Municipalities

The majority of the 6258 Czech municipalities are very small: 96% count fewer than 500 inhabitants. Approximately 522 municipalities with over 3000 inhabitants have the status of cities (*město*), and among these, 23 are considered statutory cities (*statutární město*) and can establish their own statutes as well as the organisation of their municipal and infra-municipal administration.

The law determines the areas of autonomous competences and those of delegated competences for local government.

Autonomous competences include for example urban planning and development, waste and water management, nursery and primary education, management of municipal transport, management of infrastructures and municipal roads, culture, and partly social aid, protection of the environment.

Competences delegated by the State to certain municipalities include for example social aid (payment of social welfare), partly protection of the environment, law and order, public legal support.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

It is required by the government decision of May 2004 that the government ministries consult the Union of Towns and Communities of the Czech Republic (SMO CR) on all laws submitted to Parliament that might have impact on municipalities.

In addition, there is a political agreement, concluded in June 2005, between SMO CR and the central Government. The agreement is not limited by the duration of the government's mandate (see section D). There is a separate agreement with the ministry for regional development on mutual cooperation.

The local government associations are consulted by other means, such as in working groups, committees, etc.

C2- Other agreements

A Government decision gives SMO CR and the Association of Regions of the Czech Republic the right to nominate their representatives to the Committee of the Regions. A similar procedure is applied concerning CLRAE.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultation procedures are conducted exclusively through the intermediary of local and regional government associations.

Consultations take place following a regular meeting of the government, twice a year at least. Members of the government are then joined by the members of the SMO CR Executive Board. The government discusses legislative proposals and policies with SMO CR representatives and defines concrete areas for cooperation. The following meeting reviews whether the negotiated goals have been achieved.

Consultations do not involve any other partners.

D2- Structures related to consultation procedures

There are no specific consultation bodies. Consultations are carried out by the SMO CR Executive Board and the government. Informal contacts are important throughout the different stages of the consultation procedure.

D3- Methods of consultation procedures

The associations of local and regional government are systematically consulted on all themes related to their interests.

Major consultations take place twice a year.

Consultations are conducted once the government publishes draft legislation.

E. European Union Legislation and Policy

There are not yet any specific consultation procedures on EU affairs. However, SMO CR has made progress in its consultations with the central government, and is – as of May 2006 – represented within the Governmental Committee on the EU.

F. Evaluation of consultation procedures

The current consultation procedure allows for an improved position for lobbying by local and regional authorities, as well as an increased influence in the areas of interest of local government, especially in the new programming period.

However, several elements limit the possible outcome of consultations, such as the limited human resources of the SMO CR, and the insufficient awareness about partnership, consultation and good governance among ministerial staff.

G. Perspectives

No legislative reform currently foreseen will affect the consultation procedures.

The goals defined during the last consultations, which took place in February 2006, and accompanied with concrete tasks and a timetable, are as follows:

- To establish an effective consultation procedure – early information on planned/prepared legislation and policies
- To include the needs of municipalities in cohesion and agriculture policies in the new programming period
- To resolve problems arising from restitutions of the property of Churches
- That adequate financial subsidies be provided for carrying out delegated competencies
- To improve the financial independence of municipalities.

Denmark



A. Introduction: the degree of decentralisation

A1- Background

Denmark has historically been a very decentralised State. The principle of local self-government, guaranteed in the 1953 constitutional amendment, has been strengthened by several reforms undertaken as of the 1970's. These reforms allowed both the rationalisation of the country's administrative divisions with the reduction of the number of local authorities, as well as the strengthening of their competences.

The organisation of local government and their financing methods were profoundly altered in January 2007. An agreement of June 2004 between the government and its supporting party provided for a reduction in the number of local authorities as well as a new distribution of competences and resources among them.

A2- Legal framework for local and regional self-government

Section 82 of the Danish Constitution establishes the foundations for local self-government.

Law n°615 of 18 July 1995 provides the stipulations related to the functioning of local government.

A3- Local and regional authorities' participation in total public spending

Local government covers a significant proportion of Danish public spending: around 62%.

B. Presentation of the institutional scene

Denmark has a two-level system of local government, made up of regions (*regioner*) and municipalities (*kommuner*).

B1- Regions

Since the 1970's Denmark has 14 counties (*amtskommuner*). Following the structural reform that was agreed in 2004, the 14 counties were abolished and five new regions were established in January 2007.

The primary responsibilities of the regions are health care, regional development and the operation of a number of social institutions.

In addition, the regions are responsible for the establishment of transport companies and certain regional tasks regarding nature, environment and physical planning. Finally, the regions are responsible for providing and developing special education nationally and regionally and for institutions offering special education to people with speech, hearing or sight impairments (communication centers).

Legislation delimits the responsibilities of the regions positively, i.e. the regions cannot undertake tasks other than those mentioned in the legislation.

B2- Municipalities

Since the 1970's Denmark has counted 271 municipalities, which in January 2007 were reduced to 98.

The municipalities are responsible for a major part of the citizens-related public service tasks. Since the reform, the main areas are: social services (including child care, care for the elderly, special education for adults and certain preventive as well as rehabilitative tasks in the field of health care); primary schooling; activation and employment; integration and language education

for immigrants; business service and promotion of tourism; the local road network and libraries, schools of music, local sports facilities and culture.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There is no legal framework for consultation procedures, but parliamentary rules of procedure stipulate that all relevant partners are to be consulted prior to the presentation of a bill to parliament.

This means that the local and regional government associations – Local Government Denmark (LGDK) and Danish Regions (DR) – are consulted on all legislation with a bearing on local and regional authorities, as are individual local authorities or regions whenever pending legislation has a special bearing on them.

The status of consultations is purely consultative for all parties. This is partly a consequence of the division of powers under the Constitution, and partly a consequence of the legal status of LGDK and DR as private, voluntary organisations of local and regional authorities to which formal competence can only be delegated if all members so agree.

C2- Other agreements

The nomination of Danish members to the Committee of the Regions and to the CLRAE takes place according to mutual agreement between LGDK and DR. The list of appointed candidates is then transmitted to the Danish Ministry of Interior and Health, which carries out the official appointment.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations are conducted both through the associations of LGDK and DR, as well as with individual local authorities.

In all major local and regional issues, LGDK and DR have the necessary expertise to act as a worthy sparring partner when dealing with ministries and other

organisations. This expertise is based on close collaboration with local and regional representatives, and on the two organisations' constant efforts to gather documentation and carry out studies in various areas.

D2- Structures related to consultation procedures

As a general rule, the local and regional government partners are directly involved in drafting legislation of importance to local and regional authorities, and therefore they are represented in a wide array of government committees and boards drawing up new legislation and defining tasks to be solved locally and regionally.

D3- Methods of consultation procedures

Local or regional authorities render most services provided by the public sector. Local and regional authorities are responsible for disbursing about 2/3 of the total national operational costs. Public finances at the local and regional levels therefore have a significant and direct effect on the entire economy in Denmark. That is why the government and the local and regional authority organisations draw up the economic framework and targets for local and regional public spending as a collective effort.

Once a year, LGDK and Danish Regions separately negotiate with the Minister of Finance on the overall economic framework for local and regional budgets for the next financial year. The objective is to reach a collective agreement with central government. The conclusions of the agreement are consequently applied throughout the budget process within the local and regional authorities. However, it is important to note that the agreement is voluntary and there is no legal requirement for an agreement.

It is also important to note that the agreements are not in any way legally binding for any single local authority or region and there is no system of sanctions. However, the agreement is politically binding for all local and regional authorities collectively. This implies that one local or regional authority may spend more than allowed under the agreement, as long as another local authority compensates by spending less. It is the overall economic result that counts.

It is of course very important for the system of collective bargaining itself that local authorities and regions feel committed to act in accordance with the

content of these agreements when planning their budgets for the following year.

Through the system of economic negotiations, local authority and regional finances are co-ordinated with general national economic targets, and the general framework for local/regional financial manoeuvrability for the years lying ahead is projected.

This is always a balancing act between giving due consideration to the national economy as well as leaving room for local and regional authorities to prioritise and deal with tasks locally. But the fact that local and regional authorities are responsible for allocating 2/3 of all public operational costs means that their financial decisions have a significant macro-economic impact and requires that they assume their responsibilities.

The local and regional government partners endeavour to become involved as early as possible whenever legislation is being prepared. Each case is followed all the way to the appropriate ministry/minister or to the Parliament.

E. European Union Legislation and Policy

Within the Danish EU decision-making process, the formal influence of interest groups is generated through "EU Special Committees." Currently there are 33 EU special committees covering various sectors and themes. The chair and secretariat of each committee is ensured by the appropriate ministry.

The examination of the European Commission's proposals takes place within the committees. The responsible ministry is required to evaluate the judicial, administrative and economic consequences that the proposal in question might have in Denmark, as well as whether the proposal is contradictory to Danish interests.

LGDK and DR are currently represented in 10 committees concerning legal issues, environment, regional and industrial politics, social and labour market, taxes, health, technical trade barriers, education, transport and research. This formal participation is vital for the local and regional input to the Danish EU-decision making process.

Formally, the ministries have four weeks to prepare a common Danish position. Within that timeframe, the special committees must be consulted. However,

the deadlines of both written consultations and convocations of meetings vary, and are often too narrow.

Local and regional government is sometimes consulted at a late stage in the process, just before the minister in question receives his negotiation mandate. It then becomes difficult to alter significantly any substantial content of the Danish draft position, let alone the EU-proposal itself.

In such cases, the focus is additionally placed on the networking functions of the committees during prior informal consultation with relevant officials within ministries, while still paying attention to the formal participation within the committees.

LGDK and DR also focus their lobbying through CEMR and the Committee of the Regions, and the Danish members of the CoR are in regular contact with the European Committee of the Danish Parliament as well as with members of the European Parliament and the Economic and Social Committee. Views and interests of the secretariats of the institutions in question are continuously co-ordinated.

F. Evaluation of consultation procedures

The Danish associations of local and regional government are involved in the decision process as of the earliest stages and can have a real impact supporting the positions of their members.

However, the deadlines for consultations are sometimes too short.

G. Perspectives

The associations of local and regional government would like to see better dialogue in the ministerial consultation groups, as well as more realistic deadlines. The procedures should particularly be improved concerning the drafting of national reform programmes in relation to the Lisbon Strategy.

Estonia



A. Introduction: the degree of decentralisation

A1- Background

The first laws on local self-government in Estonia date back to 1918, with the introduction of a two-level territorial system. The Soviet period halted the decentralisation process, which was then taken up again in 1989 after the restoration of local autonomy and the creation of two levels of local authorities: municipalities and counties. Measures on local government were included in the new Constitution in 1992.

Several laws adopted between 1993 and 1996 modified the local system. The counties lost their status of local government and became the devolved level of the State. Since then, decentralisation has carried on with transfers of competences, particularly in the field of education.

A2- Legal framework for local and regional self-government

Articles 154 and 155 of the Estonian Constitution define and guarantee local self-government of cities and rural municipalities.

The law of 2 June 1993 on the organisation of local government, together with the law of 22 February 1995 on territorial divisions, define the administration and competences of Estonian local government.

The laws of 16 June 1993 and 13 December 1995 on local budgets and their alignment with the State budget provide the legal references for budgetary matters.

A3- Local and regional authorities' participation in total public spending

Local and regional authorities are responsible for 22% of the total public spending of the country.

B. Presentation of the institutional scene

There are two levels of territorial structures in Estonia: the counties and the municipalities. Only the latter have the status of local government.

B1- Counties

The 15 counties represent the devolved level of the State. Their field of competence is limited to the management and administration of the county.

B2- Municipalities

The 227 municipalities include 194 rural municipalities and 33 cities, all of the same status.

Their competences are very broad, including preschool, primary and secondary education, social welfare, health services, culture, sports and leisure, social housing, urban planning, tourism, public transports, certain public utilities (water supply, sewage and purification, public lighting, central heating), the environment and the collection and disposal of refuse.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Paragraph 25 of the Rules of the Government stipulates that "Prior to submission of a draft to the Government of the Republic or its signing by a minister,

the draft shall be approved by other ministries and the State Chancellery [if the draft directly concerns their competences, ...] and the concerned ministers. The draft shall also be approved by national associations of local governments if the draft concerns the general interests of local governments.”

Paragraph 9 of the State Budget Act focuses on the correlation between the State budget and local government. It specifies that “... the distribution of the budget equalisation fund shall be determined on the basis of an agreement between the authorised representatives of the local governments and local government associations and the Government of the Republic.” Since 1994, annual negotiations are held concerning the grants of the budget equalisation fund from the State to local government.

In addition, some ministries have adopted “Good Engagement Practices” and in this framework the associations are consulted.

Lastly, local government associations have direct access with active user rights to the official electronic law drafting system. They can thus provide views on legislation as it is being drafted.

C2- Other agreements

Two national associations – the Association of Estonian Cities and the Association of Municipalities of Estonia – are consulted in the nomination process of national members to the Committee of the Regions and the CLRAE. This clause is written in the nomination procedures that are approved by the Minister for Regional Affairs.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations are carried out with both associations, and sometimes, according to need, with individual local authorities as well.

If the Ministry sets up a working body, a consultation group, the association is sometimes asked to participate. If the Ministry has adopted “Good Engagement Practices” procedure, the associations may be contacted in the early stages of the law making process. Associations maintain very good cooperation with the legal chancellor, who is responsible for verifying the constitutionality of legislation.

For the past two years, the parliament commissions have begun inviting representatives of the associations to the commission sittings when issues are discussed that have impact on local government.

D2- Structures related to consultation procedures

Annual budget negotiations between the Government of the Republic and local government associations have been held permanently since 1994 with the aim of reaching an agreement over State budget allocations to local governments. The Cooperation Council of National Associations of Estonian Local Authorities represents the associations. The Minister of Regional Affairs heads the delegation of the Central Government.

According to the rules of procedure of the budget negotiations, seven permanent working groups (consisting of the representatives of the Cooperation Council and of the Central Government delegation) prepare the budget negotiations. Meetings of these working groups can be initiated from either side.

In addition, informal contacts and meetings play an important role in the consultation procedures.

D3- Methods of consultation procedures

Budget negotiations and the e-Law system function well. Other consultation depends on the ministries as some ministries are more willing to undertake consultation than others. Thus, depending on the competent ministry, consultations are not always carried out.

Annual budget negotiations take place throughout the year, which means the working groups meet on a basis of need. Through the e-Law system, all draft laws, regulations of Government and regulations of ministries are regularly submitted for consultation. Associations are sometimes consulted during the preparation phase of new laws.

When a new law will change the basis or finances of the local government system, the associations are always consulted in due time. On other issues, the situation is more irregular – sometimes the associations are asked to participate in the working groups at a very early stage in the law making, and sometimes ready-made draft law is sent for consultation.

E. European Union Legislation and Policy

There is no specific consultation procedure on EU affairs.

F. Evaluation of consultation procedures

The current consultation procedure has produced positive results concerning budgetary matters. Since 2004, local authorities receive grants ensuring that the basic exemption and other deductions from taxable income have an impact only on the State budget tax revenue. Moreover, in this area, associations are always consulted.

For any law that may affect local authorities, the Government cannot send the draft law to the Parliament without prior consultation with the associations. Concerning the draft State budget, the Government includes the outcome of the consultations with the associations when submitting the draft to the Parliament for approval.

Associations participate in the planning concerning the use of EU structural funds for the period 2007-2013.

Problems do exist, however. The e-Law system does not allow for recommendations to be made until the final phases of drafting, when all strategic decisions have already been taken. As such, only minor modifications can be made.

Furthermore, the consultation deadlines are often too short: associations must respond within five days for ministerial regulations, and within ten days for laws and regulation of government. Quite often, the draft bill prepared by the ministries without prior consultation with associations is in contradiction with other laws regulating local authorities. The situation is not likely to change in the near future.

G. Perspectives

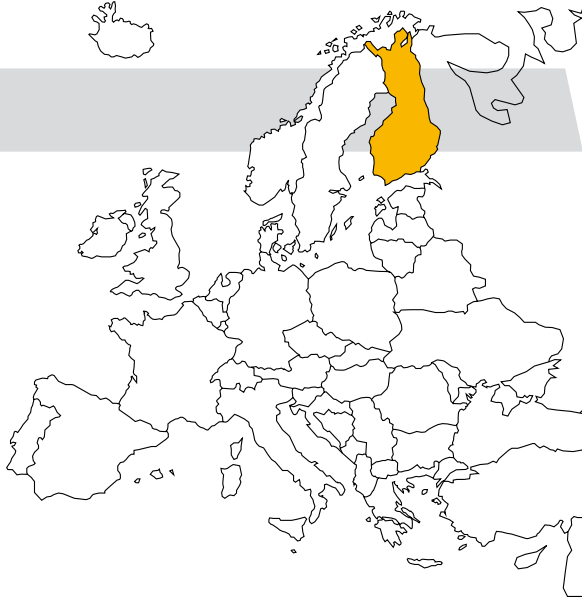
The State Chancellery has prepared the "Good Engagement Practices" procedure that is likely to be adopted by the Government at the end of the year. This would make the procedure universal for all the ministries.

The associations would like to be involved in the law making process at as early a stage as possible.

Moreover, the budget negotiations should not only concentrate on the coming year, but consider a longer period in order to guarantee stability in financial planning for local authorities.

Lastly, the Minister of the relevant field should head the working groups of the budget negotiations.

Finland



A. Introduction: the degree of decentralisation

A1- Background

Finland is a traditionally decentralised country. Local self-government has its roots in two laws that date back to 1865 and 1873, which remain the basis for the current system. Universal direct suffrage was introduced at the municipal level as of 1917. The municipalities represent the only decentralised level.

The regionalisation of 1994 sought to achieve greater efficiency for the relationship between the State and municipalities, particularly through a clearer distinction between legislative, administrative and financial competences.

A2- Legal framework for local and regional self-government

Article 121 of the Constitution of 1999 strengthens the constitutional basis of local self-government.

Law 1135/1993 on regional development – amended in 2002 (602) – established the regional councils.

Law 365/1995 on local administration defines the competences, rights and duties of local authorities.

A3- Local and regional authorities' participation in total public spending

Finnish local authorities cover 38.7% of the total public spending of the country.

B. Presentation of the institutional scene

Finland is a parliamentary republic divided into provinces, regions and municipalities. Only municipalities have the status of local government.

B1- Provinces

Finland has six provinces (läänit). Excepting the province of Aaland which has a special status, the Finnish provinces have no political autonomy: these represent the central government's regional administration.

The provinces coordinate State policies in the fields of education, culture, social affairs, public health, economic affairs, competition, consumer affairs, food products, veterinary affairs, police, rescue and fire fighting services, public transport, youth, sports and justice.

B2- Regions

Finland has 19 regional councils which are joint municipal boards. They have statutory responsibility for regional development and planning, as well as for preparation and execution of EU Structural Fund programmes. They also promote the interests of their regions and perform a broad variety of voluntary functions such as the promotion of tourism, cultural activities, education and interest in local history.

B3- Municipalities

The 431 municipalities (416 as from 1 January 2007) are the only local governments in Finland. The Constitution grants them general competence in local affairs. These fall into two categories:

- a. General competences that are not obligatory under the principle of free local administration (public transports, water, ...)
- b. Specific competences made mandatory by special legislation (education, health, social action...).

The municipalities' competences are particularly broad in the social and health care fields, as they are responsible for child protection, the administration of housing for the elderly, services for the handicapped, education, dental services, health care centers and administration of hospitals. In terms of education, they ensure the administration of pre-schools, primary and secondary schools and adult education.

A large project to restructure municipalities and services is underway in Finland, and may lead to a smaller number of municipalities.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The general framework for the relations between the State and local level is defined by the Local Government Act 365/1995. Section 8.1 determines the legal and practical framework for consultations.

According to Section 8.3 of the Local Government Act, important areas of administration and finances and the coordination of State and municipal finances are dealt with in a negotiation procedure between the State and local authorities.

The negotiation procedure is specified by a Decree of the Advisory Board on Municipal Economy and Administration (1314/1993) which sets up a permanent cooperation and negotiating body between the central government and the Association of Finnish Local and Regional Authorities (AFLRA) to handle matters referred to in Section 8 of the Local Government Act.

Outside of this legal framework, AFLRA is systematically consulted in many ways and in different phases of the law-drafting or reform process on issues bearing on the interests of local authorities. This is in line with Finnish governance and regulatory practices characterised by consensus building, informal processes and widespread participation of interest groups and stakeholders in decision-making processes. AFLRA is often a key partner in the realization of government development projects based either on the policy programmes specified in the Government Programmes. Cabinets have included their municipal policy objectives in the Government Programme

demonstrating the intention to increase cooperation as well as to develop the negotiation procedure between central and local government

C2- Other agreements

There are no formal agreements concerning the nomination of members to the Committee of the

Regions. However, it is an established practice that the Ministry of the Interior requests AFLRA's proposal for the Finnish members.

According to the official appointment procedure of Finland, AFLRA proposes the names of the

Finnish representatives to the Council of Europe Congress in Strasbourg, and the Ministry of the Interior appoints the representatives on the basis of this proposal.

D. Detailed description of consultation procedures

D1- Partners in consultation

AFLRA is invited:

- To participate in committees and working groups set up by the government or competent ministries on preparing draft legislation, most often at an early stage in the drafting process, which allows participants to have a real influence on the final legislation.
- To provide written opinions and recommendations on the report of the committee and the government's proposals.
- To have hearings with parliamentary committees during the evaluation of the draft law, and to participate in many other ways in co-operation with the Parliament.

Regional councils shall be consulted by state authorities on any plans and actions of significance for regional development (Regional Development Act, Planning and Building Act).

D2- Structures related to consultation procedures

Advisory Board on Municipal Economy and Administration

The permanent body for negotiations, this Advisory Board works under the Ministry of the Interior.

It brings together an equal number of representatives of the central government (Ministries of Finance, Interior, Social Affairs and Health, and Education) and of AFLRA. The Ministry's Department for Municipal Affairs acts as secretariat.

According to its function specified by decree, the Advisory Board examines Government proposals with impact on local government administration and finances, as well as the sections of the Budget covering local government finances. In addition, the Board assesses prospects for local government finances, and monitors the functioning of the system of central government transfers to local government and makes proposals for improving it.

The Advisory Board meets regularly about once a month. It has set up an economy division to draw up assessments on medium-term trends in local government economy and report twice a year. The assessment division draws up assessment plans for common criteria for the state and quality of the basic services organised by local authorities. The members of the Advisory Board are mainly leading civil servants and officers in the ministries concerned; there are few political representatives.

In the Advisory Board, the parties – if possible – agree on joint recommendations. If an agreement has been reached, the local authorities are expected to follow the recommendations, but implementation is not compulsory. In addition, the State authorities and Parliament are not compelled either to follow the agreed recommendations.

Basic Services Programme

Local authorities have the main responsibility for providing public services. They have a statutory duty to provide services in healthcare, social affairs, education and cultural activities. In recent years, the State has assigned an increasing number of duties to local authorities without corresponding budgetary allocation. Though local authorities decide on their local tax rate, many of them have faced difficulties in financing these new legal mandates.

A step forward in solving this problem was the introduction of the Basic Services Programme. The purpose of the programme is to assess income and expenditure of municipal functions, and the measures needed to balance them. Since 2003, the examination of the basic public services programme also falls under the Government's spending limits and budgetary procedure.

The Basic Services Programme is prepared by a ministerial working group chaired by the Minister of Finance. The President and General Director of AFLRA participate as permanent experts. The documents are dealt with by the Advisory Board before being submitted for approval to the ministerial working group. The economy division and its calculation group prepare the figures, whilst AFLRA is responsible for the development of the key figures for local government finance as a whole.

Other consultation frameworks

The Commission for Local Authority Employers is a part of AFLRA. It promotes the interests of Finnish local and joint municipal authorities in the labour market, but it is also an employer confederation representing local authority employers in national income policy negotiations with the Government.

AFLRA is represented in the Economic Council of Finland, which is chaired by the Prime Minister. This body has the role of facilitating co-operation between the Government, the Bank of Finland and major interest groups. It debates economic and social issues, and particularly the themes of the public sector and division of welfare. The Economic Council meets usually once a month and its discussions remain confidential.

In addition to these formal consultations, AFLRA has frequent – almost daily – personal contacts with civil servants from ministries and other State agencies to exchange expertise and advice, draw up joint publications, guidelines, etc. Lobbying at the political level with the Government and Parliament through party channels is also important and frequent.

E. European Union Legislation and Policy

Responsibility for the determination of the Finnish position on EU affairs lies with the competent ministries. A system has been established to ensure that

Finland can present a coordinated position in line with its overall EU policy. This system involves competent ministries and the Committee for EU Affairs.

The Committee for EU Affairs has appointed 35 sector-specific preparative sub-committees which constitute the foundations for the preparation of EU affairs at the civil servant level. Some committees hold meetings almost monthly, some before the Council meetings and some only twice per year.

The sub-committees can assemble in a restricted or extended composition. An extended composition includes representatives of various interest groups and other concerned parties. AFLRA is represented in most of the extended EU sub-committees and in the sub-committee on Regional and Structural Policy. These structures are an important source of information for the Association.

In addition, AFLRA submits statements and position papers to competent ministries in EU affairs and sometimes is represented in the national working groups preparing EU matters. The opinions of the association in EU affairs are also delivered through unofficial personal contacts with government officials, members of the Finnish and European Parliaments and Finland's EU representation in Brussels.

The Parliament participates in the national level preparation of the decisions to be taken in the EU. The study of EU affairs in Parliament has been entrusted to the parliamentary committees. The view of Parliament in this area is usually expressed by the Grand Committee, though other committees can provide the Grand Committee with their opinions.

Before transmitting their conclusions to Parliament, the parliamentary committees may hold hearings with the competent Minister, civil servants and other experts. If the EU proposal concerns the local and regional level, AFLRA is usually consulted.

F. Evaluation of consultation procedures

The obligation to consult in matters defined in the Local Government Act is well known to the ministries. It is rare that such negotiations are not conducted. Occasionally, the Advisory Board has transferred the matter to a special negotiation. Though recommendations reached through negotiations have not always been implemented to the letter, overall experiences have been positive. This process has provided a forum for open dialogue between

the State and local government representatives, and opened a channel for the exchange of relevant information and discussion of common interests.

The introduction of the Basic Services Programme and the related annual basic services budget has considerably improved the balance and predictability of funding for the tasks of local authorities. This programme will be developed gradually as a tool allowing a better management of all local government services and their financing in the political decision making.

However, there is still room for improvement in the cooperation between the State and local government. AFLRA's urgent objective is to make the Basic Services Programme a permanent part of the statutory State-local government consultation procedure, in accordance with the Framework Act on restructuring municipalities and services.

G. Perspectives

A widespread consensus exists in Finland concerning the need to reform the municipal structures for service delivery.

The objective of the ongoing project to restructure municipalities and services is a sound structural and financial basis for the services that municipalities are currently responsible for in order to secure the organisation and delivery of such services in the future with due regard to the required standard of quality, effectiveness, availability and technological advancement. Major changes that the coming decades will see – particularly demographic and economic – are considered.

The project is carried out in close cooperation between the State and local government – AFLRA being the key partner. Its outcome may have an effect on the division of duties between the State and local government, as well as on financial and operational bases and structures of local authorities and leading also to mergers of municipalities supported by merging grants.

Enforcement of the restructuring will be undertaken in municipalities and regions in accordance with the policy definitions and schedules of the Framework Act, which came into force in the beginning of 2007 and will expire at the end of 2012.

France



A. Introduction: the degree of decentralisation

A1- Background

Historically a very centralised country, France experienced significant changes in its territorial administration with the adoption of the laws on decentralisation in 1982 and 1984. These modified the structure, competences, finances and methods of supervision of local authorities. Further transfers of competences have since occurred.

A second phase of decentralisation began in 2003 with the modification to the Constitution concerning the decentralised organisation of the Republic. In particular, this constitutional law allows for certain local decisions to be submitted to the citizens for decision by referendum.

With the law on decentralisation of 13 August 2004, which went into effect on 1 January 2005, new competences were transferred to local authorities. These transfers – which primarily affect departments and regions – began in 2005 and will continue over several years.

A2- Legal framework for local and regional self-government

Article 72 of the Constitution of 1958 defines local authorities and guarantees their autonomy. The Constitution further determines the fundamental principles of the free administration of local authorities, their competences and resources.

The law of 2 March 1982 on the rights and freedoms of municipalities, departments and regions presents the main legislative measures concerning local and regional authorities. There is no hierarchy, no supervision of one local authority over another.

The constitutional law of 28 March 2003 on the decentralised organisation of the Republic provides guarantees for local and regional government concerning the implementation of their competences and allows them to submit certain issues for decision by referendum of the citizens.

The law of 13 August 2004 on local freedoms and responsibilities attributes new competences to the departments and regions.

A3- Local and regional authorities' participation in total public spending

Local and regional spending covers 19% of the total public spending in France.

B. Presentation of the institutional scene

French local and regional authorities consist of regions, departments and municipalities. At the departmental and regional level, a prefect represents the devolved authority of the State.

B1- Regions

France has 22 regions and four overseas regions.

The regions are competent for economic development, land planning, transport, education, job training, culture, secondary schools construction and maintenance, health and the management of European Structural Funds.

B2- Departments

France has 96 departments and four overseas departments. These are competent in the areas of social and health action, urban planning and

equipment, education, culture and heritage, economic development, environment. In addition, since 2004, and on a trial basis, departments can manage European Structural Funds.

B3- Municipalities

There are 36 568 municipalities in France. This municipal fracturing is made up for by a significant number of inter-municipal structures, some 20 000 in 2005.

Municipalities are competent for registry office, electoral functions, town planning, environment, economic development, maintenance of the municipal roads, public order, education, social action and culture.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

In France, consultation procedures of local and regional authorities are established by laws. The Constitution includes no particular stipulation on this matter. Though the procedures are required, opinions provided remain purely consultative. Consultations primarily concern financial issues, but also may concern affairs that affect the local sphere (transport, land planning, housing, construction, sanitation, environment, etc.).

In parallel to these “institutional” consultations, the French Government also regularly consults the associations of local and regional elected representatives on any project that relates to them.

C2- Other agreements

The French delegation to the Committee of the Regions is made up of 24 members (and 24 alternates) from local and regional government which can be broken down as follows: 12 representatives from regions, six from departments and six from municipalities or municipal clusters.

The French delegation to the Congress of Local and Regional Authorities of the Council of Europe is made up of 18 members (nine from municipalities, clusters and departments, and nine for regions), and 18 alternates. These representatives are nominated by the Government upon the proposals of the following associations of elected representatives: the Association of Mayors

of France (AMF), the Assembly of Departments of France (ADF) and the Associations of Regions of France (ARF).

D. Detailed description of consultation procedures

D1- Partners in consultation

Legally defined consultations are mainly carried out directly with local and regional authorities.

However, informal consultations occur regularly with associations of local and regional authorities, particularly the AMF, the ADF and the ARF which, from the many national associations of elected representatives, have a broad voice.

On the side of the State, consultations are undertaken by the Ministries, as well as the devolved levels of the State and the prefects.

D2- Structures related to consultation procedures

At national level

At national level, there are more than 80 specialised consultation structures on issues that affect local and regional government, within which representatives of municipalities, General Councils and Regional Councils participate. The majority of these committees are established by Law: for example, the National Council on Housing, National Mountain Council, National Council on Land Planning, and the National Council of Cities, National Council of Sustainable Development, National Council of Decentralised Cooperation.

The High Council of Territorial Civil Service (*Conseil supérieur de la fonction publique territoriale or CSFPT*) is an egalitarian consultative structure that is consulted on any draft law concerning the territorial civil service and any draft decree on territorial civil servants. It gathers 20 local representatives and 20 representatives of trade union organisations, and meets in plenary session at least four times a year. As a general rule, the ministry in charge of local and regional authorities calls upon the CSFPT, but the latter may also take action upon its own initiative and submit proposals.

Furthermore, elected representatives of local and regional authorities meet within administrative councils of structures such as the National Centre of the Territorial Civil Service.

The Committee on Local Finances

The Government may consult this specialised Committee on all draft laws, draft amendments of the Government or on any regulatory measure of a financial nature that could affect local and regional authorities. For decrees, this consultation procedure is mandatory.

This Committee must also provide the Government with the studies necessary to the drafting of laws on finances that affect local and regional government. Its three principle roles are as follows:

- A decision-making role and supervision of the distribution of the main financial support of the State (subsidies and adjustment funds).
- It is consulted on all regulatory texts (decrees) and can be consulted on legislative texts concerning local finances.
- It is a structure of dialogue that issues proposals on reforms affecting local and regional authorities (accounting, inter-municipal affairs, etc.)

The Committee meets several times a year, particularly to study State finance Law. It is made up of 38 elected representatives, specifically: two Deputies, two Senators, four Presidents of General Councils (of departments), two Presidents of Regional Councils, six Presidents of municipal clusters, seven Presidents of public establishments of inter-communal cooperation and 15 mayors. It essentially constitutes a structure of financial dialogue between the State and local and regional government.

At the devolved level

At the devolved level of the central State authority, there are specialised commissions and committees (some 50 per department) which meet at the initiative of the Prefect, and are made up of elected representatives (often nominated by the departmental associations of elected representatives), which are consulted on drafts that affect them.

The departmental councils on housing, departmental committees on business equipment, departmental committees to draft plans for the disposal of household waste are examples of such structures. Regional consultations at the initiative of Prefects are also organised concerning regional strategies for the use of European Structural Funds (negotiations of operational programmes). Moreover, at local or regional level, the

authorities are often directly consulted by the devolved representation of the central State (either at regional or departmental level) and the Prefect on all decisions that may affect them.

D3- Methods of consultation procedures

The associations of local and regional authorities are occasionally consulted by the Ministry of the Interior or the Ministries concerned at various stages in the decision process: during the drafting phase of a law or regulation – in the initial stage – as well as during the issuing of decrees – the implementation stage.

E. European Union Legislation and Policy

Concerning EU affairs, national measures currently contain no specific consultation procedure of local and regional authorities.

The AFCCRE (CEMR's French section) has drafted a proposal of institutionalisation of an ad hoc consultation structure of local and regional authorities on EU affairs, which would be organised similarly to the Committee on Local Finances.

F. Evaluation of consultation procedures

The many consultation structures allow for local and regional authorities to promote their views in numerous areas.

However, several problems remain, and local and regional authorities are not systematically consulted by State services as no procedure is stipulated. Moreover, several Ministries agree that local and regional authorities are not sufficiently present in cases when dialogue is sought prior to the drafting of a text.

Germany



A. Introduction: the degree of decentralisation

A1- Background

The principle of local self-government is a deep-seated tradition in Germany as an expression of civic liberty. The history goes back to the Middle Ages and the privileges then accorded to free cities, and then more recently to the Prussian municipal code of 1808. The Basic Law of 1949 grew out of this tradition and specifically guaranteed autonomy for local government.

After the Second World War, West Germany opted for federalism – in part as a reaction to the extreme centralisation experienced under national-socialism. A process of decentralisation then followed, strengthening the powers of the Länder and municipalities through the reforms of 1965 and 1977, as well as with reforms concerning the internal organisation of local government that certain Länder undertook. During reunification, the East adopted the structural organisation of the West.

A2- Legal framework for local and regional self-government

Article 28 paragraph 2 of the basic law of 23 May 1949 establishes the principle of free administration of local authorities. This right of local self-government is also defended in the Constitutions of the Länder.

Article 70 paragraph 1 of the basic law attributes the drafting of regulations governing local government to the Länder. Though they all enjoy the same legal standing as well as administrative autonomy, there is great diversity in their status depending on the Länder.

A3- Local and regional authorities' participation in total public spending

The proportion of local public spending to the total public spending in Germany is approximately 15% and essentially covered by the municipalities.

B. Presentation of the institutional scene

Germany is a federal republic made up of municipalities (*Gemeinden*), districts (*Kreise*) and federal states (*Länder*).

B1- Federated States

Since reunification on 3 October 1990, Germany is made up of 16 Länder. These are not local authorities in a legal sense. They each have internal sovereignty, their own constitution and institutions. The administration is made up of a parliament, government and legal system, which share state sovereignty with the federal State.

They maintain exclusive competence for culture, teaching, environment and police. They share certain other responsibilities with the Central Government concerning justice, social policy, civil law, penal law, labour law.

B2- Districts

The 323 districts (*Kreise*) represent the supra-municipal level. These have the responsibilities that small municipalities cannot take on alone.

The districts' compulsory competences are in the areas of construction and maintenance of roads, youth and social assistance, collecting and managing household refuse. In addition to the compulsory competences, there are

optional competences in the sectors of culture, promoting the economy and tourism, building and managing libraries and managing universities.

B3- Municipalities

Germany counts 13 854 municipalities (*Gemeinden* and *Städte*), of which 80% have less than 5000 inhabitants. Municipal structures differ depending on the Länder.

Compulsory competences cover urban planning, water management, social aid and youth, building and maintenance of schools. In addition to the compulsory competences, they have optional competences in the sectors of energy, economic development, public infrastructure, culture and sport.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Federal level

Consultation of local authorities at federal level is based on administrative rules of the Parliament and the government.

Paragraph 69.5 of the Rules of Procedure of the Parliament stipulates that Parliamentary Committees shall give local government associations at federal level the possibility to present their positions before a decision is taken, if a proposal affects local authorities in a substantial way.

A similar rule exists for the Federal Ministries. Paragraph 47 of the Rules of Procedure decrees that draft legislation shall be forwarded to the local government associations as early as possible if it affects their interests.

However, there is no such rule or similar regulation for the *Bundesrat*, the second chamber, which provides the German Länder access to law-making at Federal level.

Länder level

Due to the federal structure of Germany, the Länder have legislative competences and therefore consultation is also an issue at this level. There

are local government associations in each of the 16 Länder, which are in charge of consultations carried out at this level.

The legal framework for consultation at Länder level varies widely. In certain Länder, the requirement to consult local government associations is mentioned in the Constitution, whilst in others, consultation rights are mentioned in the Law or only in the Rules of Procedure of the State Governments and Parliaments.

Differences also exist in relation to the “threshold” for a consultation. In some cases, the requirement to consult is very general – in all cases where local authorities may be affected – thereby allowing a broad involvement of local government associations. In other cases, the themes for consultation are limited, thus reducing the influence of the associations.

In 1995, Rhineland-Palatine was the first Land to introduce officially a Local Government Council, responsible for advising the Government in all matters of importance for the local level.

In addition to the formal consultation procedures, there are extraordinary meetings between the local government associations and Ministers of the Federal government, and even with the Chancellor. These meetings depend on specific initiatives and are not part of a fixed regular calendar. These are high-level meetings with very broad political agendas.

C2- Other agreements

German local authorities are represented within the German delegation to the Committee of the Regions, with three delegates and three alternates. The Länder occupy the 21 other seats.

D. Detailed description of consultation procedures

D1- Partners in consultation

At the federal level as well as in the Länder, the consultation partners are exclusively the local government associations.

D2- Structures related to consultation procedures

There are no established consultation bodies or structures.

D3- Methods of consultation procedures

The associations are generally consulted on all draft laws that could have an impact on local authorities. Nevertheless, it can occur that the associations are not consulted.

Most often associations are consulted during the preparation stages of the draft laws, though sometimes it may be at a later stage.

E. European Union Legislation and Policy

In 1993 a federal law concerning the cooperation between the Federal State and the Länder in EU Affairs was passed which stipulates in Article 10 that in this issue the rights and interests of local authorities must be protected.

In 1996, the Rules of Procedure of the Federal Ministries were amended. A paragraph was introduced which foresees that local government associations shall be consulted by the responsible Ministry when evaluating the financial and administrative consequences of an EU draft regulation. In reality this rule is rarely applied.

F. Evaluation of consultation procedures

In their daily work, experts in the local government associations and the responsible public servant in the Ministry build good relationships, allowing for early inputs into draft legislation. By more formal but equally positive methods, the local government associations receive draft proposals with request for comment.

However, it also can and sometimes does happen that the local government associations only become aware of initiatives of local importance through the general press. This reveals the flaw in the existing consultation procedure: as the legal basis of consultation is laid out in Rules of Procedure – and thus is neither constitutionally nor legislatively binding – the obligation is weak and non-compliance by the Ministries and the Parliament does not result in any disturbance of the law-making process. Abiding by the rules is therefore sometimes linked to political opportunism.

G. Perspectives

Local government associations are striving to improve the current situation. Their point of departure is the current debate in Germany concerning changes to the federal system.

The suggestions presented are as follows:

- Amendment of Article 28 of the constitution in order to include a constitutional right for local government associations to be consulted in due time in all cases where proposals affect local authorities directly
 - Amendment of the Rules of Procedure of the Federal Parliament (*Bundestag*) in order to guarantee that local government associations are again consulted if proposals are changed fundamentally in the parliamentary process
 - Introducing consultation rights in the Rules of Procedure of the second chamber (*Bundesrat*)
 - Introducing consultation rights in the Rules of Procedure of the arbitration committee in which the Federal government and the Länder seek solutions and substantial alterations may be negotiated

Greece



A. Introduction: the degree of decentralisation

A1- Background

Historically, Greece has been a very centralised country. However, over the past two decades the country has been undergoing reforms strengthening the powers and financial means of the local levels. This process began in 1986 with a constitutional reform defining the devolution of State power as the new means of national administration. The creation of 13 development regions in 1987 was a direct result of this reform.

The process of decentralisation was fundamentally reinforced as of 1994 with the creation of departments as local authorities, and the growth of tax-based income and competences of the municipalities. The process continued with the transfer of new competences toward the local level in 2001 and 2003.

However, in spite of the increase in subsidies from the central fund for self-government, the financial autonomy of local authorities remains restricted, particularly due to the very low level of resources at this level.

A2- Legal framework for local and regional self-government

The administrative autonomy of local authorities in Greece is guaranteed by Article 102 of the Constitution.

The basic legislative measures governing the functioning of local authorities are codified in the General Code on local authorities, the General Tax Code for local taxes and the electoral Code.

A3- Local and regional authorities' participation in total public spending

Local authorities cover 7% of the total public spending in Greece.

B. Presentation of the institutional scene

The territorial organisation of Greece is made up of three levels: the regions (*Peripheria*), which do not have the status of local authority, the departments (*Nomoi*) and the municipalities (*Kinotites*).

B1- Regions

Since the 1997 law on devolution, Greece has 13 regions, which are the local representative of the central State authority. These are competent for economic and social development, and for the vertical coordination of economic policies.

B2- Departments

Since 1994, the 50 departments constitute the second level of local authorities.

They have exclusive competence for health, land and urban planning, and they have shared competences with the municipalities in the areas of education, green spaces and housing. The departments recently received additional authority for police.

B3- Municipalities

Greece has 1 031 municipalities – first level of local authorities – divided into 901 urban municipalities (*dimos*) and 130 rural municipalities (*koinotita*) with populations of less than 10 000 inhabitants.

The municipalities are competent under common law for all local affairs of municipal interest. They are competent in the areas of culture, public transport, socio-economic promotion, gas and water supply and school building maintenance.

Between 2001 and 2003, they received new responsibilities, particularly the management of nursery schools, sport centers, minor ports, family support centers, as well as certain police powers (particularly inspections and fines).

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There is no constitutional guarantee for the involvement of local authorities in the decision-making process regarding issues of direct concern to them. The sole constitutional guarantee which exists concerns the administrative and financial independence of local authorities. Consequently, there is no constitutional recourse except when decisions or policies applied by the national level threaten local autonomy or where the freedom of action of local and regional authorities is to be limited in an area which is usually considered as part of their competencies.

Article 77 of the Code of the Communities and Municipalities stipulates, "Before issuing any measure concerning environmental protection or spatial planning projects, the state ought to hear the positions of local and regional councils or associations of local and regional authorities, located in the geographical area concerned by these draft regulations."

Article 38 of the Parliamentary Regulation stipulates, "...with reference to draft laws of great significance, Standing Committees may invite to its sessions, [...] representatives of Local Government Authorities [...], which are in a position to enlighten the Standing Committees on relevant special and technical issues." Representatives of Local Government Authorities may be invited to the sessions of the following Standing Committees: the Committee for educational affairs, for financial affairs, social affairs, public administration, public order and justice and the Committee for manufacture and commerce.

Article 43 A stipulates, "The subject matter of the Committee for the Regions is the attendance and the briefing of the Parliament on the operation of

regional government institutions, in particular on issues concerning the planning and the implementation of regional development politics. In order to fulfil its mission, the Committee for the Regions may invite to its sessions [...] representatives of the Regions or Local Government Authorities ...” Although the participation of representatives of Local Government Authorities in the sessions of the Parliamentary Committees is not compulsory, it should be underlined that, given the great publicity of these sessions, the positions of Local Government representative bodies, are widely represented.

Finally, according to article 82 of the Greek Constitution, the Economic and Social Committee (ESC) mission is to handle the public debate about issues concerning financial and social policies in Greece. Moreover ESC has the authority to assess draft laws that are referred to its responsibility. Members of the ESC come from almost every social and professional group. Among them, three members from Central Union of Municipalities and Communities of Greece (KEDKE) actively participate in the operation of ESC, supporting the position of Local Government.

Overall, procedures mainly involve the preparation of positions by local and regional authorities on national legislation rather than a consultation procedure entailing specific or lasting influence leading to institutionalisation. The lawmakers determine the cases in which local authorities are asked to express an opinion, either through the intermediary of KEDKE, or through Local Unions of Municipalities and Communes (TEDK – when issues in question have a limited reach regionally). In other cases, the consultative role of local authorities is limited to the participation of representatives of local and regional authorities on committees established by the State to deal with subjects of a rather general nature which concern, among others, local authorities.

The role of the committees established by KEDKE is a more substantial one. Their objective is to submit proposals and to hold discussions with the central government on questions such as social problems, local finance, regulations, etc.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultation procedures are carried out with both associations and individual local authorities. At State level, both the executive and legislative authorities

may consult local and regional authorities. Moreover, other actors participate in consultations.

D2- Structures related to consultation procedures:

Representatives of local and regional authorities participate on certain committees established by the State to deal with subjects of a rather general nature which concern, among others, local authorities.

D3- Methods of consultation procedures

Local and regional authorities are not systematically consulted on draft laws that affect them. When consultations are undertaken, these will be after the draft law is already drawn up.

E. European Union Legislation and Policy

Greece's entry into the EU did not influence the situation. Essentially, the questions were viewed to be of a national nature, and in addition, representative bodies of local and regional authorities struggle to make heard their opinions. However, there is no doubt that during the period of preparation and over the following years, the fact that the State structure was heavily centralised played a decisive role in this process, not to mention the influence of mentalities which encourage neither decentralisation nor social participation in the decision-making process.

However, it should be noted that the consultative role of representative bodies was strengthened following the transfer of powers to the local authorities, with the creation of a second level of local government and the implementation of community regulations which has become internal law. The same cannot be said regarding the existence of well established institutionalised procedures, or even informal ones, leading to any specific results.

F. Evaluation of consultation procedures

The main oversights or weaknesses related to the procedures may be summarized as follows:

- In most cases, only the representative bodies of local and regional authorities open dialogues or intervene on specific issues.
- When consultations are held, they are mainly focused on themes of direct concern to Greek local authorities and not general issues concerning, for example, Europe and Community policies or even national policies which affect the local level.
- On the rare occasions when consultation procedures are held at the initiative of the State, a draft law has already been prepared.
- This process is not a compulsory one when it only involves an opinion. Nevertheless, the lack of consultation in the cases with a legal basis could lead to the nullifying of a law for failure to comply with proper procedures.
- Results are not always positive for local authorities. That is, the opinion of representative bodies – and KEDKE in particular – which play a role of expert in the proceedings, is not always binding. KEDKE's main role is to provide information on the position of local authorities on specific issues or to take the responsibility of issuing proposals.

There has not been a complete assessment made on the participation or consultation procedures of local authorities but, generally speaking, it can be said that the main aim of participation in numerous cases is the legitimisation of the central government's action while the consultations represent the most obvious cases of co-operation. The consultation procedures of local authorities are mainly informal, and it should be pointed out that in practice, they take place more frequently and more broadly than before; particularly due to the increasing participation of scientific experts in the fields of Local Governance. An excellent example of such consultation in practice took place during the organisation and the carrying out of the Olympic Games in Athens (2004).

G. Perspectives

Following the launch of a public debate on the forthcoming constitutional reform, one of the major political parties has included in its official position

constitutional amendments defining consultation procedures between the State and associations of local and regional authorities. The proposed article stipulates, "With reference to draft laws concerning issues of Local Governance, the position of the Local Government representative Institutions should be taken into account. Therefore, such Institutions, may apply for a hearing, in order to support their positions in front of the relevant Parliamentary Committee, according to the provisions of the Parliamentary Regulation." KEDKE supports this position and hopes that the proposed article will be included in the constitutional reform.

Hungary



A. Introduction: the degree of decentralisation

A1- Background

In Hungary, a decentralisation process was undertaken in 1989. Reforms progressively transformed the legal framework of local authorities until 1995 by re-establishing local autonomy, instituting elections by universal suffrage, and allocating competences and financial resources.

A second phase which began in 1996 included the adoption of measures designed to stabilise local government and improve their efficiency, particularly through inter-municipal cooperation. In parallel, various reforms sought to rationalise regional development policy by creating seven administrative regions.

A2- Legal framework for local and regional self-government

Chapter 9 of the Constitution concerns strictly local government. Specifically, Article 42 recognises the autonomy and democratic administration of local affairs.

The administration of local government is defined under law n°65 of 1990. An amendment to this law in 1994 strengthened the competences of the counties.

A3- Local and regional authorities' participation in total public spending

Local and regional government covers over one quarter of public spending in Hungary.

B. Presentation of the institutional scene

Decentralisation was based on two levels of government: the counties (*megyék*) and the municipalities (*települések*). The regions (*régiók*) represent a level of coordination.

B1- Regions

Seven statistical regions were created by the reform of 1999 on administrative divisions. These are under the administration of the Regional Development Council which is made up of representatives of the central government and local authorities.

Their competences are limited to regional development policy and the administration of community funds.

B2- Counties

The 19 Hungarian counties – in following with the principle of subsidiarity – are responsible for services that the municipalities are not able to provide, as well as services of supra-municipal interest.

These are competent for land development, environment, tourism, secondary schools, cultural centers and the maintenance of retirement homes and hospitals.

B3- Municipalities

The 3158 Hungarian municipalities are divided into 2883 villages (*koszégek*), 228 towns (*varos*) and 22 towns with county rank (*megyei jogu varos*) which also have counties' competences. Budapest, the capital, has a special status defined by chapter VII of the law on local government. It is divided into 23 districts which are managed by autonomous local entities with municipal status.

Hungarian municipalities are competent for local development, urban planning, protection of the environment, housing, public transport, social services, water resources, sewerage, road maintenance, public areas, cemeteries, public cleanliness, and fire services.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

In the Hungarian local government system, various forms of consultation procedure with local government associations exist.

The LXV Act of 1990 on local authorities stipulates that all important drafts of law or governmental decisions should be sent to all national associations of local authorities by the central legislator or the bodies authorized to make decisions. However, the opinions of the local government associations are not binding for the legislators.

Based on the XI Law of 1987 on jurisdiction, associations of local authorities express their opinions on draft legislation to be handed in for the government. One of the most important problems of the present legislation is that no deadline is fixed for the submission of opinions.

Local authorities and their associations are also represented in other frameworks, particularly within consultation councils.

C2- Other agreements

The seven Hungarian associations nominate representatives to the Committee of the Regions and the CLRAE, proportionally to the respective size of the association.

D. Detailed description of consultation procedures

D1- Partners in consultation:

Apart from local government associations, some representatives of the government, as well as the representative of different trade unions also participate in the consultation procedures

The ministries concerned may also express their opinions on draft laws to the Government. Draft laws that significantly affect the operation and activities of local authorities must also be submitted to the local authorities.

Certain non governmental organisations (NGOs) and other actors of the civil sphere may also be involved in the consultation procedure. In such cases as well, the drafts of ministerial decrees must be sent to the minister, the NGOs and other bodies concerned.

D2- Structures related to consultation procedures

Current legislation provides for the participation of local government associations within consultation forums of civil servants and civil employees, such as the “National Public Service Consultation Council”: a forum for questions on employment, labour, revenue and wages affecting the public sphere.

On questions concerning the status of civil employees, the competent minister consults the national local authority associations. On questions of territorial and municipal importance, the local authority consults the trade unions concerned at the suitable level by means of a local authority consultation forum.

The national consultation forum for all civil servants is the “Consultation Council of Civil Servants”. The consultation forum for civil servants of local authorities only takes place in the National Council of Civil Servants in Local Authorities.

In addition to these various consultation structures, informal meetings play an important role in the consultation procedure.

D3- Methods of consultation procedures

In questions concerning local governments directly, bodies representing local government interests are required to be consulted.

Though it is required to conduct consultation on all draft legislation, the frequency of the consultation varies: when regarding wages, these are conducted on a weekly basis, but more general consultation forums are organised every two months.

Views of local government associations are received only after the decision of the government is already taken. Local government associations often co-operate in the preparation of legislation that will affect before the governmental decision.

E. European Union Legislation and Policy

No specific procedure exists concerning European affairs. Hungarian representatives within the European Parliament can have the most influence on EU legislation. Certain regions and municipalities have offices in Brussels.

F. Evaluation of consultation procedures

One of the most important areas of activities of local government associations consists in the transmission of preliminary opinions on governmental measures and central legislation, and their assessment based on the point of view of local authorities. The participation in the preparation of legislation and in providing opinions on draft legislation is therefore certainly an important form of consultation.

However, legislation and other documents which by law must be sent to local government associations often arrive too late, limiting the efficiency of the consultation.

Moreover, the consideration of local government interests is further limited due to the fact that important motions for amendments by the members of Parliament during their discussions are not sent back to the associations for opinions. As a result, it is possible for final legislation to have greater effect on local authorities than the original draft.

G. Perspectives

The current consultation procedure needs to be rethought. The Government's draft law on the national and sectoral consultation and consultation committee is currently on the agenda. This draft law may help improve the representation of local authorities in the future. The details of this draft law are however not entirely clear and several issues remain to be determined.

The most important goal of local authorities and their associations is to become participants in consultation procedures in the broadest possible sense. In addition, the seven Hungarian local government associations should organise a common platform in order to better cooperate concerning the consultation procedures currently available.



Iceland



A. Introduction: the degree of decentralisation

A1- Background

In Iceland the municipalities represent the only level of local government in Iceland. The municipalities enjoy the right to self government, which is guaranteed by the Constitution. The current population of Iceland is 300.000. The Icelandic local level is characterised by the numerous very small municipalities. Due to this, and the fact that these represent the only local level, the State is responsible for some public services that are traditionally local, such as primary health care and education beyond primary school. The municipal level has been gaining strength lately as the municipalities are gradually becoming larger. The number of municipalities has decreased from 1990, from 204 to 79 today. This development was conducted through democratic processes.

A2- Legal framework for local and regional self-government

In Iceland, legislation concerning local government is based on Article 78 of the Constitution which stipulates: "Local authorities shall determine their own affairs in accordance with the law. Their sources of revenue shall be

determined by law, as well as their right to determine how to dispose of them and in what way.”

The Local Government Act n°45/1998 defines the status of local government and their competences.

B. Presentation of the institutional scene

There is only one level of local government in Iceland, that of municipalities. Iceland counts 79 municipalities. The competent ministry or other State body plays a supervisory role in relation to the municipalities.

Municipalities are responsible for social services, primary education, culture-, sports- and leisure activities, health and building inspection, maintenance and management of sewers and waterworks as well as electricity networks, spatial planning and public zones, fire services, public transport, waste collection and management of ports.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The consultation procedure is defined in section IX of the Local Government Act of 1998, n°45, and in a collaboration agreement between the Association of Local Authorities and the Government of Iceland. The current agreement was signed 20 February 2006. Each of the contracting parties can request a revision of the contract.

Governmental proposals for new legislation are usually prepared by the relevant ministry. It is common that an ad hoc committee is appointed to assist the ministry that may include representatives of various stakeholders, including representatives from the Association of the Local Authorities, when relevant. Even if a committee is not appointed, the ministries usually consult the Association when they are preparing proposals for new legislation or regulation which affect the municipalities.

The national Parliament also consults the association regarding all proposals for new legislation. In most cases, it also sends proposals directly to the municipalities to give them the opportunity to provide their opinion.

C2- Other agreements

The board of the Association of Local Authorities appoints the Icelandic members of the CLRAE.

D. Detailed description of consultation procedures

D1- Partners in consultation

In the majority of cases, consultations are almost exclusively conducted through the Association. However, as described above, the Parliament often sends new draft legislation directly to the municipalities to give them the opportunity to express their views. Moreover, a case may affect certain municipalities and not others, and thus those concerned would be consulted directly.

On the State side, the consultation procedures are carried out by Parliament and Ministries and not other decentralized State bodies.

D2- Structures related to consultation procedures

The collaboration agreement between the Association of Local Authorities and the Government establishes structures for the consultation procedures between the Association and the Ministries. There is at least one annual consultation meeting with the Ministers of Finance and Social Affairs (who is also the Minister of Municipal Affairs), and other Ministers if relevant.

Two standing subcommittees have been set up by the new collaboration agreement, with representatives from the association and the mentioned ministries. One deals with financial affairs and the other with labour market affairs. These committees are supposed to collect data on development in their respective spheres and present them at the annual minister meetings.

Parallel to these structures, informal contacts between the association and the State institutions play an important role in the consultation procedure.

D3- Methods of consultation procedures

The Association of Local Authorities of Iceland – as well the individual authorities, to a lesser degree – are systematically consulted on subjects that concern them. As explained, these consultations take place at least once a year.

Consultations are carried out at different stages in the decision process, and sometimes at such a late stage that local authorities are unable to provide constructive recommendations.

E. European Union Legislation and Policy

In the Collaboration Agreement it is stated that the parties are in agreement on promoting their cooperation regarding the European Economic Agreement.

Since 2005, an agreement has been in force between the Association and the Ministry of Environment which determines the participation of the Association in the EEA-working groups of the ministry. There are biannual consultation meetings with the Ministry of Finance and the Ministry of Transport. The Association is in the process of establishing parallel collaboration links with other relevant ministries.

F. Evaluation of consultation procedures

The main positive aspect concerning the consultation procedures is that there is awareness and recognition on the State side about the need to consult the municipalities on new legislation concerning them.

The Association of Local Authorities expects that the new collaboration agreement will make the consultation at ministerial level more structured and effective than before. There is also the expectation that the consultation procedures will benefit from a recent agreement on financial impact assessment of new legislation concerning the municipalities.

On the other hand, there is a lack of respect on the part of the State for the constitutional right of the municipalities to self-government – clear from over detailed legislation. There is also lack of respect for the financial consequences of new State actions which affect the municipalities. This is clear from the fact that the municipalities are given new tasks without proper corresponding allocations.

G. Perspectives

As stated above, the Association has quite recently signed a new collaboration agreement with the State which should improve the consultation procedures.

The Association of Local Authorities wishes to see procedures which secure the respect of the municipal right to self-government, and appropriate funds allocated alongside newly assigned tasks. Moreover, it would like to see carried out ex ante evaluations of legislation.

Ireland



A. Introduction: the degree of decentralisation

A1- Background

Local and regional authorities do not enjoy great autonomy in Ireland. Their competences are limited and the creation of many semi-public non-elected local bodies concerning European financing has often further restricted their already limited decision-making capabilities.

However, significant changes have occurred in the structure of Irish local administration since 1990: the general place for local government's competences was recognised in 1991, and in 1999 the first provisions on local government were included in the Constitution. In 2001, the adoption of a law on local authorities simplified local structures and strengthened their role.

In parallel, coordination structures of local government were created at the regional level in 1994. Following in the path of rationalisation, two regional assemblies were established in 1999 with the goal of coordinating regional development policies.

Despite this decentralisation process, local self-government remains limited as ministries retain significant supervisory powers.

A2- Legal framework for local and regional self-government

In 1999, the Irish Constitution was amended by Article 28A which recognises the role of local government in the emergence of a democratic representation of the local level. This constitutes the first constitutional basis of local government.

The first law on local government dates back to 1898, and was subsequently modified several times. The 2001 law on local government currently constitutes the framework for local administration.

A3- Local and regional authorities' participation in total public spending

Local and regional authorities cover 20% of total public spending.

B. Presentation of the institutional scene

At the regional level, two structures represent the central State and ensure a coordinating role. Irish local and regional government operates at local and intermediary levels.

B1- Regional level

Two types of structure represent the central State at regional level: Regional Authorities and Regional Assemblies.

The eight Regional Authorities are composed of nominated members from the local level. These are assisted by an operation committee whose members are from the Authority, as well as county and city managers and other officials of public agencies operating locally.

The two Regional Assemblies are composed of nominated members from regional authorities, and are also assisted by an operational committee.

The two regional levels together ensure the coordination of public services, supervision and monitoring of the use of EU Structural and Cohesion Fund implementation.

B2- Intermediary level

The 34 County Councils and five City Councils in the largest Irish cities constitute the intermediary level. These authorities have a larger range of competences than the municipalities.

They are competent in various areas: housing and building, transport and road safety, water supply and treatment, development promotion and control, protection of the environment, leisure facilities, agriculture, education and various civic services.

B3- Local level

The local level is made up of 80 municipalities, specifically five Borough Corporations and 75 Town Councils.

Their competences are limited, covering road construction and maintenance, housing, leisure facilities and urban development planning.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

In Ireland, there is no legal framework for the consultation of local and regional government. However, ad hoc informal consultations may be initiated at political or official levels from either side.

C2- Other agreements

The members of the Irish delegation to the Committee of the Regions are appointed by the Government without input from the representative associations.

Each of the two representative associations nominates representatives to the CLRAE although, technically, the representatives are put forward to Strasbourg by the Irish Government.

D. Detailed description of consultation procedures

D1- Partners in consultation

The vast majority of contacts between the centre and the local level take place between individual local authorities conveying problems to the central Government Department of the Environment. These contacts take place often

at a very technical informal level by officials from the local authorities making contact with central government to clarify issues of various kinds.

There are also networks of County and City Managers, and Directors of Services, in the local authorities which again have regular contact with the central government department on operational issues.

However, concerning consultation at the policy level, there is little in the way of structured consultation between central and local level on policy issues. Such consultation generally only occurs when there is major new legislation or guidelines in the early course of preparation and the Department of the Environment invites the representative associations to make a submission which in itself is often a sub-set of a wider public consultation.

Occasionally, the representative associations may make a presentation to a parliamentary committee on issues of relevance. Generally, such presentations are aimed at securing representation for councillors on committees or fora being established by draft legislation.

Infrequently, the representative associations have meetings with other bodies who have an important role in the local administration of the State. For example, about once every three years a meeting takes place with the Planning Appeals Board.

D2- Structures related to consultation procedures

There are no consultation structures in Ireland: all contacts are made informally. These informal contacts are important and are particularly conducted through the political channels where members of parliament provide a role in setting up meetings with Ministers for individual local authorities or by putting on the record of the parliament concerns expressed by the representative associations.

D3- Methods of consultation procedures:

Local and regional government associations are not systematically consulted. Nonetheless, they are consulted in most cases by being invited to present submissions on emerging legislation or policy, often as part of a wider public consultation process.

There is no regularity or pattern for consultations, but, for example, a meeting between an association and Minister might take place twice in the year.

Consultations are carried out sometimes at the pre-drafting phase of new legislation, or at other various points in the process.

E. European Union Legislation and Policy

There are no specific national consultation procedures concerning EU affairs.

F. Evaluation of consultation procedures

Current consultation procedures provide Irish local authorities a reasonable level of access on an informal level. However, this method is far from satisfactory.

The consultation procedure is entirely dependent on the political imperatives and departmental priorities of the day. In other words if the Minister wishes to have consultation there will be consultation; if the Minister of the day is not interested in consultation there will be none.

The informal networks surrounding the national parliament and its members including especially the meetings of the parliamentary party groupings of each party also have an influence.

G. Perspectives

There are no reforms foreseen that will have an impact on consultation procedures. The local authorities do not currently have any demands concerning this: the informal ad hoc approaches seem to correspond to the Irish way of doing things as well as any bureaucratised channel of consultation.



A. Introduction: the degree of decentralisation

A1- Background

The Constitution which went into force on 1 January 1948 established a major decentralisation process, giving significant prerogatives to the regions. However, the measures were only immediately effective for the regions with special status, and the ordinary regions had to wait until 1970. In 1997, the “Bassanini Reform” allocated many additional competences as well as greater fiscal autonomy and legislative power to the regions. This reform resulted in the revision of the Constitution in 2001.

The provincial and communal levels have a more limited autonomy than the regions. Their statutory autonomy was recognized more recently – 1990 – and included in the Constitution in 2001. Since the year 2000, they have been able to benefit from a special status.

In 2005 the Italian Parliament approved a major Constitutional reform which accorded much broader powers to the regions. This reform was submitted to a referendum which took place in June 2006, to which 61,7% of voters responded negatively and thus blocked its application.

A2- Legal framework for local and regional self-government

Article 5 of the 1947 Constitution deals with local self-government. The modification applied by the constitutional law n°3 on 18 October 2001 strengthens the financial autonomy of local government and constitutionally establishes all the levels of administration of local structures.

The administration of the ordinary regions is determined by Law 62/1953.

Laws 142/1990 and 265/1999 determine the structures for provinces and communes.

A3- Local and regional authorities' participation in total public spending

Over 30% of total public spending in Italy is covered by the local level.

B. Presentation of the institutional scene

At regional level, Italian administrative divisions include autonomous provinces and regions. The provinces represent an intermediary level, and the communes constitute the local level.

B1- Regional level

The regional level consists of 15 regions with ordinary status, five with special status and two autonomous provinces, Trento and Bolzano. Article 123 of the Constitution allows these to adopt their own status.

Article 117 of the Constitution attributes significant competences to the Italian regions. These are competent for their international relations and for relations with the EU, external trade, employment protection and security, education, scientific research, health and food, sport, civil protection, land development, major transport networks, energy, the environment, agriculture.

B2- Provinces

Under the definition of the provinces, two different realities appear: the provinces constitute intermediary territorial structures with some local self-government and whose councils are directly elected by the citizens, whilst also remaining responsible for services as the devolved level of the central State.

The provinces are specifically competent for roadways, transport, civil protection, environment, culture, local economic development and education.

B3- Communes

Italy's 8 103 communes have general competence for all local affairs and may undertake competences delegated by the State or region.

Their competences cover social and educational services, primary schooling, culture, urban planning, local transport, housing, environment and waste collection, trade and local public services.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Up until 1970 – the 15 Regions with ordinary status having not yet been established – consultations took place only with the existing five regions with special status. This situation prevented the creation of a representative body for all regions.

The establishment of regions with ordinary status permitted a gradual implementation of a formalised collaboration method. This resulted in the creation of a mixed committee to the Presidency of the Council of Ministers: the Standing Conference for Relations between the State, Regions and the Autonomous Provinces of Trento and Bolzano (by decree of the President of the Council on 12 October 1983, and subsequently with law n°400 of 23 August 1988).

Following the same model, the State-Cities and Local Autonomies Conference was set up by decree of the President of the Council on 2 July 1996, as well as the united State-Regions, Cities and Local Self-Government, by legislative decree n°281 of 28 August 1997.

At Parliamentary level, Constitutional Law n°3 of 18 October 2001 stipulates that “the regulations of the Chamber of Deputies and the Senate of the Republic may foresee the participation of representatives from Regions, Autonomous Provinces and Local Governments to the Parliamentary Committee for regional issues.”

C2- Other agreements

The designation method of the representatives to the Committee of the Regions – defined by decree of the Prime Minister of the National Government – is based on an accord between the associations of local and regional authorities: the Presidents and the Councillors of the Regions, the Mayors and the Councillors of the Communes and the President and the Councillors of the Provinces constitute the members and alternates of the delegation.

14 members and 8 alternates are designated by the Conference of the Regions and of the Autonomous Provinces, 7 members and 9 alternates are designated by the National Association of Italian Communes (ANCI), 3 members and 7 alternates are designated by the Union of Italian Provinces (UPI).

The Italian Delegation Coordinator is designated by the three above-mentioned Associations and has the role to ensure the technical support to the national Delegation, to the national Associations (including also CEMR's Italian section AICCRE and UNCEM-union of mountain communes) and to coordinate the Delegation activities with the Permanent Representation of Italy to the EU.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations of local government are carried out strictly through associations.

On the State side, the primary partners are the Ministries that participate in the different Conferences. However, Parliament includes representatives of the associations of local and regional government within its Committee on regional questions.

D2- Structures related to consultation procedures

Standing Conference for Relations between the State, Regions and the Autonomous Provinces of Trento and Bolzano

This Standing Conference works to promote cooperation between State activity and that of the Regions and autonomous Provinces. Made up of Government Ministers and their counterparts from regional governments, it holds decisional powers on all affairs of regional interest, including European issues.

Law 400/1988 attributes to the Conference the roles of information, consultation and coordination of general policy directions that concern regional competences, excepting those that concern foreign policy, defence, national security and justice. The Conference is necessarily consulted on any other subject of regional interest that the President of the Council of Ministers considers useful to submit before it, or upon the request of the Conference of the Presidents of the Regions and Autonomous Provinces.

Legislative decree n°418 of 16 December 1989 enlarged the functions of the Conference, then, as of 1991, the Parliament conferred further competences of a consultative nature and made it the steering body of the regional administrative activity, as the forum for collaboration between the administrations of the State and regions. Legislative decree n°218 of 28 August 1997 developed the consultative function, making it required for all draft laws related to regional competences. Since then, new competences have been attributed to the Conference, particularly concerning participation in the EU legislative process.

State-Cities and Local Autonomies Conference

This Conference is a collective body with consultative and decisional functions: the institutional space for debate and steering for the State and local authorities. It is chaired by the President of the Council of Ministers or by the Minister of the Interior. It brings together also the Ministers of the Economy and Finances, Infrastructures, Health, as well as the Presidents of ANCI, UPI, UNCEM and – upon designation by the associations – six Provincial Presidents and 14 Mayors of which five come from metropolitan areas.

Article 8, paragraph 4 of Law n°131/2003 foresees that governmental measures passed during the exercise of replacement powers, adopted without prior communication with the structures concerned, be transmitted to the Conference which may then demand reconsideration. Article 9 foresees that the Conference can propose that the Government submit the case before the Constitutional Court.

The State-Regions, Cities and Local Autonomy Unified Conference

This Conference is competent in all cases when the State-Regions and State-Cities and local autonomies Conferences are called to express views on the same subject (Art. 9, Para. 2, legislative decree 281/1997).

The Unified Conference allows the regions, provinces, communes and mountain communities to participate in the Government's decision making, to study further policy and administrative issues of the most importance for the system of local self-government, to study measures on the agenda of the sessions. It allows for the exchange of information with the approval of agreement protocols between the Centre and local administrations, and to present guidelines for the Agency for Regional Health Services' activities.

D3- Methods of consultation procedures

Associations of local and regional government are consulted systematically on themes that concern their interests, as foreseen by law.

Consultations with local and regional government associations are arranged before Parliament studies draft law and/or before the Government passes legislative acts in areas of concern to local and/or regional government.

E. European Union Legislation and Policy

Originally, law n°86 of 9 March 1989 – the “Pergola Law” – provided the basis for implementing community obligations. This law has since been modified several times. Currently, law n°11 of 4 February 2005 on “General norms on the participation of Italy in the law-making of the European Union and on the execution measures which are obligatory to members of the community” is in effect. Article 22 paragraph 2 stipulates that all texts and drafts that might concern local authorities be transmitted – through the Conference – to the representative associations. On all drafts and community texts, the local structures can transmit their observations to the Government or request that they be studied by the Conference. Moreover, at least once a year, a special EU affairs session is organised.

Article 2 creates an inter-ministerial committee for EU affairs. Participants may include the President of the Conference of the Presidents of the Regions and Autonomous Provinces, the Presidents of regions or autonomous provinces, as well as the Presidents of representative associations of local authorities.

F. Evaluation of consultation procedures

As there is no completed federal State structure, the existence of the Conferences within the structure of the State is a positive point.

However, given that the system is still relatively new, it is certainly not being used to its optimal potential.

G. Perspectives

AICCRE supports the creation of a real federal system which foresees in the regional context the creation of a Council of local autonomies that would not merely be consultative as foreseen in article 123 of the Constitution.

At the national level, the Senate should be made up of representatives of local and regional government, as is the case of the German Bundesrat.

Latvia



A. Introduction: the degree of decentralisation

A1- Background

Latvian local government has a history that dates back to the 13th century. Following the proclamation of the Republic of Latvia in 1918, local governments were formed on the basis of imperial Russian legislation. During the Soviet period, all local autonomy disappeared, although appearances of local democracy were kept up.

The elections of local and regional governments in December 1989 marked the return of local liberties, and laws on the administration of districts, cities and rural municipalities were voted as of February 1990.

Decentralisation processes, together with the reorganisation of the local sector, were initiated as of 1993, particularly with the Law on Local Governments of 19 May 1994 which defined the legal framework for local government. Other laws have since been passed specifying the financial framework and administration of local and regional authorities.

A2- Legal framework for local and regional self-government

Although several articles of the Latvian Constitution make reference to local governments, the principle of local self-government is not explicitly recognized. Negotiations for a constitutional amendment are underway.

The legal basis for autonomy for local and regional government is defined by the Law n°61 on Local Government of 24 May 1994. It outlines the competences, functions, structures and general finances of local government. It was later complemented, in particular by laws of 1995 and 1998 on Financial Equalisation, the law of 2001 on the Delegation of Public Services and the Law of 2002 on Local Budgets.

A3- Local and regional authorities' participation in total public spending

26.5% of public spending in Latvia is covered by local and regional government.

B. Presentation of the institutional scene

Latvia is a unitary state composed of local authorities (*vieteja pašvaldība*) and regional authorities (*rajons*). There are so-called "republican towns" (*republikas pilsētas*) with special status that have the competences of both regions and local authorities.

B1- Regions

Latvia has 26 regional governments. Via the regional councils they ensure implementation of the tasks delegated to them by the law and by local authorities.

They are responsible for public transport, teachers' training, the representative of local governments to the regional fund for health insurance, and civil protection.

B2- Local Authorities

Latvia has 520 local authorities of which 432 are rural municipalities (*pagasts*), 53 are towns (*pilsētas*), and 35 so-called amalgamated municipalities or counties (*novads*). The Local Government Law specifically details the competences of local government, which are assigned based on the principle of subsidiarity.

Their competences cover registry services, land services, public order, water supply and treatment, waste disposal, environment, economic development, urban planning, maintenance of public spaces and roads, lighting and cemeteries, social housing assistance, public health, hospitals, extracurricular activities, primary and secondary education, etc.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

In Latvia, there are two consultation procedures in which associations of local and regional government may participate: annual negotiations and those concerning the harmonization of new policies and legislation.

The annual negotiations are determined by the Law on Local Governments (1994), the Law on Budget and Finance Management (1994), and the Law on Local Government Budgets (1995). The schedule of negotiations, as well as the role to be played by the ministries involved, is determined by the secondary law – Regulations of the Cabinet of Ministers n°585 of 6 July 2004, “Order of Harmonization of Issues Concerning Local Government Interests between the Cabinet of Ministers and Local Governments”.

The second procedure is determined by Regulations n°111 of the Cabinet of Ministers of 12 March 2002, – “Rules of Procedure of the Cabinet of Ministers”.

In addition to these two types of procedures, there are many consultative bodies (Council of Regional Development, Tripartite Co-operation Council – between employers, employees and local authorities – Council of Environment Protection, Council of Administrative-Territorial Reform) in which representatives from association are included. These councils are established according to the law and their members are determined by Ordinances of the Cabinet of Ministers.

C2- Other agreements

According to unofficial procedure, the nomination of Latvian delegates to the CLRAE and the Committee of the Regions is determined by the Cabinet of Ministers. The proposal, which comes from the Minister of Foreign Affairs,

includes an appendix of the view of the Council of the Latvian Association of Local and Regional Governments (LALRG) concerning the nomination.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultation procedures are carried out with both associations of local authorities and individual local authorities.

Ministries are involved in all stages of consultations, except in the final annual protocol of negotiations. The participation of government agencies is coordinated with the ministries concerned. The final protocol is prepared by the Ministry of Regional Development and Local Government Affairs, in cooperation with the Ministry of Finance.

The association regularly lobbies to defend the interests of local and regional government in the Parliamentary Commissions and with political parties.

The association may also directly address the President of State to return new legislation for further reading in the Parliament. In such cases, the association participates in consultations with the Bureau of the President.

The LALRG has been extensively involved in consultations since 1992. Other local government associations are also involved in the consultation procedures (Association of Large Cities, Association of Towns, Association of Rural Municipalities, etc.) depending on their particular interests. Members of these associations are also members of the LALRG. Only LALRG has the legally ensured right to express common opinions.

NGO's and professional organisations are also increasingly consulted. In order to strengthen its position, LALRG is committed to developing common positions with these organisations.

D2- Structures related to consultation procedures

There are no consultative structures specifically for local and regional authorities in Latvia. According to the "Rules of Procedure of the Cabinet of Ministers" in order to discuss the most important issues on local government, a meeting of ministers – specifically the Extended Committee of the Cabinet of Ministers – and members of the LALRG's board must be organised.

The Extended Committee can be convened whenever necessary, but as a rule, it holds meetings once a year.

In addition, informal meetings and contacts occur regularly, almost weekly.

D3- Methods of consultation procedures

Associations of local and regional government are systematically consulted on the issues that concern them.

Meetings may be organised according to the requirements of the political agenda, but are also required once a year during the discussions on the annual negotiations protocol.

Consultations take place throughout the legislative process – from the first stages of the draft law within ministerial working groups, up until the end – during the 3rd reading in the Parliament.

E. European Union Legislation and Policy

In Latvia, there is no tradition of consultation on European affairs. LALRG endeavours to participate, however, at all stages.

LALRG has partner status in the procedure of creating national positions. Representatives of the association thus participate in the weekly meetings of Senior State Officers on EU issues. If local governments have concrete proposals, it is easy to submit them for discussion by the ministries. It is also possible for local government representatives to speak in the meeting of the Cabinet of Ministers, when a national position must be adopted.

The association endeavours also to co-ordinate the positions of its representatives in the Committee of the Regions with national positions.

Representatives of the association are involved in the work on national programming documents on EU Structural Funds and on EU agricultural policy. The association is also represented in the national supervision boards.

For an example, in February-March of 2006, six ministers participated in the two meetings of the Council of the LALRG to present ministries' proposals on EU programming for the period 2007-2013.

F. Evaluation of consultation procedures

The regularity and broad recognition of local authorities are very positive aspects of the current consultation procedures. All political actors are familiar with these procedures which have real impact on political decisions.

Due to lack of experience, it is often difficult to estimate the funds necessary to ensure new tasks and responsibilities transferred to the competences of local and regional governments by new legislation.

G. Perspectives

The administrative-territorial reform – begun in 1996 and foreseen to be partly completed in 2009 – should lead to the fusion of certain municipalities and to modifications in the system of local elections, as well as to modifications of the internal structure of the association. Internal procedures of the association will also thus be changed.

For the future, the main goal concerning the consultation procedures is to represent better the interests of the members of LALRG. The outcome of consultations depends more on political will, than on the weaknesses in the procedures.

Lithuania



A. Introduction: the degree of decentralisation

A1- Background

The decentralisation process began in 1990 with the first municipal elections and the inclusion of the principle of local self-government in the Constitution. The law on territorial administrative units and their boundaries of 1994 reduced the number of municipalities from 581 to 56 and established this as the single level of local government. After administrative reform of the year 2000, the number of municipalities increased to 60.

This process continues to this day, as new reforms are being studied to both increase the number of municipalities and their financial resources, and establish elected representative structures at the regional level.

A2- Legal framework for local and regional self-government

Article 120 of the Constitution recognizes the principle of local self-government for local authorities.

The law of 7 July 1994 on local self government (amended in 2000 and 2003) and the law on elections to local government councils, as well as the law of 19 July 1994 on the territorial administrative units of Lithuania and

their boundaries – amended in 1999 – provide the framework for local self-government of the Lithuanian municipalities.

A3- Local and regional authorities' participation in total public spending

Municipalities cover 25% of the total public spending in Lithuania.

B. Presentation of the institutional scene

Lithuania's territorial organisation has two levels: the counties and the municipalities. Only the latter have the status of local government.

B1- Counties and Regional Development Councils

The 10 counties, which represent the national government, ensure the establishment and implementation of regional policy of the central government.

In 2000 the Law on Regional Development constituted new regional policy in Lithuania and provided for the establishment of Regional development Councils corresponding with territories of the counties. The Council sets out development policies' guidelines, and consults the central government on regional development issues. It is composed of the representatives of county's municipalities and the county governor.

B2- Municipalities

Lithuania counts 60 municipalities. Municipalities have the following types of competences: autonomous, attributed, delegated and contractual.

Autonomous competence include: municipal budget, education (pre-school, primary and secondary, vocational), social care establishments, employment; public safety; tourism, sport; entrepreneurship promotion. Assigned functions: culture; social policy; primary health care; environmental protection; housing; local roads; public transportation; public services and municipal property management; local development; spatial planning etc. Functions delegated by the state: registry, social services; restoration of ownership (land, real estate); agricultural questions, rural development

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Regulation on the work of the Government foresees that drafts of all legal acts, concerning activities or common interests of local authorities have to be co-ordinated with the Association of Local Authorities in Lithuania (ALAL) or the separate opinion on these statements has to be submitted. Accordingly, the decision was taken that committees of the Seimas (Parliament) have to ask ALAL's evaluation and propositions on the corresponding drafts of legal acts.

Furthermore according to the bilateral agreement on co-operation, signed between the Lithuanian Government and Association, a Bilateral Commission consisting of Government and ALAL representatives was established. The Commission negotiates the interests and positions between central and local government in all difficult issues not resolved through the usual procedures.

Another important instrument in the interaction between local authorities and central government are the negotiations concerning municipal budgets. The decision of the Lithuanian Government "On confirmation of system of negotiations on indicators determining the size of municipal budgetary revenues and their equalization" regulates the process of negotiations between ALAL and Government on projects of municipal budgets for one and three years. Negotiations on projects prepared by the Ministry of Finances proceed in two stages: firstly the meeting of specialists from the Ministry of Finances and ALAL is called; later the meeting between the Minister of Finances and the President of ALAL is organised. At this meeting, the protocol of agreement has to be signed, and in case of disagreement ALAL expresses its separate opinion.

In addition, local authorities have a right to submit proposals concerning legal acts in the fields of their competences, directly or via ALAL. This is usually done in the framework of Government meetings, working groups, etc.

ALAL is also consulted on an informal basis.

C2- Other agreements

Nominations of the members of the Committee of the Regions are made by Government decision following consultation with ALAL. As such, each Regional development council (composed of elected representatives from the

county's municipalities) nominates three candidates. ALAL draws up a short list and submits it to the Government for approval.

The procedure for the delegation of representatives to the CLRAE is as follows: two members and their alternates are delegated by ALAL and two members (and alternates) are delegated by the Ministry of Interior.

D. Detailed description of consultation procedures

D1- Partners in consultation

The consultations on matters of general interest to local authorities usually are carried out with the Association. The Government is further obliged to consult individual municipalities if an issue directly relates to its property, finances, etc.

Government and ministries and Parliamentary committees consult the Association on all the issues relating to local self government.

Other decentralised State bodies also participate in consultations depending upon the issue and its importance for the given institution.

Additional partners may also be involved such as industrial associations – e.g. the association of water suppliers – or other associations that represent particular business or public interests.

D2- Structures related to consultation procedures

The Bilateral Commission discusses issues of importance for local authorities. The Commission consists of the Minister of Interior, the Vice-Minister of finances and the Chancellor of Government from one side, and the President together with Vice-Presidents of ALAL from the other. It meets at least twice a year, and there is a rotating right for each side to prepare the agenda. The meetings of this Commission are preceded by meetings of the working group of specialists of both sides.

Informal meetings often facilitate the mutual understanding of partners' positions, and contribute to the better preparation of arguments and positions.

D3- Methods of consultation procedures

Although there is no defined procedure for regular consultations, ALAL is consulted on all issues of importance for local authorities. The frequency of the consultations depends on the political agenda.

Consultations usually are conducted at every stage of the decision making process, with the aim of receiving the opinion of local authorities and their association.

E. European Union Legislation and Policy

There is no specific procedure on European affairs. Consultations are carried out in the same way as on domestic issues.

F. Evaluation of consultation procedures

Current consultation procedures provide wide enough possibilities to present the position of local authorities in the process of State decision-making, as of the first debate on the draft proposal.

The flexible ad hoc framework of consultations enables local authorities and ALAL to nominate relevant experts for the consultations on every issue.

The main impediments to the efficiency of consultations come from the very broad range of areas covered, which creates a high workload for the association and local authorities.

G. Perspectives

No reforms are currently foreseen that could influence the consultation procedure, which is satisfactory to both sides.

The main goal of local authorities and the association is to represent their interests in the process of national political decision making and to influence as much as possible the political decisions on the national level.

A map of Luxembourg is shown with a grey horizontal bar across the top. The word "Luxembourg" is written in a grey, sans-serif font on this bar. To the left of the bar is a yellow rectangular shape. On the map, a small, irregularly shaped area in the eastern part of the country is highlighted in yellow.

Luxembourg

A. Introduction: the degree of decentralisation

A1- Background

Most communes of Luxembourg have existed in their current form since the French Revolution of 1789. Following the country's independence in 1839, the administrative structure was based upon the organic law of 1843. The administrative organisation of communes and their institutional framework have not changed significantly since then, though the communal law of 2988 introduced certain modifications allowing for communes to better assume new tasks that had developed over the years.

Today, however, there is a consensus on the national political scene concerning the necessity of reforming the existing territorial structures in order to better prepare communes to respond to their citizens' expectations regarding public services. A special commission, set up in 2006 within the Chamber of Deputies, was thus charged with drafting proposals for an administrative and territorial reform for Luxembourg.

A2- Legal framework for local and regional self-government

Communal self-government is guaranteed by the constitution of 1868 which stipulates that communes constitute autonomous authorities on a territorial basis, as legal entities that manage their own bodies, heritage and interests.

This measure is complemented by the clause on general competence included in the communal law of 1988 which stipulates that the communal council manages all matters that concern the interests of the communes.

A3- Local and regional authorities' participation in total public spending

15% of the total public spending in Luxembourg is covered by the communes.

B. Presentation of the institutional scene

Due to the small size of the country, Luxembourg has no intermediary territorial level, the communes thus constituting the only application of the principle of territorial decentralisation. The three provinces of Luxembourg are territorial and administrative divisions.

Luxembourg has 116 communes of which 12 are defined as cities. They have mandatory competences – some of which are State delegated – and optional competences. Certain competences are shared with the State.

Obligatory competences concern the organisation and administration of the commune, the management of the police, management of water and certain types of waste, communal roadways and traffic, missions relating to environmental protection, organisation of primary and pre-school education, registry services, services of public assistance, inhumations.

Among the optional competences, communes of Luxembourg are responsible for musical education, cultural and sport activities, infrastructures for the youth and elderly, gas and electricity supply, as well as the creation of industrial zones. Discussions are currently underway concerning the territorial reorganisation of the country and should result in a new definition of the responsibilities of communes.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Although many structures charged with ensuring dialogue between communes and the central State co-exist, a general formal framework for Government consultation of the local level is lacking.

Considering this situation, the Association of Luxembourg Towns and Municipalities (SYVICOL) included in its statutes the stipulation that one of its missions is “to be the interlocutor of the government on issues related to the communal general interest and to formulate views on draft legislation and regulations that affect local level.”

C2- Other agreements

Upon the proposals of SYVICOL, the central government nominates the members of the Luxembourg delegation to the Committee of the Regions and CLRAE.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations of local authorities are in principle conducted through SYVICOL, the association that brings together all the communes of Luxembourg and works to defend the general communal interest. However, local elected representatives with no mandate within SYVICOL’s structures may also be delegates in the consultation structures mentioned hereafter (committees, working groups, councils, commissions, etc.) – but it is understood that their role is not to represent their own commune, but to represent the communal interest in general. They are named by, and report to, SYVICOL’s committee.

When judged appropriate, working committees of the Chamber of Deputies may invite SYVICOL representatives to present the common view point on a given subject. Moreover, the views of SYVICOL on draft legislation concerning the local level are submitted to the Chamber of Deputies and brought to the attention of Parliamentarians. However, SYVICOL holds no particular status in these procedures; its position papers are treated as those of any other civil society interest group.

Communes are often not the only dialogue partner of the Government within the consultation structures established by the different Ministries, and are often considered as one interest group among many others (depending on the subject, these might be trade unions, representatives of civil society, profession associations, etc.).

D2- Structures related to consultation procedures

SYVICOL is regularly called upon to delegate representatives to permanent and temporary consultation bodies set up by the Government.

In many cases there are formal permanent structures, governed by specific legal dispositions (High Council of National Education, High Council of Urban Planning, Transport Community, ...) As the creation of such bodies depends on the relevant Ministries, the involvement of the local level is more systematic and effective in certain areas than in others.

Of these formal structures, the High Council of Communal Finances constitutes a special case. Created in 2003 in response to a long-standing demand of SYVICOL, it is – as opposed to the bodies mentioned above – composed exclusively of representatives of the State and communes.

In addition to these permanent structures, certain Ministers may convene working groups of committees on an ad hoc basis in order to take into consideration the views of communes on current affairs, particularly prior to legislative or regulatory procedures.

Besides these formally structured consultations, occasional meetings between SYVICOL's president and bureau are organised with members of the Government on specific subjects. Moreover, members of Government often respond positively to SYVICOL's requests for meetings.

D3- Methods of consultation procedures

SYVICOL is not consulted systematically on all issues concerning communes. Although certain Ministries regularly request SYVICOL's perspective during the drafting of legislation that would affect local level, it is often necessary for SYVICOL to take measures to promote the voice of the communes.

E. European Union Legislation and Policy

No specific consultation procedure exists for local authorities or their association concerning European legislation and policy.

F. Evaluation of consultation procedures

In general terms, consultations of the local level by State authorities have increased in recent years.

This is, however, not so much a demonstration of the Government's political will, but rather due to isolated efforts by certain Ministers perhaps more convinced than others of the importance of intense dialogue with the communes.

The fact that communes are often just one partner among many in the consultation structures established by the Government also limits their influence potential.

Moreover, as consultation is neither systematic nor required by a coherent, structured framework, SYVICOL experiences difficulties in setting up internal structures adapted to organise its representation, ensure follow up and optimisation of lobbying work for communal interests. As such, the real impact of the communal level on the decision process remains varied and difficult to measure.

G. Perspectives

Initiated by the Chamber of Deputies, a broad debate is currently underway in Luxembourg on the administrative reorganisation of the country. SYVICOL – one of the close partners of the Chamber in these discussions – has from the beginning insisted that its demand that it be required for SYVICOL to be consulted in the legislative and regulatory process should also be discussed in this context. SYVICOL further recalls the "Recommendation on local democracy in Luxembourg" adopted in 2005 by CLRAE, which stipulates: "concerning the consultation of local authorities, the Congress [...] recommends [...] the creation of a legal basis requiring the consultation of communes by the intermediary of their association that is most representative on all subjects that concern them directly."

Other than formally including SYVICOL in the legislative and regulatory process, a revision of consultation structures in all domains of the shared competences between the State and the communes – including in the framework of European policy – should be considered. More harmonised and coherent structures, able to promote continuous dialogue between local level and the central State would certainly improve the consideration of communal interests by State authorities.

FYR of Macedonia



A. Introduction: the degree of decentralisation

A1- Background

Despite a turbulent history since the Former Yugoslav Republic of Macedonia (FYROM) gained independence in 1991, local authorities benefit from relative autonomy. Legacies from an earlier time, and particularly the creation of a local government association in 1972, facilitated the finalising in 1996 of a law on local self-government.

In this context, communes inherited a broad range of competences. However, carrying out these competences has remained problematic, as decision processes are such that communes are dependent on the central Government. The situation of local finances demonstrates this, as local governments have no real autonomy over their finances.

A2- Legal framework for local and regional self-government

Articles 114 and 115 of the Constitution of the Former Yugoslav Republic of Macedonia, adopted in 1991, guarantee the right of citizens to local self-government.

The law on administrative divisions of FYROM of the Official Gazette of Macedonia 49/1996 defines the status and competences of local authorities.

The law on the city of Skopje, of the Official Gazette of Macedonia 49/1996, attributes to the capital a special status.

B. Presentation of the institutional scene

The Former Yugoslav Republic of Macedonia has a single level of local government. There are 123 communes and the city of Skopje, which is composed of seven communes that share its functions. Skopje has no higher status than other communes.

Ministries and other central bodies with authority at the national level carry out their functions through various subordinate structures. Each commune has administrative bodies that may be, for instance, under the Ministry of Education and Science, the Health Ministry, the Ministry of Employment and Social Policy or the Ministry of Culture.

Communes of FYROM are competent for urban planning, the environment, economic and social development, communal water and maintenance services, culture, sports, social aid, health and elementary and secondary education.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The only regulation that concerns the consultation procedure is stipulated by the law on local self-government. Article 81 of this law states the obligation that the association of the units of local self-government is required and lawfully empowered to take certain actions in respect of the protection of the interests and values of local self-government in FYROM.

Article 81 of the Law on local self-government stipulates that the Association of Local Self-Governments (ZELS) is competent to:

- cooperate with the Government of the FYROM on issues that are significant for the municipalities in FYROM;

- initiate adoption of laws that are relevant to the promotion of local self-government;
- deliver estimations for projecting the proposal of FYROM's Budget in areas that concern the transfer of funds for the municipalities necessary to carrying out their responsibilities that are determined by law;
- establish cooperation with similar organisations from other countries and represent the FYROM in international organisations of local self-government;

The law on local self-government accords a general recognition of rights and obligations to ZELS. Furthermore, since the law on local self government has a status of "lex generalis", the regulation of the authorities of local self-government is regulated by "lex specialis", a specific group of laws that regulate each of the areas under the municipal authority (laws on health, on urban and spatial planning, on financing the units of local self-government, on public procurement, on Value Added Tax, elementary education, on social protection, etc. – some 42 laws. In many of the provisions of the laws, special bodies for the supervision of the processes of implementation are created, and the process of nomination of representatives and of building a common opinion of all the municipalities goes through ZELS.

Moreover, a Memorandum of cooperation between the Government of FYROM and ZELS has been signed and implemented. ZELS, as a municipal institution, is necessarily consulted before regulations are adopted that would affect the system of local self-government. The national government must follow the declaration of support to act in the best interest possible for the units of local self-government, and in doing so, indirectly help the municipalities to serve the citizens under the principles of good governance.

In addition, ZELS representatives are invited to participate in Parliamentary Commissions as well as in other governmental working groups of diverse levels (Ministries, administration etc.) on a regular basis.

C2- Other agreements

As stated in the procedures for the nomination of delegates to CLRAE, ZELS is directly involved in the process. The association adopts a nomination proposal which is submitted to the Ministry of local self-government and the Ministry of foreign affairs, which may accept the proposal or return it to ZELS for reconsideration. Once adopted – only according to consensus with the

associations – the Ministry of foreign affairs informs the Council of Europe on the list of members in the delegation.

D. Detailed description of consultation procedures

D1- Partners in consultation:

As an unwritten practice, the association is usually consulted to nominate the municipal representatives to participate in consultations. Very often, the central Government institutions directly address the local authorities for consultation purposes, but the association is also mainly informed on the issues subject to consultation by information provided by the member municipality.

The Government, Members of the Parliament (MP) or a Parliamentary group and citizen's group are authorised initiators of draft legislation. The association usually takes the role of lobbyist during the drafting of legislation, providing broad clarifications and analysis to support its proposals.

It is very common that local and foreign experts and consultant companies are involved in the process. A high level of cooperation with the NGO sector is also an advantage. The exchange of opinions, presentation to the public of common positions and projects facilitate the strengthening of their positions.

D2- Structures related to consultation procedures

ZELS representatives, under a formal decision that is adopted by the governing bodies of the association, are nominated in all possible working bodies that review issues concerning local self-government. The members appointed to these bodies are nominated by ZELS.

The high level of consultation established on a daily basis with various stakeholders (institutions, NGO's, international organizations, foreign diplomats, etc.) creates a positive environment for determining consensus, particularly concerning legislative reforms related to EU affairs.

D3- Methods of consultation procedures

The association is systematically consulted on issues that concern local self-government. The methods of consultation are mentioned above, except the fact that the Memorandum of understanding establishes an obligation to organise meetings of the ZELS governing board and the Prime Minister and

members of his cabinet. As established, yet unwritten, practice, the meeting is held at least twice a year. ZELS takes the opportunity of the meetings to announce its own demands. The full media coverage at the meetings adds pressure on the government to successfully reach agreement.

In addition, many consultation meetings with other working bodies and Parliamentary and ministerial committees are organised.

Consultation is conducted in the drafting phase of the regulation, or prior to determining measures for implementation on certain issues.

E. European Union Legislation and Policy

The EU integration department in the Government works closely with the association in EU integration issues, thus promoting the full implementation of EU legislation: particularly the EU directives that have an impact on the system of local self-government. Having earned the status of candidate country for EU membership, such issues have increased tremendously.

ZELS seeks cooperation with the central Government on EU integration issues, in order to ensure the representation of local interests in the EU context. The same consultation procedures described above apply in this context as well.

F. Evaluation of consultation procedures

In general, consultation is well organized. However, since the process of decentralisation entered into its "phase of implementation," the procedures are sometimes not well adapted. This context demands quick and efficient decisions that are usually difficult to provide in a short timeframe.

Yet there are results that show improvement in this regard. The strong will expressed by the association can postpone the implementation of certain measures in order to facilitate consensus-building.

G. Perspectives

The system of constant consultation is very recent and thus it is too early to fully analyse its real impacts.

A current principle concern is efficiency: as the process of consultation becomes more effective, goals are more likely to be achieved. Political differences run in both directions, meaning that the level of democracy principles applied in the process of consultation are considered less efficient and more demanding by the less dominant political groups, whilst the governing political groups hold the opposite view.



Malta

A. Introduction: the degree of decentralisation

A1- Background

Decentralisation in Malta is a recent process that began in 1993 with the adoption of the law on local government and the creation of 68 communes. This text is based largely on the European Charter of Local Self-Government, which Malta ratified in 1993.

In 1999, a law transferred new competences to the communes and gave them the possibility of creating infra-communal structures. In 2001, the principle whereby Malta is divided into local governments with decisional bodies of which the members are elected by universal suffrage, was established in the Constitution. Despite these signs of progress, local governments in Malta dispose of only limited real autonomy.

A2- Legal framework for local and regional self-government

Law XIII of 24 April 2001 adds Chapter XA to the Constitution, which includes the principle of Malta's division into elected local governments. Article 115 A confirms the system of Local Councils.

Law XV of 30 June 1993 which instituted local councils, regulates their administration. It also creates the Department of Local Councils which acts as the coordination office of Local Councils and the Ministry responsible for local government. It is charged with providing support, coordination and monitoring.

A3- Local and regional authorities' participation in total public spending

The share of public spending which local authorities must cover is very low, around 1.4%.

B. Presentation of the institutional scene

Malta's administrative divisions are based on a decentralised level of administration – the local councils – which make up three administrative regions.

B1- Regions

The three regions are purely administrative bodies which are made up respectively of 14, 25 and 29 local councils.

B2- Local Councils

Malta is made up of 68 Local Councils, of which the competences are limited to the management of basic communal affairs.

Their competences cover the maintenance of public areas (parks, sports centers, leisure centers, local roads), the management of educational services and health services, rehabilitation centers, preserving public order, the administration of commercial permits, local and regional libraries and public lighting.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

Consultation procedures are defined by the Local Councils' Act and its regulations.

Local authorities are also consulted by exchanges of correspondence.

C2- Other agreements

The Local Councils' Act determines the nomination procedure to the CLRAE, and the cabinet of ministers determines the nomination procedure to the Committee of the Regions.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations are conducted with both associations and individual local authorities.

In consultations, State institutions play roles of both promoters and facilitators. The Department of Local Government as well as other national authorities concerned participate.

D2- Structures related to consultation procedures

Consultations are carried out within a committee that meets on a monthly basis. In addition, informal contacts and meetings play an important role in the process.

D3- Methods of consultation procedures

At the monthly meetings, local authorities are almost always consulted on issues that concern them.

Consultations occur at the proposal stages.

E. European Union Legislation and Policy

There is no specific procedure concerning European legislation and policy.

F. Evaluation of consultation procedures

Consultations often allow for consensus to be reached.

G. Perspectives

The Maltese Association of Local Councils' main objective is to raise the awareness of the central authorities concerning aspects they may overlook, and to have local financing increase.

Montenegro



A. Introduction: the degree of decentralisation

A1- Background

The State Union of Serbia and Montenegro – recognised as a State with two constituent republics by the international community in 2003 – constituted a loose “confederation,” with no common budget, and in which each Republic disposed of its own system of administrative divisions. Montenegro’s recent independence following the referendum of 21 May 2006, finalised its separation from Serbia.

A2- Legal framework for local and regional self-government

The administrative divisions of the Republic of Montenegro are based on the Constitution of 12 October 1992, in which Article 66 guarantees local self-government.

Local governments of Montenegro are governed by the 1996 Law on Local Self-Government.

B. Presentation of the institutional scene

The 21 Montenegrin municipalities constitute the only level of local government in the country. The competent State bodies have much control over the municipal structures.

Local authorities are essentially responsible for providing local public services, and competent in areas such as culture, water management and treatment, and local development programmes.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The Law on Local Self-Government requires the consultation of local authorities on issues that affect them. In Articles 13 and 14 it is stated: "When preparing laws and other enactments that define the position, rights, and duties of a local self-government [...] expression of municipalities' views shall be ensured." Moreover, "A municipality shall have the right to express its own view and undertake initiatives with the competent government bodies concerning problems that are not within its competence but might be of interest for the local self-government."

In addition, local governments may react when legislation violates their rights. According to Article 144 of the Law on Local Self-Government, "When an adopted law violates citizens' right to local self-government, the Association may submit an initiative to the President of the Republic not to proclaim that law."

Article 97 of the Law on State Administration stipulates that "In preparing laws that shall regulate rights, obligations and legal interests of citizens, a minister shall have the draft law published through media and invite all stakeholders to present their comments, proposals and suggestions."

In 2005, the Government of Montenegro adopted a "Work Programme for Better Local Government in Montenegro," which was jointly prepared by the Ministry of Justice of Montenegro and the Union of Municipalities of Montenegro (UoM) in consultation with the Council of Europe. The main goals of this Programme is to further democratisation, decentralisation,

and depolitisation of local self-government in Montenegro. The primary implementers of the Work Program are UoM and the Ministry of Justice.

Outside of this legal framework, UoM is represented in the intergovernmental Committees, such as the Coordination Committee for Local Self-Government Financing; the Coordination Committee for the Reform of Local Self-Government; and the Equalisation Fund Committee. The association also has its representatives in the working groups for the preparation of laws and other regulations. Together with relevant Ministries, UoM organises seminars, workshops and thematic meetings.

C2- Other agreements

The delegates to the Chamber of Local Authorities of CLRAE are nominated by UoM and delegates to the Chamber of Regions are nominated by the Ministries of Justice and Foreign Affairs.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultation procedures are carried out with both UoM and local authorities. Recently, UoM has been increasingly consulted by State bodies. For example, the association is included in the preparation of National Action Plans, National Strategies, laws and other regulations.

According to the Law on Local Self-Government, local self-government bodies shall:

- Provide government bodies with initiatives for regulating relations important for local self-governments and undertake measures for solving problems within the scope of rights and responsibilities of local self-government;
- Offer suggestions for initiating activities of government bodies concerning local self-government development;
- Request the government bodies' views concerning the implementation of the laws of direct importance to the development and accomplishment of local self-government and the activities of its bodies;

- Participate in the preparation of laws which are especially important to local government.

Furthermore, Government bodies shall:

- Inform local self-government bodies on measures they take or intend to take;
- Offer technical help to the local self-government bodies concerning the carrying out of their activities;
- Request reports, data and information concerning activities within local self-government rights and liabilities, and about other issues that affect them.

The Council for development and protection of local self-government may submit proposals for development and protection of local self-government, improve public services quality, protect municipal rights and duties defined by the Constitution and law, and protect freedoms and rights of local populations to Government bodies, local self-government bodies, and public services. These Bodies and services are required to express their view on the Council's proposal within 60 days from the proposal's submission.

There is no strictly defined procedure of consultations between Parliamentary bodies and UoM. However, the association has proposed certain amendments to draft laws which were taken into consideration by these bodies.

International organisations that are responsible for programmes related to local self-government issues and non-governmental organizations also participate in consultations.

D2- Structures related to consultation procedures

Intergovernmental consultation bodies (committees and councils) have been established between the State and local governments and their association, such as:

- The Coordination Committee for Local Self-Government Financing – the task of this Committee is to follow implementation of the Law on Local Self-Government Financing, and to provide aid to municipalities in this matter

- The Coordination Committee for local self-government reform – the task of this Committee is to follow the decentralization process and to evaluate other reforms concerning local governments
- The Council for Sustainable Development of the Republic of Montenegro – representatives of UoM are also included in the work of this Council.

In addition, informal contacts are important and should be more frequent.

D3- Methods of consultation procedures

When consultations are carried out, they are not frequent enough. Neither the local government nor their associations are consulted systematically on issues that affect them.

Consultations are conducted in the preparation stage of legislation and other regulations by the participation of associations' representatives in working groups. Later, consultations are conducted in the form of opinions, proposals and suggestions once draft laws and other regulations have already been prepared. However, these views do not significantly influence draft laws and regulations.

E. European Union Legislation and Policy

No specific procedures exist concerning EU affairs.

F. Evaluation of consultation procedures

Recently, the association has become increasingly involved in consultation procedures. UoM can thus better represent the positions, opinions and proposals of local authorities in Montenegro.

However, several points still should be improved:

- Consultation procedures should be clearly defined, particularly concerning the association's role
- Proposals of local authorities and UoM on laws and other regulations should be better taken into account in final texts

- Government bodies should always provide feedback to local authorities and their association when they do not accept their proposals and initiatives
- Consultations should be more frequent and more comprehensive

G. Perspectives

UoM is currently negotiating the signature of a cooperation agreement between the Government and the association which will better define the cooperation mechanisms.

UoM's primary goal is to succeed at raising awareness of local governments' positions and interests in the ongoing reform of the public administration system, particularly in the areas of decentralisation, depoliticisation, democratisation and better financing of local self government. The association further hopes to improve its action capacity as well as that of local governments.

The Netherlands



A. Introduction: the degree of decentralisation

A1- Background

The Netherlands are a decentralised unitary state, which means that ultimately the tasks, powers and competences of the municipalities and provinces derive from the state level, while at the same time respect for local and provincial self-government and guarantees for their autonomous competences are firmly rooted in the legal and political framework of Dutch society.

Until the end of the 18th century, the Netherlands were a confederation of more or less autonomous provinces. Since the occupation of the Netherlands during the French empire, much of the administrative system of the Netherlands bears resemblance to the French administrative system. With the adoption of the constitution of 1848, however, the principle and practice of decentralisation and the constitutional recognition of autonomous competences of municipalities and provinces became a significant characteristic of the system.

Another relevant characteristic of the Dutch political and administrative culture is the continuous search for consensus by consultation. This characteristic

applies to the players on the national level as well as to the relations between central government, provinces and municipalities.

A2- Legal framework for local and regional self-government

The articles 123 to 133 of the Dutch Constitution define the structure and general competence of local government.

The framework laws of 1994 on the provinces and the municipalities define the administration of the Dutch local structures.

A3- Local and regional authorities' participation in total public spending

In the Netherlands, the local and regional authorities cover 35% of the country's total public spending.

B. Presentation of the institutional scene

The Netherlands have two spheres of local government: the provinces and the municipalities. Their competences are twofold: a general competence in all local or provincial affairs, as long as there is no conflict with national legislation, and specific competences, attributed by specific national laws (and, in the case of the municipalities, also by specific provincial regulations). This principle of 'co-management' means that the provinces and municipalities are obliged to maintain or implement policies and legal measures determined at State level, and that the municipalities must contribute to the implementation of policies and measures determined at provincial level.

B1- Provinces

The regional level of Dutch government consists of 12 provinces, which are the major bodies for co-administration of national laws. Generally speaking, the provinces bear responsibility for directing and implementing the various policy areas which are beyond the scope of municipal authorities. Examples include environment, water management, town and rural planning at a regional scale, traffic and transport, economic policy, public and youth welfare, and culture. The provincial governors ('Queen's Commissioners') have specific tasks in ensuring public law and order, and in crisis management.

B2- Municipalities

The 456 Dutch municipalities hold significant competences in the areas of social aid, public works, health and sanitation, land and urban planning, primary (and in part secondary and technical) education, culture, police, gas and water supply, waste management, transport, education, culture, sports and leisure.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

For many years the Association of Provinces of the Netherlands (IPO) and the Association of Netherlands Municipalities (VNG) have persisted in the promotion of a legal framework for state consultations of local authorities. This legal framework has been introduced in the present Laws on the Municipalities (revised in 1992) and on the Provinces (also revised in 1992). Almost identical articles in both laws put an obligation on the national government to consult the municipalities and/or the provinces ("or a body which can be considered to be representative for the provinces/municipalities concerned") in all matters and proposed legislation which affect them. This obligation has recently been reaffirmed in the "Code of inter-administrative relations" ("*Code voor interbestuurlijke betrekkingen*"), formally adopted by the government, the VNG and the IPO at the end of 2004.

Relevant articles in the Law on the Provinces (abridged):

- Article 110: "The State shall inform the provincial government if requested to do so (i.e. by specific law) of any standpoints and intentions that relate to the provinces."
- Article 111: "The State shall provide the provincial government if requested to do so (i.e. by specific law) with the opportunity to give its opinion on matters affecting the provinces."
- Article 112: "The State shall give the provincial governments or a body which can be considered to be representative for them the opportunity, if necessary within a set time limit, to comment upon draft legislation which:

- a) demands regulation or ruling by the provincial governments, or which
 - b) significantly alters the tasks or competencies of the provincial governments.
- Article 114: "The Minister of Home Affairs is responsible for coordinating State policy affecting the provinces. He promotes the freedom of policy-making by the provincial governments."

The corresponding articles in the Law on the Municipalities are Articles 112, 113, 114, 116 and 117. These legal provisions and regulations have been elaborated in further detail in a "Checklist for State legislation and policy relevant to decentralised authorities" (2001).

Parallel to this legal framework for consultation, a more political framework exists. Since 1987 every new cabinet has signed a "policy agreement" (*bestuursakkoord*) with the VNG and the IPO. The last one was signed in 2004, the already mentioned "Code of inter-administrative relations". These policy agreements contain:

- rules of conduct to be observed between the three tiers of government;
- general principles for the distribution of public funds between the national level, the provincial and the municipal level; and
- guiding principles for tri- or bi-lateral co-operation in particular fields of public policy and/or for new legislation.

In this way the national-local policy agreements set a common agenda for municipal, provincial and national government, for the term of the cabinet.

C2- Other agreements

Dutch members to the Committee of the Regions (European Union) and of the Congress of Local and Regional Authorities (Council of Europe) are nominated or appointed by the Minister of Home Affairs. The Minister's decisions completely follow, as has been formally agreed, the proposal of the IPO and the VNG. In their proposals, IPO and VNG observe a set of agreed conditions, such as political, regional and gender balance.

D. Detailed description of consultation procedures

D1- Partners in consultation:

Apart, of course, from bilateral consultations concerning the specific interests of single local authorities, all contacts between the national government and local authorities are conducted through the associations VNG and/or IPO.

The majority of official consultations take place between the Ministries and local authorities. The two Chambers of the Dutch parliament have their specific constitutional responsibilities and positions which also involve many formal and informal contacts with local authorities. These contacts sometimes are used as leverage to open a formal discussion with one or several Ministries.

D2- Structures related to consultation procedures:

According to the relevant articles in the Laws on the Provinces and on the Municipalities consultations are mostly conducted on an ad hoc basis. However, in certain areas, meetings are scheduled to be held at regular intervals. The most important is the “Three tier conference” which brings together the Prime Minister, the presidents of the two associations and other ministers, convened at least twice a year. This conference keeps track of the common agenda for municipal, provincial and national government.

There are several other more or less recurrent consultations, such as:

- A three-tier consultation (Ministry of Finance, IPO, VNG) on the national budget and the Provincial and Municipal Funds is held once a year at the political level.
- Four-tier consultations (Ministry of Environment, IPO, VNG, and the Association of Water Boards) on environmental affairs bring together high level officers, 2 or 3 times a year;
- A three-tier conference (Ministries of Foreign Affairs and of Home Affairs, IPO, VNG) on EU and Council of Europe matters meets monthly, gathering high level officers;

Official consultations are almost always preceded and prepared by unofficial contacts – at officer’s level as well as at political level.

D3- Methods of consultation procedures:

The formally defined consultations (see the afore-mentioned articles in the Laws on the Provinces and on the Municipalities) are compulsory. The other consultations are optional, though a request or an invitation for bi- or trilateral consultation is rarely refused.

The formal consultations normally start in an early stage of the decision-making process, on the basis of a draft or even pre-draft of a policy-letter or a law. Most often there will be successive rounds of consultation. Consultation is much more a revolving process than a one-off event.

E. European Union Legislation and Policy

Although EU legislation falls outside the scope of the articles 110-114 (112-117), the government and IPO and VNG also on several occasions confirmed their intention to intensify the involvement of decentral government in the early stages of EU policymaking and legislation. This participation in the 'national EU-coordination' has taken the following forms:

- The establishment of "inter-administrative EU dossier teams". In these teams representatives of the national government and of the associations cooperate from the start of a new EU environment policies until its implementation in national legislation;
- A broadening of this procedure, in 2006, to other policy areas, based on the common priorities set by the government and the associations;
- IPO and VNG participate in the national co-ordinating working group that prepares the first Dutch positions for Coreper and the working groups of the Council (weekly meetings), as well as in the national expert group on EU Law;
- IPO and VNG have taken the initiative, in 1992, to install an EU-information desk for municipalities and provinces. Over the years this desk has been developed, with the support of the Ministry of Home Affairs, into the Expertise Centre on European Law and Policy. This expertise centre ("Europa Decentraal") can assist municipalities, provinces and waterboards in the implementation of European law.

Most of these arrangements have been formally laid down in an "EU appendix" to the already mentioned Code of inter-administrative relations of 2005.

F. Evaluation of consultation procedures

IPO and VNG are strongly convinced that the existing legal framework for consultation procedures still can be improved. Although the legislation which came into force in 1994 has brought about a positive change in the general attitude of the departments, it still happens that there is no consultation or only 'pro forma' consultation in a very late stage of the legislation process.

The set up of inter-administrative dossier teams will be an important step in strengthening the role of local and regional authorities in the EU processes.

G. Perspectives

Decentralisation does not necessarily imply the devolution of national tasks, but can also be carried out through the extension of existing competences or by broadening the scope of municipal or provincial autonomy.

On the national level, recent cabinets have shifted towards a slightly modified position in the decentralisation debate. Decentralisation (or 'proximity') are no longer considered to be political goals in their own right, but are looked upon as one among other possibilities (and not always as a necessary condition) to raise the overall quality of government performance on the local level as well as on the provincial or national level.

Norway



A. Introduction: the degree of decentralisation

A1- Background

In Norwegian policy, the concept of local self-government is based on long-standing tradition. At a formal level, the current local regime of dates back to laws of 1837 on councils of local management – legislation that was significantly reworked in 1993.

Municipalities enjoy total freedom of decision and execution in all areas, excepting those from which they are explicitly excluded by law or regulation. As a political concept and principle, local self-government is profoundly attached to Norwegian public life.

A2- Legal framework for local and regional self-government

The Norwegian Constitution of 1814 includes no specific measure on local administration.

A new law on local authorities, of 25 September 1992, went into effect on 1 January 1993. It defines the principle aspects of the administration of municipalities and counties. It regulates planning and information, political and administrative organisation, procedures, the status of local elected

representatives, financing of the local administration, and Government action at local level.

B. Presentation of the institutional scene

Norway has a local administrative system of two levels: the counties (*fylkeskommune*) and the municipalities (*Kommune*). Oslo, the capital, has the status both of a county and municipality.

B1- Counties

Norway has 19 counties. Over the past 15 years, the counties have given up certain of their roles to the municipalities.

The counties are competent in areas of secondary education, regional development, transport, environment, and regional trade and industrial policy.

B2- Municipalities

The 431 Norwegian municipalities are responsible for childcare and primary education, primary health, social services, culture and leisure, communications and trade and industrial development.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

In Norway, there is a strictly defined procedure for consultations between the government and the Norwegian Association of Local and Regional Authorities (KS).

There is no law defining the procedure. The procedure is based on a political agreement between the Government (represented by the Ministry for Local Government and Regional Development) and KS. The procedure has been developed over time but does not exist in the form of a binding agreement in judicial/formal terms. There is no document signed by the parties stating the existent procedure. There is no time limit to the consultation procedure. The government and KS are both free to cancel the agreement on consultation

procedure by unilateral decision. Otherwise, the agreement will remain in force as long as both parties find it worthwhile.

KS is frequently consulted by relevant ministries outside of the existent framework for consultations, particularly when ministries deal with matters concerning local and regional affairs, and where the KS perspective is considered to be essential or of special interest.

C2- Other agreements

KS also cooperates with the government on the implementation of different reform processes with implications for the local government sector. To a large degree, this concerns research and renewal projects (e.g. reorganisation of public services and reorganisation of the structure and competences of the municipalities). These agreements are not binding in legal terms.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultation procedures are carried out exclusively through the work of KS. No individual local authorities are involved.

The consultation procedures involve only government ministries on the side of the State. Neither parliamentary bodies nor any decentralised state bodies are represented.

There are no other parties involved in the consultation procedures.

D2- Structures related to consultation procedures

No formal consultation bodies have been established between the State and KS. However, there is a formalised structure consisting of regular meetings at administrative level between KS and the ministries concerned. The primary aim of these meetings is to prepare for the political consultations. Administrative meetings are also held to complete consultation minutes (which have to be agreed on by both parties).

Informal contacts at administrative level between KS and the ministries concerned are both necessary and very important in the different stages of the consultation procedure.

D3- Methods of consultation procedures

Local and regional authorities are systematically consulted on issues that have direct bearing on their interests. This is both on a regular and an ad hoc basis.

There are four political consultation meetings a year. Three of the four meetings are held prior to the government's three internal budget conferences. The fourth is held after the government's state budget proposal has been made public in October.

E. European Union Legislation and Policy

Norway is not a member of the EU, but participates in the internal market via the European Economic Area agreement. In this way, Norwegian legislation and politics are directly affected by European legislation and policy. At political level, there is a platform – the "*Europapolitisk forum*" – lead by the Department for Foreign Affairs and the Department for Local Government and Regional Development. It includes representatives from national, regional and local level and meets twice a year to discuss European legislation and policy.

Several ministries have established contact groups at administrative level with KS, the aim being to exchange information on European matters. In addition, the local and regional level may be consulted on the State's European policy positions through the consultation system.

F. Evaluation of consultation procedures

KS finds the main positive aspects of the current consultation procedures to be the possibility of reaching a common understanding on the economic situation of local and regional authorities. Furthermore, they provide the possibility of reaching a sound balance between tasks and service level of the local government sector and financial resources available

However, KS wishes to develop the consultation procedure into a more binding system for both parties.

G. Perspectives

KS and the government have agreed on the principle of a more binding consultation system. There will now be discussions of how to carry this out in practice.

The two parties have reached a principle agreement to base the consultation system to a large degree on sector-specific agreements between the State and KS. A number of such agreements have already been signed by KS and relevant ministries. They are normally limited to important reforms in the various local government sectors. As a rule, such agreements usually have a defined time limit. A new procedure for the calculation of reform-related costs will also be worked out and implemented, probably in 2007.

KS has recently proposed to the Government a specific plan on how to re-establish the economic balance for the local government sector over the next few years. KS would like this plan to be based on an agreement between the State and KS. KS also wishes to have regular evaluations of the results of the consultation system.

Poland



A. Introduction: the degree of decentralisation

A1- Background

In Poland, the decentralisation process began in 1990 with the restoration of local autonomy and the organisation of the first municipal elections. It continued in 1999 with the rearrangement of the administrative map of the country and the transformation of the regions and counties into local governments in their own right. This reform established a three-level administrative system of local and regional authorities.

The financial side of the decentralisation process was defined in 1998 by a law on the income of local authorities. The process has recently progressed further, as in 2004 local authorities gained additional competences.

A2- Legal framework for local and regional self-government

Chapter 7 of the 1997 Constitution defines the status of local and regional authorities in Poland.

The law of 8 March 1990 on municipalities guarantees their autonomy.

The law of 5 June 1998 on the State administration in the prefectures, counties and regions – which went into effect on 1 January 1999 – involved a major reform of the territorial organisation and the modernisation of the State, and increased the competences of the local authorities.

Financial aspects related to decentralisation were defined by the law of 26 November 1998 on the income of local authorities, which was amended in 2000, 2001, 2002 and 2003.

A3- Local and regional authorities' participation in total public spending

Public spending of local and regional authorities represents approximately 30% of the total public spending of Poland. This is covered 77% by the municipalities, 17% by the counties, and 6% by the regions.

B. Presentation of the institutional scene

Since 1999, Poland has been divided into three levels of local authorities: the regions (*województwa*), the counties (*powiaty*) and the municipalities (*gminy*). According to the terms of the 1997 Constitution, local authorities are competent in all areas not attributed to other levels of government by the Constitution or legislators.

B1- Regions

Poland is divided into 16 regions. Politically autonomous, and financially supported by many aid and cooperation programmes, the regions have a strong impact on local policy. Their competences cover those of the municipalities and a portion of those of the districts.

Regions' competences concern policies for regional development, land planning, health care, employment policy, management of regional roadways, the protection of the environment and the management of programmes related to European Structural Funds.

B2- Counties

The 315 counties play an intermediary role between the regions and the municipalities. They may step in for municipalities in local areas which go beyond municipal competences. They may also carry out actions once delegated to the regions.

They carry out public tasks of a supra-municipal nature, determined by the law, in public services, secondary schools, protection of the environment, general hospitals, supervision of construction, civil protection, fire protection, consumer defense, social security, employment, and the management of county roadways.

B3- Municipalities

There are 2 489 Polish municipalities of which 318 are urban, 572 mixed, and 1599 rural. In accordance with the Constitution, these carry out all competences that the law does not attribute to other levels of authority. Of the urban municipalities, 65 are cities with county status which carry out the competences of both municipalities and counties.

Municipalities are competent for urban planning, the management of real-estate, the protection of the environment, local roads, water supply and treatment, waste management, electricity and gas supply, local public transport, health care services, social services, municipal housing, public schools, maintenance of cemeteries and the promotion of the municipality. They also ensure other competences the State may delegate: i.e. registry services, supervision of physical persons, auctions of State goods.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There are two strictly defined consultation procedures: one with the two chambers of Parliament, and the other with the national government. The Polish Constitution does not mention the procedures, which are based on the European Charter of Local Self-Government, ratified by Poland in 1993.

At parliamentary level, consultation procedures have their legal basis in the regulations of both chambers. Article 36 of the regulation of the lower chamber (Sejm) stipulates:

“5. Examination of the acts which, in case of their adoption, may cause changes in the functioning of local government need to be consulted with national associations which form the part of the Joint Committee of Central Government and Local /Regional Governments.

6. National associations have the right to present their opinions within 14 days of receiving the draft.
7. Opinions are delivered to the members of the Parliamentary Committees or all the members of the Sejm.
8. Representatives of self-governments can present their opinions at the meetings of the Sejm Committees.”

In practice, the Association of Polish Cities (APC) receives drafts of all legislation and is invited to take part in the meetings of the different Parliamentary Committees, particularly in the Committee of Local Government and Regional Policy.

Regarding the upper chamber of the Parliament (Senat), the Chairs of the Committees may invite representatives of national associations. In practice, the associations of local and regional governments are invited by the Committee of Local Government and Public Administration.

In 1993, a special institution was established in Poland: the Joint Committee of the Central Government and Local/Regional Governments. In the framework of this Joint Committee, national associations of local and regional self-government can negotiate with the Central Government and present their opinions on draft legislation proposed by the Government and the decrees of the Government or ministers. From 1993 to 2005, the Joint Committee of the Central Government and Local/Regional Governments functioned on the basis of the decree of the Prime Minister, whereas since 2005 it operates on the basis of the “Act on the Joint Committee of the Central Government and Local/Regional Governments and the representatives of the Republic of Poland in the Committee of the Regions” that was adopted by the Parliament on 6 May 2005. In addition to this legal framework, some Ministries – particularly the Ministry of Regional Development, Ministry of Infrastructure and Ministry of Housing – send out draft legal acts in the early stages, allowing for more influence on their final form.

C2- Other agreements

The nominations of the Polish representatives to the Committee of the Regions are based on the “Act on the Joint Committee of the Central Government and Local/Regional Governments and the representatives of the Republic of Poland in the Committee of the Regions,” of 6 May 2005. This act was fully accepted by the national associations of local and regional authorities which nominate

the candidates. The Government confirms the list and submits it to Brussels. The Polish delegation to CoR is composed of 21 members – 10 regional and 11 local.

D. Detailed description of consultation procedures

D1- Partners in consultation

Within the Joint Committee of Central Government and Local/Regional Governments, consultations are conducted exclusively with associations. In Parliamentary Committees, representatives of individual local authorities are also sometimes invited. In addition, specific consultations regarding municipal law on the changing of borders of municipalities, counties or regions are carried out directly with the relevant individual local authorities.

Government Ministries take an active part in the consultation procedures through The Joint Committee of Central Government and Local/Regional Governments. The representatives of national associations are invited to take part in the meetings of Parliamentary Committees.

APC representatives participate in the work of different national consultation bodies, including the Council of National Environmental Fund, National Employment Council, the Council of Public Benefit (which also includes NGOs and government ministries), the Council of National Health Fund, and others.

D2- Structures related to consultation procedures

The Joint Committee of Central Government and Local/Regional Governments represents by their national associations different types of self-government units: rural municipalities, small towns, towns and cities, metropolitan cities, counties and regions. The Central Government is represented by deputy ministers of the relevant departments concerning local government: administration, finances, education, culture, health, housing, infrastructure, regional development, agriculture, labour and social policy.

The Committee meets once a month. There are nine thematic committees within the Joint Committee (European policy, public finances, education/culture/sport, health care and social policy, infrastructure, local development, regional policy and environment, public safety, rural areas and agriculture, information society, and public statistics) which are responsible for the

preparation of the draft opinions for the plenary meetings of the Joint Committee. The Government is required to add the opinion of the Joint Committee to the draft legal act.

The Ministry of Regional Development regularly organises informal consultations with the local and regional level. Other ministries rarely organise informal contacts or meetings, but the platform of The Joint Committee ensures regular formal contacts.

D3- Methods of consultation procedures

The associations of local and regional authorities are systematically consulted on draft legislation that affects them.

Plenary meetings of The Joint Committee are organized once a month (by law The Joint Committee must meet every two months).

Consultations are based on draft legal acts, before these are sent to the Parliament. Draft decrees of the Council of Ministers, Prime Minister or specific ministers are often sent to associations for consultation at a very early stage, but sometimes later.

E. European Union Legislation and Policy

Concerning EU affairs, consultations were organised during the pre-accession period through the National Council for European Integration. Now consultations are conducted through The Joint Committee and its thematic committee on European policy. In addition, some ministers consult associations on drafts of EU legislation.

F. Evaluation of consultation procedures

Consultations are carried out through a systematic, clear procedure, providing real opportunities for negotiation.

However, occasionally the Central Government has sent draft legislation to the Parliament without the opinion of The Joint Committee. The rare occasions when this has happened concerned two types of situation:

- “urgent” drafts, usually when they were sure that the Committee’s opinion would be negative (for example concerning a raise in wages for the teachers before the elections);
- drafts without the necessary evaluation of the financial consequences (on the basis of the Public Finances Act every draft which may have consequences for public finances, including that of self-government, must include the evaluation of the possible financial consequences and their scale).

G. Perspectives

Though currently the associations are aware of no draft reform, the Government is very centralistic and there is a real danger that it could re-centralise certain responsibilities transferred to local or regional authorities.

Portugal



A. Introduction: the degree of decentralisation

A1- Background

Following the fall of the authoritarian Salazar regime, the importance of the local level was recognised by the new political regime in 1974, and the principle of local self-government was included in the new Constitution of 1976. Decentralisation has since advanced, particularly in 1999 with the adoption of several laws on competences.

However, a project to create a new decentralised regional level by transforming the existing administrative regions – authorised by the Constitution – was rejected by the population, consulted in 1998 by referendum. Various measures have since been taken to strengthen the devolution of central power and the forms of cooperation between local authorities and State services.

A2- Legal framework for local and regional self-government

Chapter VIII of the 1976 Constitution specifically stipulates the principles of local self-government and decentralisation, in addition to particularly comprehensive regulations.

The law of 18 September 1999 outlines the competences and administration of municipalities and parishes.

The laws of 26 March 1987 and 5 June 1991 determine, respectively, the status of the autonomous regions of the Azores and Madeira.

A3- Local and regional authorities' participation in total public spending

Portuguese local authorities cover only 13% of total public spending.

B. Presentation of the institutional scene

Portugal is divided into two local levels: municipalities (*municípios*) and parishes (*freguesias*). The districts (*distrito*) are coordination bodies of the local level, whereas regions represent a local level of State authority. The islands of Madeira and the Azores have the special status of autonomous regions.

B1- Regional level

Continental Portugal has five Regional Coordination Commissions, of which the members are appointed by the central government.

These coordinate the technical, financial and administrative support to local authorities and carry out measures concerning regional development.

The two autonomous regions have very broad political and legislative powers.

B2- Districts

The 18 Portuguese districts constitute the intermediary level. They play a coordination and information role.

They coordinate the districts' services and the action of local authorities concerning school equipment, and are competent for cultural affairs and distributing information to local government.

B3- Municipalities and Parishes

Portugal has 308 municipalities of which 30 are on the islands of Madeira and the Azores. There are 4 252 Parishes, which are infra-municipal administrations. A municipality represents an average of 15 Parishes. A law of 1999 concerning the transfer of competences enlarged the range of local competences. Parish competences now cover those of municipalities, with a few exceptions.

Municipal police, urban planning, energy and transports fall exclusively to the municipalities. They share with the Parishes competences concerning local development, protection of the environment, health, aid to youth and the elderly, education, culture and sport. In addition to the competences shared with the municipalities, parishes ensure the management of their own goods, public works, maintenance of roads and carrying out electoral census.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There is no constitutional requirement to consult associations of local governments, but the law does define a consultation procedure.

This procedure is defined by law n°54/98 of 18 August 1998. It stipulates that national associations automatically hold the status of social partner.

The associations of local governments are consulted according to the framework defined by this law, in all areas related to their competences. In general, they are formally consulted by mailings of draft legislation.

C2- Other agreements

An agreement has been concluded between the National Association of Portuguese Municipalities and the central government determining the nomination method of members to the Portuguese delegation to the Committee of the Regions as well as to other institutions representing local and regional authorities, particularly the CLRAE.

D. Detailed description of consultation procedures

D1- Partners in consultation:

Consultations of local and regional government are carried out exclusively through associations.

On the side of State institutions, consultations involve the government represented by Ministries, as well as the Assembly of the Republic.

No other partners participate in consultation procedures.

D2- Structures related to consultation procedures:

There is no consultation structure between the State and associations of local government.

Formal and informal meetings and contacts, when they take place, play an important role in the different stages of the consultation procedure. They allow associations to present their views before measures are taken.

D3- Methods of consultation procedures

It is required that local government associations be consulted on draft laws that affect their activities and competences.

Consultations do not take place with any fixed schedule: they are carried out according to the evolving work calendar of the Government and the Assembly of the Republic.

Associations provide their recommendations after the drafting of legislation, but before the approval of the Government and Assembly.

E. European Union Legislation and Policy:

No specific procedures exist concerning EU policy and legislation. In this area, consultations follow the same procedure used for national issues.

F. Evaluation of consultation procedures

Due to the consultation procedures, local government associations are informed of measures that will be taken before they are finally approved, and can take action to improve the drafts as well as anticipate adaptations that might be necessary for implementation at local level.

However, the deadlines for consultation imposed by the Government or Assembly of the Republic are often very short, and do not allow for an in-depth study of the issues raised.

In addition, the consultation procedures are often a pure formality consisting of the application of legal procedure simply to legitimise the central government's action.

G. Perspectives

No reform that would affect the consultation procedures is in currently foreseen.

The consultation procedures are not satisfactory. Firstly, local authorities are dissatisfied with the very short consultation deadlines. Moreover, the opinions expressed during consultations are not taken into account. Overall, the results of consultations are most often disappointing.

Romania



A. Introduction: the degree of decentralisation

A1- Background

Decentralisation began in 1991 with the adoption of the new Constitution, which defined the principle of local autonomy, and was then implemented by a series of laws on the organisation, elections, financing and management of local government.

Local finance reform began in 1998, in order to develop the financial manoeuvring possibilities of local authorities. Since 1999, several laws have been passed, particularly concerning the status of the civil service and the general governing of local authorities.

Despite the institution of a positive legislative framework for local autonomy, certain mechanisms of supervision over the local governments remain. Thus devolved services of government ministries remain very present, particularly concerning the drafting of local budgets.

A2- Legal framework for local and regional self-government

Chapter V of the 1991 Constitution – revised in 2003 – deals with local public administration, and Article 120 defines the fundamental principles of local autonomy.

Law n°69 of 1991 on local public administration – modified and completed in 1996 and 2002 – as well as law n°188 of 1999 on the status of the local civil service and law n°215 of 2001 on general governing of local autonomy and the organisation of local public administration, outline the operation of local government.

A3- Local and regional authorities' participation in total public spending

Romanian local authorities cover 17% of total public spending.

B. Presentation of the institutional scene

Romania's administrative divisions are based on a level of local government representing the central State – the Prefectures – and on two levels of decentralised administration: the counties (*judet*), and three other types of local government. At regional level, in 2000 the “development regions” were established.

B1- Development regions

The eight development regions are not administrative bodies but rather a level of coordination. Each has a national council for regional development, made up of members of local and regional authorities and State representatives.

They are responsible for drafting and implementing regional development strategies and programmes.

B2- Counties

In each of Romania's 41 counties, a county council is elected by universal direct suffrage for a period of four years. These councils are responsible for coordinating the activity of municipal councils of communes and cities for the delivery of public services of county-wide interest.

They are competent for county development, water supply, departmental roads, social assistance to children and education.

B3- Local government

The local level includes 2825 rural localities (*comune*), 208 towns (*orase*) and 103 municipalities (*municipii*).

Their competences cover housing, urban planning, environmental protection, waste management, public health, transport infrastructure, water supply, roads, administration of the educational system's assets, administration of local heritage, public order, administration of the parks and public green areas.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The legal framework for consultation procedures for associations of local and regional authorities appeared for the first time in 2001. Law 215/2001 on local public administration introduced the principle of consultation between central authorities and associations. The next step made by the government was to sign political agreements between the Ministry of Public Administration and the Romanian Federation of Local Authorities (FALR), an umbrella organization composed of the National Union of County Councils of Romania (UNCJR), the Association of Romanian Communes (ACoR), the Romanian Association of Towns (AOR) and the Romanian Association of Municipalities (AMR). The main problem with this procedure lies in the fact that the consultation process was sporadic and based mainly on personal influence of local representatives. Moreover, not all ministries recognised their legal obligation to consult the associations.

In order to harmonise the consultation procedure with the principles stipulated in the law of public administration, in 2005, the government adopted decision 521/2005 that emphasizes the steps needed to be taken during the consultation process by the central institutions and by associations.

The framework described above constitutes the only legal consultation method of associations of local and regional government. However, in some cases, there may be informal consultations during the process of drafting legal acts, between persons from the central institutions and presidents of the associations, based on their personal relations.

C2- Other agreements

The Romanian government has a procedure of nomination of the delegations to different European institutions that is accepted by the associations which distribute the seats among themselves. The 15 Romanian observers to the Committee of the Regions, as well as their alternates, are divided among the four associations mentioned above.

For the CLRAE, the UNCJR nominates the five members and five alternates to the Chamber of Regions, whilst the other associations divide the nominations of the five members and five alternates to the Chamber of Local Authorities. The Secretariat of the delegation is held at this moment by the Ministry of Administration and Interior.

D. Detailed description of consultation procedures

D1- Partners in consultation:

The consultation procedure is carried out only with the associations of local authorities. The above mentioned procedures refer only to the relationship with government ministries and do not include the specialised Parliamentary commissions. The relationship between administration commissions of the Parliament and the associations is rather sporadic.

D2- Structures related to consultation procedures:

According to the decision 521/2005, each authority at the central level should have a specialised person or structure for liaising with the associations. These entities should have been created within 15 days following the approval of the decision, but in reality not all the ministries created such structures. These structures should act permanently. They are required to send in a very specific time frame the draft legal acts to the presidents of the associations (15 days before the adoption in the normal procedure, or 5 working days for urgent legal acts). The associations should formulate a position and send it back within 3 or 5 days. This position should be clearly outlined in the preamble of the legal act. If an association does not send a point of view on a project, it is considered that they accept the draft form.

The legal framework does not indicate the steps of consultation when initiating a legal act. The association may initiate legal acts, but there is no specified

procedure in this regard. Informal contacts are very important in encouraging government officials to promote the legal proposals of the associations.

After 2000, there were permanent informal meetings with officials regarding new legal acts, but these meetings were in general promoted by the Ministry of Administration and Interior and the Ministry of Finance. The other ministries are still reluctant to engage in such relationships with the associations of local authorities.

D3- Methods of consultation procedures:

The central institutions have the legal obligation to consult the associations on every legal act that will have an impact at local level. As mentioned before, this obligation is clearly stated; consultation should be conducted within specific deadlines for all the legal acts with influence on local public administration. Unfortunately, the decision 521/2005 refers only to the obligation of consultation of the associations when the legal act is already finished. The involvement and consultation of the associations during drafting is not systematic (the Ministry of Administration and Interior and the Ministry of Finance consult the associations during the drafting of the legal acts, but are not required to do so by any legal procedure).

E. European Union Legislation and Policy

No specific procedure exists for EU affairs.

F. Evaluation of consultation procedures

Decision 521/2005 is very important as it recognises the importance of consulting the associations during the legislative process. It also indicates the associations to be consulted (before this decision, some ministries didn't recognise their obligation to consult the associations arguing that the art. 8 from Law 215/2001 refers only to the Ministry of Administration).

Steps are also defined that should be taken during the consultation procedure.

However, problems exist at the level of some ministries concerning the designation of persons/ departments for liaising with the associations. Moreover, in some cases, important positions of the associations are not taken

into consideration by ministries, which can affect the way public administration operates in Romania.

G. Perspectives

The legal framework regarding the public administration (the law 215/2001, the law on public finances, the law regarding the prefect institution, the law on decentralisation) is now under revision. During this process, the associations have been consulted by the Ministry of Administration and Interior throughout the drafting period. These accepted many of the amendments proposed by the associations. The most important points retained by all four associations were the request to complete Article 8: by specifically naming the associations that should be consulted, and that in cases when the associations are not consulted, they can attack the legal act in justice and suspend its application. The package of laws is currently in discussion by the Parliament.

Procedures should also be introduced that specify a requirement that the central government consult the associations on EU legislation that will affect local authorities before it concludes an agreement with the EU institutions.

Serbia



A. Introduction: the degree of decentralisation

A1- Background

The State Union of Serbia and Montenegro – recognised as a State with two constituent republics by the international community in 2003 – constituted a loose “confederation,” with no common budget, and in which each Republic disposed of its own system of administrative divisions. Montenegro’s recent independence following the referendum of 21 May 2006, finalised its separation from Serbia.

Serbia inherited from Tito’s Yugoslavia the two “autonomous provinces” of Kosovo and Vojvodina. The Constitution of Yugoslavia of February 1974 accorded these bodies with great autonomy, which ended at the end of the 1980’s. In 2002, the adoption of a law establishing specific competences for the autonomous provinces restored their autonomy. As Kosovo is currently governed by the UN interim administration, this status only currently applies to Vojvodina.

A2- Legal framework for local and regional self-government

Article 7 of the Constitution of the Republic of Serbia guarantees autonomy for local government.

The competences of Serb municipalities are defined by Article 30 of the law on local autonomy of June 2001.

The law establishing specific competences of the autonomous provinces of 2002 defines the status of the province of Vojvodina.

B. Presentation of the institutional scene

At local level, Serb administrative divisions include districts and municipalities, with only the latter having the status of local government.

B1- Autonomous province of Vojvodina

Since 2002, Vojvodina has been attributed responsibilities in economic and financial development, agriculture, health, education and culture.

B2- Local authorities

The 189 municipalities make up the only level of local government in Serbia. The districts are State executive bureaus. 29 districts thus receive a budget directly from the central government to carry out decisions, and they hold no legislative competences.

The main competences of the municipalities concern tourism, public transport, urban planning, school facilities, municipal administration, water supply and electricity, and social care.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There is no strictly defined consultation procedure in Serbia: the present legal framework establishes neither obligation on the part of state bodies nor a recommendation to consult local governments, and the Constitution of 1990 makes no mention of consultation procedures. The amendment process

was initiated in 2000, but there seems to be a lack of a political consensus to finalise it.

Article 116 of the 2002 Law on Local Self-Government states that local governments have the right to form associations that “represent their interests, in particular in the process of passing legislation and other acts of significance for the protection, improvement and financing of local self-government, as well as other regulations of significance for realising the competences of local government units”. However, it does not create an obligation for the central Government to consult these associations.

Similarly, the Governmental Rules of Procedure (Official Gazette of the Republic of Serbia, n°100/05) stipulates that a state body is required to conduct a public debate when proposing any legislation that would significantly affect an issue which is of “special interest to the public”. However, it does not explicitly list the issues concerned, nor does it further regulate the methodology or content of the “public debate”.

Finally, the Rules of Procedure of the National Assembly (Parliament) – Official Gazette of the Republic of Serbia, n°53/2005 – do not require parliamentary committees to hear relevant stakeholder representatives or associations in general. The Committee for Local Self-Government of the National Assembly (Parliament), created in November 2005, has to date never consulted the associations of local governments.

The Standing Conference of Towns and Municipalities (SCTM) is periodically and on an ad hoc basis consulted on drafts of legislation or policy documents by individual Government ministries or agencies. Such consultation often consists of draft texts being sent out for comments (in a more or less finalised version) and rarely implies the inclusion of representatives in the working groups that draft the texts. Consultations have more than once been initiated by the association itself, when the finalisation of draft legislation is announced in the media or otherwise.

C2- Other agreements

The procedure for nominating delegates to the CLRAE is conducted in two rounds. First, the candidates are proposed by the associations of local governments, the Serbian Ministry for Public Administration and Local Self-Government, the Ministry of Justice and the Vojvodina Executive Council. The

overall proposal is then determined by the two ministries and the proposal is forwarded to the Congress.

D. Detailed description of consultation procedures

D1- Partners in consultation

On the rare occasions when the local government association is invited to participate in a governmental working body, participants are usually nominated among experts employed in the Secretariat of the association, mostly members of the relevant policy committees.

Governmental or parliamentary bodies are not obliged to consult local government representatives. Moreover, the comments or objections of the latter are rarely taken into account in the final texts.

D2- Structures related to consultation procedures

There are no established consultation bodies or structures between the State and associations. The working groups in which the association sometimes participates are not permanent bodies.

The only permanent body which could be viewed in this respect is the parliamentary Committee for Local Self-Government, which is also not required to consult local governments or their representatives on draft legislation. However, the Committee has only existed since November 2005 and has not yet received any major legislation for consideration. It thus remains to be seen if good consultation practice will be established on a voluntary basis.

Informal contacts and meetings are often the only way to induce some kind of influence or voice an opinion on legislative and policy issues. In most cases, such contacts are hardly enough to represent the interests of local governments in any kind of substantial or effective manner.

D3- Methods of consultation procedures

Serbian local governments and their representative association, SCTM, are rarely consulted.

When the association consulted, it is usually during the final stages of legislative procedure – when a draft is finalised. The drafts are then sent for

comments to different governmental bodies and organisations, then approved by Government and forwarded to Parliament for adoption.

This is usually part of the so-called “public debate” procedure regulated in Governmental Rules of Procedures. However, even this procedure is misused, for example, a meeting of a minister and mayors of all 167 municipalities might be scheduled a few days in advance, often with no material prepared or sent out in advance.

E. European Union Legislation and Policy

There is no particular procedure for EU affairs.

F. Evaluation of consultation procedures

The primary problem is the lack of adequate legal framework on consultation procedures. The basic law on local self-government and the rules of procedure of relevant governmental and parliamentary bodies are insufficient; a new mechanism should be established between the local government association and these bodies.

Once the above is achieved, awareness of all actors on the necessity and consequences of such procedures must be raised.

G. Perspectives

In 2005, the Standing Conference of Towns and Municipalities initiated the introduction of consultation mechanisms in issues relating to local self-government. An initial analysis was drafted – mainly based on the CEMR White Paper on consultation procedures of European local and regional authorities.

The SCTM Presidency adopted a Platform on measures necessary for the introduction of consultation mechanisms of which the main governmental counterparts – in particular, the Prime Minister and Minister for Public Administration and Local Self-Government – were informed.

On the basis of this platform, the SCTM Presidency adopted an initiative establishing a parliamentary committee for local self-government in the

National Assembly. This committee proposed an amendment of Parliamentary Rules of Procedure.

Other measures included in the platform are as follows:

- Definition and adoption of an adequate legal framework for consultation – by amending the present Law on Local Self-Government or through separate legislation.
- Conclusion and renewal of memoranda of understanding with relevant state bodies including the Government (and possibly a separate memorandum with the Ministry of Public Administration), the National Assembly and the President of the Republic.
- Regular meetings/conferences two to four times a year, coordinated by the Prime Minister, Deputy Prime Minister or the Minister of Public Administration and Local Self-Government.
- A separate consultation mechanism for local government finance issue, e.g. a Commission for the system of local government finance.

A proposal of a Memorandum of Understanding between the Government and the SCTM was adopted by the SCTM Presidency in November 2005 and forwarded to the Government. However, no formal confirmation that the proposal has entered a relevant Governmental procedure has been received to date.

Slovakia



A. Introduction: the degree of decentralisation

A1- Background

Upon the fall of the USSR, Slovakian municipalities regained a degree of autonomy. As of 1990, measures were taken to restore municipal autonomy, organise elections and to adopt a series of legislation defining the operation of local authorities. Over the years 1994-1996, a new series of laws on the local level were adopted, particularly modifying legal status and budgetary rules.

Decentralisation, however, was only undertaken in 1999 with the launch of a strategic document on reforming the public administration. Since then, the implementation of a second level of local government – the regions – took shape on 1 January 2002. New competences were transferred to the municipalities and regions between 2002 and 2004, particularly those for which the districts – devolved level of the State – had been responsible, before being eliminated.

A2- Legal framework for local and regional self-government

Chapter IV of the Constitution of 1 September 1992 relates to local authorities and Article 64 specifically institutes the principle of local self-government.

Law n°369 of 1990 – modified and supplemented by law n°130 of 1991 and law n°453 of October 2001 – define the organisation of municipalities.

Laws n°221 and 222 of 1996 define, respectively, the territorial and administrative subdivision and the local state administration of Slovakia.

Law n°416 of September 2001 creates the basis for the transfer of State competences to the municipalities and regions.

A3- Local and regional authorities' participation in total public spending

The local and regional authorities of Slovakia cover 19% of the country's public spending.

B. Presentation of the institutional scene

Slovakia is a unitary State composed of regions (*samospravne kraje*) and municipalities (*obec*).

B1- Regions

Since their creation on 1 January 2002, the eight Slovakian regions are responsible for specific competences in several areas. They also carry out competences delegated by the State.

The specific competences concern regional roadways, social assistance, urban planning, culture, education and regional development. Delegated competences concern general administration, agriculture, land registry, defence, management of state goods and facilities, fire prevention, veterinary medicine and business licenses.

B2- Municipalities

Slovakia's 2887 municipalities are competent for public transport, water supply and treatment, social assistance, registry, urban planning, the environment, culture and sport, health and nursery and primary education.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

In the field of finances there is a strictly defined consultation procedure between state administration bodies and bodies of territorial self-government.

On social and economic affairs, a standing social dialogue has existed since 1990, in which the Association of Towns and Communities of Slovakia (ZMOS) participates. On 1 December 2004, the Council of economic and social partnership of the Slovak republic was established: a consulting body on the economic and social partnership on the national level. Its aim is to negotiate issues of social and economic development, budgetary proposals of the State, and draft legislation. It prepares recommendations for the Government on the issues negotiated.

ZMOS, as an employers' association (towns and municipalities), is involved in collective bargaining in the context of the Council of economic and social partnership. It acts at national level and its action has a broad range. This collective bargaining brings together high level trade union bodies, representatives authorised by the government (State Secretaries of the Ministries of Finances, of the Interior, of Education and of the Ministry of Health) and representative employers' proxies, including ZMOS and the presidents of the eight regions. Collective bargaining often deals with the scope of holiday, wage claims, working conditions, on supplementary allowances to the income insurance and on the Social fund. The negotiations within this Council produce recommendations that are then transmitted to the Government.

At the national level, such negotiations have resulted in the following two agreements:

- the Collective Agreement of a Higher Degree for employers, according to Act n°553/2003
- the Collective Agreement of a Higher Degree on State Service

The trade unions and member associations of the Confederation of trade unions may also be consulted by other methods: there may be consultations through the lobbying in the National Council of the Slovak republic.

C2- Other agreements

The nomination of Slovak delegates to the Committee of the Regions and the CLRAE is based on a verbal agreement between ZMOS, the Union of Towns and Cities of Slovakia (UMS) and the regions.

On this basis, ZMOS names two delegates and one alternate to the Chamber of Local Authorities of CLRAE, and UMS names one delegate and one alternate.

To the Committee of the Regions, ZMOS appoints four members and five alternates, and the regions name five members and four alternates.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations of towns and municipalities are conducted through ZMOS. The regions are not organised in associations and participate on an individual basis.

The role of the different State institutions is essential in individual dialogues.

Specialists in various areas are also invited to participate in the negotiations.

D2- Structures related to consultation procedures

The towns, municipalities and regions act as employers. Certain of their employees are members of trade unions, such as the Slovak trade union for public administration. There is thus a social dialogue on the local and regional level.

In addition, informal meetings are organised with government representatives and regional and local representatives.

D3- Methods of consultation procedures

The Council of Economic and Social partnership is meets regularly each month. The Collective Agreement of Higher Degree is concluded for the period of one year.

E. European Union Legislation and Policy

At the national level, there are Ministerial Working Groups in the each Ministry. Within the Ministry of Foreign Affairs, the Commission for European Affairs consists of representatives from all Ministries and of the other state bodies. The Commission meets every week and their adopted position is delivered to COREPER I and II, depending on the theme debated. ZMOS is invited to participate in the Ministerial Working Groups and in the Commission for European Affairs, but ZMOS lacks the capacity to attend.

F. Evaluation of consultation procedures

The decision-making process at national level takes into account positions of the representatives of local self-government, which are prepared through tripartite dialogue with specialists.

However, it can occur that the government refuses to accept recommendations sent from the Council of economic and social partnership, or does not accept the local position in the Collective bargaining.

G. Perspectives

ZMOS's main objective regarding the consultation procedures is to defend self-government interests for the benefit of the citizens.

Slovenia



A. Introduction: the degree of decentralisation

A1- Background

Following independence in June 1991, the Slovenian government rapidly recognised the existence of local authorities, and the Constitution of December 1991 guaranteed their autonomy. Decentralisation was undertaken as of 1993 with the adoption of a series of laws concerning municipalities, and the organisation of local elections in 1994.

This process was characterised by the territorial reorganisation of the country. In 1994, the 62 former municipalities were replaced by 147 new municipalities, a figure that has increased to a current 193. Despite these changes, the State administration maintains significant control over local authorities.

In 2001, a process was undertaken to create a second level of local government: the provinces. This would require a Constitutional amendment, which to date has not been passed.

A2- Legal framework for local and regional self-government

Article 139 of the 1991 Constitution institutes the municipalities as autonomous local administrations.

Law n°72 of 1993 on local autonomy –amended six times – specifies the responsibilities of these structures.

A3- Local and regional authorities' participation in total public spending

Slovenian local authorities cover 19% of the country's total public spending.

B. Presentation of the institutional scene

The Slovenian territorial organisation is divided into two levels: the State administrative units and the municipalities (*mesta*). Only the latter have the status of local government.

B1- Regional level

58 devolved State administrative units manage affairs concerning their respective ministries at regional level. They ensure State responsibilities.

In addition, Article 143 of the Constitution, and the law of 1993 on local autonomy allow municipalities to form regions in order to manage and regulate local issues with broader interest. However, these institutions rarely arrive and are inefficient, particularly as the State delegates no tasks to them.

B2- Municipalities

Of Slovenia's 192 municipalities, 11 have the status of urban municipalities (*mesta občina*) and have additional competences, particularly concerning urban transports.

Municipalities are competent for urban planning, business, industry, roadways, transport, preschool and primary education, and social security.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The consultation procedure is defined by the law concerning local autonomy. Article 86.a stipulates that "...before the Parliament adopts legislation, which concern municipalities' benefits, it has to obtain their opinion..." If

a regulation concerns a specific municipality, it must be presented to this municipality before adoption.

The law further stipulates that “before adopting the proposal of laws and before submitting them to the Parliament to adopt it and before adopting other regulations in its competence, which concerns competences, activities and funding of municipalities, the Government must suitably ensure collaboration of national associations of local authorities.”

In addition, associations of local and regional authorities participate in “working consultation” with the competent State bodies, as well as in ministerial working groups.

C2- Other agreements

The Government has defined measures and a procedure for the composition of the national delegations in international organisations of local authorities. The number of representatives of each association is established proportionally to the size of the association. Each association delegates at least one representative, when the size of the delegation permits.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultation procedures are carried out with both associations and individual local authorities.

The law stipulates that in specific circumstances, the Parliament is required to obtain the opinion of local authorities before adopting laws and other regulations.

The Government must ensure suitable collaboration with national associations of local authorities in specific circumstances. This is also true when a Minister adopts regulations that affect the local and regional level.

In some cases, consultation procedures involve other partners such as legal entities of public law, organisations, public institutions, or other associations depending on their interests.

D2- Structures related to consultation procedures

In ministries, special temporary committees have been established to which associations of municipalities nominate their own members. However, due to problems experienced in this framework, the Association of Municipalities and Towns of Slovenia has set up its own special committees which include experts in specific areas.

Informal contacts can be important to facilitate the exchange of views and experiences of different experts.

D3- Methods of consultation procedures

In theory, the law on local autonomy foresees systematic consultation of local authorities or their associations on subjects that concern them directly. But in practice, this depends on the active cooperation of individual ministries. Some inform neither the municipalities nor their associations of issues that might concern them.

Consultations are not conducted on a regular basis: they depend upon the legislative calendar.

Consultations are conducted before the government adopts the draft, when the proposal is in the "office-to-office" corresponding phase.

E. European Union Legislation and Policy

There is no specific procedure for EU affairs.

F. Evaluation of consultation procedures

For the sake of municipalities' interests, it is necessary that state authorities consult with local authorities before adopting laws or other regulations.

Nevertheless, state authorities either do not take into consideration the opinions and proposals of municipalities, or these are not considered to a large enough extent. Sometimes state bodies do not consult with local authorities or associations of municipalities at all.

G. Perspectives

No coming reform will affect the consultation procedures.

The main objective of local and regional authorities is to increase their participation in the legislative process, in order that their needs and interests be better represented in the regulations that concern them.

Spain



A. Introduction: the degree of decentralisation

A1- Background

The notion of local self-government appeared in the Constitution of 1978 which profoundly changed the status of Spanish local authorities. The autonomous communities were the primary beneficiaries of the new territorial organisation as they were attributed capacities of self-government. Spain is thus one of the most decentralised countries in western Europe at the regional level.

At local level, administrations enjoy a Constitutional guarantee to manage their interests with autonomy. However, theirs is more limited than the autonomy of the autonomous communities.

A2- Legal framework for local and regional self-government

Chapter 8 of the 1978 Constitution defines and guarantees the right to self-government for municipalities, provinces and autonomous communities, as well as the right to sufficient resources.

Law nº7 of 2 April 1985 regulates the basis for local regimes and defines the legal status of local governments in Spain. However, the autonomy of local government also depends on laws concerning the autonomous communities.

A3- Local and regional authorities' participation in total public spending

Spanish local authorities cover almost half of the total public spending of the country.

B. Presentation of the institutional scene

Spain is a very decentralised unitary State made up of autonomous communities, (*Comunidades autónomas*), provinces (*Provincias*) and municipalities (*Municipios*).

B1- Autonomous communities

Spain counts 17 autonomous communities which are endowed with their own institutions and enjoy very broad autonomy.

Their competences cover the organisation of the institutions, land development, public works, economy, agriculture, culture, social policies, environmental management, development of economic activities, health and education.

B2- Provinces

The 41 Spanish provinces are responsible for supra-municipal services. Regionalisation has greatly reduced their role, except in the Basque Country.

Their competences mainly cover technical and financial assistance for municipalities without the necessary capacities, as well as the management of certain local infra-regional investments such as secondary roadways and some hospitals.

B3- Municipalities

The 8110 Spanish municipalities have varying competences depending on their size.

They are all responsible for household refuse, water supply, street lighting, urban traffic control, food and drinks control.

Municipalities with over 5000 inhabitants have additional competences for public libraries, green areas, household refuse and markets. Those with over 20 000 inhabitants are further responsible for social services, fire prevention and sporting facilities. Finally, municipalities with over 50 000 inhabitants are responsible for public transport and protection of the environment as well.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The Law 7/1985 of 2 April 1985, establishes in article 117 the National Commission of Local Administration (CNAL) as a “permanent body of collaboration between the State Administration and local administration.” Representative of both the State and local authorities proposed by the Spanish Federation of Municipalities and Provinces (FEMP), this Commission issues opinions on all draft laws which affect local and regional authorities. However, these consultations are not compulsory. Royal Decree 427/2005 of 15 April 2005 established the composition and duties of CNAL.

Law 57/2003 of 16 December 2003 on the modernisation of Local Governments modified Art. 120 bis of 7/1985 and set up the “Sectorial Conference for Local Affairs” defining it as the “body for cooperation and collaboration between the three Administrative levels” (national, regional and local).

There is no defined consultation procedure for the association of local authorities. Nevertheless, in each legal instrument proposed by the different Ministries the association is consulted in at least one previous hearing to the decision.

There are also other sectorial committees in which FEMP representatives participate. They are mainly committees or working groups which involve the different Ministries and central administrations.

C2- Other agreements

The composition of the Spanish delegation to the Committee of the Regions remains an issue of disagreement as the decision is taken by the Upper Camera of the National Parliament (17 regions, 4 local authorities). This is not the case for the composition of CLRAE (six local and six regional).

D. Detailed description of consultation procedures

D1- Partners in consultation

Usually, consultations are carried out between the central State and local authorities – the FEMP determines the local representatives to participate

in the different structures – in accordance with legislation. In some cases, autonomous communities may participate.

There is no specific consultation mechanism with the Parliamentary Cameras. Concerning relations with the government the procedure – when regulated – is conducted by committees with the same number of members from each side, but the chairmanship is usually held by Government representatives.

Due to the reforms brought by the Organic Law 7/1999, municipalities have the right to address directly the Constitutional Court. The modified Article 59 of the Organic Law of the Court stipulates that the Court must accept the “conflicts on defence of Local Autonomy” presented by the municipalities and provinces against the actions of the State or any Autonomous Community.

D2- Structures related to consultation procedures

Only the CNAL and the Sectorial Conference are permanent bodies. The procedures conducted prior to final decisions have great importance due to the technical relationship between FEMP and Government officers.

The CNAL is chaired by the Minister of Public Affairs, and is made up of 13 representatives of the State administration and 13 local authorities. The designation of the latter is entrusted to the representative association of local authorities in the best position to negotiate with the central government, namely FEMP. The CNAL can be convened by its Chair, at its own initiative or at the request of the local authority representatives. Representatives of the Autonomous Communities can be invited to these meetings as auditors. The agreements must be the result of a consensus between the two sides.

It is up to the CNAL to issue rulings on the following cases:

- draft laws and State legislation in areas which concern article 5 of the Law and which affect local and regional authorities;
- the criteria for the authorisation of the local authority deficits;
- the application of decisions made by the Council of Ministers on the dissolution of governmental bodies of local authorities in cases concerning management running against the general interests.

Likewise, the CNAL can make proposals and suggestions to the government in the area of local management and in particular on the assigning and transfer of competencies towards local and regional authorities: grant allocations, credit and State transfers to the local administrations, share of local tax participation

in the national finances and overview of the general State budgets which affect local and regional authorities. The CNAL can also ask legal bodies set up by the Constitution to address the Constitutional Court for the abrogation of laws adopted by the State or by the autonomous communities which breach the constitutionally ensured principle of local self-government. This same request can be made by the representation of local and regional authorities within the CNAL.

D3- Methods of consultation procedures

As the methods of consultation are not regulated, neither is their timing. The initiative of the Government agenda and, in some cases, local proposals determine the frequency and subject of procedures. The general rule is to conduct the negotiation phase before the Board of Ministries examine the text and transmit it to the Parliament if necessary.

E. European Union Legislation and Policy

There is no specific procedure for consultations on EU affairs.

F. Evaluation of consultation procedures

The main positive aspect of the current situation is the system's stability since it is fixed by Law in the most important issues. Generally speaking, the consultation procedures implemented when introducing new regulations of concern to local and regional authorities are considered satisfactory by local authorities. This also applies for the legislation introduced when the application of the "Local Pact" on the decentralisation of competences was prepared with the active assistance of local authorities.

The functioning of the CNAL is satisfactory as well. The fact that it can be convened by the representation of local authorities means that the State administration cannot turn a deaf ear to the requests for dialogue made by local and regional authorities. This therefore allows for a debate on all subjects, in spite of the non-binding nature of these agreements and opinions. Within CNAL, a consensus has been possible on very diverse issues. Concerning legislation, particular note must be made of the laws on local administration mentioned above and the laws on local finance and their application measures. Questions of great significance for local authorities, such as the

integration of local civil servants in the social security system, the contribution of local authorities to the functioning of schools have also been resolved by the Commission.

On the other hand, it is clear that in regard to various questions raised by FEMP, it has not always been possible to reach an agreement. This was the case in particular for the status of members of the civil service which includes all employees of the Spanish administration, or in the past, the actions by local authorities to secure the direct jurisdiction of the Constitutional Court for the defence of local self-government. However, for this question, there was a recent agreement in favour of legislative reform, which, with certain nuances, will endorse this appeal.

There lacks a consultation procedure of the type used by the autonomous communities to debate EU affairs as this area is not covered by the CNAL. Nevertheless, dialogue on this issue has always been kept open.

Certain issues remain subjects of serious disagreement. This is particularly the case regarding the discussions on the municipal budget contribution in 1991 or the composition of the Spanish delegation to the Committee of the Regions.

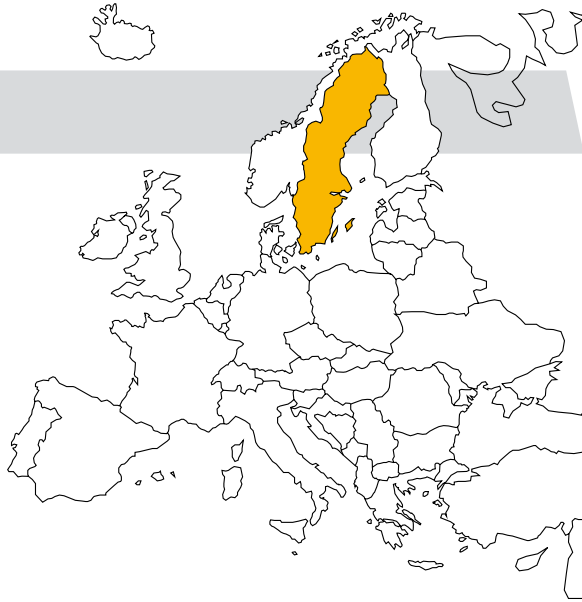
Overall, the current system gives the State the capacity to initiate and lead the process. In some questions this implies that the State only lightly considers issues raised from the local perspective, as well as the consequences legislation may have for municipalities.

G. Perspectives

The future Law of Local Government, under discussion in 2006, declares compulsory the Local participation in Sectorial Conferences (permanent bodies of contact and negotiation between the State and the Autonomous Communities). If this proposal is maintained, it means that the Local level will be present in all these fora, where the most important decisions are taken. These conferences would be composed, after the approval of the Law in the present version, of representatives from the State, autonomous communities and local authorities.

The most important goal in this regard is to become full member of one of the Sectorial Conferences responsible for financial and taxation policies for the overall public budget of Spain.

Sweden



A. Introduction: the degree of decentralisation

A1- Background

The administrative divisions of Sweden are today characterized by strong decentralisation and local and regional governments have great autonomy,

For the past 60 years, the responsibilities of local and regional government have developed through various reforms. A process that lasted more than 20 years – from 1952 to 1974 – allowed for the number of municipalities to be divided by almost nine. In parallel, several laws were passed supporting their financial autonomy.

In 1991, the new law on local and regional government extended the freedom of organisation of the local and municipal committees.

A2- Legal framework for local and regional self-government

Article 7 of the 1975 Constitution guarantees local self-government to the two types of local authorities.

The law of 1991 concerning local administration governs the competences of Swedish local authorities and county councils.

A3- Local and regional authorities' participation in total public spending

In following with their expending competences, Swedish local authorities and county councils cover a significant portion of the country's public spending, some 40%.

B. Presentation of the institutional scene

Sweden has two types of local administration: county councils and municipalities. Since 1999, there are also two pilot regions.

B1- County Council/Regions

Sweden has 21 counties, of which 20 have county councils with specific as well as general competences. These ensure competences in areas concerning health and medical care, culture, education, and tourism. Moreover, they share competences with municipalities in the public transport sector.

Two of the county councils were in 1999 given responsibility on a trial basis for regional development activities, including regional development strategy, planning of regional transport infrastructure and regional economic support. These county councils are consequently called regions. In the other counties, regional development tasks lie with the county administrative boards (devolved national government) or regional co-operation bodies (joint authority of the county council and municipalities).

The island county of Gotland encompasses one single municipality, which in consequence also has the tasks of a county council.

B2- Municipalities

Sweden has 290 municipalities with a wide range of competences. The Municipality of Gotland also has the responsibilities of a county council.

The municipalities are competent for the environment, household waste, water supply, education, health protection, social services, urban planning and roads. Moreover, they share competences with counties in the public transport sector.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

The consultation procedure is not strictly defined. There are regulations that national government authorities shall consult local and regional authorities through the Swedish Association of Local Authorities and Regions (SALAR) before they promulgate new regulation that affects them.

SALAR is consulted in many different ways by participating in government committees that prepare new legislation before the ministries propose new legislation to Parliament.

The funding principle implies that ministries and government authorities may not impose additional obligations on local and regional authorities without commensurate funding. They are therefore expected to consult SALAR, and to conclude an agreement on how the local and regional authorities can finance the estimated costs for the new responsibilities without raising taxes.

C2- Other agreements

Although there is no formal agreement between the government and SALAR, the association nominates members to CLRAE and the Swedish Government always accepts the nomination.

D. Detailed description of consultation procedures

D1- Partners in consultation

SALAR is consulted in most cases. Individual local and regional authorities used to be referred for consideration on the proposals from government committees and they are still sometimes invited by ministries and agencies to participate in hearings about proposals that affect them.

Among the actors at State level, the ministries have the most important role in the consultation process. In addition, the governmental committees preparing new legislation will often offer an informal but very important opportunity for SALAR to argue for the interests of the local and regional authorities.

D2- Structures related to consultation procedures

There are no special bodies related to the consultation procedures. However, the negotiations between the ministries or government authorities and SALAR about the application of the funding principle are rather well established.

Informal contacts and meetings are the most important part of the consultation procedures.

D3- Methods of consultation procedures

Local and regional authorities are often but not systematically consulted on issues that have direct bearing on their interests. This depends on the different ministries and government authorities.

There are also large discrepancies concerning how often and how regularly SALAR is consulted, also depending on the ministries.

SALAR is often consulted in the middle or at the end of the decision-making process. However, SALAR is sometimes consulted early in the process.

E. European Union Legislation and Policy

There are no specific consultation procedures concerning EU affairs, but sometimes there are informal consultations with ministries and governmental authorities.

F. Evaluation of consultation procedures

In Sweden, there is a long tradition of cooperation and consultation between the national and local level. That means that there are many opportunities for the local and regional level to affect the policy-making process, and that the national level is interested in the contribution of the local and regional level.

On the other hand, the traditional links between the levels have weakened over the last decade and the genuine interest from the ministries and government authorities to consult SALAR is not always as strong as it was. There are also big variations between different departments.

G. Perspectives

Although there are no concrete proposals, the Committee on the division of Public responsibilities currently is discussing, among other things, a more formalized consultation procedure.

SALAR demands a more formalized consultation procedure at a high political level, similar to the procedures in the other Nordic countries (Denmark, Norway and Finland).

Switzerland



A. Introduction: the degree of decentralisation

A1- Background

Since the 13th century, Switzerland has been organised as a federal State made up of cantons. The first federal Constitution of 1848 instituted the political foundations of modern Switzerland. It was revised in 1874 with the addition of the right to referendum.

The Swiss Confederation is today a federal State composed of 26 sovereign cantons or half cantons. Their sovereignty is not limited by the federal Constitution, and they possess all duties not delegated to the federal authority.

A2- Legal framework for local and regional self-government

As each canton is sovereign and has its own constitution, local self-government differs depending on the canton.

The federal Constitution does not mention local authorities. However, the notion of municipal autonomy is expressed in the cantonal rights. The federal courts have often worked to further define this autonomy in view of guaranteeing and protecting the rights of municipalities.

In official documents, each sovereign canton guarantees the existence and autonomy of the municipalities. Their competences and administrations are defined by cantonal laws.

B. Presentation of the institutional scene

B1- Cantons

The 26 Swiss cantons and half cantons constitute sovereign entities with legislative autonomy and their own constitutions.

They are competent for all areas except those that are explicitly attributed to the federal State by the Constitution: international relations, the army and civil defence, national and international transport, the transportation of hydrocarbons, telecommunications, the media, currency, alcohol and games of chance, immigration and civil and criminal rights.

The cantons are competent for police, education, justice, territorial planning, roadways and the environment.

B2- Municipalities

As each canton has its own Constitution and legislation, the 3029 municipalities have very variable competences as well as autonomy, which are functions of their governing cantonal law.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

There are no strictly defined consultation procedures in Switzerland.

The associations of local and regional government are sometimes consulted by a written procedure when a State decision would affect them.

C2- Other agreements

For the CLRAE, Switzerland is represented by three full members and three alternates, proposed by the three national associations, with equal

representation (Union of Swiss Cities, Association of Swiss Towns, and CEMR's Swiss section). This list is then ratified by the Confederation.

D. Detailed description of consultation procedures

D1- Partners in consultation:

Consultations of local and regional government are conducted both through associations and directly with individual authorities.

On the side of the State institutions, it is generally the executive authority that carries out consultations.

Other partners may be involved as well, particularly economic and social organisations.

D2- Structures related to consultation procedures:

There are no consultation structures between the State and the associations of local and regional government.

Informal meetings and contacts play very important roles throughout the different steps of the consultation process.

D3- Methods of consultation procedures:

Local and regional authorities are not systematically consulted on issues that concern their interests, but rather on a case by case basis.

Consultations are carried out during the drafting stage, or after a decision has been taken by the State.

E. European Union Legislation and Policy

As Switzerland is not an EU member, the country is currently not affected by EU legislation and policy.

F. Evaluation of consultation procedures

The main positive point of the current consultation procedures is that authorities and associations are consulted and can thus promote their rights and views.

There are no serious impediments to the consultation process.

G. Perspectives

No reform is foreseen that would affect the consultation procedures.

The main aim of the Swiss local and regional authorities is to be increasingly consulted on drafts that affect them.

Ukraine



A. Introduction: the degree of decentralisation

A1- Background

Following Ukraine's independence in 1991, the new government quickly recognised the principle of local autonomy. The competences of local authorities gradually increased, particularly in 1994 when the State transferred to the structures of local self-government a certain number of social responsibilities.

In 1996, the new Constitution established the principle of local autonomy and defined the administrative division of Ukraine. In 1997, a law on local autonomy defining the competences of local and regional government confirmed the decentralisation process.

Despite such progress, local autonomy remains limited, particularly due to the confusion of devolved and decentralised powers.

A2- Legal framework for local and regional self-government

Article 7 of the Constitution of 28 June 1996 recognises the principle of local autonomy, and Chapter 11 defines its administration.

Chapter 9 defines the administrative division of Ukraine.

Chapter 10 defines the special status of the Autonomous Republic of Crimea.

The law of 21 May 1997 on local self-government defines the competences of the structures of local self-government.

B. Presentation of the institutional scene

Ukraine's administrative divisions are complex. Article 133 of the Constitution institutes the Autonomous Republic of Crimea, the regions, urban districts, communities and villages. Only the cities, communities and villages are defined as local governments: regions and boroughs are administrative divisions which represent common interests of local authorities.

B1- Regional level

The regional level is made up of 24 regions (*oblast*) and 488 districts (*raion*), to which can be added the Autonomous Republic of Crimea.

The regional and district councils are made up of universally, directly elected members for four years. There is no executive committee as executive competences at regional level are attributed to State administrations created by the national government.

Their competences cover socio-economic development, distribution of State grants, management and distribution of public property, management of water resources, the creation of natural reserves and tax free zones, and management of construction and land planning.

The Autonomous Republic of Crimea has its own Constitution, adopted in 1998, and broad normative competences. Although the administrative organisation and budget of Crimea have certain specificities, the administration of local self-government does not differ from that of the rest of the country.

In Kiev and Sebastopol, the system of local government coexists with the system of state administration. These cities represent special municipalities with regional status.

B2- Local Governments

446 cities, 790 communities and 10 227 villages make up the local level in Ukraine. The law on local autonomy of 1997 defines specific and delegated

competences, but the distinction is not always clear. Delegated competences represent up to 80% of the executive competences.

Local governments are competent for economic development, planning, price control, protection and social infrastructures, housing and related public services, education, health, culture, sport, real estate and the environment.

C. Framework for the relations between the State and associations of local and regional authorities

There is no form of consultation of local and regional government by the State institutions of Ukraine.

Local and regional authorities are also not consulted on the composition of the Ukrainian delegation to CLRAE.

G. Perspectives

The Association of Ukrainian Cities and Communities has developed and submitted to the Parliament of Ukraine a draft law on Associations and Other Voluntary Unions of Local Governments. The adoption of this law will permit the definition of specific procedures for consultations of state authorities and the associations of local governments, and the scope of issues on which consultation would be required.

The objective of the Ukrainian local and regional authorities concerning consultation is thus to achieve a clearly defined consultation procedure that will permit local authorities to have an active impact on State policy in the area of the local budgets and other issues that concern them. Thus the rights and legal interests of local governments and communities would be protected.

United Kingdom



A. Introduction: the degree of decentralisation

A1- Background

Until recently, the United Kingdom has been one of the most centralised European countries. Only in recent years were principles established concerning devolution for regional government. From the 1970s onwards, the State's control over spending and income grew, whilst local competences were reduced, to the benefit of both semi-public, non-elected bodies, and private companies following privatisation (e.g. water). Furthermore, local authorities had no general competence and could only carry out competences specifically delegated to them by law or custom.

The system is now evolving, and local autonomy is growing. The creation at the end of the 1990s of the regional authorities ("devolved administrations") in Wales, Scotland and Northern Ireland, the progressive institution of local executive structures, the loosening of control as well as the recognition of general competence in local affairs for English local authorities in 2000 demonstrate this new trend. However, a project for the establishment of elected regional assemblies in England (outside of London) failed to clear the first hurdle of a referendum in November 2004 in the North East region, and the project has effectively been abandoned.

A2- Legal framework for local and regional self-government

The "Local Government Act 2000" recognises a general competence in local affairs for English local authorities.

A3- Local and regional authorities' participation in total public spending

British local and regional authorities cover 28% of total public spending in the country.

B. Presentation of the institutional scene

The United Kingdom is a unitary state with certain characteristics of a more federal state, following the implementation in the late 1990s of the devolution agenda in Scotland, Wales and Northern Ireland.

B1- Regional governments

Since 1999, Scotland, and to a lesser degree Wales, have experienced a strong devolution process, leading their Parliaments to benefit from broadened legislative powers. The Scottish Parliament is able to pass primary legislation (and has the capacity- never used- to vary the rate of income tax by 3%), while the Welsh Assembly is able only to amend secondary legislation (e.g. detailed regulations).

The Scottish Parliament is competent particularly for education, health, the environment, agriculture, justice, social work, urban planning and local governments.

The Welsh National Assembly holds fewer legislative powers. It is competent for agriculture, culture, economic development, education, the environment, road infrastructures, transport, social services, housing and local authorities.

The Northern Ireland Assembly, created in 1999, is a special case, as it has been suspended several times due to the difficult political context, and is currently in suspension. Its main competences include education, health and agriculture. Further responsibilities could be attributed at a later date.

In England, the only directly elected regional authority is the London Greater Authority, which has two elements: a directly elected executive mayor, and a 25 member London Assembly. Its main competences include public transport, sustainable development planning, fire and emergency services, and the

metropolitan police. In the rest of England, legislation currently allows for the creation of regional assemblies upon referendum in the region concerned, but, as indicated above, this project is discontinued.

There are also eight Regional Development Agencies outside of London. These are appointed by central government with strong representation from the business sector. Their main responsibility concerns strategic economic development. Their governing boards must include four representatives appointed by local government in the region.

B2- Intermediary level: Counties

This level only concerns England, where there are 34 Counties in the more rural ("shire") areas. Counties have existed for many centuries, but the reorganisation of local government in the 1990s led to a reduction in the number of counties.

These are competent for education, social services, road infrastructures ("highways") and transport, strategic advice on planning, fire services, waste disposal and libraries.

B3- Local governments

In 1974, an administrative system of districts and boroughs was created which remains in effect in many places. In the 1980's and 1990's, in some urban areas, this system was replaced by unitary authorities. There is therefore a wide diversity of local authorities.

The local level in England includes 32 London boroughs, 36 metropolitan district councils, 47 unitary councils, and 238 non-metropolitan ("shire") district councils. Non-metropolitan districts are competent for local planning, housing, licensing, building control, the environment and waste collection. The others are unitary authorities with all the powers which local government has under the law.

The 22 Welsh unitary authorities and 32 Scottish unitary authorities constitute the local level in Wales and Scotland. Their competences parallel those of the English counties and districts combined.

The competences of the 26 district councils of Northern Ireland are very limited, covering only local services, such as leisure and environmental health. Other functions, such as planning, housing, social services and education, are the

responsibility of sub-regional boards. A major review has recently proposed the amalgamation of the 26 into seven councils with wider powers.

C. Framework for the relations between the State and associations of local and regional authorities

C1- The basis for consultation procedures

General consultations

There have long been many legal requirements in British law for central government to conduct consultations. Traditionally, Government would send a formal consultation paper to the associations, which in most cases would also go to a large number of other relevant consultees. The associations would have from a few weeks to three months to establish a formal response.

Central / Local Partnership (CLP)

In 1997, the new Government set up a new Central / Local Partnership. This Partnership is in effect a framework or protocol involving regular high-level meetings between senior government ministers, and the Local Government Association for England and Wales (LGA) which was also established in 1997. The CLP was set up under a written agreement, but it is important to note that it has no formal legal basis, and could therefore be discontinued without legal recourse.

Under the agreement, both sides agree that there shall be “full and effective consultation on all matters of common concern” (except national security). The government “accepts the need to have regard to the views of local government, and the benefit of local government’s experience, in making decisions which affect local authorities”. To facilitate this, “the Government recognises the Local Government Association as the national representative body for local government in England and Wales”.

The subject-matter of CLP agendas can include relevant financial matters (particularly the estimation of costs relating to new burdens imposed by new legislation), the preparation and planning for implementation of new legislation, European legislation and policy issues of direct relevance to local government and the appointment by government of representatives of local government to other bodies (at regional, national or international

level). The government is also required by statute to consult local government on the distribution of government grants between local authorities.

In summary, the CLP provides a framework for relations between the two sides, and is underpinned by a commitment by the Government to consult the LGA and local authorities on all important policy, legislative and financial issues affecting local government. There is a reciprocal expectation that the LGA will use this machinery to raise its concerns, rather than making public criticisms through, for example, the press.

Historically, Scotland worked with a different system, involving meetings between the Scottish Office and the Convention of Scottish Local Authorities (COSLA), following a long tradition of partnership. The creation of the Scottish Parliament led to new arrangements, which maintain this tradition. Likewise in Wales, the Welsh Local Government Association has developed (in its case by law) a partnership arrangement with the new Welsh Assembly.

C2- Other agreements

The Government has the responsibility to approve the names of the English members of the Committee of the Regions once every four years, and the Congress of the Council of Europe once every two years. The Department for Communities and Local Government (DCLG) agrees a procedure with the LGA, specifying a range of conditions which the LGA, when drawing up nominations for the CoR, must observe, including political, regional/geographical, gender and ethnic balance. Provided these conditions are met, the Government effectively delegates to the LGA the right to make its own nominations, although it has the final say before submitting the UK list to the Council of Ministers or the Council of Europe respectively for approval.

D. Detailed description of consultation procedures

D1- Partners in consultation

Consultations are sometimes sent only to the associations; in other cases, there is a very long list of consultees, which include both individual local authorities and their associations, and many other relevant stakeholders. In the CLP framework, local government is represented on a proportionate, cross-party basis.

Consultations are also received from other Government and Parliamentary bodies, for example Government agencies or Non-Departmental Public Bodies (e.g. the Environment Agency), or Parliamentary Committees of the House of Commons or House of Lords, particularly if they are conducting an Inquiry into a particular matter of relevance to local authorities.

D2- Structures related to consultation procedures

The CLP meets about four times a year. The agreement also provides for other meetings on specific services or issues. This can include sub-groups to deal with a particular issue (e.g. a Severe Weather Group set up in the wake of the serious floods in autumn 2000), or others covering longer term areas of business (e.g. a European Affairs Group).

D3- Methods of consultation procedures

For general consultations, the consultation period varies from several weeks to three months for major consultations.

The CLP meets under the chairmanship of whoever is the Secretary of State for local government. Meetings last about 2 hours, with a pre-agreed agenda. One of the meetings each year is an “away day”, involving an overnight stay out of London, which allows greater social interaction between the two sides.

However, the CLP only becomes directly involved in a very small proportion of consultation exercises: the great majority are routinely handled through correspondence between individual Ministries and the LGA, at officer level, with telephone and face to face discussions where appropriate.

E. European Union Legislation and Policy

UK Government consultation papers relating to the transposition of EU legislation into domestic legislation and regulation are sent out to the LGA and its international section, LGIB, by the relevant Ministries (e.g. by the Department of Trade and Industry on EU regional and structural funds policy and implementation), and these are dealt with in the normal way. LGIB will often take the lead in drawing up a response, which will then be approved by the relevant LGA member body and submitted to Government.

There are close informal links between the Clerks to the European Committees of the House of Commons and the House of Lords and LGIB policy officers,

with periodic more formal requests from Parliament to comment on EU issues in relation to Inquiries which are being undertaken, as well as occasional opportunities to present evidence, both written and oral, to these Committees.

A more recent development has been the attendance of desk officers from certain Ministries (e.g. Department for Communities and Local Government) at the meetings of the European Officers Network, established and serviced by the LGIB to bring together representatives of local authority European policy officers from each of the regions, to discuss current issues relating to EU policy, legislation and funding.

(Note: from 2007, the LGIB is replaced by a new European and international division within LGA. This is not expected to alter the process set out above).

E. Evaluation of consultation procedures

Overall, there is considerable satisfaction with the major improvement in the relationship between the Government and the LGA since 1997 as a result of the establishment of the CLP and similar satisfaction with the long-standing arrangements for detailed consultations between individual Ministries and the Associations.

However, there have been serious disagreements when the LGA has felt that decisions and announcements have been made by the Government on important topics without prior consultation, most notably a major announcement about education funding. The main area of criticism concerning the arrangements for detailed consultations has focused on excessively tight deadlines for response for some consultation exercises.

Since 1997, there has been a significant reduction in the volume of consultation responses made by the LGA. The LGA has increasingly concentrated its efforts on active lobbying, rather than devoting resources to sending detailed technical responses to a huge weight of consultation papers. Many of the more technical consultations are now dealt with by local authority professional and technical officer societies.

Finally, in terms of consultation processes, central government often seems to regard local government as just another "stakeholder", rather than a form of government in its own right, with direct responsibility for implementing a significant proportion of legislation.

G. Perspectives

In terms of grant distribution, the central government hopes to set up a simpler and stable system, whilst local government demands global changes so that they become less dependent on the central government's decisions and grants.

In general terms for consultations, LGA believes that the deadlines for responses should never be less than six weeks.

Consultation procedures of European local and regional authorities

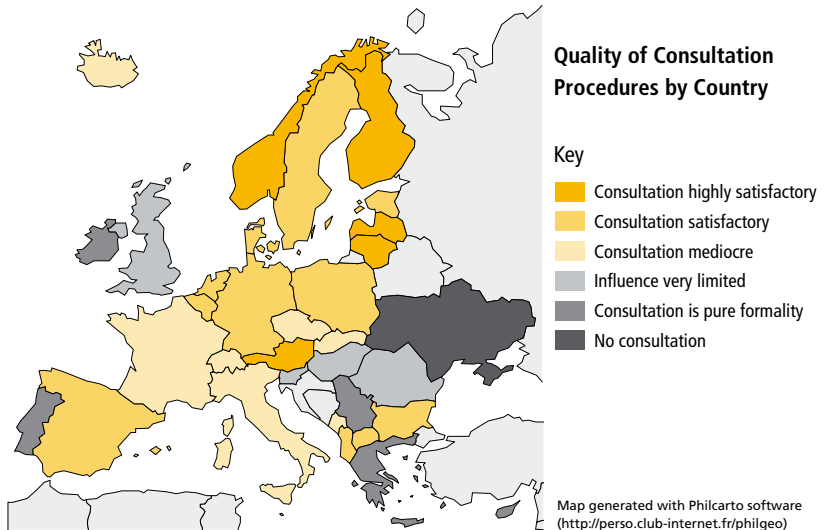
A Synthesis By David Farge

Consultation procedures have been established in the majority of European countries, but in very different contexts. In each country, the historical legacies, cultural factors or territorial organisation bear influence on the relationships between the central government and the local and regional governments, creating very diverse situations from one country to the next.

However, across the many different consultation procedures, common characteristics are to be found. We have worked to identify here the main methods that are in practice, underlining the strong and weak points for each.

This study has revealed certain factors to be critical for the effective integration of local and regional governments and their associations in the legislative process. These elements are presented at the end of this summary, and constitute the backbone of CEMR's recommendations concerning consultations.

I. Consultations in Europe: a wide range of situations



This map was drawn up based on views expressed by the national associations, particularly in the section "Evaluation".

A. Northern Europe and the culture of consensus

The countries of Northern Europe have established effective consultation mechanisms largely based on significant informal contacts. More specifically, in Finland, Sweden, Norway and Denmark, there is permanent dialogue between the State and the local authorities, and the associations of local and regional authorities in these countries participate directly in the drafting of legislation that affects them. They moreover hold official partner status with the central institutions, and their input is very often invited. Budgetary issues are often at the heart of these negotiations, as the broad range of competences of the local and regional authorities requires a significant budget which necessarily has a major impact on the national budget. However, in Sweden and Denmark, the weakness of the legislation that defines the procedures sometimes leads the associations to be consulted at a very late stage, or even not at all.

It is also important to mention the Baltic countries – Lithuania, Latvia and Estonia – in this context. In these young democracies, associations of local and regional governments enjoy privileged partner status. The associations

are very much involved in the drafting of legislation through both formal consultation procedures and intense informal contacts.

B. The federal and decentralised States

In the four federal States (Austria, Belgium, Germany and Switzerland) the federated States/regions have significant legislative power. A major part of consultations is therefore carried out at this level, and associations are organised along federal lines. Consultations at this level vary widely from one State to the next, depending on the legal measures in force in each case. The federal structure provides great possibilities for dialogue as the legislators are close to the local and regional authorities. At federal level, the quality of consultations depends very much on the legal framework in effect, which must allow for the demands of local authorities in the different regions to be defended to the central Government.

Italy, the Netherlands and Spain have all undergone advanced processes of decentralisation and regionalisation during which consultation procedures were established in order to guarantee the continuity of dialogue between the local authorities and the State. These procedures have since been further strengthened. This phenomenon has given rise to strictly defined, effective procedures.

In France and the United Kingdom (traditionally amongst Europe's more centralised states), the laws on decentralisation have led to progress in the dialogue between the State and local and regional governments, as well as to the creation of imperfect but concrete consultation procedures. This is also true for Iceland. These examples of progress came about thanks to the creation of a legal requirement to consult, and/or the creation of special committees with strictly established operating methods. However certain problems persist due to the absence of a culture of negotiation, and the quality of consultations often depends on the particular political will of relevant ministries to respect the legal framework in place.

C. Unresponsive centralised States

Certain European States remain reluctant concerning the necessity of dialogue with the local and regional levels in relation to the drafting of legislation and policies that affect them. Local and regional governments in Portugal, Greece and Ireland have only limited institutional opportunities to influence draft laws that relate to their interests. The weakness, or absence, of a legal

framework for consultation, the often very tight deadlines assigned for proposing amendments, as well as the limited amount of informal contacts, clearly demonstrate a major lack of interest on the part of the central authorities vis-à-vis the positions of local and regional governments. Often, the consultation procedures remain pure formalities and only serve to legitimise the Government's chosen course of action.

D. Central and Eastern Europe: an imbalanced recognition of local and regional authorities

In the new democracies of central and eastern Europe, the participation of local and regional authorities in the legislative process is very uneven depending on the country. In most countries of this region, local governments were formally recognised in the early 1990's. The work of the associations of local and regional authorities – which rapidly came into being – facilitated an early and broad inclusion of the local dimension both in legal texts and in practice.

This being the case, many countries have consultation procedures that are strictly defined by law: the local and regional governments in Bulgaria, Poland, the former Yugoslav Republic of Macedonia, Montenegro, the Czech Republic, Romania and Slovakia all benefit from a precisely defined and binding framework. In Albania, the procedure is not yet structured, but the legal requirement to consult and the creation of various councils of collaboration and dialogue have created a positive situation for the local authorities.

In Hungary and Slovenia, consultation systems have been established but remain very limited: consultations are conducted at a late stage, the local and regional positions are hardly taken into account and the procedure is not strictly binding.

Two States make no effort to include local and regional governments in the legislative process: Serbia, where principles of consultation are stipulated in law but have no concrete effect, and Ukraine, where there is no system for consultation of local and regional authorities.

II. Key elements of the consultation procedures

A. The legal aspect of consultation procedures

There are several methods that may be adopted to formalise consultation procedures: constitutional or legal requirements, cooperation agreements, governmental and/or parliamentary Rules, commitments of good practices, declarations on principle in the law, etc. The legal framework thus establishes a more or less binding requirement for both sides to consult, which has a decisive impact on the effectiveness of consultations.

The creation of a binding procedure for which concrete working methods are established is crucial for the local and regional positions to be taken into account. In very centralised countries where local and regional governments struggle to be heard, the creation of a precise legal framework is an essential step towards the veritable inclusion of local and regional governments in the decision-making process. The creation of consultation structures with precise rules of procedure (including the regularity of meetings, the composition and role of partners, weight of positions presented, etc.) contributes to supporting dialogue between the central authority and the local and regional governments.

Indeed, the progress made in this area in many states, was made possible due to the construction of a binding legal framework. In Sweden – a country where local and regional authorities have traditionally enjoyed constructive relations with the central authority – the absence of a binding legal framework has, over the past 10 years, led to a reduction in local and regional government's capacity for influence.

B. The status of local and regional governments and their associations

The local and regional level authorities are essential for the carrying out of many public policies; they ensure the delivery of public services, possess great capacities of expertise, and must assume the consequences of national legislation in numerous areas. These responsibilities should be recognised and reflected in consultations.

However, certain consultation procedures define local and regional governments as civil society actors – the same status as trade unions or NGOs. Though such consultations may prove to be effective in certain very specific

areas, more often than not these are poorly adapted and do not reflect the true responsibilities of local and regional governments.

Also central to any reflection on consultation procedures is the issue of the role of associations of local and regional governments. As representatives of all or certain categories of local authorities, associations are the only actors suitable to present common positions and influence draft laws in the interest of the entire local and regional level. In a large majority of European States, consultations are primarily conducted through associations of local and regional authorities, although for certain draft proposals individual local governments may be consulted directly.

Associations constitute a key element for establishing efficient consultations, and their role should be strengthened in countries where consultations are conducted directly with individual local governments.

C. The different phases of consultation

The point in the legislative drafting process at which consultations are conducted constitutes an important factor for the quality of the procedures. Consultations can take place in three phases.

The drafting phase of legislation or recommendations is without a doubt the point at which dialogue is most effective. From this early stage, local and regional authorities – through their associations – can share their grassroots experiences with the legislators and target the important measures to be included in the law. The creation of drafting or working committees for legislation that include representatives of relevant ministries and representatives of local and regional governments is an important step for a coherent and efficient legislative process. Whilst this type of early consultation is very well developed in Northern Europe and Austria, it remains rare or non-existent in many countries.

The formal recommendation phase does not provide the local and regional level with the same opportunities to influence legislators. The ministries and Parliament may request the views of associations of local and regional governments after the draft law has been drawn up, with a view to possible modifications. This method, in order to be effective, must provide sufficiently long timeframes for responses so that the local and regional authorities – through their associations – may study in depth the draft law and draw up

common positions. Quite often the deadlines are too tight and this procedure becomes more of an informative measure than a true consultation.

The creation of a follow-up procedure to the implementation of new legislation permits the adaptation of a law according to difficulties met in its practical application. This requires a certain flexibility in the legislative process for necessary amendments to be taken on board within a short period of time. Rarely used, this method of evaluation constitutes an efficient follow up tool.

III. The different forms of consultation

A. Consultations by correspondence

Consultation of local and regional governments by mail is a widely used technique across Europe. Though for certain countries this may be the only consultation procedure, this method is most often used in conjunction with other means of consultation. It consists in sending a questionnaire or draft law to local authorities, and most often their associations, in order to seek their views. The addressees usually must return their responses within a very specific time frame.

Whilst this form of consultation allows local and regional governments, and their associations, to express their views and obtain information on forthcoming legislative changes, it affords only a limited capacity of influence to the local and regional level. The consultation is conducted on the basis of already drafted texts which only allows for proposals for minor modifications, and the deadlines are often too short.

Certain measures have allowed countries to improve the efficiency of this procedure, such as in Estonia where an electronic system of coordination on the drafting of laws facilitates more rapid and efficient adoptions of positions, whilst reducing the costs related to human and financial resources necessary for the exchange of information.

B. The structures of general consultation

Many governments have set up working groups, committees or councils for thematic dialogue in which many actors are invited to participate. Frequently these structures are set up by the executive authority, and the competent

ministers take charge of the chairmanship and secretariat of the group. These may be set up as temporary bodies in order to resolve a specific problem through a coordination of efforts, or to tackle permanent issues with long-term objectives.

These consultation structures gather many actors, often including trade unions, NGOs, administrations, chambers of commerce, economic and social councils, etc. Local and regional governments have a limited influence in such a context as they are one of many consultation partners, and the fact that they are responsible for the implementation of numerous laws does not confer on them any specific status in this framework.

C. State-local government consultation committees

Consultation structures that are specific to the relationship between the State and local and regional government better reflect the crucial role of local and regional governments in the application of legislation. Such structures are most often set up to accompany the decentralisation process. The Italian government, for example, established standing conferences for consultation of local and regional governments in parallel to the establishment of local self-government. These conferences have continued their work as effective platforms for dialogue.

To compensate for the absence of such structures, associations may create thematic working groups of local and regional representatives and experts in which State representatives are invited to participate. Whilst not official, these initiatives can benefit from an informal yet very real recognition from the central authorities.

D. Parliamentary hearings

In some dozen of the 35 countries studied, parliamentary committees invite associations of local and regional governments to present their views on draft legislation. In such cases again the potential influence for local and regional governments remains limited since this form of consultation occurs at a late stage in the legislative process. However, contacts established with members of parliament during these consultations can serve as a lever to persuade ministries to consult..

Regional parliaments with significant legislative power also may consult the local authorities of their regions. This is particularly true in Belgium, where

relations between the associations of local authorities and the regional parliaments are very important. In Wales and Scotland, the majority of consultations are conducted through regional Parliament.

E. Informal links

These relations can be based on personal ties between politicians or members of the central administration, and members of local and regional governments. These contacts facilitate the early exchange of information. Moreover, ad hoc working groups are often preferred to more formal structures as they allow for more flexibility. In many countries, the consultation of local and regional governments is a legal obligation for which, however, the consultation structures are not strictly defined.

For procedures that do involve specifically defined structures, informal meetings and contacts often remain necessary to the good preparation of the formal meetings. Informal contacts and meetings thus constitute a particularly effective mode of relationship between local and regional authorities and the State, and may strengthen the more formal procedures.

IV. Conclusions

From the above, it is possible to draw some general conclusions which are put forward here in order to stimulate further reflection and – it is to be hoped – action to strengthen the procedures for consultation across Europe.

A. The importance of consultation of the different levels of government

Local and regional governments constitute the level of government closest to the citizens, and play a role of liaison between the central authority and the population. In addition, they take on important responsibilities concerning the implementation of public policies that are determined at central level, and play a particularly crucial role of supplier of many public services.

For these reasons, the associations of local and regional governments should be consulted on all draft legislation or regulations that affect their members. The associations should furthermore be accorded a special partner status during consultations.

- Consultation procedures should explicitly attribute associations of local and regional governments a partner status that differs from that accorded to other potential civil society partners.
- This partner status involves the constant exchange of information between the central government administrative and political institutions, and the associations of local and regional governments.
- The positions of local and regional governments expressed by their representative associations should be brought to the attention of Parliament. Rejection of these positions should, as far as possible, be justified.

B. A strictly defined legal framework

The procedures for consultation of local and regional government should be set out in a precise manner in the Constitution, legislation or according to the customs of each country. This framework should include several elements to guarantee the effectiveness of the consultations:

- The central authority should be required to consult local and regional governments in all areas that affect them. This requirement should be accompanied by the possibility of legal action in cases of failure to consult.
- Consultation partners – and especially the national associations of local and regional elected representatives – should be explicitly designated in order to facilitate their ability to take action in case of the non respect of their rights.
- The framework for consultations should specify negotiation methods. It should include regularly scheduled meetings between the partners, as well as provide the possibility to each party involved to open a consultation as necessary.
- Finally, the legal or formal value of the agreements reached through consultation should be specified in the consultation procedure, so that the different partners are required to respect their commitments.

C. Participation in all stages of the consultations

The participation of the associations of local and regional governments throughout the legislative process should be guaranteed, from the drafting

phase to the implementation phase of legislation. This condition is fundamental if local and regional governments are to have the possibility of bringing their expertise to bear on draft laws:

- Associations of local and regional governments must be able to provide their contribution from the earliest stages of drafting a new legislation or regulation, before the text's structure is established and the possibilities for modification limited.
- An impact analysis should be carried out for all draft legislation or regulations that affect local and regional governments.
- The draft text should be sent to the associations of local and regional governments within a reasonable timeframe in order to allow the associations to distribute the text among their members, to then coordinate proposed amendments and transmit these to the competent ministry before the draft is submitted to Parliament.
- Associations of local and regional governments should be kept informed of relevant amendments made throughout the parliamentary procedure.
- Lastly, the associations of local and regional governments should have the possibility to propose modifications to the texts of laws during the evaluation stages, when difficulties in implementation arise.

D. Procedures for consultation on European law and policy

European Union laws are extremely important for local and regional government in Member States and those due to join, yet our study shows that in only a small minority of countries is there any kind of formal process for consultation of associations at national level on draft EU legislation that will affect them:

In each EU member state, in EFTA states, in EU accession states and in countries that may join the EU in future, there should be a formal procedure by which central governments (and the regional governments in the case of regions with legislative powers) consult the national associations of local and regional government on EU draft legislation and other relevant European issues– this may be the same procedure as for consultation on national laws, but in any event the procedure needs to be adapted to the specific processes and timetables for EU legislation.

CEMR IN A NUTSHELL

The Council of European Municipalities and Regions (CEMR) is a non-profit association. It is the broadest association of local and regional government in Europe. Its members are national associations of local and regional governments from 36 European countries.

The main aim of CEMR is to promote a strong, united Europe based on local and regional self-government and democracy; a Europe in which decisions are taken as closely as possible to its citizens, in line with the principle of subsidiarity.

CEMR's activities cover a wide range of issues such as public services and procurement, transport, regional policy, twinning, the environment, equal opportunities... CEMR is also present on the international stage: it is the European section of the world organization of towns and municipalities, United Cities and Local Governments (UCLG).





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