The role of regional and local authorities in EU development policies in the perspective of the Committee of the Regions. Multi-level governance revisited in the times of crisis

Summary: Regional and local authorities today face a twofold challenge of delivering locally responsive policies in accordance with EU development goals. For this reason they need to align their development strategies with European guidelines. This paper determines the drivers and hindering factors behind the effective involvement of local and regional authorities in drafting and implementing EU policies with territorial impact. It evaluates several examples of multi-level governance operating in the institutional context of the EU and identifies its most important weaknesses such as lack of regional administrative capacities; insufficient Europeanization of subnational elites and inadequate communication between EU, national and regional levels.

Keywords: multi-level governance, regional development, European Union, Strategy Europe 2020.

Introduction

The economic and financial crises of the last years have uncovered weaknesses of the European system of governance, not only in its fiscal and monetary dimension (Scharpf 2011; Moravcsik 2012), but also in the way European Union’s (EU)
structural policies are designed and implemented. The objectives of the Lisbon Strategy were not delivered and it is commonly admitted that one of the reasons has been the fact that it was too much of a ‘top-down’ strategy, with ambitious but quite abstract indicators set by Brussels and initiatives lacking joint frameworks for implementation feeding on the potential of various territorial levels of government (Jones 2005; Zeitlin 2007; Committee of the Regions 2010a). Recent austerity measures introduced by European governments induce adverse effects on the execution of ‘Europe 2020’ development goals limiting political consensus for reforms. This, together with the negative revision of the 2014-2020 EU budget, produces tensions between political and social stakeholders involved in the policy-making processes.

The empirical evidence shows that whereas European fiscal austerity policies are handled at the national or even EU level, growth and development enhancing measures are better tailored at the levels closer to citizens, in cooperation with regional and local decision-makers who take into account the territorial diversity of development potentials and conduct better calculation of policy costs and benefits for the particular community (OECD 2010). In the current European institutional setting regional and local authorities (RLA) implement over 70% of EU policies (Christiansen and Lintner 2005) and are responsible for a substantial amount of public spending. Making more than two-thirds of all capital investment (Allain-Dupré 2011) RLA are often the best placed to identify local needs and exploit synergies across investment priorities. Moreover, the sources of knowledge and innovation are very often located in the regions and cities as hubs of social capital (Dijkstra et al. 2011; OECD 2010). The examples of German Länder (e.g. North Rhine-Westphalia, Bavaria), Dutch regions (e.g. Utrecht, Noord Holland) or some Spanish autonomous communities (e.g. Basque Country, Navarre) provide evidence of conducting successful regional initiatives in economic development through decentralised action. Finally, implementation of the flagship initiatives of Europe 2020 Strategy requires bottom-up mobilisation and awareness building to produce the necessary synergies and responsiveness.

This article identifies and critically evaluates several cases of regional and local involvement in EU policy-making in order to shed light on the factors hindering effective cooperation between the various levels of government in areas with clear territorial impact. Building on the theoretical framework of multi-level governance (MLG), this paper distinguishes two categories of mechanisms which allow RLA to participate in policy processes and to align their regional development strategies with EU guidelines. In doing this, it builds on the premise that MLG arrangements can be assessed and monitored. Firstly, the paper evaluates

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two of the so-called ‘better regulation’ practices, (i.e. subsidiarity monitoring and impact assessment) based on ex-ante consultation in EU policy-control. Secondly, it focuses on three examples of policy implementation mechanisms such as the European Grouping of Territorial Cooperation, Covenant of Mayors and the new Partnership Contract in cohesion policy management. On the basis of fact based reports, interviews\(^2\), as well as desk research conducted at the Committee of the Regions (CoR) in 2010, this paper points to a range of hindering factors in the institutionalization of MLG such as the lack of administrative capacities of RLA; insufficient Europeanization of the regional and local elites, as well as inadequate consultation and communication between EU, national and regional levels, especially during the policy-drafting phase. Some recommendations as to how to address these weaknesses are also provided.

The conceptual framework of multi-level governance

The concept of MLG has come to light as a result of the study of developments in EU structural policy, the partnership principle in particular, conducted by Gary Marks (1993). In an early article on this notion, Marks defined MLG as a system of continuous negotiation among nested governments at several territorial tiers (1993:392). His research, conducted in cooperation with Lisbeth Hooghe, sought to use the concept of MLG beyond cohesion policy, to describe broader processes transforming political and social mobilization within the EU and based on dispersion of decision-making powers across jurisdictions and sideways to public and private entities. MLG was thus extended beyond intergovernmental relations to embrace also non-state actors such as businesses, social partners and civil society representatives participating in variable combinations of territorially overreaching networks of collaboration (Hooghe 1996: 18).

For the purpose of further analysis MLG is defined here as an arrangement for making binding decisions among public and private actors at different levels of territorial aggregation without assigning exclusive policy competence or asserting a stable hierarchy of political authority to any of these levels (Schmitter 2004:49). Some elements of this definition should be further explained. First of all, the ‘binding decisions’ taken by actors involved in governance might acquire forms of regulations, including policies, programs or strategies designed to remedy a public problem or to address the question of collective interest. Secondly, the different levels of territorial aggregation might be linked and interact with each

\(^2\) The data regarding subsidiarity control and impact assessments was obtained from a survey conducted among 45 regional parliaments of the four Member States possessing regional legislative chambers (Italy, Spain, Belgium and the UK) between October 2011 and September 2012. Findings regarding weaknesses in the inter-institutional cooperation in European affairs are partially based on semi-structured interviews conducted between 2010 and 2012 with representatives of the regional and local authorities in Spain (Basque Country; Catalonia, Andalusia), Italy (Marche, Lazio, Sardinia) and Belgium (Flanders, Brussels). As for the policy implementation mechanisms, information was obtained from interviews with experts from the DG Regio of the European Commission; European Parliament and the Committee of the Regions conducted between 2010 and 2011.
other in two distinct ways: as ‘general-purpose’ or ‘task-specific’ jurisdictions. According to the typology proposed by Hooghe and Marks (2003), the former governance arrangement (the so-called ‘type I MLG’) refers to a set of general purpose jurisdictions at a limited number of territorial levels. This might include decentralized or federal polities as well as systems like the EU where supranational, national and regional competences are often shared or overlapping. On the other hand, type II MLG describes a rather complex patchwork of functional jurisdictions, each of which provides a particular service or solves a particular public problem. The nature of type II MLG is best illustrated by transnational networks of cooperation held together by resource dependency, public industries satisfying the interests of the local community or institutionalized problem-solving structures cutting across territorial jurisdictions. Contrary to stable and durable arrangements of type I MLG, type II arrangements tend to be lean and flexible – they come and go as demand for governance changes (Hooghe and Marks 2003: 16). While actors involved in type II MLG possess considerable expertise and contribute to the policy process through their functional capacities, actors from type I MLG still control the budgets and financial resources, as well as the access to strategic political decisions. The examples analyzed in the following parts of the article represent both types of MLG, yet, regardless of their functions (i.e., general or task-specific) their \textit{modus operandi} satisfies the three main conditions: 1) different levels of government as well as non-state actors are involved in decision-making; 2) subnational actors operate at or cooperate \textit{with} the supranational level; 3) relations among actors take form of non-hierarchical networks (Piattoni 2010).

The concept of MLG has brought innovative contributions not only to the comparative studies of decentralization and federalism, but also to the study of regional development (Pike et al. 2011; OECD 2010). MLG approach holds that effective policy-making must operate at multiple scales in order to capture variations in the territorial reach of policy externalities (Marks and Hooghe 2009). This has consequently renewed the interest in the \textit{meso} level in Europe, treating the region and locality as key functional link in the system of national and global competitiveness (Esser et al. 1995). In this context, MLG has spurred an increased attention to individual policy areas and policy performance of the regions which resulted in elaborating in 2010 the Regional Competitiveness Index by the European Commission (See: Dijkstra et al. 2011). Moreover, it has stressed the need to redefine the criteria of regional and local involvement into the decision-making processes from that of constitutional legitimacy to that of functional legitimacy. In this sense, the scope of policy-making involvement of the RLA should be increasingly based on actors’ resource capacity and endogenous potential rather than on clear-cut institutional hierarchies.

However, MLG approach has not been without critics, firstly due to its all-encompassing and under-specified theoretical claims (George 2004), and secondly, due to its tendency to over-exaggerate the autonomy and influence of subnational actors in policy-making at the expense of central governments (Kohler-Koch 1996; Jeffery 2000). In regard to the first one, it is important to notice that while
MLG provides a helpful analytical framework to study interactions between various actors engaged in policy processes at different territorial tiers, it does not represent a fully-fledged theory from which causal explanations can be drawn regarding either policy or polity oriented problems. MLG approach allows to detect the strengths and weaknesses of inter-institutional coordination between different levels of government, but it needs to be complemented with theories of institutional change to explain its underlying causal factors and patterns of evolution. As to the second one, mobilization and participation of LRA in EU policy-making should not be confused with governance since these activities do not prejudge about LRA’s influence over policy outcomes (Jeffery 2000). The latter one should be rather assessed in connection with changes taking place in domestic governance contexts which allow LRA to provide meaningful input into the policy-making processes. Moreover, MLG approach does neither assume altering the established division of powers among the levels of government, nor diminishes the role of the central state. It rather points to the fact that due to a growing economic and political complexity of EU multi-level polity, executing tasks, overcoming obstacles, and accomplishing objectives require increased coordination among various governmental as well as non-state actors.

**A new catchword on policy-makers’ agenda**

over the last years, MLG has evolved from a theoretical concept to an operational principle increasingly used by EU policy-makers as an element of their political agenda. In its Community Strategic Guidelines on Cohesion 2007-2013, the European Commission for the first time explicitly used the phrase ‘multi-level governance’ as a guiding principle in the management of cohesion policy and called for exploiting synergies between different territorial jurisdictions in the preparation and implementation of the operational programmes. In 2009, the CoR published its ‘White Paper on Multilevel Governance’ in which it provided a political blueprint for the systematic involvement of RLA in EU policy-making. In the same spirit, the European Parliament in its resolution on ‘Good governance and EU regional policy’ (2010) considered MLG a precondition for achieving territorial cohesion in Europe and called for its application to be made compulsory in policy areas with strong territorial impact. Finally, the Treaty of Lisbon confirmed the strengthened territorial dimension of the EU in three significant ways: it has explicitly recognized territorial cohesion as a general political objective of the EU; called for the respect of regional and local self-government while drafting EU policies; and recognized, for the first time, the role of regional parliaments in the subsidiarity control mechanism.

The entry into force of the Lisbon Treaty converged with the launch of a new ‘Europe 2020 Strategy’ for smart, sustainable and inclusive growth. Its unparalleled challenge lies in the fact that it has been put into operation in the midst of the biggest financial crisis Europe has ever encountered. In order not to repeat the past mistakes, the designers of ‘Europe 2020’ have committed to use all the possible institutional levers such as regulation, soft governance, social dialogue
and structural funds in order to ensure joint ownership of the strategy by national and sub-national authorities as well as non-state actors. To this end, the ‘Europe 2020’ has been intentionally developed as a multi-sectoral and based on MLG (Stahl and Spinaci 2010).

Multi-level governance in operation: Revisiting the toolbox

This section identifies and analyses five examples of MLG currently operating, or just being developed, in the institutional framework of the EU. They have been chosen in a way to represent procedures at different stages of the policy-making process, from its conception to implementation, and in line with the logic of the ‘Scoreboard for monitoring MLG’ developed by the Committee of the Regions (2011). Although all these mechanisms have been created to address a particular collective action problem, they represent various institutional functions. For this reason, they have been divided into two functional categories, namely better regulation and policy implementation. The mechanisms under the first category represent the logic of meta-regulations and are aimed at improving the quality of EU legislation cutting across different levels of governance. Their institutional and functional arrangements fit flexibly within the organizational logic of type I MLG. The second category consists of mechanisms which facilitate joint implementation and management of the specific policies. It includes arrangements closer to type II MLG. Notwithstanding these differences, all mechanisms allow for involving RLA as active input givers in the governance process. They do it in different ways and to various extents, each within their own dynamics of inter-institutional relations. For the purpose of the future analysis, it is assumed, that if applied effectively, these tools can fulfill the functions of accountability enhancing mechanisms; Europeanization engines; policy control facilitators or ‘transmission belts’ between EU institutions and RLA. In the long run, their purpose is to increase actors’ co-responsibility for policy outcomes, raise awareness of their costs and improve their effectiveness.

Better Regulation Mechanisms

The Early Warning System for subsidiarity control

The implementation of MLG depends to a great extent on the respect for the principle of subsidiarity which guarantees that policies are conceived and applied at the most appropriate level (see: Louis 2008; on the evolution of the concept in EU treaties see: Dobek 2009). However, the concept of subsidiarity in the European institutional construction has long been limited to the two-level relations between the EU and the Member States at the national level. It was only the Lisbon Treaty that changed this state of affairs through extending the application of subsidiarity to the regional level. As stipulated in the ‘Protocol no. 2 on the application of the principles of subsidiarity and proportionality’ attached to the
Lisbon Treaty, regions with legislative powers\(^3\) can now be consulted in areas of their competences under the so-called ‘early warning system’ (EWS) in which national parliaments scrutinize EU legislative proposals in terms of their compliance with the principle of subsidiarity (For more see: Kiiver 2012).\(^4\) Under the EWS, parliaments address the question whether EU action is necessary and provides a clear benefit, or if the issue can be better regulated by Member States and/or RLA. The extension of the principle of subsidiarity to the regional level seems not only justified, but also desirable for efficiency-related reasons presented in the introduction. Moreover, the inclusion of regional representative institutions into the scrutiny of EU legislation affecting subnational competences is expected to enhance the ‘input-legitimacy’ of the European governance, accelerate Europeanization process of subnational political elites and bridge the gap between EU guidelines and regional policies.

However, the empirical findings\(^5\) reveal that regional involvement in the EWS is considerably limited and disproportionate both between and within Member States be it due to lack of regional expertise, lack of cooperation with the national level or simply political disinterest in the matter (Borońska-Hryniewiecka 2013). Practice shows that participation in the EWS does not so much depend on the scope of regional competences but on their administrative and legal capacity. It requires considerable institutional adjustment through investing time, expertise and personnel in political and legal scrutiny of multitude of EU legislative acts which applicability will ultimately be decided by the Member States in voting at the supranational level. It has to be noted, that in spite of the formal acknowledgment of the regional level in the EWS, the Protocol no. 2 has not made the consultation with regional parliaments obligatory but has left it to the discretion of the national level. In this sense, the importance of the regions in the operationalization of the principle of subsidiarity is inextricably related to the role of national parliaments channeling regional opinions to the Commission. Yet, in majority of cases the currently applied domestic regulations do not oblige national chambers to do this which limits regional input into EU policy-making.\(^6\) The survey conducted among regional parliaments revealed that regional and local policy-makers are sceptical whether their participation meaningfully influences

\(^3\) Regions with legislative power are the subnational entities possessing regional parliaments which exercise constitutionally attributed law-making competences in various fields of policy. There are 78 legislative regions in the EU belonging to eight Member States [Germany, Belgium, Austria, Italy, Spain, Portugal, Finland (Åland Islands) and the UK (Scotland, Northern Ireland and Wales)].

\(^4\) In the framework of the EWS national chambers have eight weeks from the date of transmission of an EU draft legislative act to scrutinize it and issue a reasoned opinion in case they consider that the draft in question breaches the principle of subsidiarity. Two procedures can emerge from this process: ‘yellow’ and ‘orange card’, depending on the number of votes issued by national parliaments (See: Article 6-7 of the Protocol no. 2)

\(^5\) Survey conducted among 45 regional parliaments (See Introduction).

\(^6\) In Germany, Austria and Belgium national parliaments are obliged to take into account regional opinions on subsidiarity. In spite of this fact, Belgian regions have not yet established procedures to participate in the EWS.
the contents of EU policies. For the above reasons, the EWS appears to be more of a virtual mechanism than a real tool for developing the multi-level dialogue between the EU, national and regional interests.

The problem with the application of the principle of subsidiarity extends beyond the formal scrutiny of EU legislation under the EWS. Institutional reports reveal that in the context of the Europe 2020 Strategy quite often Member States take decisions that should be left to regions or cities, in particular when it comes to setting goals under specific flagship initiatives. It leads to setting country targets which do not reflect specific regional and local conditions, while imposing an unnecessary burden on the RLA (CoR 2012a). This concerns all the RLA regardless of the nature of their competences and shows that subsidiarity principle should be more firmly asserted and respected throughout the policy-making cycle, from policy design to its implementation.

Territorial impact assessment

While the control of the principle of subsidiarity helps to determine who should take a particular policy action, the impact assessment (IA) procedure provides an answer to the question of how such action should be taken. It provides a detailed analysis of the contents of EU policy proposals in terms of their proportionality (i.e. whether the measures proposed by the EU are suitable and appropriate to achieve the intended objectives) and their potential economic, social and environmental consequences. IAs are regularly carried out by the European Commission before it proposes new legislation. Ideally, they build on the relevant expertise from within the Commission together with inputs from the external stakeholders. With the territorial cohesion objective enshrined in the Lisbon Treaty, the demand to consider the ex-ante territorial effects of EU sectoral and policies has increased. For this reason, the Protocol 2 annexed to the Lisbon Treaty provides that IAs should take into account the policy implications for the regional and local levels in terms of the potential regulatory burdens falling upon the RLA (art. 5). For this reason, in policy fields with strong territorial impact such as environmental protection, energy or employment, RLA as well as the social partners and economic stakeholders directly affected by the regulations should be consulted by the Commission beforehand (art. 2). Such consultations usually take place through the CoR during the earliest stage of the European decision-making process in which the CoR acts as a transmission belt providing the Commission with the opinions on territorial impact of specific policy dossiers reflecting technical input from the local and regional stakeholders. These consultations usually

7 The Commission and the Council are now obliged to consult their initiatives with the CoR in the following areas of policy: economic and social cohesion, transport, trans-European infrastructure networks, health, education and vocational training, culture, employment and social policy, European Social Fund, environment and energy.
operate through an interactive website, where the CoR partners can upload their contributions.  

Yet, the analysis of the hitherto record of subnational involvement in the IA procedure reveals that this example of MLG, similarly to subsidiarity control, is not yet systematically applied. Until today (October 2012) only six consultations related to IA have been conducted by the CoR, generating on average 37 responses. It is especially surprising that the latest consultation regarding the future of the Single Transport Area in the rail sector, which directly affects the territorial and cross-border cooperation and development, has yielded only 11 contributions. Moreover, the assessment of the administrative and financial consequences of the regulative framework of the Common Agricultural Policy after 2013 missed any regional contribution (CoR 2012b).

According to desk research and interviews conducted by the author at the CoR, IA consultations face two major constraints to collect more contributions, i.e.: tight deadlines for producing responses and lack of regional expertise to conduct comprehensive analyses of impact by the RLA. With regard to the second one, cooperation with non-state actors possessing the necessary knowledge such as agencies, businesses, research institutes or interest groups affected by certain regulations would certainly prove helpful. However, the evidence shows that many regional or local governments have not yet developed the necessary institutional capacity to effectively network and exchange information on EU related issues with non-state actors and private sector. As a result, their impact assessments, if conducted at all, lack an integrated, cross-sectoral approach and are of poor methodological quality. One recommendation to improve this state of affairs would be to better coordinate the consultation processes beyond the CoR, especially with the participation of the DG Regio of the European Commission as well as by the relevant ministries at the national level to provide a stronger top-down mobilisation and technical guidance for RLA. In this context, it is worth mentioning that the 2011 Polish EU Presidency contributed to developing a MLG approach to IA in form of a ‘Roadmap towards promoting and enhancing an integrated, territorial approach based on the Territorial Agenda of the European Union 2020’ which proposed to create a handbook on IA methods and their application at EU, national and regional levels.  

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8 One of the examples of IA can be the 2010 CoR consultation on the territorial impacts of the EU post 2010 Biodiversity Strategy, see: http://portal.cor.europa.eu/subsidiarity/SiteCollectionDocuments/order%203075_biodiversity%20survey_FINAL_with%20changes.pdf, accessed 11.11.2012  
9 The highest number of contributions was obtained in regard with the 2009 Revised Drinking Water Directive (93), while the lowest with regard to the 2012 Fourth Rail Package (11). The list of the consultation reports can be found at: http://portal.cor.europa.eu/subsidiarity/activities/Pages/ImpactAssessmentConsultations.aspx, accessed 12.11.2012  
Policy Implementation Mechanisms

European Grouping of Territorial Cooperation

One of the ‘on-site laboratories’ of MLG in operation is the European Grouping of Territorial Cooperation (EGTC), an EU instrument designed to facilitate and promote cross-border, transnational and interregional cooperation for regional development. The EGTC, established and governed by the EC Regulation 1082/2006, allows different public entities at different territorial levels to set up a single cooperative structure endowed with a full legal personality and decision-making powers to develop projects and activities of common interest in the field of territorial cooperation such as long-term strategic development programs or management of public services. With its structural flexibility and functional orientation, EGTC fits within the arrangements of type II MLG enabling RLA to become the driving force in addressing transnational spillovers in cooperation with non-state actors. Some of the examples might be implementation of sustainable transport solutions, energy efficiency strategies or joint prevention of ecological dangers (CoR 2012c).

A single EGTC can manage just one specific project or serve as a cooperation platform for several tasks financed under EU Structural Funds or outside the financial contribution of the EU (Art. 7 of the EGTC Regulation). The main advantage of EGTC is the integrated management of territories through joint planning and implementation. Within an EGTC, the role of RLA becomes more influential in the sense the Grouping can submit applications for EU-funding without the intermediation of central governments.

Effective EGTC can be key instruments in the implementation of the Europe 2020 Strategy through ‘bottom-up’ activities. Examples on the ground show how EGTC enhance competitiveness and innovation through cross-border partnerships and joint research programmes involving companies and laboratories in the area. Moreover, the Groupings contribute to the Single Market by facilitating the flow of labour force across the borders and help to create synergies through mobility of students, researchers and technology.

In spite of the overall positive assessment of the potential of the instrument, institutional reports reveal some weaknesses in the functioning of the EGTC. First of all, legal procedures for operating and setting up Groupings often prove complex and confusing for the interested parties. Unclear legal interpretation of the EGTC concept results in its diverging transposition into national law and granting EGTCs different legal statuses. Difficulties have also been reported in relation to contracts for hiring Groupings’ own staff which discourages the decision makers to engage in EGTC (CoR 2011a). Studies show that since 2007

11 An EGTC is composed of members from at least two Member States belonging to the following categories: LRA, public entities, associations of public entities or Member States governments. Legal personality gives EGTC the possibility to act as an autonomous body with its own budget.

12 The reports show that EGTCs often come up against national legislation on recruitment and personnel management. The fact of working in a country for an entity whose headquarter is in another raises major legal difficulties for retirement, social security and tax arrangements.
only a small number of EGTCs have been set up in the EU compared to the number of European territorial bodies already cooperating with each other, i.e. through INTERREG initiatives, and at the same time, very few EGTCs seem to be in the process of being set up. Respondents to a CoR consultation on EGTC (CoR 2010d) stressed that in order to change this state of affairs, better and clearer information, communication and technical assistance from EU level is indispensable. Clarifications concerning the specific functions which EGTC might perform, such as the right to act as a managing authority of territorial cooperation programs should also be put into place. Another weakness of the currently operating EGTCs is their insufficient involvement of the civil society actors, especially the economic and social stakeholders accounting for the horizontal dimension of MLG. In April 2012, the European Economic and Social Committee proposed an amendment to the current EGTC Regulation to make it easier for the social partners and NGOs to participate in the Groupings. The European Commission is currently in the course of approving the revised regulation on EGTC which is supposed to clarify, simplify and improve their establishment.

Covenant of Mayors: sustainable energy governance

Another example of a MLG mechanism in the context of policy implementation is the initiative for climate mitigation through an efficient use of energy resources called the Covenant of Mayors (CoM). It was set up in 2008 by the Commission to endorse and support the efforts of RLA in the implementation of sustainable energy governance. The structure of the Covenant represents a model of target-oriented, functional network of resource interdependence. The roles of particular actors involved in the CoM are divided according to the resources they can deploy, into signatories, coordinators and supporters. Signatories represent cities, from villages to major metropolitan areas, that are committed to meet the EU 20% CO2 reduction objective through increased energy efficiency and development of renewable energy sources. RLA have a major role to play here, not only because they are direct consumers of energy in their public buildings or the transport they operate, but also because they are producers of energy via district heating and co-generation, as well as regulators in the sense that they can levy local taxes, grant construction permits or act as environmental entrepreneurs in the local community. The national and territorial coordinators representing energy agencies and ministries, as well as regions, provinces or grouping of local author-

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13 There are currently 31 EGTCs operating in Europe. The full list of EGTCs can be consulted at: http://portal.cor.europa.eu/egtc/en-US/Register/Pages/welcome.aspx, accessed 23.11.2012. The first Grouping including two Polish regions of Silesia and Opole is currently being set up in cooperation with Slovakia and the Czech Republic. The website of EGTC ‘TRITIA’ can be consulted at: http://www.tritia.wbs.cz/About-TRITIA.html, accessed 22.11.2012.


15 CoM operates within the Europe 2020 flagship initiative ‘resource-efficient Europe’ to support the shift toward a resource-efficient and low-carbon economy.
ities, provide the signatories with financial and technical support. As coordinators themselves lack the necessary capacities to fulfill the energy requirements, they support signatories in conducting CO2 baseline emission inventories (BEI) and in implementing their Sustainable Energy Action Plans (SEAP). Finally, Covenant supporters – representing EU, national and regional level institutions – provide the signatories with expert knowledge of the regulatory, legislative and financial framework under which they operate. For example, methodological guidelines for BEI and SEAP are developed by the Joint Research Centre of the EC in collaboration with competent cities and regions. This allows for creating a common European methodology frame while respecting the existing local procedures.

The CoM elements of MLG lie in its capacity to build policy synergies across the levels of governance through a mix of planning, expertise sharing, policy making and monitoring, with the engagement of stakeholders, technologies and various sources of financing. The political impact of the CoM at the regional and local level lies in the fact that it provides a clear focus on the territorial dimension of energy and environmental policy and involves real actors on the ground to deliver tailored local objectives. On the other hand, it gives European visibility to cities and other local actors who translate EU guidelines into regional development strategies.\textsuperscript{16}

However, there are also weaknesses detected which might have negative effects on the future performance of the CoM. According to the feedback obtained from a survey conducted among several signatory countries (CoM 2012) the attractiveness of the CoM is significantly reduced by its technocratic character. Unnecessarily complicated reporting process, high workload associated with the preparation of SEAP and long waiting periods for obtaining feedback from the Commission, are the main obstacles for the cities. While the beginners lack the necessary expertise and human resources to fulfil the CoM requirements, the more experienced municipalities who have already developed sustainable energy plans, perceive adapting the existing procedures to fit the CoM rules as an additional administrative burden. Moreover, the under-provision of experienced technical staff and data for conducting SEAP and BEI constitute a significant barrier to join the CoM (CoM 2012). RLA also complain about the inadequate provision of financial resources to carry out the long-term energy restructuring programmes. To remedy this, EU financial instruments in the framework of cohesion policy, and outside of it, should be better linked to the CoM actions.\textsuperscript{17} In the same vein, stronger support and entrepreneurship from the national level authorities is also needed to raise the energy efficiency awareness of the local decision-makers and to equip them with the necessary administrative tools.

\textsuperscript{16} The CoM has already produced a number of success stories which can be found at: http://www.eumayors.eu/media/case-studies_en.html, accessed 13.11.2012

\textsuperscript{17} Under the EU multiannual financial framework 2014-2020 the cohesion funds allocated to energy efficiency and renewable energy will be doubled to €17 billion. Under Horizon 2020, €6.5 billion will be allocated to R&D for clean and efficient energy. Priority will also be given to energy performance contracting schemes for building renovation, district heating and cooling, innovative renewable energy technologies and marine-based renewable energy
Partnership Contract: towards an institutionalization of MLG?

One of the most important developments aimed at institutionalization of MLG in EU policy-making is underway as this article is being drafted. On 14 March 2012, the Commission published its proposal for a regulation of the “Common Strategic Framework” for EU funds in 2014-2020 [COM (2011) 615 final/2] (hereafter CSF Regulation). This document represents a significant institutional innovation in the governance of EU cohesion policy for at least three reasons. Firstly, it introduces the so called Partnership Contract (PC) as a replacement of the National Strategic Reference Framework. Under the PC signed with the Commission, each Member State will be obliged to set up a partnership with competent regional, local or other public authorities (i.e. ‘partners’) aimed at managing the cycle of structural programming. Secondly, the CSF Regulation lays down specific provisions for the implementation of MLG which will have to be observed by the participating parties. For example, Article 5 of the CSF Regulation provides that the ‘partners’ should be involved in all phases of the structural programming, from the preparation to implementation, monitoring and evaluation. Thirdly, the Regulation foresees the adoption of the ‘European code of conduct’ which defines a number of requirements necessary to achieve high quality partnerships in managing of the structural funds. These requirements have been already laid down in the EC staff working document published on 24 April 2012 [SWD (2012) 106 final] and are expected to be adopted by the Commission as a delegated act as soon as the CSF Regulation enters into force.

Adoption of this new document might account for a major qualitative change in the framework of EU cohesion policy. Although the scope and nature of partnerships will depend on a series of specific conditions such as the kind of fund, the relevant competences of the potential partners (including the self-financing capacity of the RLA) or the institutional set-up of each Member State, central governments will now have an obligation to identify any legal and administrative barriers and find possible ways to overcome them in order to establish cooperation with the relevant stakeholders. Extremely important from the point of view of the accountability and responsibility is the fact that partners will be also involved in the preparation of the PC, and not informed about their attributed roles ex-post. In this respect, the Commission has taken notice of the lobbying activities of the CoR which already in 2010 stressed the need to involve the RLAs in the ‘drawing up and negotiating contracts, insofar as they are directly involved at the operational level’ (CoR 2011c).

The CSF Regulation complemented with the Code of Conduct can be viewed as a new meta-regulatory approach to cohesion policy aimed at developing a more inclusive coordination of regional development policies. While the CSF Regulation is expected to enforce actors’ compliance with the partnership principle as compared with the NSRFs 2007-2013, the purpose of the Code of Conduct is to frame partners’ behavior through the diffusion of new norms and rules of appropriateness. Yet, for this framing mechanism to actually succeed, a process of institutional adaptation through which these rules, norms and practices are in-
ternalized and substitute the old ones has to take place at different levels of actors aggregation (Peters 1999).

As much as the CSF Regulation might be an extremely welcome development among the supporters of MLG, the hitherto acquired experience reveals considerable variations in the internalization of the EU imposed partnership principle across Member States. This is understandable, taking into account factors such as different territorial systems of power distribution; institutional culture or the duration of state EU memberships. Such argument resonates with the historical institutionalism and path dependency approach emphasizing how the domestic institutional traditions and practices embedded over time influence or determine the development of governance styles and inter-institutional relations. However, what’s more concerning, is that in the current and previous funding periods, many authorities have perceived partnership as quite problematic and time consuming. For example, the involvement into the programming phase of the civil society stakeholders have proved controversial due to their limited capacity to operate in a highly formalised environment with narrowly prescribed choices (European Parliament Report 2012). In this context, the Commission’s treatment of non-state actors as equal stakeholders with the RLA has been perceived by the latter ones as undermining their role as democratically elected and legally competent public institutions (CEMR 2012). It can be expected that any tension between the ‘social’ and ‘political’ dimension of the cohesion policy management might obstruct the effective implementation of MLG.

At the end of the day, and in line with the neo-institutional theory, the success or failure of the transposition of the Code of Conduct into practice will depend on the wide range of factors such as resource dependency between particular actors, domestic political culture or the hitherto acquired partnership experience. Since the procedures for involving the relevant partners in the different stages of the programming will be still left to the national authorities, it can be expected that the decision on whom to include or exclude will be based on the recognition of the value of particular ‘stakes’ represented by the potential partners. Resources such as administrative capacity, expertise and a well functioning communication system will be of crucial importance. For this reason, one of the most important starting points in the implementation of the CSF Regulation will be to focus on capacity building within the administrations and the development of an effective communication strategy between all the potential partners. This, however, might generate tensions and cause administrative burdens, especially in the Central and Eastern European Member States where the systemic change in managing regional policy is often hindered by the inherent systemic flaws such as excessive bureaucracy, lack of transparency and politicisation of governance practices (Compare: Gorzelak et al. 2010; Kozak 2007). Regional development agencies might have a crucial role to play in this process acting as intermediaries.

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18 For this reason, Council of European Municipalities and Regions advocated a two stage process of the PC: first the competent public authorities define the overall framework, available expenditure, consistency with domestic plans, and then civil society stakeholders are invited to help draft and implement the programmes.
Conclusions

This article attempted to determine the drivers and hindering factors behind the effective involvement of RLA in drafting and implementing EU policies with clear territorial impact. The above presented findings lead to conclusions that the European toolbox of MLG is a reasonably well-stocked one, including mechanisms of policy-control such as territorial impact assessments and the early warning system, as well as mechanisms of policy-implementation such as the groupings of territorial cooperation or the covenant for energy governance. Moreover, a new tool for ensuring the regional and local participation in managing of the structural funds is currently under way in the form of a Partnership Contract. However, gathered evidence reveals that, firstly, the existing tools are not always ‘user-friendly’, and secondly, their potential users are not fully prepared to effectively apply the available mechanisms. In the first case, the architecture of the analysed MLG mechanisms leaves some scope for improvements, either in terms of their binding force (EWS), better communication and consultation system between EU, national and regional institutions (IA), or the simplification of their legal design (EGTC and CoM). In the second case, RLA often do not possess the necessary administrative and financial capacities to get involved in the policymaking processes as active input-givers, which indicates their direct dependence on higher levels of government for funding, expertise and technical support.

The evidence also reveals that institutionalization of MLG is more successful, and takes place quicker, in the phase of policy-implementation than in the ex-ante policy control. This seems understandable from the point of view of the incentives offered to RLA at the implementation phase such as concrete development projects or funding opportunities. On the other hand, the two analysed examples of better regulation mechanisms indicate that majority of RLA not only lack the necessary resources but also the political interest in conducting either the subsidiarity scrutiny or impact assessment analyses. This shows that while RLA are becoming increasingly aware of their responsibility for implementing development policies, they have not yet assumed their role in the phase of policy-creation. It also confirms that rational choice drivers of Europeanization, corresponding to interest-driven and strategic orientation of policy practices, prevail over socio-logical mechanisms of Europeanization involving internalization of EU-imposed ‘good practices’ which do not necessarily yield any immediate gains but are considered as appropriate and effective in the long run.

This brings to light two kinds of challenges: firstly, for the national governments and EU institutions to realize that socio-economic development does indeed take place at the regional and local level, and therefore the inclusion of RLA in the decision-making processes is indispensable; and secondly for the RLA to demonstrate their capacity to make EU policies effective. As regards the former one, many Member States are currently undergoing reforms within their internal architecture regarding the territorial division of power and the establishment of the provisions for implementing the above discussed MLG tools. This generates changes that are the result of both formal requirements as well as processes of
learning and rational calculation. These changes are quite often path dependent and vary across national and subnational contexts producing disparities in the application of MLG mechanisms. The second challenge draws particular attention to the mobilization of regional and local resources such as competences, expertise, alliances and values strongly associated with specific territorial jurisdiction and serving to build the operational capacity of local and regional administrations. Here, the hindering factors for RLA involvement in policy-making are inbred in the very nature of MLG which draws more on resources, capacities and strategies of the regions favouring the stronger ones which are able to operationalize endogenous potential and pursue effective policy-oriented actions.

While the findings presented in this paper indicate general challenges for the involvement of the RLA in EU development policies, further research is needed to confront and develop the preliminary conclusions. It would be especially interesting to conduct a systematic comparison of concrete MLG mechanisms at the subnational level in specific policy fields in order to see to what extent MLG produce locally responsive outputs in accordance with EU development strategies.

**Bibliography**


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