DESLOCAÇÃO

Debate inter-parlamentar

Impacto e implicações práticas do Tratado de Lisboa na política de coesão

Bruxelas, 12 de Julho 2010

RELATÓRIO

Deputada Hortense Martins (GP-PS)

Deputado Pedro Saraiva (GP-PSD)

Enquadramento

A Comissão do Desenvolvimento Regional do Parlamento Europeu organizou um debate interparlamentar com as Comissões dos Parlamentos dos Estados Membros da União Europeia responsáveis pelo acompanhamento da política de desenvolvimento regional e de coesão.

O debate foi subordinado ao tema "Impacto e implicações práticas do Tratado de Lisboa na política de coesão", e realizou-se a 12 de Julho de 2010, no Parlamento Europeu, Bruxelas.

A Assembleia da República fez-se representar pelos dois Deputados signatários, membros da Comissão de Assuntos Económicos, Inovação e Energia e do Grupo de Trabalho – Desenvolvimento Regional, constituído no âmbito da Comissão e que acompanha as temáticas do desenvolvimento e da coesão regional. Estiveram presentes delegações de outros 16 Estados Membros (*vide* lista de participantes).

Estiveram particularmente presentes, ao longo de toda a reunião, as disposições constantes do Artigo 174º do Tratado sobre o Funcionamento da União Europeia (TFUE), em matéria de coesão económica, social e territorial:

TÍTULO XVIII

A COESÃO ECONÓMICA, SOCIAL E TERRITORIAL

Artigo 174.º

A fim de promover um desenvolvimento harmonioso do conjunto da União, esta desenvolverá e prosseguirá a sua acção no sentido de reforçar a sua coesão económica, social e territorial.

Em especial, a União procurará reduzir a disparidade entre os níveis de desenvolvimento das diversas regiões e o atraso das regiões menos favorecidas.

Entre as regiões em causa, é consagrada especial atenção às zonas rurais, às zonas afectadas pela transição industrial e às regiões com limitações naturais ou demográficas graves e permanentes, tais como as regiões mais setentrionais com densidade populacional muito baixa e as regiões insulares, transfronteiriças e de montanha.

1. Programa

A reunião foi aberta por Danuta Hübner, *Presidente da Comissão do Desenvolvimento Regional do Parlamento Europeu*, que realçou a importância acrescida do papel dos Parlamentos Nacionais após a entrada em vigor do Tratado de Lisboa – nomeadamente quanto ao escrutínio dos assuntos europeus e o cumprimento dos princípios da subsidiariedade e da proporcionalidade – bem como do Parlamento Europeu, pelo alargamento do processo de co-decisão.

Quanto à política de coesão, considerou necessária a dotação dos recursos financeiros necessários à sua implementação, tendo em conta o processo de consolidação orçamental em curso.

Reforçou a importância do Artigo 174.º do Tratado de Lisboa, nomeadamente tendo em conta a maior proximidade dos Parlamentos Nacionais à dimensão territorial da coesão, considerando que será útil aprofundar a troca de informações entre as Comissões que, nos Parlamentos Nacionais e no Parlamento Europeu, acompanham o tema do desenvolvimento regional.

Johannes Hahn, *Comissário Europeu para a Política Regional*, reiterou a importância do aprofundamento, por parte do Parlamento Europeu, dos novos procedimentos de co-decisão, considerando fundamental a cooperação das diversas instituições comunitárias, nomeadamente com vista à promoção da coesão territorial, e o envolvimento dos Parlamentos Nacionais nesta matéria.

Recordou que a coesão territorial – enquanto perspectiva territorial da coesão económica e social – "*procura alcançar o desenvolvimento harmonioso de todos estes territórios e facultar aos seus habitantes a possibilidade de tirar o melhor partido das características de cada um deles. Nessa medida, a coesão territorial é um factor de conversão da diferença em vantagem, contribuindo, assim, para o desenvolvimento sustentável de toda a UE*"[1].

Considerou, no contexto da Estratégia Europa 2020, a importância de unir as regiões da União Europeia, assegurando o investimento nas diversas regiões, num contexto de coerência de integração de políticas de desenvolvimento regional, nomeadamente no contexto do apoio às PME's e da promoção da inovação.

[1] Livro Verde *Coesão Territorial Europeia – Tirar Partido da Diversidade Territorial*, COM (2008) 616 final.

Na sua intervenção, Giancarlo Giorgetti, *Presidente da Comissão de Orçamento da Câmara dos Deputados de Itália*, defendeu a articulação da política regional, da governação económica da UE e da Estratégia 2020, considerando que a política de coesão deve promover a coerência entre os objectivos dos Estados Membros e da União, a simplificação dos procedimentos e a importância da avaliação (ex-ante e ex-post), dos instrumentos de política, para além da concentração num número pequeno, mas ambicioso, de objectivos.

Alertou, ainda, para a importância de concretizar a dimensão territorial e a segunda parte do Artigo 174.º do TFUE – "*Em especial, a União procurará reduzir a disparidade entre os níveis de desenvolvimento das diversas regiões e o atraso das regiões menos favorecidas. Entre as regiões em causa, é consagrada especial atenção às zonas rurais, às zonas afectadas pela transição industrial e às regiões com limitações naturais ou demográficas graves e permanentes, tais como as regiões mais setentrionais com densidade populacional muito baixa e as regiões insulares, transfronteiriças e de montanha*".

Enfim, sugeriu o aumento de fundos para as regiões que asseguram a qualidade da despesa e a obtenção de resultados, de modo a promover o aumento da eficiência no uso dos recursos financeiros comunitários.

De seguida, interveio Vytautas Kurpuvesas, Presidente da Comissão da Administração do Estado e das Autoridades Locais, do Parlamento da Lituânia, que deu conta da experiência daquele Estado Membro. Adicionalmente, considerou que no período de programação financeira pós-2013 deveria haver uma maior clarificação quanto ao contributo da política de coesão para o desenvolvimento económico e social, bem como um aprofundamento da interacção com a Estratégia Europa 2020.

Rudy Demotte, *Ministro-Presidente da Região da Valónia e da Comunidade Francófona,* responsável – na Presidência Belga do Conselho da União Europeia – pela Política de Coesão, usou igualmente da palavra, dando conta da importância da participação dos actores regionais e locais no processo de decisão da UE, sendo igualmente partes activas nos debates estratégicos em curso, para o que a entrada em vigor do Tratado de Lisboa contribui grandemente, nomeadamente pela consagração da coesão territorial (anteriormente referida), pela explicitação das regiões privilegiadas no contexto da política de coesão, bem como pela extensão do procedimento legislativo comum do Parlamento Europeu ao conjunto dos Regulamentos respeitantes à política de coesão. Reforçou, ainda, que estas disposições do Tratado de Lisboa complementam-se (i) com o papel acrescido dos parlamentos nacionais em matéria de

avaliação do cumprimento do princípio de subsidiariedade e (ii) com os procedimentos de consulta às regiões, contribuindo, assim, para um aumento da democraticidade, de transparência e de eficácia do funcionamento da UE.

No período de debate, intervieram, além dos signatários (*vide* ponto 2), representantes de diversos Parlamentos. Das diversas intervenções, realçam-se os seguintes pontos:

- A importância da Política de Coesão:
    - Para assegurar o desenvolvimento económico sustentável e harmonioso da União Europeia, nas suas três vertentes: económica, social e territorial;
    - Não só como política redistributiva, mas também com vista ao combate a alguns dos maiores problemas da União Europeia, nomeadamente o envelhecimento demográfico e a desertificação de algumas regiões;
    - Como instrumento da União Europeia como um todo, e não apenas dos Estados membros que beneficiam dos fundos comunitários;
    - Necessidade de articulação com a Estratégia Europa 2020, o Pacto de Estabilidade e Crescimento, e as perspectivas financeiras pós-2013.
- A sugestão de concentração de fundos num número limitado de prioridades, a simplificação dos procedimentos burocráticos e a maior responsabilização dos actores regionais e locais na implementação da política de coesão, o aumento de eficácia da utilização dos fundos comunitários.
- A necessidade de uma maior divulgação de informação sobre a Política de Coesão e a sua implementação, nomeadamente de boas práticas e *peer-reviews*, com vista a uma maior transparência perante os cidadãos.
- A importância de uma maior interacção entre os Parlamentos Nacionais e o Parlamento Europeu, nomeadamente quanto às Comissões que se ocupam da Política Regional.

A gravação vídeo da reunião pode ser consultada aqui.

2. Intervenções dos relatores

Deputada Hortense Martins:

A reunião permitiu uma maior sensibilização dos mecanismos constantes do Tratado de Lisboa e à disposição dos Parlamentos Nacionais. Estamos empenhados em trabalhar e reforçar a cooperação e o trabalho conjunto entre o Parlamento Europeu e o Parlamento Português. O princípio da subsidiariedade tem de ser aplicado, é um instrumento que os Parlamentos Nacionais têm ao seu dispor para influenciar as políticas definidas a nível comunitário, assegurando o cumprimento deste princípio.

O novo conceito da política de Coesão Territorial, agora explicitamente incluído no Tratado de Lisboa, é, na minha óptica, imprescindível para a coesão económica e social. Alias, é inconcebível falar de coesão sem ter em consideração a sua dimensão territorial. Esta sensibilidade decorre, talvez, do facto de ser originária de um distrito de Portugal situada numa região fronteiriça, muito sensível aos efeitos decorrentes das quebras demográficas, devido à falta de massa crítica, na qual se sentem os efeitos de muitos anos de interioridade, só na última década atenuados pelo desenvolvimento, entre outros, do plano rodoviário nacional, que gerou um efeito de proximidade inter-regional, mas também intra-regional (ao nível do próprio distrito). Assim, torna-se necessário pensar na coesão nas suas várias dimensões. A coesão não só ao nível dos territórios europeus, mas também ao nível dos territórios nacionais e dentro destes, entre as várias regiões gerando mecanismos de desenvolvimento local.

Devemos tratar de forma diferente o que é diferente. A política de coesão, a nível nacional, tem de atender aos diferentes níveis de desenvolvimento de cada região, procurando que os projectos sejam motores ou alavancas de desenvolvimento e coesão. Temos, ainda, de atender de forma particular às regiões com características especiais, nomeadamente rurais, transfronteiriças ou de montanha, as mais envelhecidas e, enfim, às que vivem processos de mudança do paradigma de industrialização (tal como definido no artigo 174.º do Tratado). É necessário apoiar as regiões e os territórios mais pobres, mais deprimidos ou mais desertificados. Tudo isto está claramente explícito, no Tratado de Lisboa, há que concretizá-los.

Quanto ao futuro da Política de Coesão:

- Nas alturas de crise, a política de coesão é ainda mais necessária, mas é nesses momentos que, por vezes, nos tornamos mais egoístas: as dificuldades aumentam e parece haver menos disponibilidade para aumentar o orçamento dedicado a estas questões. Em alguns casos, surgem princípios como o da "universalidade", o contrário do princípio de "de tratar de forma diferente o que é diferente", o

contrário da solidariedade, o contrário do apoio às regiões mais pobres e a quem precisa. "*A crise trabalha contra a coesão social*", como referiu Danuta Hübner

- Há uma clara necessidade de avaliação e medição dos impactos das políticas e da aplicação dos recursos financeiros: importa aplicar bem os recursos públicos, os recursos existentes (que são escassos) e promover a compreensão e a aceitação das populações sobre a necessidade e relevância destas políticas. Todos os países da UE (e não apenas os países beneficiários dos fundos comunitários) ganharão com o desenvolvimento das regiões mais pobres e, portanto, com uma Europa mais coesa no seu todo.

- Temos de ser solidários, e durante uma crise, temos de dar ainda mais atenção a este aspecto, nomeadamente no contexto da discussão sobre os Orçamentos e a sua distribuição, bem como com as respectivas financeiras europeias nos pós 2013. Daí a importância da coesão territorial, a par da coesão económica e social, nos dias de hoje.

Penso, ainda, que a UE deve preocupar-se com sectores que podem contribuir, de um modo especial, para o desenvolvimento da economia ou de produtos locais, como o Turismo, mas também combater os efeitos decorrentes de processos de alterações de modelos de industrialização (como é o caso do sector Têxtil, concentrado em algumas regiões). A Europa deve preocupar-se com a sua competitividade, nomeadamente face a globalização, e neste aspecto há muito a fazer.

No fundo, e em conclusão, penso que é importante o cumprimento das metas de consolidação orçamental, nomeadamente de redução dos défices, mas importa atender à sua conjugação com os objectivos de promoção do crescimento e do emprego, não abandonando e, pelo contrário, até reforçando a necessidade de políticas de coesão, porque é assim que se promove o desenvolvimento, que tem inerente a inovação e a sustentabilidade.

<u>Deputado Pedro Saraiva:</u>

Esta iniciativa surgiu num momento especialmente oportuno, quando se encontram em discussão os contornos finais do Futuro da Política de Coesão e dos Fundos Estruturais para o período de programação financeira 2014-2020. Importa, por isso mesmo, manter contactos regulares e sistemáticos entre quem, nos Parlamentos Nacionais e no Parlamento Europeu, acompanha estas

temáticas, aproveitando, de resto, as oportunidades e obrigações decorrentes do Tratado de Lisboa.

Sendo verdade que a Estratégia Europa 2020, recentemente aprovada pelo Conselho Europeu, faz referência à coesão territorial, não deixa de ser igualmente verdade que esta ocupa um espaço relativamente reduzido no contexto global da referida estratégia. Urge, sobretudo, garantir que a Coesão Territorial e o princípio da subsidiariedade, consagrados no Tratado de Lisboa, são depois efectivamente operacionalizados no terreno: a experiência mostra que este desdobramento é vital e nem sempre acontece, remetendo para opções conceptuais que ficam em larga medida por concretizar. Deste ponto de vista, as opções a tomar em termos de fundos estruturais e sua gestão durante o período 2014-2020 assumem especial relevo.

Na minha opinião, no que diz respeito às discussões em curso, relativamente ao futuro da Política de Coesão e dos fundos estruturais, tendo em consideração igualmente a experiência de Portugal ao longo dos últimos 25 anos, importa ter em especial atenção o seguinte conjunto de preocupações e/ou linhas de orientação:

1) Há que consagrar opções integradas de intervenção, capazes de conjugar tanto a formação de capital humano como os reforços de infra-estruturas físicas no mesmo espaço territorial. Ao invés do que sucede actualmente, como resultado da opção por lógicas de mono-fundo (FSE ou FEDER) em cada Programa Operacional de Base Regional, devem encontrar-se soluções que facultam a efectiva articulação entre ambas as vertentes, indissociáveis no contexto de um harmonioso desenvolvimento regional;

2) Tem de ser reforçado o papel e disponibilidades orçamentais dos Programas Operacionais com efectiva base territorial e regional, em detrimento de Programas Sectoriais de âmbito nacional, cujos contributos para a coesão territorial tendem a ser menos eficazes e eficientes, com aqueles a emanar de uma abordagem verdadeiramente *bottom-up*, mobilizadora das forças vivas e dinâmicas de base territorial, conducente a opções, projectos e soluções verdadeiramente desenhados à medida das necessidades de um determinado território específico, o que está longe de acontecer com muitos dos Programas Operacionais actualmente existentes;

3) O princípio da subsidiariedade não pode nem deve limitar-se a ser interpretado enquanto vaga declaração de intenções. Antes deve, pelo contrário, traduzir-se numa efectiva autonomia de intervenção e desconcentração dos processos de decisão, tanto a nível regional como a nível subregional e local, nomeadamente quanto à aplicação de fundos estruturais;

4) Deve concretizar-se algo que é invariavelmente referido mas tarda em conhecer efectiva concretização, no que diz respeito a uma redução do volume de *red tape*, carga burocrática e perspectiva essencialmente administrativa na avaliação de mérito, aprovação e acompanhamento de projectos apoiados por fundos estruturais.

Alternativamente, deve promover-se uma efectiva orientação para resultados relevantes, concretos e mensuráveis, o qual deve posicionar-se enquanto fio orientador dos projectos a conceber e concretizar no próximo período de programação financeira, algo que tem de ser acompanhado por uma muito significativa simplificação de procedimentos e requisitos formais, mas também de um reforço de monitorização voltada para os resultados efectivamente alcançados;

5) Ao nível da arquitectura de futuros Programas Operacionais, importa ter em consideração o que as evidências disponíveis mostram com clareza, no sentido de concluir que os meios e projectos orientados para a coesão territorial devem assumir uma natureza distinta dos que, primordialmente, se direccionam para apoiar o reforço da competitividade, motivo pelo qual existe vantagem em separar claramente as águas a este nível, quanto à concepção e gestão dos fundos estruturais, assumindo desde o início qual dos dois objectivos é predominante em cada caso específico.

Num momento em que se caminha a passos largos para a recta final de definição do futuro da Política de Coesão e se desenham os primeiros contornos da negociação relativa a questões orçamentais e fundos estruturais para o próximo período de programação financeira, e num contexto em que, por via do Tratado de Lisboa, os Parlamentos Nacionais e o Parlamento Europeu desempenham um papel de acrescida responsabilidade, também neste âmbito, reveste-se da maior utilidade aprofundar os contactos e interacções neste domínio. O relatório "Barca"[2], encomendado pela Comissão Europeia, e terminado em 2009, estabelece um bom ponto de partida quanto às orientações a seguir em matéria de desenvolvimento regional, sob o paradigma das abordagens "place-based". Seria da maior utilidade garantir que tais linhas de rumo encontram agora eco nas decisões que vierem a ser tomadas no que diz respeito, entre outros aspectos, à Política de Coesão, reforço das prioridades centradas na Coesão Territorial, cenários de definição dos orçamentos, concepção, implementação e acompanhamento da aplicação de Fundos Estruturais no período de programação 2014-2020, corrigindo as lacunas e concretizando as acções de melhoria que, na sua esmagadora maioria, se encontram já devidamente identificadas e diagnosticadas.

[2] O relatório está disponível em http://ec.europa.eu/regional_policy/policy/future/barca_en.htm

3. Considerações Finais

I. O Futuro da Política de Coesão – a coesão económica, social e territorial

A coesão deve ser entendida nas suas três dimensões – económica, social e territorial – e nas diversas comunidades: as zonas rurais, as zonas que mais sofrem o efeito das alterações demográficas (em particular o envelhecimento), as zonas fronteiriças, as zonas ultra-periféricas, as zonas de montanha e as zonas que estão a sofrer alterações decorrentes de alterações do modelo industrial ou da globalização.

A política de coesão deve ser indutora de desenvolvimento económico (nomeadamente em termos de crescimento económico e criação de emprego) e de coesão económica, social e territorial, tal como previsto no Tratado de Lisboa. Assim, a política de coesão não deve ser vista apenas como um custo em termos orçamentais, mas sobretudo como uma oportunidade de desenvolvimento, que fortalece a União Europeia.

Foi referida a necessidade de promover uma abordagem voltada para os resultados, monitorizando e avaliando a implementação da política de coesão, de modo a promover a transparência na utilização dos fundos e na implementação das políticas. As preocupações com o financiamento da política de coesão estiveram muito presentes, decorrentes do processo de consolidação orçamental em curso, também a nível comunitário, mas foi recordado que a Política de Coesão é um instrumento muito importante de políticas comunitárias.

II. O Tratado de Lisboa e o Papel dos Parlamentos Nacionais

O Tratado de Lisboa pode potenciar a cooperação inter-parlamentar e conferir uma maior relevância ao Parlamento Europeu em matéria de co-decisão com as restantes instituições comunitárias. Foi realçada pela Presidente da Comissão REGI a importância de um trabalho mais próximo e directo dos Parlamentos Nacionais com o Parlamento Europeu para explorar todas as oportunidades do Tratado de Lisboa.

Os Parlamentos Nacionais têm competências adicionais, constantes no Protocolo (n.º 1) relativo ao papel dos Parlamentos Nacionais na União Europeia do Tratado de Lisboa, nomeadamente quanto à avaliação do cumprimento dos princípios da subsidiariedade e da proporcionalidade das iniciativas comunitárias, tal como referido no Artigo 3.º: "*Os Parlamentos nacionais podem dirigir aos presidentes do Parlamento Europeu, do Conselho e da Comissão um parecer fundamentado sobre a conformidade*

de determinado projecto de acto legislativo com o princípio da subsidiariedade, nos termos do Protocolo relativo à aplicação dos princípios da subsidiariedade e da proporcionalidade". O trabalho conjunto com o Parlamento Europeu permitirá explorar melhor esta possibilidade, nomeadamente em prol da política de coesão.

Assim, o trabalho dos Parlamentos Nacionais é fulcral para implementar a política de coesão, com maior justiça e eficácia, com vista à promoção da coesão territorial.

III. A Assembleia da República

A Assembleia da República, através da Comissão de Assuntos Económicos, Inovação e Energia, deverá continuar a acompanhar com particular atenção os desenvolvimentos futuros da política de coesão, nomeadamente pelo seu impacto na economia nacional, a nível do país, e, sobretudo, regional.

Adicionalmente, realçam a importância de a Assembleia da República proceder ao escrutínio das iniciativas europeias, nomeadamente quanto a esta matéria, tendo em consideração, entre outras:

- As disposições vigentes do Tratado de Lisboa, ao estenderem o processo de co-decisão ao Parlamento Europeu, em matéria de política regional;
- A possibilidade de pronúncia dos Parlamentos Nacionais sobre o cumprimento dos princípios de subsidiariedade e proporcionalidade;
- A importância de contribuir para a clarificação do papel das políticas da União Europeia face aos desafios que tem pela frente, nomeadamente o papel da política de coesão em promover o desenvolvimento dos Estados Membros e, em particular, das regiões desfavorecidas da UE, tendo em conta os princípios da subsidiariedade e da proporcionalidade, bem como as diferentes dimensões da coesão – económica, social e territorial.
- A sugestão, efectuada pela Presidente da Comissão de Desenvolvimento Regional, Danuta Hübner, de uma maior cooperação entre a Comissão de Desenvolvimento Regional do Parlamento Europeu e as Comissões dos Parlamentos Nacionais que acompanham esta matéria;
- A circunstância de os anos de 2010 e 2011 serem decisivos em termos de definição dos contornos da Política de Coesão, programação financeira e fundos estruturais para o período 2014-2020, sendo possível antever, das posições preliminares assumidas pelos vários Estados Membros, que se vai estar perante

um processo negocial especialmente complexo e difícil para todos e, nomeadamente, para países como Portugal;

Portugal deverá prosseguir esforços que, já no passado, nos permitiram ter resultados muito positivos ao nível da negociação do pacote financeiro agora em execução. Nessa medida, deverá tentar obter consensos tão alargados quanto possível, quanto à sua posição e ambição relativamente ao futuro da Política de Coesão e dos Fundos Estruturais no espaço da União Europeia.

Os Deputados

Hortense Martins

Pedro Saraiva

4. Anexos

1. Programa
2. Lista de participantes
3. Documentos de enquadramento
    a. O papel dos parlamentos nacionais na política regional no contexto do Tratado de Lisboa
    b. O impacto do Tratado de Lisboa na política regional

2nd REGI Inter-Parliamentary Committee meeting with national Parliaments

IMPACT ON AND PRACTICAL IMPLICATIONS OF THE LISBON TREATY FOR COHESION POLICY

12 July 2010
15.00 - 18.00
JAN 2Q2 (József Antall building)
European Parliament, Brussels

PROGRAMME

13:00 - 15:00	**Registration of participants** *Altiero Spinelli building (ASP) - rue Wiertz 60*
15:10 - 15:20	Welcome and introductory remarks ***Danuta Hübner**, Chairperson of the Committee on Regional Development of the European Parliament*
15:20- 15:30	***Rudy Demotte,** Minister-President of the Walloon Region and of the French Community, Belgian Presidency of the Council of the EU*
15:30 - 15:40	***Johannes Hahn,** Commissioner for Regional development, European Commission*
15:40 - 15:50	Launching the debate The impact of Lisbon Treaty on cohesion policy: some reflections from the national Parliaments ***Giancarlo Giorgetti,** Chairperson of the Budget Committee of the Italian Chamber of Deputies*
15:50 - 16:00	***Vytautas Kurpuvesas,** Chairperson of the Committee on State Administration and Local Authorities of the Lithuanian Parliament*
16:00 - 17:50	Open Debate *between members of the European Parliament and national Parliaments*
17:50- 18:00	Conclusions ***Danuta Hübner,** Chairperson of the Committee on Regional Development of the European Parliament*
18.00 - 18.30	Press point

A cocktail reception will take place outside the meeting room as from 18.15

ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
PARLEMENT EUROPÉEN PARLAIMINT NA hEORPA PARLAMENTO EUROPEO EIROPAS PARLAMENTS
EUROPOS PARLAMENTAS EURÓPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU PARLAMENTUL EUROPEAN
EURÓPSKY PARLAMENT EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROPAPARLAMENTET

Directorate-General for the Presidency
Relations with National Parliaments - Legislative Dialogue Unit

Committee on Regional Development & Directorate for Relations with National Parliaments

INTERPARLIAMENTARY COMMITTEE MEETING

«Impact on and practical implications of the Lisbon Treaty for cohesion policy»

List of Participants - National Parliaments

(List closed - 9 July 2010)

12 July 2010

Room 2 Q 2
European Parliament
BRUSSELS

AUSTRIA - NATIONALRAT

Mr Kai Jan KRAINER *SPÖ - S&D*	**Deputy Chairperson, Committee on Finance**
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NOTE

EN

2010

DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

REGIONAL DEVELOPMENT

THE ROLE OF NATIONAL PARLIAMENTS IN REGIONAL POLICY UNDER THE TREATY OF LISBON

NOTE

This document was requested by the European Parliament's Committee on Regional Development.

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LINGUISTIC VERSIONS

Original: EN

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Manuscript completed in March 2010.
Brussels, © European Parliament, 2010.

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REGIONAL DEVELOPMENT

THE ROLE OF NATIONAL PARLIAMENTS IN REGIONAL POLICY UNDER THE TREATY OF LISBON

NOTE

Abstract:

This Note describes the impact of the Treaty of Lisbon on Regional Policy in general and on the role of National Parliaments in particular. The introduction of new provisions concerns the legislative procedures, the scope and the governance system of Regional Policy.

Despite some limitations, the overall political impact of the Lisbon Treaty could lead to a strengthening of national and European parliamentary recognition in the EU decision-making process.

IP/B/REGI/NT/2010_02 March 2010

PE 438.580 EN

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Introduction

It is one of the explicit aims of the Lisbon Treaty, set out in its Preamble, to enhance the "democratic legitimacy of the Union". This has been a theme of the whole process leading up to the Treaty, beginning with the Laeken Declaration on December 2001. The Treaty, in force since 1 December 2009, includes a new section entitled "Provisions on Democratic principles", aiming at more active EU citizenship and an improved connection between EU institutions and society at large.

In this context, the Lisbon Treaty also presents new provisions concerning National Parliaments. Relating to the area of Regional Policy, their role and activities are susceptible to be further influenced by a number of other changes introduced by the Treaty. These are set out in this Note.

1. National Parliaments and EU integration

1.1. Historical Review

Since 60 years European integration has continued to widen and deepen, with successive EU treaties transferring competences from national to European level. Consequently, National parliaments ceded legislative power to the EU and have felt difficulties to influence policy activities occurring at European level. The introduction of direct elections to the European Parliament in 1979 meant that many National Parliaments felt increasingly disconnected from European Community policies - until then, the European Parliament was comprised of members of National Parliaments' on a 'double mandate'. The beginning control of the EU executive level by the European Parliament did not bring stronger parliamentary control on the national level, but created in a sense a "competitor" on parliamentary control.

Reduced national policy autonomy and information asymmetries have contributed to the erosion of national parliamentary control. National governments also experienced a reduction of their autonomy, but they have secured a pivotal role in EU policy-making by their central role in the Council of the EU. In contrast to this, National Parliaments have no representation in the EU's institutional framework. Moreover, the determination of national positions on complex European issues requires extensive administrative coordination across all policy levels, including consultations with regional and local authorities and with multiple ministries. National Parliaments often do not have the appropriate instruments and information to participate in these complex domestic coordination efforts.

Therefore, while the primary role of National Parliaments is to scrutinise their own governments, a number of steps have been taken to re-engage national chambers in the EU policy process. All 27 National Parliaments have put in place scrutiny procedures to review EU documents and to hold national executives accountable. However, the scope and intensity of parliamentary scrutiny vary significantly from country to country.

Based on a survey of the **40 national parliamentary chambers** by the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC), two main **scrutiny models** have been identified. The first is the **document-based model** which consists in examining all incoming EU proposals, therefore focusing on Commission documents and working less on the actual decision-making process of the

Council and European Parliament.[1] The second model is the so-called **mandating or procedural system** in which parliamentary attention is concentrated on controlling the respective government's position their ministers will take in Council meetings.[2] Under this system many Parliaments issue direct mandates to the ministers which may set the bargaining range or even stipulate explicit voting instructions. A third category of so-called "**informal influencers**" can be identified.[3] These Parliaments focus on informal dialogue with the government and seek to influence through broad parliamentary debates. They do not organise a systematic scrutiny of EU documents or of the government position in the Council. It has to be noted that the distinction between these systems is increasingly blurred as National Parliaments converge towards more mixed systems.

1.2. COSAC and the "Barroso initiative"

In order to increase their influence, National Parliaments have also sought to act collectively, mainly through the creation of **COSAC** in 1989, composed of members of National Parliaments specializing in European affairs.[4] COSAC convenes twice a year and brings together members of the European affairs committees and a delegation of the European Parliament. It provides a forum for the exchange of information and best practices on parliamentary involvement in the EU.[5] The political impact is difficult to measure, but the increased exchange of information and the analysis of new opportunities of cooperation have improved parliamentary scrutiny on EU affairs.

In addition to that, there is the **Conference of the Speakers of the EU Parliaments** bringing together speakers from the National Parliaments of EU member states and the President of the European Parliament. At its annual meetings, the speakers discuss overall EU matters and in particular inter-parliamentary EU activities. At their meeting on 22-24 September 2000 in Rome, the Speakers adopted Guidelines for Inter-parliamentary Cooperation, which aim to promote the exchange of information and best practices between National Parliaments and the European Parliament with a view to reinforcing parliamentary control, influence and scrutiny at all levels. These guidelines were amended at the Speakers Conference meeting on 19-21 June 2008 in Lisbon.

With the entry into force of the **Maastricht Treaty** in 1993, the EU acquired competence in areas which had traditionally been a national preserve, such as justice and home affairs. For this reason, the importance of exchanges between National Parliaments and the European Parliament was underlined in a - non-binding - declaration on the role of National Parliaments in the European Union. In this declaration, the national governments were asked to ensure that their parliaments received Commission proposals in good time for information or possible examination. The declaration also recommended that contacts between the European Parliament and the National Parliaments should be stepped up in order to make it easier for the National Parliaments to be involved in the Community process and to exercise better democratic control.

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1 United Kingdom, Czech Republic, Cyprus, France, Germany, Italy, Ireland, Portugal, Belgium, the Netherlands (Erste kammer), Luxembourg and Bulgaria.

2 Denmark, Estonia, Finland, Latvia, Lithuania, Poland, Slovakia, Slovenia and Sweden provide systematically mandates for government ministers. the Austrian and Hungarian Parliaments also have mandating powers, but use them less frequently.

3 Spain or Greece have been named as examples of this system.

4 At the time of COSAC's creation, not all National Parliaments had specialised European affairs committees, strengthening the sense that contact had been lost with EU legislators.

5 One of the main instruments of exchange is the Interparliamentary Information exchange (IPEX) database which contains a complete catalogue of documents of the European Commission, the outcome of the scrutiny process carried out by National Parliaments.

The **Amsterdam Treaty** went a step further with a Protocol, making it obligatory for all Commission consultation documents to be promptly forwarded to National Parliaments, which then had a six-week period to discuss a legislative proposal. However, it was still left to national governments to transmit legislative documents to their parliaments as they saw fit. The Protocol recognized formally COSAC and its right to address to the EU institutions any "contributions" which it deems necessary.

Shortly after the negative referenda in France and the Netherlands, the "**Barroso initiative**" of 2006 offered National Parliaments a direct channel for communication with the European Commission, reducing their dependency on government information and opinion. Proposals were now sent directly to them. Shortly after the rejection of the European Constitution, the idea behind it was that working closer with National Parliaments could help make European policies more attuned to the citizens and more effectively implemented. This contributed to raise awareness of European affairs within the National Parliaments. Even if the opinions of National Parliaments did not lead to major policy changes, their comments were often reiterated in the European Parliament and by the Council.

Finally, the "Barroso initiative" was legally formalized in the Lisbon Treaty, which also broadens the list of documents for direct transmission to National Parliaments.

1.3. Relations between the European Parliament and National Parliaments

During recent years, the European Parliament and National Parliaments have increased their direct cooperation. Under of the European Parliament's Rules of Procedure, the Conference of Presidents is responsible for relations with the member states' National Parliaments. More specifically, these activities are carried out under the authority of the European Parliament's president, currently Mr. Jerzy Buzek, by three EP Vice Presidents.[6]

Based on the **complementary nature of the responsibilities** of the European Parliament and the National Parliaments, the objective is to develop overlapping networks in order to promote more parliamentary accountability and transparency and handle efficiently its links with National Parliaments.

In practice, the European Parliament seeks to keep National Parliaments fully informed of its activities. Moreover, a number of its Committees regularly invite national MPs to their meetings, to share their knowledge and expertise when discussing policy proposals. Indeed, Joint Parliamentary Meetings and Joint Committee Meetings have today become a regular form of cooperation between national parliaments and the European Parliament.

Joint Parliamentary Meetings (JPMs) are meetings on broad political topics, which are organised and chaired jointly by the parliament of the country holding the EU presidency and the European Parliament.

Joint Committee Meetings (JCMs) are meetings on specific political and sectoral issues. They are organised and chaired jointly by the relevant sectoral committee or committees of the parliament of the member state holding the EU Presidency and the relevant committee of the European Parliament.

[6] Currently Mr. Miguel Ángel Martínez, Mr. Edward McMillan-Scott and Ms. Silvana Koch-Mehrin.

Apart from this, members of National Parliaments regularly visit different Committees of their interest in the European Parliament. Also, the EU assembly provides organised thematic visits for members and officials of National Parliaments.

With the Lisbon Treaty now in force, the European Parliament's Rules of procedure will be amended to incorporate new details on how its Members and National Parliaments will cooperate from now on, taking into account the Treaty's provisions on National Parliaments.

Along with extended information rights and the subsidiarity monitoring, the Treaty opens up other opportunities for Members of National Parliaments to contribute more directly to the European decision-making process. In the field of Regional and Cohesion Policies, the following changes introduced by the Lisbon Treaty are susceptible to modify the role of National Parliaments in the future.

2. New Legislative Powers for the European Parliament

The Treaty of Lisbon has brought important changes and makes the EU more democratic, transparent and effective. While preserving the basis of institutional balance between the EU-institutions, it reinforces the role of the European Parliament as one of the two branches of the legislative and budgetary authority. A number of provisions of the new Treaty might have a strong impact on the relationship of National Parliaments with the European Parliament - and especially with the Committee on Regional Development. They affect the legislative procedures as well as the scope and the governance system of Regional and Cohesion policies.

First of all, Members of National Parliaments will notice attentively that the Lisbon Treaty has turned the **European Parliament into a legislator on an equal footing with the Council** as regards Structural Funds and the Cohesion Fund. Article 177 TFEU stipulates the general application of the **ordinary legislative procedure** (co-decision), replacing the assent procedure applicable before.

"...the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and consulting the Economic and Social Committee and the Committee of the Regions, shall define the tasks, priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds. The general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing Financial Instruments shall also be defined by the same procedure.

A Cohesion Fund set up in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure."

This increases considerably the competence of the Committee on Regional Development as it enables its Members to table amendments to all Commission's proposals and/or the common positions of the Council.[7] The European Parliament and the Committee are on an equal footing with the Council in all phases of the legislative work, from the preparation over the negotiation up to the necessary compromise on legislation. Concretely, the **change of legislative procedure will be especially important for the upcoming decisions** on the **General Regulation on Structural Funds after 2013** and on **the set-up of a new Cohesion Fund**, but also on all other regulations on the Funds and on European Grouping of territorial co-operation.[8] Parliament's legislative role and the whole decision-making procedures of Regional and Cohesion policies become therewith more transparent and democratic.

As it is the case now, **implementing regulations relating to the European Regional Development Fund and all other instruments of Regional and Cohesion Policies** remain to be adopted **by co-decision** of the Parliament and the Council (Article 178 TFEU). With the Lisbon Treaty, the co-decision is renamed, but otherwise the procedure does not change considerably. Some modifications strengthen further the institutional position of the European Parliament. Under the new ordinary legislative procedure, Parliament - like the Council - is adopting in first and second reading a "position" and not just an "opinion" as

[7] The ordinary legislative procedure is laid down in Article 294 of the Treaty on the Functioning of the European Union (TFEU), which replaces article 251 of the Treaty establishing the European Community (TEC).

[8] It has already influenced the work on the proposal for a Council regulation amending the current Regulation on general provisions as regards simplification of certain requirements and certain provisions relating to financial management of the European Regional Development Fund, the European Social Fund and the Cohesion Fund (part of the 3rd simplification package regarding the implementation of Structural funding).

before. Besides, basis for the negotiations in conciliation will be the respective positions of Parliament and Council in second reading - not the Council's common position and Parliament's second reading amendments any more.

The strengthened legislative role of the European Parliament and the Committee on Regional Development should **inspire Members of National Parliaments to follow closely the debates on Regional Policy and to intensify cooperation** in order to proactively contribute to the future development of this highly relevant political area.

Delegated and implementing acts

The Lisbon Treaty implies a completely new system with respect to the former comitology procedures. They are replaced by "delegated acts" and "implementing acts", defined by Articles 290-291 TFEU. In the first case, the legislator can delegate to the Commission the power to adopt non-legislative acts of general application or to amend non-essential elements of a legislative act, whereas in the second case the Commission's role is purely executive as it is entitled - in the need for uniform conditions of implementation - to adopt implementing acts.

The **delegated acts** give the legislator the right to revoke the delegation of power or to object the delegated act - **two very important instruments of legislative control for the Parliament**. For this reason, the details of how exactly to put these new provisions into practise are currently negotiated between the European Parliament, Council and the Commission. Article 290 TFEU on delegated acts provides for a regulation to be adopted under the ordinary legislative procedure. But until this regulation comes into force, an interinstitutional interim agreement or *ad hoc* drafting solutions for legislative acts are necessary which shall confirm that the limits of delegation of power are well defined.

3. Enlarged Scope of Regional and Cohesion Policy

The second major alteration of the Lisbon Treaty in the field of Cohesion policies alongside the changed legislative procedures is also highly relevant for Members of National Parliaments: The EU now explicitly recognises "territorial cohesion" as a general political objective, in addition to economic and social cohesion.

Article 3.3 TEU states that the EU "shall promote economic, social and **territorial cohesion**, and solidarity among Member States." Accordingly, Title XVII of Part Four of the TFEU is now devoted to "**Economic, social and territorial cohesion"**, with Articles 174 - 178 on Regional Policies and Structural Funds replacing former Articles 158-162 TEC.

Furthermore, all three aspects of Cohesion policy are cited as areas of **shared competence** between the Union and Member States (Article 4.2c) TFEU).

In its definition of "cohesion policy" the Lisbon Treaty (Article 174 TFEU) restates the "reduction of regional disparities" and, more importantly, provides a **more precise and exhaustive definition than former Treaties of the regions deserving particular measures in the framework of Regional Policy:**

"Among the regions concerned, particular importance shall be paid to rural areas, areas affected by industrial transition and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions."

This means that any region in one of the above-cited conditions is by definition considered entitled to benefit from EU investment under the regional policy of the EU. Hence, recent **tendencies to limit regional and cohesion policies to only the poorest areas of the EU should be considered inconsistent with the Lisbon Treaty** - an important indication for the ongoing controversial debate on Cohesion policy after 2013.

Although the Lisbon Treaty is clear on the broad scope of application of cohesion policy, a precise **definition of the new concept of "territorial cohesion**" - admittedly a very complex task - is not given by the Lisbon Treaty. However, such a definition is important for the implementation of future cohesion policies - in order to sharpen the concept and to be able to translate it into concrete, targeted political initiatives. **Active support of National Parliaments in this debate - both at national and European level -** could be very useful. The scope, purpose and implementation of "territorial cohesion" depend on the political will to design and implement it - in the same manner as it has been the case for economic and social cohesion. Members of National Parliaments are well positioned to explain and advance this debate to the citizens and national governments

Taking the specific conditions and potentials of a territory comprehensively into account requires that the EU factors in the local and regional implications of its main sectoral policies. This is indeed a huge step forward for efforts to mainstream the concept of cohesion in all EU policies. **National Parliaments can help make the relevance of Cohesion policy as an indispensable element of economic and social cohesion become more evident to Member States** who should consequently include territorial cohesion perspectives much more in their sectoral programmes and in their National Strategic Reference Frameworks.

It is the task both of the Committee on Regional Development and of National Parliaments to advocate and encourage this inclusive new concept of cohesion vis-à-vis European, national and regional entities. **The opportunities of the Lisbon Treaty need to be exploited in political practice in order to produce positive effects**. A "screening" of

major political initiatives regarding consequences on cohesion should take centre stage of the Committee's preoccupations. At the same time, it would be useful for Members of all Parliaments to demonstrate publicly how Cohesion policy contributes to maximise the impact of other EU priorities and stimulates the economy.

4. Extended Principle of Subsidiarity and Local and Regional Autonomy

The Lisbon Treaty does not only demand national governments to strengthen territorial aspects of their policies. The new concept of "territorial cohesion" goes hand in hand with the third basic novelty affecting particularly Regional Policy, the increased consideration of regional and local actors in the definition and implementation of Cohesion policy. **National Parliaments have the privilege of a close connection to these entities and could help the upgrading of the EU multi-governance system** which would also increase the coherence of policies they advocate at national or European level.

To begin with, the general **subsidiarity principle** defined in Article 5(3) TEU is now **extended to the regional and local level**:

"Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

This idea is detailed in Protocol (N. 2) to the Lisbon Treaty "On the application of the principles of subsidiarity and proportionality", which highlights regional and local government and stresses notably that draft legislative acts have to take into account the burden, *"...financial or administrative, falling upon the Union, national governments, regional or local authorities..."(*Article 5). Consequently, the **Impact assessment** of legislative proposals should now take into account all levels of government.

In addition to that - and again for the very first time - the Lisbon Treaty explicitly recognizes the general principle of **local and regional autonomy.** Article 4.2 TEU specifies that the EU *"shall respect the equality of member states before the treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government".*

The Lisbon Treaty completes the institutional role of the **Committee of the Regions (CoR)** by giving it the right to bring actions before the Court of Justice of the EU in two distinct circumstances: Firstly, to protect its own institutional prerogatives, and secondly, to request the annulment of EU legislative acts that it considers being in breach of the principle of subsidiarity (Article 263 TFEU). This right is enshrined in Article 8 of the above mentioned "Protocol on the application of the principles of subsidiarity and proportionality":

"The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act (…) In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty (…) provides that it be consulted."

Furthermore, the CoR's mandate has been extended from four to five years and its President's term of office from 2 to 2 ½ years, bringing it in line with the other European institutions and thus rising its ability to impact political decisions. The **consultation of the CoR is obligatory on economic, social and territorial cohesion and on Structural Funds** (Articles 175, 177 and 178 TFEU). The European Parliament can establish a deadline for such a consultation.

It has to be pointed out, however, that the constitutional provisions of the Member States and their territorial distribution of competences are not directly affected by the Treaty. In this respect, the concrete implications of the above-mentioned references to regional and local authorities remain to be seen.

The provisions on the local and regional entities in EU policy decision-making require a **close cooperation between the European Parliament - especially the Committee of Regional Development - and the CoR** to assure a continuous and effective consultation of local and regional government. In order to make to fullest possible use of the practice of full regional participation, multilevel dialogue should be stepped up significantly.

In this framework, the Committee can also give valuable advice in the perspective of the creation of a **new EU policy for cities** who have become formally important partners in the search of solutions for many challenges of Regional Policy. In his Hearing before the Committee on Regional Development, the new Commissioner for Regional Policy, Mr. Johannes Hahn, has cited a new policy for cities as one of three key political priorities for his mandate.

5. Zoom on the new role for National Parliaments

For the first time with the Lisbon Treaty, an EU treaty contains a specific article acknowledging the role of National Parliaments in the EU; Article 12 of the Treaty reads: *"National parliaments contribute actively to the good functioning of the Union."* This general assumption is completed by the introduction of several new prerogatives for National Parliaments

5.1. New prerogatives for National Parliaments

The specific rights and roles envisaged in the Lisbon Treaty for National Parliaments include the following:

- Monitoring of the principle of subsidiariy (Article 12 TEU, see next chapter).
- The right to receive documents directly from the European institutions rather than having to wait for deposit by their government. According to the Protocol Nr. 1 on National Parliaments this now includes all draft legislative acts, Council agendas and minutes, annual and other instruments of legislative planning and the Annual Report of the Court of Auditors.
- Representation of National Parliaments in a Convention whose purpose is to formulate recommendations for future Treaty revisions (ordinary Treaty revision procedure, Article 48 (3) TEU).
- An obligation to be notified by the European Council six months in advance of the intent to use the so-called passerelle ("bridge") clauses, moving decision-making from unanimity or special legislative procedures to qualified majority voting or to the ordinary legislative procedure. Moreover, if one parliament opposes the proposed decision-making change within the six month period, the passerelle can not be carried out (Art. 48 (7) TEU and Art. 81 (3) TFEU).
- Involvement of National Parliaments in the evaluation of EU policies in the area of freedom, security and justice (Article 70 TFEU), in the evaluation of the activities of Eurojust (Article 85 TFEU), and in the scrutiny of Europol's activities (Article 88 TFEU).
- Notification to National Parliaments of applications made by European States for EU membership (Article 49 TEU).

5.2. Critical assessment of the new 'early warning' system for monitoring possible breaches of subsidiarity

So as to formally monitor the application of the extended subsidiarity principle, the Lisbon Treaty introduces a **new early warning system for National Parliaments**. Protocol Nr. 1 "On the Role of National Parliaments in the European Union" as well as Articles 6 and 7 of Protocol Nr. 2 on subsidiarity and proportionality lay down the detailed rules of this new *ex ante* monitoring process.

Under these rules National Parliaments must receive draft legislative acts at the same time as the European Parliament and the Council. Then, normally within 8 weeks from the date of transmission of a legislative proposal, National Parliaments - **or any chamber of a National Parliament** - can issue a reasoned opinion if they consider a draft legislation does not comply with the principle of subsidiarity. Only in "urgent cases for which due reasons have been given", the Council can decide on a draft legislation within ten days (Article 4, Protocol Nr. 1).

Thus, for the first time, national parliamentary bodies will have the opportunity to comment on European draft legislation independently from their governments.

Each National Parliament has two votes. In the case of a bicameral parliamentary system, each of the two chambers has one vote. In this framework, **regional parliaments** with legislative powers could become actors in the EU decision making process. This is possible if the concerned National Parliament deems it appropriate to consult and integrate them in the process.

If the compliance of a draft legislative act with the subsidiarity principle is contested by a third of the votes allocated to National Parliaments (i.e. 18 out 54), the proposal has to be re-examined.[9] Following this so-called **"yellow card**", the initiating institution (usually the European Commission[10]) must review its proposal and may decide to maintain, amend or withdraw the draft but must justify its decision.

Concerning proposals falling under the **ordinary legislative procedure**, the **"orange card"** procedure applies. It entails that a simple majority of the votes allocated to National Parliaments (i.e. 28 out 54) can request revision of a proposal. If the European Commission decides to maintain the proposal, the reasoned opinions of the National Parliament and the Commission opinion are transmitted to the legislator who then must consider the subsidiarity issues before the end of the first reading. If on the basis of these documents, under the ordinary legislative procedure, Parliament by a simple majority of its Members (and the Council by a majority of 55% of its members) considers that the proposal is indeed not compatible with the principle of subsidiarity, it will fail and will not receive further consideration.

Most National Parliaments and academic observers regard the new subsidiarity provisions as a useful innovation, but its importance should not be overstated. They do for instance not apply to implementing legislation (resulting from delegated or implementing acts) nor do they cover the exclusive competencies of the EU or the areas in which the EU operates primarily in a coordinating capacity (e.g. open methods of coordination like monetary issues). They also concern only proposals as introduced - not the documents containing what the European Parliament and the Council add or amend. In this area especially, National Parliaments therefore will need to consult by other channels more closely with the EU legislator in order to make their voice heard.

Furthermore, often problems National Parliaments see in European proposals are related to proportionality or to the legal base rather than to subsidiarity. But both cases are not covered by the Lisbon Treaty and thus do not foresee any formal role for National Parliaments. Also, the European Commission can maintain its position without further consequence under the ‘yellow card’ procedure. At the same time, the threshold for the more stringent ‘orange card’ procedure is high and may seldom be invoked. And it has to be noted that in the end, it is the EU legislators, not the National Parliaments, who have the last word. **Thus, it is clearly in the interest of National Parliaments to intensify their cooperation with the European Parliament in order to gain political influence on the European legislative procedures**.

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9 The threshold is a quarter of the votes of National Parliaments for proposals submitted to the strategic guidelines in the area of freedom, security and justice according to Article 68 TFEU.

10 In certain cases, the European Parliament, European Court of Justice, European Central Bank, European Investment Bank or a group of Member States have a right of initiative.

Finally, on the practical side of the subsidiarity procedure, many consider 8 weeks too short for the National Parliaments to conduct a substantial subsidiarity check. Most parliaments lack indeed the capacity to follow everything the EU does and could find themselves overwhelmed by the complex task of quickly forging a sufficiently broad alliance with other parliaments to block EU legislation. As indicated above, there are currently several different models of EU scrutiny in the 27 Member States, and the National Parliaments are not used to work collectively as they would have to in order to seriously challenge a legislative draft proposal.

In this respect, the Lisbon Protocol on National Parliaments, Article 10, might indicate some improvement as it provides the legal basis for cooperation between National Parliaments and the European Parliament and also **defines the role of COSAC** in EU policy formation. COSAC shall promote the exchange of information and best practices between National Parliaments and the European Parliament, and may submit any contribution it deems appropriate for the attention of the EU legislator.

Even if the role of National Parliaments is still somewhat limited and does not affect all fields and phases of the EU decision-making, the Lisbon Treaty provides them with incentives to consider EU policy initiatives early on in the process and to take a more proactive attitude about European issues. At the same time, the right of information leaves them better placed to scrutinise their own governments which will mean that governments will probably have to work with 'their' parliaments much more closely than they have done up to now, and keep them informed as to what is happening in Brussels to avoid them trying to block initiatives from the outset. Thus, the indirect consequences of the Lisbon Treaty might well be as important as the direct new prerogatives.

Like other new provisions of the Lisbon Treaty, the exact details of the operational relations between the European Parliament and National Parliaments still have to be determined. For example, deadlines and rules of procedure for the reasoned opinions of potentially 27 National Parliaments have to be fixed, especially considering the timeframe defined by the Lisbon Treaty. The Committee on Regional Development might need to establish more precisely than before a timetable for each legislative dossier and communicate it to the National Parliaments as soon as possible. A constant flow of transparent information will be necessary to achieve an efficient legislative dialogue at this level.

In general, it will be a challenge to develop the **consulting process between the regional, national and European Parliaments** in order to be able to comply with the provisions of the Lisbon Treaty. Also, previous experiences have shown that many Parliaments wish to convey their views not only on the question of subsidiarity, but also on the substance of legislative proposals. Therefore, one other difficulty will consist in distinguishing subsidarity related opinions from comments on the substance and in deciding how to evaluate these comments. Even if the Lisbon Treaty clearly does not cover this aspect, political endeavours might favour dealing with it in order to get legislation done. In any case, an early understanding of the National Parliaments' considerations will be beneficial, if not decisive for future legislation.[11]

[11] The Resolution (T6-0388/2009) of the European Parliament on the "Development of the relations between the European Parliament and National Parliaments under the Treaty of Lisbon", 7.5.2009, also envisages a systematic monitoring of the pre-legislative dialogue between National Parliaments and the European Commission ("Barroso initiative").

The **Committee on Regional Development**, in charge of the relations with the regions on behalf of the European Parliament, could contribute to this process by intensifying its cooperation with regional and local as well as with national politicians and, if appropriate, by communicating the results to the other Committees and authorities of the European Parliament. In fact, its experience and network should enable it to assist other Committees who might until now not have focused on regional impacts of their policies. Of course, in order to be able to do so, allocations of human, administrative and financial resources of the Parliamentary services have to be adjusted.

Finally, in addition to broadening the powers of the European Parliament in Regional policies, the Committee on Regional Development can also **support National Parliaments in their efforts to control better the management of Structural Funds by their governments.** This has been difficult for them until now, as they lack information and expertise on the subject.

More generally, in an effort to improve the implementation and efficiency of Regional Policy, the **synergy of national and European policies should be increased**. On the basis of the requirements for multi-governance in the Lisbon Treaty, the idea to organize **joint debates on political (and budgetary) priorities between National and European Parliaments** could be put forward by the Committee on Regional Development and Members of National Parliaments wishing to make progress in this field and to gain influence on EU decisions.

6. Other provisions of the Lisbon Treaty with potential impact on Regional Policy

There are several other provisions of the Lisbon Treaty with potential impact on Regional Policy. The Committee on Regional Development will be prominently in charge to monitor the following sensitive issues and to check them if appropriate with the Members of National Parliaments who on their part may find it useful to consider them for their political agenda.

6.1. State Aid and Outermost Regions

The Lisbon Treaty brings new provisions for **regional aid granted by Member States.** The former EC Treaty exempted aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany. Article 107, 2(c) TFEU amends this clause, providing for the possibility of repeal:

"*Five years after the entry into force of the Treaty amending the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.*"

In general, the special status of the **outermost regions** has been long advocated by the Committee on Regional Development. It is confirmed by Articles 349 and 355 of TFEU.

In addition to that, outermost regions are now explicitly referred to in the provisions concerning state aid. The former Treaty has been reinforced, following numerous recommendations of the European Parliament, so that Article 107 3 (a) TFEU now allows *"aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment and in the regions referred to in Article 349,*[12] *in view of their structural, economic and social situation."*

In view of the debate on the status and the contested classification of outermost regions in the General Framework of European Cohesion policy, these references are significant as they restate their need for specific political arrangements, independently of purely economic considerations and calculations.

6.2. Services of General (Economic) Interest

Another aspect of growing importance in national and European policies is the relevance of **Services of general economic interest** for the economic, social and territorial cohesion of the EU. Article 14 TFEU emphasizes "their role in promoting social and territorial cohesion". According to the Treaty, responsibility for Services of general economic interest is shared between the EU and Member States, with regional and local authorities playing their part in identifying their needs, as well as in arranging, paying and monitoring them.

Newly under the Lisbon Treaty, regulations establishing the principles and conditions to provide, commission and fund Services of general economic interest, are to be fixed - without prejudice to the competence of Member States - under the **ordinary legislative procedure**.

[12] Guadeloupe, French Guiana, Martinique, the Azores, Reunion, Madeira and the Canary Islands.

It is notable that the Treaty refers to Services of general *economic* interest, whereas an extra **Protocol Nr. 26** of the Lisbon Treaty is dedicated to the larger concept of Services of general interest. **Neither the Treaty nor the Protocol provides a definition** of what exactly constitutes one or the other - leaving open a much disputed political question with wide consequences, especially for the national regional and local level where these services are provided. It would be of major interest both for the Committee on Regional Development and for National Parliaments to actively seek the clarification of this question in order to substantiate the perspectives of public and private activities in this sector of growing importance.

Protocol 26 highlights the central role of *"local and regional authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of users*" (Article 1). These provisions are complemented by the **EU Charter of fundamental Rights** which is not contained within the Lisbon Treaty, but has through Article 6.1 TEU the same legal value as the Treaty. Besides recognising the importance of local and regional entities (preamble), it insists on the general importance of a **widespread access to services of general economic interest** as a basic objective of each specific EU policy.

Reflecting the increasing relevance - and controversy - of this subject and its direct link to Regional Policies, the **Policy Department B** of the European Parliament has recently commissioned an extensive **study** on this topic, following a request of the Committee on Regional Development. The study *The Inter-Relationship between the Structural Funds and the Provision of Services of General Interest and Services of General Economic Interest, and the Potential for Cross-Border Delivery* is expected to be finalised and presented to the Members of the Committee on Regional Development in the summer 2010.[13]

It shall provide an analysis of the definition, financing and provision of Services of general interest across the 27 Member States and should demonstrate to what extent Structural Funds are being deployed in the achievement of their investment, including funds for cooperation across borders in this field.

6.3. "Enhanced Cooperation"

The Lisbon Treaty modifies the conditions of an **enhanced cooperation** between EU Member States in case some Member States, but not all, want to cooperate in a particular political area (Article 20,2 TEU and Articles 326-334 TFEU). It requires at least nine Member States. Furthermore, as a general rule, the territorial cohesion background has to be taken into account before adopting an enhanced cooperation as the Treaty underlines: "Such cooperation **shall not undermine ...economic, social and territorial cohesion."** (Article 326 TFEU).

This condition reflects the new understanding of "territorial cohesion" as general objective of the EU and as horizontal concept impacting many sectoral policies. It has not only to be considered in the concrete decision-making process of political measures, but also in the form of cooperation Member States choose to apply.

In theory, elements of Regional and Cohesion Policies could be suitable for an enhanced cooperation of certain groups of Member States, for instance those working with the Cohesion Fund. Also, the perspective of future enlargements and the general reform of Cohesion Policies could favour reflections on a more flexible approach of political cooperation.

[13] The Study was awarded following an Open tender procedure managed by Policy Department B.

However, too much differentiation between Member States in Regional Policy as a result of enhanced cooperation would be contrary to the concept of economic, social and territorial cohesion itself. So, **if enhanced cooperation was taken into consideration, the assurance of the right balance between cohesion for all and cooperation of a few would be a core task of the Committee on Regional Development** - comparable to the current defence of the right balance between territorial and social cohesion on the one side and economic growth and competitiveness on the other side.

6.4. Parliaments' New Right of Initiative Concerning Treaty Revisions

Article 48 of the Treaty of Lisbon extends the right of initiative for future revisions of the Treaty to the European Parliament and recognizes its right to participate in the Convention in charge of this task. Should the Council decide there is no need to convene a convention and to revise the Treaty in the framework of an Intergovernmental Conference, Parliament has to give its consent to this decision as well.

The Lisbon Treaty also states that National Parliaments shall be notified if the European Council receives such revision proposals and that they will also take part in a Convention.

Since the European integration is a dynamic process, and the fundamental debate on Cohesion policy after 2013 is already going on, future revisions of the Lisbon Treaty are likely to influence Regional Policies and should therefore be carefully monitored both by the Committee on Regional Development and by National Parliaments. **The new revision procedures allow Members of all Parliaments to play a more active part which should be fully used in order to secure the central elements of modern Cohesion Policy as laid down in the Lisbon Treaty**.

6.5. New Budgetary Powers of the European Parliament and the Future of Cohesion Policy

Last, but not least, the **new budgetary procedure** introduced by the Lisbon Treaty gives the European Parliament power over all aspects of the EU budget (Articles 313-316 TFEU). The Council and Parliament have to agree, within the limit of their own resources, on the programming of expenditure which becomes legally binding. The distinction between compulsory and non-compulsory expenditure is abolished, and the budget as a whole must be adopted jointly by Parliament and the Council.

The simplified budgetary procedure will have one reading in each institution after which, if Parliament and Council do not agree, a conciliation committee will be installed to find a compromise. Namely the convening of this **conciliation committee opens up ways of proactive negotiation-power for Parliament's Committees.**

Considering the **large share of Cohesion Policy of the EU budget**, this is a crucial area where the Committee on Regional Development should intensify its influence, through closer cooperation with the Committee on Budgets - maybe common sittings - and by adequate representation in conciliation committee meetings. The constitution of Parliament's delegation in these meetings should be carefully monitored by the Committee - as well as the proper information and consultation of its Members on the state of play of the negotiations - because with the new procedure, they will take place behind closed doors (in the conciliation committee) and not in full transparency with first and second readings as before. Generally speaking, with the need to compromise on the budget after one

reading, the Lisbon Treaty favours a closer cooperation between legislative and budgetary actors, a tendency which might strengthen Parliament's impact in terms of setting political priorities corresponding to budgetary aspects. The Treaty regulates the new procedure for the annual budget, but it should also be applied to amending budgets and transfers through provisions in the new Interinstitutional Agreement.[14]

The modifications of the budgetary procedure require the **adaptation of the Financial Regulation** specifying how to adopt and implement the budget. The Lisbon Treaty stipulates that this will be done following the **ordinary legislative procedure** (Article 322 TFEU). The EU institutions and the Member States must comply with the Financial Regulation to **assure responsible spending of the tax payers' money.** Considering the problems of controlling expenditure of Structural funding in numerous Member States, the Committee on Regional Development should aim at establishing rules to streamline modes of financial management and audit. Furthermore, outdated passages of the current Financial Regulation can be adjusted to regulations on Structural funding which have been adopted during recent years and already assure simpler and better coordinated financial management.

Besides, with the Lisbon Treaty, the **Multiannual Financial Framework becomes legally binding**. It will be adopted by the Council (unanimity), after obtaining the **consent of the European Parliament** (by a majority of its component Members; Article 312 TFEU); each annual budget must comply with it. Considering the consent procedure in this case, the Committee on Regional Development should focus even more on the review of the Financial Regulation to introduce better rules on Cohesion policy, because Parliament is in the stronger co-decision position. Furthermore, this is done right now, prior to an agreement on the next Financial Framework.

The binding Multiannual Framework reduces the power of those who wish for budgetary flexibility. A way of regaining some flexibility on budgetary matters might be to increase flexibility between the headings of the multi-annual budget plan as well as the reduced duration of the Financial Framework. Parliament has already asked for five instead of seven year planning spans.[15]

Finally, the debate on the **EU budget after 2013** will obviously have decisive influence on the future of Cohesion policies. The provisions of the Lisbon Treaty on new European competences in areas such as external and security policies or climate change will require an important transfer of finances to these policies.

Given the severe budgetary deficits of many Member States, the overall EU budget is unlikely to be extended in the near future. It will thus be restructured, with possibly significant modifications of the share of resources presently assigned to the different policies. In this context, the necessity of the Committee on Regional Development's determination and action to sustain Cohesion Policy and its financial resources will even be more important. By promoting the enlarged concept of Cohesion policy, the Lisbon Treaty offers numerous legal arguments for the preservation of the current share of the EU budget. In this regard, close cooperation with National Parliaments could be beneficial for both sides. Members of National Parliaments could also profit from good relations with their European counterparts who are much more involved in budgetary procedures than before the Lisbon Treaty.

[14] A part from that, the European Parliament has requested "Transitional guidelines on budgetary matters in view of the entry into force of the Lisbon treaty" (Resolution T7-0067/2009, 12.11.2009) until this Agreement comes into force.

[15] Parliament has also advocated the possible prolongation and adjustment of the current Financial Framework until 2015/16 in order to allow a smooth transition for a system of 5 year duration and to take into consideration the mid-term evaluation of the ongoing legislative programmes in 2010/11.

Conclusion

The Lisbon Treaty has the potential to bring substantial progress to European Regional Policy and to parliamentary involvement. First, it puts the European Parliament - and thereby the Committee on Regional Development - in the driving seat as **full co-legislator**. Second, the new Treaty makes **National Parliaments** even more important partners for democratic and effective policy-making. This opens up new possibilities for the Members of all Parliaments at several stages of the EU decision-making process - from the early conception over the negotiating phase up to the decisive legislative procedures. They should use these new opportunities to enact future legislation and influence political and budgetary decisions right from the start at parliamentary level.

Numerous key aspects of the Treaty imply a pivotal role of Regional Policy in European integration. The new **horizontal concept of "territorial cohesion**" should be forcefully developed by the Committee on Regional Development and members of National Parliaments to promote Cohesion Policy as the primary EU instrument for identifying and mobilising territorial potentials and for addressing the territorial impacts generated by European integration. However, in order to be as influential as the Lisbon Treaty designs it, the political priorities of Regional Policy should be closely linked to the "EU 2020" strategy.

By taking the role of Parliaments and other national, regional and local actors more into consideration, the Lisbon Treaty follows a matter of political and democratic necessity and moves the EU **closer to the citizens**.[16] Keeping in mind the events leading up to the coming into force of the Lisbon Treaty - especially the danger of lacking democratic legitimacy -, the more transparent, multi-governmental system of the Lisbon Treaty with stronger European and National Parliaments is indispensable for the successful medium- and long-term development of the EU in general and for the definition and implementation of Regional Policies in particular.

Efficient multi-level and parliamentary cooperation will be decisive to prevent delays or even blockade of EU legislation. The impact of the "yellow and orange card" procedures will also depend on the **capacity of National Parliaments to exploit them and on their cooperation with one another as well as with the European Parliament**. Regular inter-parliamentary contacts and meetings such as the bilateral Joint Committee Meetings of corresponding committees of the European and National Parliaments could be developed into a permanent network. In any case, European "rapporteurs" should be enabled to meet with their counterparts in National Parliaments at an early stage of the legislative process. Thus, National Parliaments could enhance their influence on EU decision-making and also strengthen their scrutiny of national governments as regards their management of Structural Funds. In fact, the transposition of EU law into domestic legislation in general could be better scrutinised than in the past.

Respecting the Treaty of Lisbon means increasing common efforts in the field of Cohesion policy. In the interest of a democratic and efficient Regional Policy, the Committee on Regional Development and National Parliaments should confirm together the enlarged scope of Cohesion policy. **A better use of the complementary roles of European and National Parliaments could be a crucial element of the democratic implementation of the whole concept "Europe of the regions"** - considering the individual opportunities of each region and bringing the EU closer to the needs of its citizens.

[16] This is also confirmed by the introduction of the "citizens' initiative", Article 11.4 TEU, which gives one million citizens of a significant number of Member States the opportunity to invite the European Commission within the framework of its powers to submit any appropriate proposal citizens consider necessary for the purpose of implementing the Treaty.

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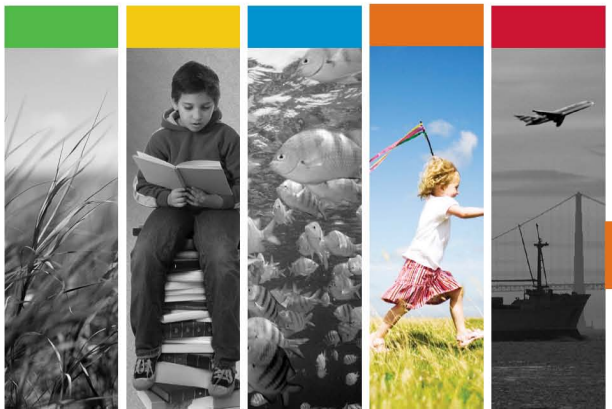

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THE IMPACT OF THE TREATY OF LISBON ON REGIONAL POLICY

NOTE

EN BG CS DE EL ES FR HU IT LT PL PT RO SK 2010

DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

REGIONAL DEVELOPMENT

THE IMPACT OF THE TREATY OF LISBON ON REGIONAL POLICY

NOTE

This document was requested by the European Parliament's Committee on Regional Development.

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LINGUISTIC VERSIONS

Original: EN
Translation: BG, CS, DE, EL, ES, FR, HU, IT, LT, PL, PT, RO, SK

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To contact the Policy Department or to subscribe to its monthly newsletter please write to: poldep-cohesion@europarl.europa.eu

Manuscript completed in January 2010.
Brussels, © European Parliament, 2010.

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DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT B: STRUCTURAL AND COHESION POLICIES

REGIONAL DEVELOPMENT

THE IMPACT OF THE TREATY OF LISBON ON REGIONAL POLICY

NOTE

Abstract:

This Note describes the impact of the Treaty of Lisbon on Regional Policy.

The Treaty introduces new provisions which affect the legislative procedures as well as the scope and the governance system of Regional Policy. They open up new possibilities of increased political influence for the Members of the Committee on Regional Development at several stages of the EU decision-making process.

IP/B/REGI/NT/2010_01 January 2010

PE 431.586 EN

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Introduction

The entry into force of the Treaty of Lisbon on 1 December 2009 has brought to an end almost a decade of discussion on EU Treaty reform.

While preserving the basis of institutional balance between the EU-institutions, it reinforces the role of the European Parliament as one of the two branches of the legislative and budgetary authority. A number of provisions of the new Treaty might have a strong impact on the activities of the Committee on Regional Development. They affect the legislative procedures as well as the scope and the governance system of Regional and Cohesion policies. The regional perspective of European governance gains importance at several stages of the EU decision-making process.

1. Ordinary Legislative Procedure and "Delegated Acts"

First of all, the Lisbon Treaty has turned the European Parliament into a legislator on an equal footing with the Council as regards Structural Funds and the Cohesion Fund. Article 177 TFEU stipulates the general application of the **ordinary legislative procedure** (co-decision), replacing the assent procedure applicable before.

"...the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and consulting the Economic and Social Committee and the Committee of the Regions, shall define the tasks, priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds. The general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing Financial Instruments shall also be defined by the same procedure.

A Cohesion Fund set up in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure."

This increases considerably the competence of the Committee on Regional Development as it enables its Members to table amendments to all Commission's proposals and/or the common positions of the Council.[1] The Parliament and the Committee are on an equal footing with the Council in all phases of the legislative work, from the preparation over the negotiation up to the necessary compromise on legislation. Concretely, the **change of legislative procedure will be especially important for the upcoming decisions** on the **General Regulation on Structural Funds after 2013** and on **the set-up of a new Cohesion Fund**, but also on all other regulations on the Funds and on European Grouping of territorial co-operation.[2] Parliament's legislative role and the whole decision-making procedures of Regional and Cohesion policies become therewith more transparent and democratic.

As it is the case now, **implementing regulations relating to the European Regional Development Fund and all other instruments of Regional and Cohesion Policies** remain to be adopted **by co-decision** of the Parliament and the Council (Article 178 TFEU).

[1] The ordinary legislative procedure is laid down in Article 294 of the Treaty on the Functioning of the European Union (TFEU), which replaces article 251 of the Treaty establishing the European Community (TEC).

[2] It has already influenced the work on the proposal for a Council regulation amending the current Regulation on general provisions as regards simplification of certain requirements and certain provisions relating to financial management of the European Regional Development Fund, the European Social Fund and the Cohesion Fund (part of the 3rd simplification package regarding the implementation of Structural funding).

With the Lisbon Treaty, the co-decision is renamed, but otherwise the procedure does not change considerably. Some modifications strengthen further the institutional position of the European Parliament. Under the new ordinary legislative procedure, Parliament - like the Council - is adopting in first and second reading a "position" and not just an "opinion" as before. Besides, basis for the negotiations in conciliation will be the respective positions of Parliament and Council in second reading - not the Council's common position and Parliament's second reading amendments any more.

Delegated and implementing acts

The Lisbon Treaty implies a completely new system with respect to the former comitology procedures. They are replaced by "delegated acts" and "implementing acts", defined by Articles 290-291 TFEU. In the first case, the legislator can delegate to the Commission the power to adopt non-legislative acts of general application or to amend non-essential elements of a legislative act, whereas in the second case the Commission's role is purely executive as it is entitled - in the need for uniform conditions of implementation - to adopt implementing acts.

The **delegated acts** give the legislator the right to revoke the delegation of power or to object the delegated act - **two very important instruments of legislative control for the Parliament**. For this reason, the details of how exactly to put these new provisions into practise are currently negotiated between the European Parliament, Council and the Commission. Article 290 TFEU on delegated acts provides for a regulation to be adopted under the ordinary legislative procedure. But until this regulation comes into force, an interinstitutional interim agreement or *ad hoc* drafting solutions for legislative acts are necessary which shall confirm that the limits of delegation of power are well defined.

The ongoing negotiations reveal considerable differences between the EU institutions which have to be resolved in order to obtain a common legal basis for the next months' work. It is in the interest of the legislator to find quick solutions to these problems in order to be able to continue the legislative work. However, the Committee on Regional Development - with other Parliamentary authorities - will have to watch closely over the ongoing discussions between the institutions in order to maintain the full power the Lisbon Treaty has given to the Parliamentary bodies. The implementation of the Treaty has to be perceived as a process which takes time, and a rushed deal could risk Parliament's new powers.

2. Enlarged Scope of Regional and Cohesion Policy

The second major alteration of the Lisbon Treaty in the field of Cohesion policies alongside the changed legislative procedures enhances by other means the competence of the Committee on Regional Development: The EU now explicitly recognises "territorial cohesion" as a general political objective, in addition to economic and social cohesion.

Article 3.3 TEU states that the EU "shall promote economic, social and **territorial cohesion**, and solidarity among Member States." Accordingly, Title XVII of Part Four of the TFEU is now devoted to "**Economic, social and territorial cohesion"**, with Articles 174 - 178 on Regional Policies and Structural Funds replacing former Articles 158-162 TEC.

Furthermore, all three aspects of Cohesion policy are cited as areas of **shared competence** between the Union and Member States (Article 4.2c) TFEU).

In its definition of "cohesion policy" the Lisbon Treaty (Article 174 TFEU) restates the "reduction of regional disparities" and, more importantly, provides a **more precise and exhaustive definition than former Treaties of the regions deserving particular measures in the framework of Regional Policy:**

"Among the regions concerned, particular importance shall be paid to rural areas, areas affected by industrial transition and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions."

This means that any region in one of the above-cited conditions is by definition considered entitled to benefit from EU investment under the regional policy of the EU. Hence, recent **tendencies to limit regional and cohesion policies to only the poorest areas of the EU should be considered inconsistent with the Lisbon Treaty** - an important indication for the ongoing controversial debate on Cohesion policy after 2013.

Although the Lisbon Treaty is clear on the broad scope of application of cohesion policy, a precise **definition of the new concept of "territorial cohesion**" - admittedly a very complex task - **is not given by the Lisbon Treaty**. However, such a definition is crucial for the implementation of future cohesion policies - in order to sharpen the concept and to be able to translate it into concrete, targeted political initiatives. The scope, purpose and implementation of "territorial cohesion" depend on the political will to design it - in the same manner as it has been the case for economic and social cohesion.

Taking the specific conditions and potentials of a territory comprehensively into account requires that the EU factors in the local and regional implications of its main sectoral policies. This is indeed a huge step forward for the Regional Committee's efforts to **mainstream the concept of cohesion in all EU policies**. On the one side, it should increase its competence to assess the impact of other policies on economic, social and territorial cohesion throughout the EU. On the other side, the relevance of Cohesion policy as an indispensable element of economic and social cohesion will become more evident to the Member States who should consequently include territorial cohesion perspectives much more in their sectoral programmes and in their National Strategic Reference Frameworks.

It is the task of the Committee on Regional Development to advocate and encourage this inclusive new concept of cohesion vis-à-vis European, national and regional entities. **The opportunities of the Lisbon Treaty need to be exploited in political practice in order to produce positive effects**. A "screening" of major political initiatives regarding consequences on cohesion should take centre stage of the Committee's preoccupations. At the same time, it would be useful for Members to demonstrate publicly how Cohesion policy contributes to maximise the impact of other EU priorities and stimulates the economy.

3. Extended Principle of Subsidiarity and Local and Regional Autonomy

The Lisbon Treaty does not only demand national governments to strengthen territorial aspects of their policies. The new concept of "territorial cohesion" goes hand in hand with the third basic novelty affecting particularly Regional Policy, the increased consideration of regional and local actors in the definition and implementation of Cohesion policy. They have strongly welcomed this upgrading of the EU multi-governance system and expect it to be implemented.

To begin with, the general **subsidiarity principle** defined in Article 5(3) TEU is now **extended to the regional and local level**:

"Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

This idea is detailed in **Protocol (N. 2)** to the Lisbon Treaty "On the application of the principles of subsidiarity and proportionality", which highlights regional and local government and stresses notably that draft legislative acts have to take into account the burden, *"...financial or administrative, falling upon the Union, national governments, **regional or local authorities**..."(*Article 5). Consequently, the **Impact assessment** of legislative proposals should now take into account all levels of government.

In addition to that - and again for the very first time - the Lisbon Treaty explicitly recognizes the general principle of **local and regional autonomy.** Article 4.2 TEU specifies that the EU *"shall respect the equality of member states before the treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government".*

The Lisbon Treaty completes the institutional role of the **Committee of the Regions (CoR)** by giving it the right to bring **actions before the Court of Justice of the EU** in two distinct circumstances: Firstly, to protect its own institutional prerogatives, and secondly, to request the annulment of EU legislative acts that it considers being in breach of the principle of subsidiarity (Article 263 TFEU). This right is enshrined in Article 8 of the above mentioned "Protocol on the application of the principles of subsidiarity and proportionality":

"The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act (…) In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty (…) provides that it be consulted."

Furthermore, the CoR's mandate has been extended from four to five years and its President's term of office from 2 to 2 ½ years, bringing it in line with the other European institutions and thus rising its ability to impact political decisions. The **consultation of the CoR is obligatory on economic, social and territorial cohesion and on Structural Funds** (Articles 175, 177 and 178 TFEU). The Parliament can establish a deadline for such a consultation.

It has to be pointed out, however, that the constitutional provisions of the Member States and their territorial distribution of competences are not directly affected by the Treaty. In this respect, the concrete implications of the above-mentioned references to regional and local authorities remain political statements.

The provisions on the local and regional entities in EU policy decision-making require a **close cooperation between the European Parliament - especially the Committee of Regional Development - and the CoR** to assure a continuous and effective consultation of local and regional government. In order to make to fullest possible use of the practice of full regional participation, multilevel dialogue should be stepped up significantly.

In this framework, the Committee can also give valuable advice in the perspective of the creation of a **new EU policy for cities** who have become formally important partners in the search of solutions for many challenges of Regional Policy. In his Hearing before the Committee on Regional Development, the Commissioner-designate for Regional Policy, Johannes Hahn, has cited a new policy for cities as one of three key political priorities for his mandate.

4. Subsidiarity Control by National and Regional Parliaments

So as to formally monitor the application of this extended subsidiarity principle, the Lisbon Treaty introduces a **new early warning system for National Parliaments** (Article 12 TEU) which could influence the practical work of the Committee on Regional Development. Protocol Nr. 1 "On the Role of National Parliaments in the European Union" as well as Articles 6 and 7 of Protocol Nr. 2 on subsidiarity and proportionality lay down the detailed rules of this new *ex ante* monitoring process.

Under these rules National Parliaments must receive draft legislative acts at the same time as the European Parliament and the Council. Then, normally within 8 weeks from the date of transmission of a legislative proposal, National Parliaments - **or any chamber of a National Parliament** - can issue a reasoned opinion if they consider a draft legislation does not comply with the principle of subsidiarity. Only in "urgent cases for which due reasons have been given", the Council can decide on a draft legislation within ten days (Article 4, Protocol Nr. 1).

Thus, for the first time, national parliamentary bodies will have the opportunity to comment on European draft legislation independently from their governments.

Each National Parliament has two votes. In the case of a bicameral parliamentary system, each of the two chambers has one vote. In this framework, **regional parliaments** with legislative powers could become actors in the EU decision making process. This is possible if the concerned National Parliament deems it appropriate to consult and integrate them in the process.

If the compliance of a draft legislative act with the subsidiarity principle is contested by a third of the votes allocated to National Parliaments (a simple majority concerning proposals falling under the ordinary legislative procedure), the proposal has to be re-examined.[3] The

[3] The threshold is a quarter of the votes of National Parliaments for proposals submitted to the strategic guidelines in the area of freedom, security and justice according to Article 68 TFEU.

European Parliament will receive not only the reasoned opinion of the National Parliaments, but also the reaction of the Commission. If on the basis of these documents, under the ordinary legislative procedure, Parliament by a simple majority of its Members (and the Council by a majority of 55% of its members) considers that the proposal is indeed not compatible with the principle of subsidiarity, it is abandoned.

Like other new provisions of the Lisbon Treaty, the exact details of the operational relations between the European Parliament and National Parliaments still have to be determined. For example, deadlines and rules of procedure for the reasoned opinions of potentially 27 National Parliaments have to be fixed, especially considering the timeframe defined by the Lisbon Treaty. The Committee on Regional Development might need to establish more precisely than before a timetable for each legislative dossier and communicate it to the National Parliaments as soon as possible. A constant flow of transparent information will be necessary to achieve an efficient legislative dialogue at this level.

In general, it will be a challenge to develop the **consulting process between the regional, national and European Parliaments** in order to be able to comply with the provisions of the Lisbon Treaty. Also, previous experiences have shown that many Parliaments wish to convey their views not only on the question of subsidiarity, but also on the substance of legislative proposals. Therefore, one other difficulty will consist in distinguishing subsidarity related opinions from comments on the substance and in deciding how to evaluate these comments. Even if the Lisbon Treaty clearly does not cover this aspect, political endeavours might favour dealing with it in order to get legislation done. In any case, an early understanding of the National Parliaments' considerations will be beneficial, if not decisive for future legislation.[4]

The **Committee on Regional Development**, in charge of the relations with the regions on behalf of the European Parliament, could contribute to this process by intensifying its cooperation with regional and local as well as national politicians and, if appropriate, by communicating the results to the other Committees and authorities of the European Parliament. In fact, its experience and network should enable it to assist other Committees who might until now not have focused on regional impacts of their policies. Of course, in order to be able to do so, allocations of human, administrative and financial resources of the Parliamentary services have to be adjusted.

Finally, in addition to broadening the powers of the European Parliament in Regional policies, the Committee on Regional Development can also **support National Parliaments in their efforts to control better the management of Structural Funds by their governments.** This has been difficult for them until now, as they lack information and expertise on the subject.

More generally, in an effort to improve the implementation and efficiency of Regional Policy, the **synergy of national and European policies has to be increased**. On the basis of the requirements for multi-governance in the Lisbon Treaty, the idea to organize **joint debates on political (and budgetary) priorities between National and European Parliaments** could be put forward by the Committee on Regional Development.

[4] The Resolution (T6-0388/2009) of the European Parliament on the "Development of the relations between the European Parliament and National Parliaments under the Treaty of Lisbon", 7.5.2009, also envisages a systematic monitoring of the pre-legislative dialogue between National Parliaments and the European Commission ("Barroso initiative").

5. Other provisions of the Lisbon Treaty with potential impact on Regional Policy

There are several other provisions of the Lisbon Treaty with potential impact on Regional Policy. The Members of the Committee on Regional Development will be prominently in charge to monitor the following sensitive issues and to check them as appropriate with the local, regional and national level.

5.1. State Aid and Outermost Regions

The Lisbon Treaty brings new provisions for **regional aid granted by Member States.** The former EC Treaty exempted aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany. Article 107, 2(c) TFEU amends this clause, providing for the possibility of repeal:

"*Five years after the entry into force of the Treaty amending the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.*"

In general, the special status of the **outermost regions** has been long advocated by the Committee on Regional Development. It is confirmed by Articles 349 and 355 of TFEU.

In addition to that, outermost regions are now explicitly referred to in the provisions concerning state aid. The former Treaty has been reinforced, following numerous recommendations of the European Parliament, so that Article 107 3 (a) TFEU now allows *"aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment and in the regions referred to in Article 349,*[5] *in view of their structural, economic and social situation."*

In view of the debate on the status and the contested classification of outermost regions in the General Framework of European Cohesion policy, these references are significant as they restate their need for specific political arrangements, independently of purely economic considerations and calculations.

5.2. Services of General (Economic) Interest

Another aspect of growing importance in European policies in general and in Regional Policies in particular is the relevance of **Services of general economic interest** for the economic, social and territorial cohesion of the EU. Article 14 TFEU emphasizes "their role in promoting social and territorial cohesion". According to the Treaty, responsibility for Services of general economic interest is shared between the EU and Member States, with regional and local authorities playing their part in identifying their needs, as well as in arranging, paying and monitoring them.

Newly under the Lisbon Treaty, regulations establishing the principles and conditions to provide, commission and fund Services of general economic interest, are to be fixed - without prejudice to the competence of Member States - under the **ordinary legislative procedure**.

[5] Guadeloupe, French Guiana, Martinique, the Azores, Reunion, Madeira and the Canary Islands.

It is notable that the Treaty refers to Services of general *economic* interest, whereas an extra **Protocol Nr. 26** of the Lisbon Treaty is dedicated to the larger concept of Services of general interest. **Neither the Treaty nor the Protocol provides a definition** of what exactly constitutes one or the other - leaving open a much disputed political question with wide consequences, especially for the local and regional level where these services are provided. It would be of major interest for the Committee on Regional Development to actively seek the clarification of this question in order to substantiate the perspectives of public and private activities in this sector of growing importance.

Protocol 26 highlights the central role of *"local and regional authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of users*" (Article 1). These provisions are complemented by the **EU Charter of fundamental Rights** which is not contained within the Lisbon Treaty, but has through Article 6.1 TEU the same legal value as the Treaty. Besides recognising the importance of local and regional entities (preamble), it insists on the general importance of a **widespread access to services of general economic interest** as a basic objective of each specific EU policy.

Reflecting the increasing relevance - and controversy - of this subject and its direct link to Regional Policies, the **Policy Department B** of the European Parliament has recently commissioned an extensive **study** on this topic, following a request of the Committee on Regional Development. The study *The Inter-Relationship between the Structural Funds and the Provision of Services of General Interest and Services of General Economic Interest, and the Potential for Cross-Border Delivery* is expected to be finalised and presented to the Members of the Committee on Regional Development in the summer 2010.[6]

It shall provide an analysis of the definition, financing and provision of Services of general interest across the 27 Member States and should demonstrate to what extent Structural Funds are being deployed in the achievement of their investment, including funds for cooperation across borders in this field.

5.3. "Enhanced Cooperation"

The Lisbon Treaty modifies the conditions of an **enhanced cooperation** between EU Member States in case some Member States, but not all, want to cooperate in a particular political area (Article 20,2 TEU and Articles 326-334 TFEU). It requires at least nine Member States. Furthermore, as a general rule, the territorial cohesion background has to be taken into account before adopting an enhanced cooperation as the Treaty underlines: "Such cooperation **shall not undermine ...economic, social and territorial cohesion** (Article 326 TFEU).

This condition reflects the new understanding of "territorial cohesion" as general objective of the EU and as horizontal concept impacting many sectoral policies. It has not only to be considered in the concrete decision-making process of political measures, but also in the form of cooperation Member States choose to apply.

In theory, elements of Regional and Cohesion Policies could be suitable for an enhanced cooperation of certain groups of Member States, for instance those working with the Cohesion Fund. Also, the perspective of future enlargements and the general reform of Cohesion Policies could favour reflections on a more flexible approach of political cooperation.

[6] The Study was awarded following an Open tender procedure managed by Policy Department B.

However, too much differentiation between Member States in Regional Policy as a result of enhanced cooperation would be contrary to the concept of economic, social and territorial cohesion itself. So, **if enhanced cooperation was taken into consideration, the assurance of the right balance between cohesion for all and cooperation of a few would be a core task of the Committee on Regional Development** - comparable to the current defence of the right balance between territorial and social cohesion on the one side and economic growth and competitiveness on the other side.

5.4. Parliament's New Right of Initiative Concerning Treaty Revisions

Article 48 of the Treaty of Lisbon extends the right of initiative for future revisions of the Treaty to the European Parliament and recognizes its right to participate in the Convention in charge of this task. Should the Council decide there is no need to convene a convention and to revise the Treaty in the framework of an Intergovernmental Conference, Parliament has to give its consent to this decision as well.

Since the European integration is a dynamic process, and the fundamental debate on Cohesion policy after 2013 is already going on, future revisions of the Lisbon Treaty are likely to influence Regional Policies and should therefore be carefully monitored by the Committee on Regional Development. **The new revision procedures allow Members of the Parliament to play a more active part which should be fully used in order to secure the central elements of modern Cohesion Policy as laid down in the Lisbon Treaty**.

5.5. New Budgetary Powers of the Parliament and the Future of Cohesion Policy

Last, but not least, the **new budgetary procedure** introduced by the Lisbon Treaty gives Parliament power over all aspects of the EU budget (Articles 313-316 TFEU). The Council and Parliament have to agree, within the limit of their own resources, on the programming of expenditure which becomes legally binding. The distinction between compulsory and non-compulsory expenditure is abolished, and the budget as a whole must be adopted jointly by Parliament and the Council.

The simplified budgetary procedure will have one reading in each institution after which, if Parliament and Council do not agree, a conciliation committee will be installed to find a compromise. Namely the convening of this **conciliation committee opens up ways of proactive negotiation-power for Parliament's Committees.**

Considering the **large share of Cohesion Policy of the EU budget**, this is a crucial area where the Committee on Regional Development should intensify its influence, through closer cooperation with the Committee on Budgets - maybe common sittings - and by adequate representation in conciliation committee meetings. The constitution of Parliament's delegation in these meetings should be carefully monitored by the Committee - as well as the proper information and consultation of its Members on the state of play of the negotiations - because with the new procedure, they will take place behind closed doors (in the conciliation committee) and not in full transparency with first and second readings as before. Generally speaking, with the need to compromise on the budget after one reading, the Lisbon Treaty favours a closer cooperation between legislative and budgetary actors, a tendency which might strengthen Parliament's impact in terms of setting political priorities corresponding to budgetary aspects. The Treaty regulates the new procedure for

the annual budget, but it should also be applied to amending budgets and transfers through provisions in the new Interinstitutional Agreement.[7]

The modifications of the budgetary procedure require the **adaptation of the Financial Regulation** specifying how to adopt and implement the budget. The Lisbon Treaty stipulates that this will be done following the **ordinary legislative procedure** (Article 322 TFEU). The EU institutions and the Member States must cooperate with the Financial Regulation to **assure responsible spending of the tax payers' money.** Considering the problems of controlling expenditure of Structural funding in numerous Member States, the Committee on Regional Development should aim at establishing rules to streamline modes of financial management and audit. Furthermore, outdated passages of the current Financial Regulation can be adjusted to regulations on Structural funding which have been adopted during recent years and already assure simpler and better coordinated financial management.

Besides, with the Lisbon Treaty, the **Multiannual Financial Framework becomes legally binding**. It will be adopted by the Council (unanimity), after obtaining the **consent of the European Parliament** (by a majority of its component Members; Article 312 TFEU); each annual budget must comply with it. Considering the consent procedure in this case, the Committee on Regional Development should focus even more on the review of the Financial Regulation to introduce better rules on Cohesion policy, because Parliament is in the stronger co-decision position. Furthermore, this is done right now, prior to an agreement on the next Financial Framework.

The binding Multiannual Framework reduces the power of those who wish for budgetary flexibility. A way of regaining some flexibility on budgetary matters might be to increase flexibility between the headings of the multi-annual budget plan as well as the reduced duration of the Financial Framework. Parliament has already asked for five instead of seven year planning spans.[8]

Finally, the debate on the **EU budget after 2013** will obviously have decisive influence on the future of Cohesion policies. The provisions of the Lisbon Treaty on new European competences in areas such as external and security policies or climate change will require an important transfer of finances to these policies.

Given the severe budgetary deficits of many Member States, the overall EU budget is unlikely to be extended in the near future. It will thus be restructured, with possibly significant modifications of the share of resources presently assigned to the different policies. In this context, the necessity of the Committee on Regional Development's determination and action to sustain Cohesion Policy and its financial resources will even be more important. By promoting the enlarged concept of Cohesion policy, the Lisbon Treaty offers numerous legal arguments for the preservation of the current share of the EU budget.

[7] A part from that, the European Parliament has requested "Transitional guidelines on budgetary matters in view of the entry into force of the Lisbon treaty" (Resolution T7-0067/2009, 12.11.2009) until this Agreement comes into force.

[8] Parliament has also advocated the possible prolongation and adjustment of the current Financial Framework until 2015/16 in order to allow a smooth transition for a system of 5 year duration and to take into consideration the mid-term evaluation of the ongoing legislative programmes in 2010/11.

Conclusion

The Lisbon Treaty has the potential to bring substantial progress for the European Regional Policy and puts the European Parliament - and thereby the Committee on Regional Development - in the driving seat as **full co-legislator**. The Treaty opens up new possibilities for the Members of the Committee at several stages of the EU decision-making process - from the early conception over the negotiating phase up to the decisive legislative procedures. They should use these new opportunities to enact future legislation and influence political and budgetary decisions right from the start.

Numerous key aspects of the Treaty imply a pivotal role of Regional Policy in European integration. The new **horizontal concept of "territorial cohesion**" should be forcefully developed by the Committee Members. Cohesion Policy is the primary EU instrument for identifying and mobilising territorial potentials and for addressing the territorial impacts generated by European integration. However, in order to be as influential as the Lisbon Treaty designs it, Regional Policy has to be effective and its political priorities should be closely linked to the EU 2020 strategy.

By taking the role of the regional and local actors more into consideration, the Lisbon Treaty follows a matter of political and democratic necessity and moves the EU **closer to the citizens**.[9] Keeping in mind the events leading up to the coming into force of the Lisbon Treaty - especially the danger of lacking democratic legitimacy -, the more transparent, multi-governmental system of the Lisbon Treaty with a stronger European Parliament is indispensable for the successful medium- and long-term development of the EU in general and for the efficient definition and implementation of Regional Policies in particular.

The Committee on Regional Development plays a leading role in this context, both promoting the inclusive cohesion concept and representing the European Parliament towards the local, regional, national and European level. This special position should be valorised by intensifying its relations with the regional and local governmental entities and by assisting if appropriate other Parliamentary bodies in this field. Concretely, it is important that Members of the Regional Committee **-** especially rapporteurs and shadow rapporteurs - are well informed about the ongoing debates in National Parliaments as well as in local and regional governmental bodies in order to evaluate correctly and timely the contributions these entities can be expected to put forward. Efficient multi-level cooperation will be decisive to prevent delays or even blockade of EU legislation.

Respecting the Treaty of Lisbon points to increased efforts in the field of Cohesion policy, not to its reduction. The implementation of the new Treaty has just started and will take time. In the interest of a democratic and efficient Regional Policy, the Committee on Regional Development should confirm its formal position and the enlarged scope of its responsibilities in the ongoing negotiations on the implementation of the Treaty and on the Rules of Procedure of the European Parliament.[10] In practise, it should offer a strong partnership to all stakeholders of Regional Policy and stand up for integrated, multi-level policy coordination as a catalyst of the EU 2020 agenda. The goal should be to ensure that the objectives of Regional and Cohesion Policies are duly taken into account by other main EU policies.

[9] This is also confirmed by the introduction of the "citizens' initiative", Article 11.4 TEU, which gives one million citizens of a significant number of Member States the opportunity to invite the European Commission within the framework of its powers to submit any appropriate proposal citizens consider necessary for the purpose of implementing the Treaty.

[10] For this purpose, it can focus on the priorities exposed in the non-legislative resolution "on Parliament's new role and responsibilities in implementing the Treaty of Lisbon", 7.05.2009 (based on the Opinion of the Committee on Regional Development A6-0145/2009).

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