

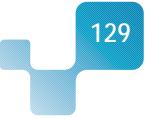




EUROPE

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I. Introduction

The Europe under study in this chapter covers more than the European Union (EU) and less than Europe the geographical entity because the area discussed here ends at the eastern border of the European Union. The states that make up this region (35) are more diverse than ever, yet they share two intrinsic characteristics that distinguish them from all other geo-political regions: 1) Every part of their territories is administered by a municipal government; 2) All of these states recognize a discrete set of fundamental principles on which local democracy is based. These principles, drawn up and implemented with the participation of local authorities and their organizations, were enshrined in the 1985 European Charter of Local Self-Government, which has since been ratified by several states outside the region defined here. Moreover, local self-government has been recognized as a governing principle by the EU.

However, behind this broad agreement on basic principles lies a striking variety of institutions and practices, and quite distinctive national exigencies. The traditional diversity typical of the western states has now been increased by the central and eastern new member states of the European Union, in which the principle of local self-government has only been translated since the 1990s into institution-building. Also joining in the process are other states in South-eastern Europe, where reforms are even more recent and fragile. Despite all this diversity, a number of major trends in common can be identified.

The first such trend concerns territorial organization. The European countries seem to be entering a new phase of territorial reform that is significantly different from those of the 1960s and 1970s. Not all states are similarly affected by this development; some in fact remain outside of it. In essence, the new territorial reforms are concerned with strengthening the municipal and inter-municipal frameworks, the

trend toward regionalization, and problems related to organizing urban areas.

The reforms of the 1960s and 1970s set the scene for two contrasting approaches to local government: the council as provider of public services (epitomized by the United Kingdom), and the council as public body based on a community of local people (epitomized by France). The countries that followed the second approach did not undergo territorial reforms at the time, but since the late 1990s these reforms are back on the agenda because of the now inescapable need to rationalize local government structures. Such reforms always aim at getting first-tier local governments¹ to take on greater responsibilities, directly or indirectly, by giving them adequate capacity to do so. What has sometimes worked against this approach, however, has been an avowed policy of bringing local government closer to local people; after regime changes in Eastern Europe, this localizing trend led to the break-up of many councils in the Czech Republic, Hungary, Slovak Republic, and the states that once comprised Yugoslavia, Serbia and Montenegro excepted for the moment.

The other important development in terms of territorial organization has been regionalization. Contrary to many assumptions, regionalization is much more a functional issue than an institutional one. Far more than a question of the number and character of institutions, regionalization concerns territorial policies adopted in response to problems that are neither strictly local nor national. Regionalization manifests itself very differently depending on the constitutional framework of each state, and on how it cuts across issues peculiar to that country. While it concerns urban organization in the Netherlands or institutional regionalism in Spain, regionalization takes many other forms as well. Sometimes it is a layer added to traditional intermediary authorities, without undermining them, as is the case with the French *département*. These examples also serve to draw attention to the

Every part of their territories is administered by a municipal government and all of these states recognize a discrete set of fundamental principles on which local democracy is based

1. The "first-tier" or premier degré is that of basic community-level local government, however they are defined within the national context.

For all the European countries the organization of large urban areas, and capital cities, is a key issue

2. We distinguish between regional self-government and regional autonomy: the latter is a much stronger form, closer to federalism than to classical local self-government, and affecting the constitutional structure of the state.

potential impact of regionalization at the municipal level.

The organization of large urban areas, including their capital cities, is a key issue for all the European countries. Nor is this a particularly new issue. It has, however, come back under the spotlight in the past 10 years. The problem remains one of how to structure and connect the different levels of urban organization while allowing for functional needs as well as the demands of democracy. Responses have varied, such as between adapting common law and applying specific regulations, between integration within a metropolitan authority and focusing on the city as a centre.

The second major identifiable trend concerns the management of local authorities, and their powers and responsibilities. Summarized, the powers and responsibilities devolved to local authorities are increasing, though states are tending to strengthen their control over local finance. Combined with this general trend are a variety of issues specific to each state. The powers and responsibilities of local authorities have suffered from the establishment of regional autonomies², although some remedies have been put forward (e.g. the 2001 constitutional amendments in Italy and their implementation) or are being debated (e.g. the "local autonomy pacts" in Spain). The powers and responsibilities of local authorities have suffered from the establishment of regional forms of self-government. Some measures to remedy this, such as the 2001 constitutional review in Italy, have already been taken; others are being debated, including Spain's "local self-government pacts."

With regard to powers and responsibilities in a strictly technical sense, local authorities have been affected by sector-specific developments as well as more general ones. Under the latter category, it should be noted how the general competence clause on their powers and responsibilities has found widespread application despite

some resistance. The Charter's legal situation remains uncertain in Italy, Portugal, Spain and the United Kingdom, and there is an increasing tendency among local authorities to turn to the private sector to deliver public services; privatization has been less significant in countries with a long record of such outsourcing, including Belgium, France, Greece, Italy and Spain. Some countries have developed a system of delegated powers and responsibilities, in particular Austria, the Czech Republic, Germany, Hungary, Italy and Slovenia. This practice allows local councils to execute administrative tasks under state responsibility. Among the sector-specific developments, it is evident that local authorities are becoming increasingly involved in education as well as in public safety, though here central control is being reinforced in countries where the local councils and mayors already exercised broad powers.

Progress in public-sector management is evident throughout the European region, even in the newly democratized and decentralized countries that have benefited from various programs developed by international organizations, and through bilateral cooperation projects. The precepts of the "new public management" have been differently received among European countries, depending on individual public service traditions, but the increase in responsibilities and the accompanying rationing of resources intensified pressure on local authorities to find ways to rationalize their management in order to give themselves maneuvering room. "Performance culture" has advanced and spread, as has its peculiar lexicon: defining objectives, indicators for evaluating results and benchmarking tools.

Another major development affecting European local authorities concerns the dynamics of institutions and local democracy. Along with the steady progress made by local democracy, local government is further differentiating, regarding the relationship between an assembly and the executive body,

between the design of the executive, the forms of election in use (e.g. increasing practice of direct election of mayors) and the place given to citizen participation. Despite the wide variety of processes and reforms involved, a common tendency can be identified: that of seeking to establish a political leadership that is clearly accountable to its citizens. Promoting local executive power, as distinct from the assembly, is widely regarded as a necessary means for strengthening political leadership and accountability, even where there is no direct election of a mayor, which is the case in the United Kingdom and the Netherlands.

A presentation of the condition of local democracy in Europe, however generalized, must account for both common tendencies and the diversity of institutions and practices. The split between shared and distinct elements underlies territorial organization, powers and responsibilities, management and finance and local democracy.

II. Territorial organization

The municipal level has to be distinguished from the intermediate levels, but we will focus here on the municipal level, including inter-municipal institutions. Any comparative presentation of the territorial structures of the European states must take into account all the reforms that have been carried out over the past thirty years, as well as their many structural offspring. Such a presentation presupposes defining the different levels of territorial organization.

II.1. Definition of jurisdictions and government levels

Traditional presentations are based on the idea that the local authorities within a state are usually organized into two levels – a local council and a higher level covering a more or less vast constituency. Powers and responsibilities are usually divided between these two levels according to functional criteria. (Marcou / Verebelyi: 1993; Nor-

ton: 1993). Even so, in the following countries certain councils can take on the powers and responsibilities of both government levels:

- Germany: municipality and district (*Kreis*), with larger urban municipalities having the status of a district and district-level concomitant powers and responsibilities. A similar system is now used in Hungary and Poland;
- England: district and county. Before the 1972 reforms, certain boroughs had the attributes of a county. Since the reforms of 1986 and 1996, some areas have only a single-tier local authority –the district in metropolitan areas, the unitary council in others;
- Belgium, France, Italy and Spain: the municipality and province, or *département*. This applied in Belgium, Italy and Spain before regions with constitutional status were set up³.

This standard depiction more or less left out countries like Finland, Greece and Portugal, which traditionally had just one level of decentralization. Nor do these standard criteria take into account differences in size that can affect meaning at a higher level⁴. The traditional presentation also failed to account for administrative divisions existing exclusively to meet the needs of the central government, and excluded federal entities like those in Austria and Germany. Such shortcomings aside, the traditional form of presentation did offer a certain conceptual unity for the concept of local government based on one or two levels.

These days, the picture is far more complicated. For one thing, regions have been created in several countries but according to very different concepts that, moreover, have changed over time. Belgium became a federal state; in Italy and Spain, the development of regional autonomies put an end to the unitary state.

3. In Italy, the regions with ordinary status were not set up until 1970, although they were provided for under the 1947 Constitution.

4. For example, the difference between the German *Kreis*, considered to be both a single local authority and a consortia of municipalities, and the British county, covering a much larger administrative division – the usual translation of *Kreis* with county blurred this significant difference.

National capitals sometimes have a particular status positioning them in a direct relationship with their country's central authority

The United Kingdom has moved to an asymmetrical organization with regional autonomies for Scotland, and Northern Ireland, a unitary regime for England and to a lesser extent for Wales. (Wales has no proper legislative power after the Wales Act 2006). Meanwhile, in France the region is a third-tier local authority –a model that Poland has followed. Furthermore, those countries that did not undergo territorial reforms developed institutions for inter-municipal cooperation to take on the tasks that small local councils could not manage. This has resulted in further differentiation of the municipal level (the first tier). At the same time the new institutions have become closer to the second tier, and have begun to compete with traditional local authorities at that level. Analyzing authorities in terms of two-tier local government is thus no longer enough to give a proper account of the current reality. Asymmetric patterns are more frequent and the number and the nature of local governments may vary from one part of the country to another one. This new complexity means that we have to consider on the one hand, the different government levels of the territorial organization of the state as a whole and on the other the differences in the status of the institutions that we find at each of these levels.

In an effort to present territorial structures in simplified form while still accounting for the new complexity, the table below classifies states by the number of levels of territorial organization for which local governments have been established, and also according to whether they are unitary or composite states. Here the term composite states follows the definition provided by the Spanish Constitutional Court: federal states and states with regional self-government, which share the following features:

5. E.g. with the purpose to fulfil specific functions.
 6. This means that it aims at answering demands related to the implementation of competences.
- 1) a plurality of legislative authority at the center, with the constituent mem-

bers as a major expression of their political autonomy;

- 2) the constitution sets out and guarantees the division of powers and responsibilities between the competence of the central authority and the competence of the constituent members.

By convention, two of the table's cells show those states that have an asymmetric structure; that is, regional autonomy in only part of the territory, or local councils not included in second-tier administrative divisions, or disappearance of the province when the region merges with its administrative area. Inter- or supramunicipal structures (including those of highly integrated inter-municipalities, such as in France or Hungary) will be treated as being part of the municipal level, as will infra-municipal bodies (e.g., the *freguesias* in Portugal or the "town councils" in Bulgaria).

Note that territorial reform is once again on the agenda, though this time based more on functional criteria⁵. Also, there is a general trend toward strengthening politically local governments at the basic level of the community as well as the guarantees for their self-governance; the intermediate levels typically show a tendency to regionalization, although only a minority of states is establishing strong political regions. Setting up such regions can have undermining effects on municipalities.

National capitals sometimes have a particular status positioning them in a direct relationship with their country's central authority (i.e., Berlin, Bucharest, Budapest, Paris, Prague and Vienna).

II.2. Basic community-level local government (the local council)

In all countries, it is at the level of the local council that the issue of trying to balance political space with functional⁶ space becomes particularly critical, especially in the

Table 1 Levels of local governments by country

Levels	Unitary States	Composite States
3 levels: local council; département/province/county/district; region or federal body	France, Poland	Belgium, Germany, Italy, Spain
2 levels: - 1) local council; province / département / county/district - 2) local council, region or federal body	1) Croatia, Greece, Hungary, Ireland, Latvia, Netherlands, Norway, Poland (cities with district status), Romania 2) Albania, Czech Republic, Denmark (at 01/01/2007), France (Paris), Serbia (Vojvodine), Slovak Republic, Sweden, United Kingdom (England, Wales)	1) none 2) Austria, Belgium (Brussels-capital), Bosnia-Herzegovina, German Federation (Kreisfreie Städte), Portugal (island regions), Spain (certain uni-provincial autonomous communities), Switzerland, United Kingdom (Scotland)
1 level: local councils and consortia of local councils	1) Bulgaria, Cyprus, Estonia, Finland, Iceland, Lithuania, Luxembourg, FYR Macedonia, Malta, Montenegro, Portugal (continental), Republika Srpska, Serbia, Slovenia, United Kingdom (England: unitary councils and metropolitan districts) 2) certain capitals: Bucharest, Budapest, Prague, Zagreb	Germany (city States: Berlin, Bremen, Hamburg); Austria (Vienna)

urban areas (Bennett:1989; Kersting / Vetter: 2003; Baldersheim / Illner / Wollmann: 2003).

Here it is useful to divide countries according to two criteria of the territorial pattern of municipalities:

- Countries with a highly fragmented municipal pattern (Austria, the Czech Republic, France, Hungary, Italy, Spain and Switzerland) compared with countries that have undergone municipal reorganization aimed at the establishment of larger units (Belgium, Eastern European countries from the 1950s to the 1970s, Germany, Greece, Lithuania today, Nordic countries and the United Kingdom);
- Countries with a uniform status of municipalities (Western and Northern Europe, except the United Kingdom), compared with countries operating a

distinct status for cities (Central and Eastern Europe, starting from Germany and the United Kingdom).

The growing pressures of increased urbanization explain this last distinction in the case of England long before the reforms of the 1970s; in the other countries, it is a consequence of social structures that for a long time made it difficult to expand municipal self-government in the countryside.

Today, territorial reform is back on the agenda in many countries, but from a different perspective. The reforms of the 1950s, 1960s and 1970s were aimed at establishing minimal or optimal sizes to match the powers and responsibilities to be exercised. The reforms of recent years have instead been driven more by functional concerns, and can therefore take more forms than the simple merging of municipalities; they also cover more of the civic

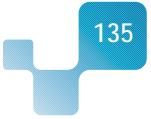
Territorial reform and functional reform

The great territorial reforms of the past did meet objectives of functional reform⁷. In Greece for example, the municipal reform of 1912 allowed for any built-up area with a population of more than 300 and a primary school to constitute itself as a municipality. In Sweden, the territorial reforms of 1952 and 1970 were devised mainly in order to help implement state education reforms at the municipal level. In Germany, the municipal reforms of 1965-1975 were based on the theory of central places, whereby a whole range of services and material resources would be provided from these for a given population. These reforms also aimed at giving municipalities a territorial basis for their powers and responsibilities to be expanded later through further functional reforms (Germany, Sweden). This has been the case over the last few years in Germany where the governments of certain *Länder* have transferred new responsibilities to the districts and cities with district status: Baden-Württemberg has undergone the most radical reform, as most tasks of the field services⁸ of the *Land* government have been transferred to it.

The Greek reforms of 1997 illustrate the dramatic shift that took place. This was a radical reform, decreasing the numbers of municipalities (*demes* and rural councils) from nearly 6,000 to 1,033. But the real innovative aspect of the reform was that it was not just an amalgamation plan; it involved also a development and investment program, and the territorial reform was a necessary step to implement that program. The aim was to set up local authorities able to implement it, which meant equipping them with the necessary institutions, staff and financial resources. A five-year program (1997-2001) financed by the state was thus the support framework within which the new municipalities would operate and which would help finance a capital investment program. The five-year program was also aimed at facilitating the recruitment of managers for the new municipalities and to give them the necessary human resources for exercising a greater administrative and financial autonomy. Another innovative aspect of the reform was to keep a representation of the old local councils in the new local authorities, and secure their participation in the debates of the new municipal council, which doubtless helped to get the mergers accepted by the local communities.

- 7. *Functional reforms: reforms concerning the attribution of certain powers and responsibilities and having the aim of improving the ways in which these are exercised.*
- 8. *Field services are administrative services with competence for a territorial jurisdiction that are subordinated to central government departments. In some countries they are referred to as "peripheral administrations".*

In the new German *Länder* on the other hand, the transfer of the territorial reform realized in the west proved at first to be a half-failure. Regrouping smaller municipalities was seen as working against the aim of restoring democracy, and inter-municipal bodies (the *Verwaltungsgemeinschaft*) were set up in order to try and resolve this problem. However, the territorial reforms were successfully completed at the level of the districts. More recently, territorial reform has taken a new turn: the Brandenburg *Land* has removed many small municipalities by means of mergers, reducing at the same time the number of inter-municipal bodies, and the Mecklemburg-Vorpommern *Land* has carried out a radical reform of districts, bringing their average population to 350,000.



and democratic dimension of the municipal organization, rather than being concerned with just technical and management issues. Integrated forms of inter-municipal cooperation have then appeared as an alternative to amalgamation.

In the other countries of Central and Eastern Europe where post-war territorial reforms have endured, a form of representation for the old local authorities was maintained in the expanded local councils (Poland, Bulgaria). This was also the strategy adopted by Lithuania for its 1995 territorial reforms, which divided the country into only 60 district municipalities.

However, highly urbanized countries that underwent major amalgamation of municipalities are now seeking to re-establish local community institutions at the infra-community level (Sweden, United Kingdom). These various developments and experiences should serve to draw attention to the importance of "minor local entities," as these are termed under Spanish law (in *Castilla-La Mancha*), for giving voice to local democracy, and in particular to the experiences of countries like Portugal and Bulgaria, where large municipalities work by relying on strong infra-municipal institutions.

By contrast, the concentration of local governments that came into effect in Denmark on January 1, 2007, reduced the number of local councils from 271 to 98, and the number of "administrative municipalities" (counties) from 14 to 5 "regions." This effort was driven by a concern for economies of scale, taking into account the predictable rise in social expenditure, particularly for older people. While the local municipalities run nearly all the public services, it is planned to run the health service at the level of the expanded counties (regions). The counties will also take responsibility for public transportation,

regional development and planning, as well as some social services.

But in many other countries where municipal functions are certainly less extensive, it is mainly by developing a second level of municipal government that a solution has been sought for difficulties municipalities encounter in performing certain functions without undermining the pre-existing municipalities. France and Hungary provide illustrative examples of this approach, which encourages political vitality in local community institutions rather than working against them. But, the expansion of the functions performed at the inter-municipal level raises the problem of the democratic legitimacy of inter-municipal institutions, which are at present formed by the municipal councils.

It seems that instituting a second level of municipal government is probably a useful option in organizing large urban zones because urban development does not follow municipal and administrative boundaries (Hoffmann-Martinot: 1999; Hoffmann-Martinot / Sellers: 2005; Le Galès: 2002). In this respect, French law provides for the status of "urban community" for the biggest metropolitan areas (excepting Paris); fourteen have been created. The law also provides for the status of "agglomeration community" for smaller urban areas (164 established to date). In the Netherlands, a "cooperative framework" approach has been adopted following the failure of an attempt through a 1994 law to create urban regions for the seven biggest metropolitan areas of the country. The "cooperative framework" is based on an inter-municipal public corporation –though without own taxing powers. This formula has been revised by the law of December 2005 (law known as "Regio Plus") with the purpose of extending it to other urban areas. In Germany, *Länder* laws have on occasion instituted similar types of urban area bodies, for example for Frankfurt, Munich and Stuttgart. In the case of Italy however, the *Città Metropolitana*, introduced by the law no. 142 of 1990, has still failed to materialize properly, even though it was ens-

Highly urbanized countries that underwent major amalgamation of municipalities are now seeking to re-establish local community institutions at the infra-community level

Territorial reform through cooperation

In France, a country of 36,000 municipalities, cooperation has long been the means to run the public services that single municipalities on their own cannot provide. But since the introduction of a law in 1999, supported by a strong commitment from the central government and financial incentives, inter-municipal public corporations with own tax powers have developed rapidly. These inter-municipal corporations are vested by the law with various strategic functions (e.g. planning, economic development, major capital investments etc.) and have own tax powers independent of those of member municipalities. At the beginning of 2007, 33,414 municipalities and 54.2 million people had been reorganized under 2,588 *intercommunalités* (inter-municipalities), as they have been called.

In Hungary, a law from November 2004 provided for the development of inter-municipal cooperation within 166 micro-regions in order to meet local development objectives, the main one of which was to ensure that the management of public schools would be taken on by these inter-municipal corporations. At the beginning of 2006, such consortia had been set up in 118 micro-regions, and in 90 of these, all municipalities have joined the consortium.

This was also the approach followed by Italy, with its unions of municipalities, and in Spain, with the bill on local government reform following the 2005 White Paper, which aims at encouraging inter-municipal cooperation⁹.

However, the French *intercommunalités* will keep the distinction of having their own tax-levying powers and a wide range of functions provided for by law.

Enshrined in the Constitution by amendment (new article 114) in 2001. Only three perimeters have been drawn up (Bologna, Genoa and Venice), but these only constitute rather loose frameworks for voluntary cooperation. In some regions, including Campania and Piedmont, the provinces of the regional capitals would like to turn themselves into *Città Metropolitana*, but it seems uncertain that this will actually happen. Consequences on local democracy are not one-sided; they depend on the selected institutional setting.

In the United Kingdom, first- and second-tier reforms are linked. The White Paper published in October 2006 (*Strong and Prosperous Communities*, Cm 6939) provides for a further round of unitary council formation in those regions where there is still a two-tier system. The government announced on the

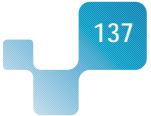
25th July 2007 the formation of nine new unitary councils, and the Law of 30th October 2007 created the legal conditions for the realization and the continuation of the process (*Local Government and Public Involvement in Health Act 2007*, c.28).

II.3. Intermediate levels

It is at the intermediate level that the most important changes in the territorial organization of states have taken place over the past two or three decades. Moreover, these changes have been both institutional and functional (Marcou: 2000 and 2002).

Historically, the intermediate level is closely linked to the creation and augmentation of the state. More specifically, it is essential for what has been called "terri-

9. *Whitebook for the reform of Local Governments, Madrid, Ministry for Public Administration.*



territorial penetration,” the political and institutional process by which centralized powers were able to establish authority over all of their territory and the people within it. This has been illustrated in very different ways by France, Prussia and the United Kingdom. Not all the European countries brought this process to completion; sometimes it was completed very late or challenged by later transformations of the political scene. Moreover, national boundaries have shifted considerably, even in the past century. Some once-powerful European nation-states have disappeared altogether, including Austria-Hungary, the Habsburg Empire, Prussia, and Yugoslavia. But territorial penetration proved decisive in the formation of certain enduring territorial frameworks, including the *département* in France and the provinces of neighboring countries on which the Napoleonic model left its mark. Also it was decisive in forming the county in England and Sweden; the district (*Kreis, powiat, okres*) in most Central European countries; and the “government district” or primary division of a *Land -Regierungsbezirk-* in Germany. Similarly, this organizational process affected such typical institutions as the *préfet* or regional governor; in Germany it was the *Landrat*. This functionary, who came to be known by several different titles, was appointed a senior civil servant in 1872 by the King of Prussia. At about this time, the *Kreis* acquired the characteristics of a local self-government –even as it continued to serve as the framework for an administrative authority of the state. Thus, the original role of the intermediate tier was to represent and relay the authority of the central power, either reliant on local aristocracy, as in England, Hungary and Germany, or against them, as in France.

Since the end of the 19th Century, however, under the influence of liberalism and democracy, the intermediate tier evolved. Partly to accommodate the social and economic tasks that the modern state was

increasingly responsible for, the intermediate tier underwent two forms of institutional and functional development. They were, broadly speaking: 1) the establishment of a local authority evolving to become more like a municipality, both as an institution and in terms of the services it performed; 2) the differentiation and reduction of the administrative tasks of the state. Since the end of the 20th Century, regionalization has been making its mark as a practical response to new socio-economic and political developments. The transformation sometimes manifests itself in the emergence of new territorial frameworks and institutions, but it is also apparent in changes and reforms within existing institutions.

Gradually the original consolidating and centralizing mission of the intermediate tier of government gave way to incipient democratization. The election of a representative assembly gradually became the rule in all the countries. Election of provincial councils in Belgium was based on the 1831 Constitution; that same year France introduced elections for the *département*; the Netherlands followed in 1853 with elections in provincial states; Prussia saw district elections in 1872; and in 1888 Great Britain allowed elections for county councils. The intermediate level local authority institutions later became more like municipal institutions, particularly in the election of executive officers. The exceptions are Belgium and the Netherlands where these offices remain appointed posts at both the municipal and second-tier level, despite the law having been able to introduce an elective element. (see section III). These local authorities progressively took on tasks designated by law to address experimentally two needs: 1) providing primary or supplemental services in sectors, such as health, roads and schools, which did not normally come within the remit of municipal services; 2) promoting community solidarity and equalization of social services and support for small municipalities.

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Today these kinds of tasks are carried out by second-tier local authorities in Central and Eastern Europe, particularly in Croatia (*Županije*), Hungary (*megyei*), Poland (*powiat*) and Romania (*judet*). They are also part of the responsibilities delegated to the Czech and Slovak "regions" (*kraj*).

Three factors differentiate these second-tier local authorities: size, urban administration system, and the presence or absence of competing sector-specific authorities.

In countries that were significantly affected by the late arrival of local self-government in rural areas, or were heavily influenced by Germany or Austria, second-tier local authorities are apt to be small (German *Kreis* and Polish *powiat* in particular). Other countries have larger authorities, including France with its *département*, England and Sweden with counties, and Hungary with its *megyei*. This applies as well to provinces in Belgium, Italy, the Netherlands and Spain, *nomos* in Greece, and Czech and Slovak "regions." Except for the Czech Republic and Slovak Republic, these territorial divisions have ancient origins and are connected to the administrative divisions of the state authorities that preceded the creation of local authorities. But differences in size do not necessarily correspond to differences in responsibilities. The responsibilities delegated to this tier of governance depend more on the extent and nature of powers and responsibilities exercised at the municipal level, the role of state authorities, and the presence of sector-specific authorities.

Cities in several countries are not included in the territorial framework of second-tier authorities, though they may have similar responsibilities. This corresponds to an institutional differentiation between city and countryside with respect to the local authority system, the significance of which has been emphasised. In countries where cities assume much se-

cond-tier responsibility, they benefit from a reinforced status within the administrative system. This was the situation in the United Kingdom between 1888 and 1972 (the borough-counties), and again after the removal in 1986 of county councils in metropolitan areas. A decade later the United Kingdom saw the constitution of unitary councils. A similar ascendancy of the city occurs in Hungary where 22 towns have the status of *megyei*, in Germany with 116 *kreisfreie Städte*, and in Poland which accords to 65 towns the status of *powiat*. A similar system existed in Denmark before that country's 1970 territorial reforms.

The presence of specialized sector-specific authorities, such as hospitals, affects the powers and responsibilities at the intermediate level. Public hospitals are incorporated at the intermediate level local government in Denmark, Sweden and Hungary, whereas they are part of a national organization in the United Kingdom (the National Health Service), in France with the regional hospital care agencies (though hospitals have kept their legal status as local public corporations) and in Italy through the regions finance "local health units." Similar arrangements also characterize the education sector in many countries.

In federal states and states with regional autonomies, it is the federated states or autonomous regions which have taken on responsibility for these services, directly or indirectly. In Germany, the *Länder* are responsible for education and for the statutory regulation of hospitals, and also for investment in public hospitals. However, management in these areas is devolved to the districts. In Spain, public hospitals were transferred to the autonomous communities in 2002. In the United Kingdom, the national health system is under the supervisory control of regional authorities in Scotland and Wales, but is nonetheless organized according to sector-based principles¹⁰. In Belgium, health and education

¹⁰ The management of the health system is not part of the local governments' functions.

are designated as "personalizable" areas pertaining to the powers and responsibilities of the *communautés*¹¹.

The preceding examples indicate, that the organization of the intermediate levels now tends to be associated with developments towards regionalization. In functional terms, it is a response to the new importance given to territories with respect to economic development. In institutional terms, it is a formal recognition of the changes in responsibilities at the intermediate levels. However, regionalization manifests itself in states whose size, constitutions and territorial institutions are extremely varied, and which fulfil other tasks than those connected to regional development. If we also take into account the political factors, then the very great institutional diversity through which regionalization can manifest itself is hardly surprising. In many countries, it is limited to an administrative regionalization, i.e. it is based on institutions subordinated to the central authorities (e.g. England –as opposed to other parts of the UK-, Greece, continental Portugal, Bulgaria and Hungary). By contrast, it gave rise to autonomous regions in some countries (e.g. Italy, Spain, the status of Scotland). In many countries, regionalization is reflected in the kind of powers and responsibilities devolved to the local authorities or to the institutions which depend on them (e.g. Finland, Ireland, Netherlands and Romania). Finally, other countries have simply extended their system of local self-government to the regional level or have invested their intermediate level authorities with functions of regional scope, without impinging on the unitary nature of the State (Denmark since 1 January 2007, France, Poland, Czech Republic, Slovak Republic).

III. Powers and responsibilities, management and finances

Local governments operate within a system that requires interaction with the sta-

te, and more generally with higher authorities. Managing such a system has become an ever more complex business, as the powers and responsibilities of local authorities have expanded to cover tasks important enough to merit regional or national legislation and policies. The challenges to be met include how to apportion and share powers and responsibilities, how to finance local budgets and how to decide what administrative capacities local authorities should and can have.

In theory, it is the powers and responsibilities to be exercised which determine the level of resources necessary to cover the corresponding costs. The European Charter of Local Self-Government puts it this way: The financial resources of local authorities should be commensurate with the powers and responsibilities they must exercise as provided for by the law, and these resources must be sufficiently diversified and progressive to allow them to keep pace with the real changes in costs (Art. 9, paras. 2 and 4). In practice, local finances are the product of each nation's complex history of public finance, as well as its particular administrative history. More than any others, these factors explain the various characteristics of local finance, as well as the size, in budgetary terms, of local powers and responsibilities. These same factors pertain to countries that only recently introduced local self-government institutions, or are in the process of doing so. Setting up an efficient tax system and reorganizing financial networks takes more time than changing the law does. Therefore, consider the financial systems of local government before moving on to comparisons of powers, responsibilities and administrative capacities.

III.1. Finances

Financial autonomy is the basis of local self-government, as stated in Article 9 of the European Charter of Local Self-Government, and it has three dimensions:

11. These are constituent members of the Belgium federal system, nowadays run by institutions shared, or largely shared, with those of the region.

In most European countries local public expenditure varies in reality between 6 % and 13 % of GDP

resources must be in line with the costs associated with the duties conferred upon local authorities by law; the authorities must be able to dispose freely of the resources allocated to them; and they must have certain powers to determine the level of their own resources.

However, despite the abundance of national and international sources, carrying out an international comparison of local government financial systems presents real difficulties of methodology and interpretation, even in Europe. In the following study, regional autonomies have been treated as similar to federal entities and have therefore not been considered as local authorities, contrary to how certain international sources erroneously represent them.

Analysis of major trends concerning expenditure and resources reveals the growing role of local authorities in Europe (Dafflon: 2002; Travers: 2005). However, this increase in importance is often accompanied by a reduction in financial autonomy.

III.1.1. Local authority expenditure

The following chart shows the proportion of each nation's GDP that is allotted to local public expenditure, based on figures published by Eurostat. The term local public expenditure refers to the expenditure of local public authorities; that is, intranational authorities with the exception of federal entities and regional autonomies¹². Note that although Spain is treated as a federal state, Italy is not, despite high levels of powers and responsibilities for public spending, as well as legislation devolved to the Italian regions. The same applies to the United Kingdom with respect to Scotland and Northern Ireland. Wales could also reasonably be included in the matter of public finances because of the volume of expenditure devolved to it. Although the European states usually have one or two tiers of local authority, the table slightly overestimates in comparative terms

local public expenditure for countries with three tiers of local authorities (France, Poland). Despite these approximations, the chart reveals three fairly distinct national groups:

- Three Nordic countries (Denmark, Finland, Sweden) and Switzerland, whose local public expenditure is greater than 20% of their GDP;
- a large group of countries whose local public expenditure varies in reality between 6% and 13% of GDP: in fact in Italy, the expenditure of local councils and of their consortia, and of the provinces, was around 6.3% of GDP in 2003; in the same year such expenditure in the Netherlands was 8.5%;
- a small group of countries in which local public expenditure is less than 5% of GDP: Greece, Cyprus, Yugoslav Republic of Macedonia and Malta.

In the median group, there is a continuum in which it is nearly impossible to place a threshold. But below 8% or 8.5% of GDP, we find only fairly small countries maintaining a certain financial centralization, along with the federal states and states with autonomous regions (insofar as part of the expenditure borne by the local authorities in the unitary states is paid for out of regional budgets.)

However, the amount of expenditure alone is not enough to characterize financial autonomy. Functional independence also depends on how much discretion a local authority has to allocate and commit its expenditures, and to manage its resources.

Chart 2 shows local authority capital expenditure as a percentage of GDP. This indicator helps show the role played by local authorities with respect to the flow of capital investment. It relates only to the Europe of the 25, as there is insufficient data for the other countries. In the

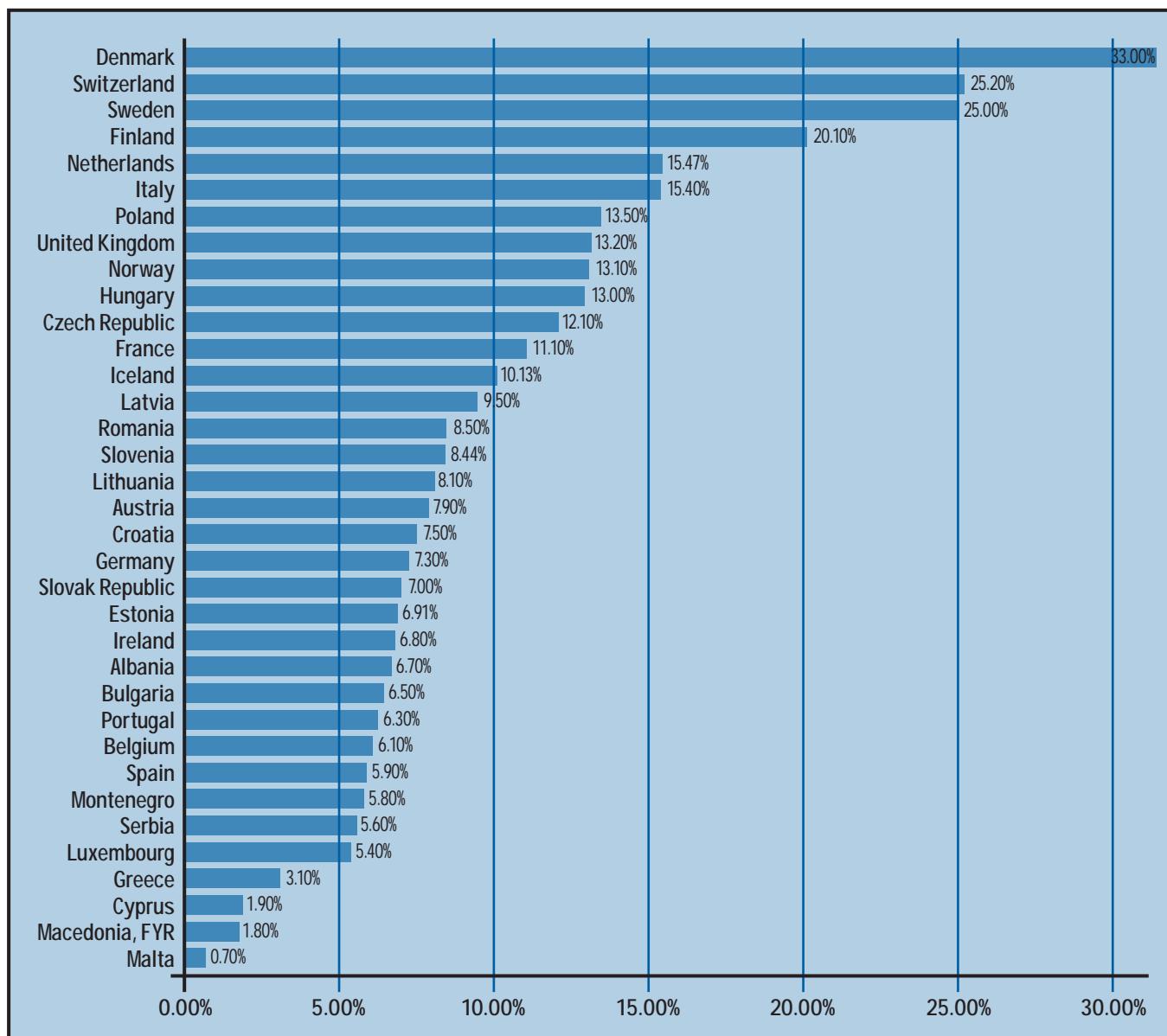
12. See above : footnote 2.

same year, public sector investment in the Europe of the 25 was 2.4% of GDP, with figures ranging from 1.1% for Austria to 5% for the Czech Republic.

What emerges from the chart is that local authorities represent the greatest share of public-sector investment, except in 10 countries: Austria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Lithuania, Luxembourg, Malta and Slovak Republic. The

chart takes into account only local authority investments, and not those of federal entities. It does however take into account the capital expenditure of the autonomous regions in countries that have such entities, leading to the aforementioned overestimate of local authority investment. The same applies to France with respect to the first and second levels, because the regions, being local authorities, have a much greater investment capacity; they currently account for about

Chart 1 Local public expenditure as % of GDP



Source: Eurostat, 2005.

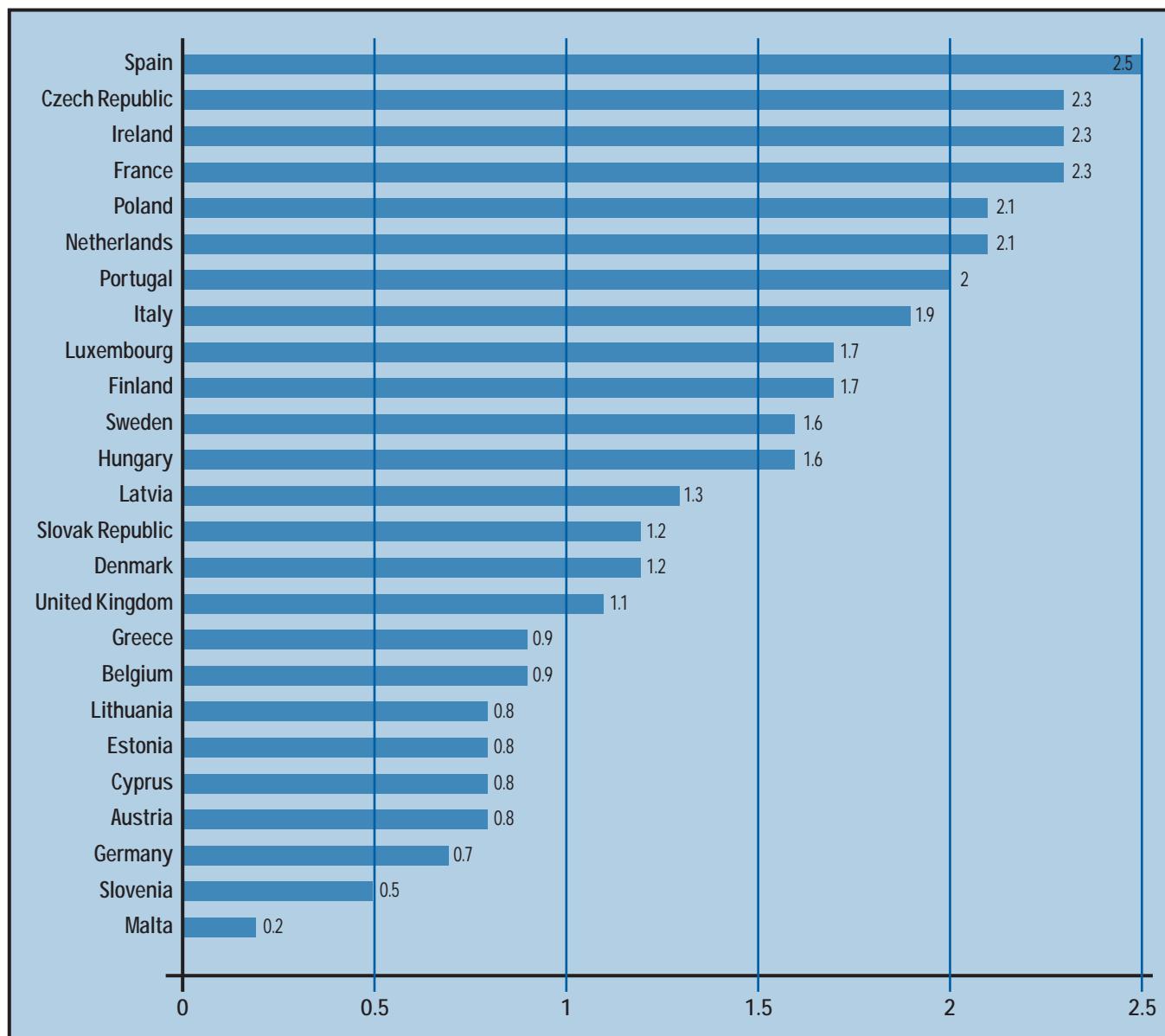
10% of the real capital expenditure of local governments and their public institutions.

Here analysis must be put in context to take into account the wider economic climate and the stage of development for each situation. Macro-economic policies can have a heavy impact on local authority investments, as is the case for Austria and Germany. Over several years, capital expenditure can show greater fluctuations than running costs. Al-

though there has been dynamic growth over the past few years in local authority investment across the European Union as a whole, it has been greater in the new member states; this reflects the need for new infrastructure in these more recently admitted countries. Between 2000 and 2005, the average growth in local authority investment across the Europe of the 15 was 2.9% a year. At the same time it was 4.9% in the new member states, and there was negative

Chart 2

Local public capital expenditure as % of GDP



growth in Austria and Germany¹³.

In the countries of the former Yugoslavia, as well as Albania, Bulgaria and Romania, central authorities at first kept control of investment funds, including those for local public investments. This started to change in 2004. There has been easier access to loans in Bosnia Herzegovina, Croatia, and the FYR Macedonia and Serbia. In Albania, a call-for-tenders procedure was introduced to select local projects receiving state funding. In Bulgaria and Romania, the role of local authorities regarding investment in economic or social infrastructure has been growing thanks to access to European funds¹⁴.

III.1.2. Local government resources

Two questions arise concerning resources: the level of resources with respect to costs, and the degree of control the authorities have over their capacity to increase their resources.

The European Charter of Local Self-Government stipulates that local authorities must have "adequate financial resources of their own, of which they may dispose freely within the framework of their powers," and that the financial resources of local authorities must be "commensurate with the responsibilities provided for by the constitution and the law" (art. 9, paras. 1 and 2). The first provision is a condition for local freedom; the second is a guarantee for local authorities that they should be given the necessary resources to finance the tasks devolved to them by law.

The requirement that legally prescribed functions (duties) should correlate with the resources allocated –known as the principle of connexity– is the most difficult one to satisfy because it depends on how costs are calculated. This calculation in turn depends on the level of services deemed sufficient and practicable for the population. This requirement is at the heart of the requests made by local authorities to the

higher authorities that their resources depend on. Increasingly, legislation is providing that any transfer of powers and responsibilities prescribed by law must be accompanied by an adequate transfer of resources. In France, this principle was first stipulated by a 1982 law, and later enshrined in the Constitution in 2003 (art. 72-2, para. 4). In Germany, the constitutional review of August 28, 2006, provided the occasion for enshrining in the Basic Law (the Constitution) a ban on using federal law to devolve material responsibilities to municipal councils and their consortia (new art. 84, para. 1). This was intended to put an end to the practice whereby the federal legislator created new costs for local authorities without providing the concomitant resources. By contrast, within *Länder*, constitutional courts of *Länder* ensure that the principle of connexity is respected.

However, financial autonomy depends on the resource system and structure. It is here that the development of local finances is now showing signs adverse to local self-government.

a) *The structure of resources*

In most of the European states, the tax revenues of local authorities consist for the most part of shared taxes, for which the central authorities hold the tax-setting powers. But the only ordinary revenue over which local authorities have sufficient powers, allowing them to vary the amount of resources through their own direct decision-making, is own tax revenue and income from fee-based local public services. As income obtained from these local public services depends heavily on how the services are managed –directly by the authority, or by a utility receiving direct payment from the users– the most significant variable with respect to the local authorities' ability to determine the development of their resources through their own decision-making is local own tax revenue. Conversely, their part of shared taxes, from the economic as well as the political point of

13. Dexia, *Finances publiques territoriales dans l'Union européenne. Evolutions 2000-2005, November 2006* [Territorial public finances in the European Union. Trends for 2000-2005, November 2006].

14. Ken Davey (2007), *Fiscal Decentralization in South-Eastern Europe, in: Council of Europe, "Effective democratic governance at local and regional level", Budapest, OSI, Skopje conference papers, 8-9 Nov. 2006.*

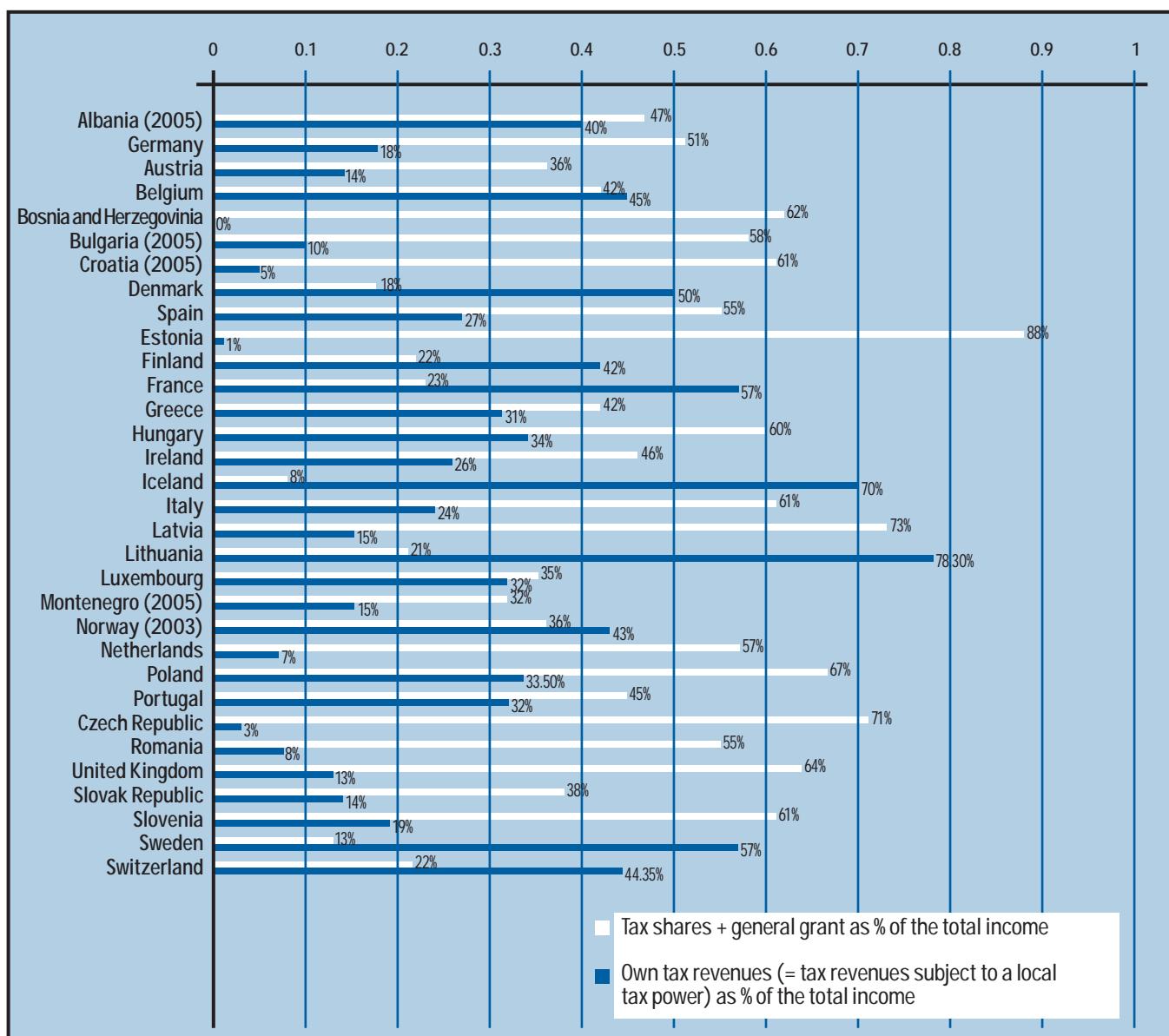
view, is equivalent to receiving grants (transfers). The only difference is that the local authority's allocation is sometimes calculated on the basis of local tax revenue. For example, in Germany, the municipal share of income tax is related to the local yield of the income tax; the idea here is that the taxpayer is supposed to be pleased knowing that part of their tax is helping finance local public services. Even so, their elected representatives have no say in set-

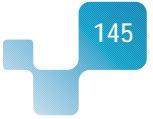
ting the tax rates and there is no connection between the rate of taxation and the number and quality of services provided.

The differences among the various European local government finance systems stem from their different sources of local budget resources. All draw in particular on own tax revenue, on various kinds of grants, on shared taxes and on revenue from service delivery. However, they diverge in the dif-

Chart 3

Structure of local budget resources: own tax revenue and grants or shared taxes





ferent weighting given to their income sources, and in the characteristics of the most important ones. We can for example distinguish local finance systems according to whether the resource structure is governed by own tax revenue or instead by grants, including allocations carved from national tax revenues. Chart No. 3 compares these two types of resources against the total resources of local authorities in the majority of European countries. As in previous charts, this one takes into account only the local level, usually one or two tiers, but three in France and Poland and not the federal entities and autonomous regions. This chart also includes data available on Albania and some states from the former Yugoslavia.

The chart shows clearly that own tax revenue is greater than the total revenue from national tax shares and grants in only eight countries¹⁵ –Belgium, Denmark, Finland, France, Iceland, Norway, Sweden and Switzerland. In all these countries, the income from own tax revenues comprises more than 40% of the total for local budget resources. In the other countries, own tax revenue falls below 35% as a proportion of total resources, except in Albania where it reached 40% after reforms took effect in 2005. It rises above 30% only in Greece, Hungary, Luxembourg, Poland and Portugal. But even in these countries the proportion of grants and national tax shares represents a much higher percentage of resources (except in Luxembourg).

Analysis suggests that there are indeed differences among the various local finance systems that operate with between 30% and 40% of resources coming from own tax revenues. Such resources are greater than those from grants and shared taxes. When these two conditions are met, it can be said that the resource system is governed by local taxation. Grants then have the role of providing a basic source of funds or of fund equalization, or of offsetting costs prescribed by the law. The own tax revenue is enough to allow local authorities to establish

their own fiscal policies. Conversely, in the countries where own tax revenue is considerably lower than income from grants or tax shares, and is considerably lower than 30% of total resources, it can be said that such resource systems are governed by grants. In this case, own tax revenue theoretically helps fund non-mandatory expenditures, such as those for discretionary tasks, or helps pay for costs that are insufficiently covered by grants and tax-share revenues. But the lower own tax revenue is as a proportion of total resources, the more difficult it is in political terms to raise extra resources because a significant increase in resources necessarily implies a significant increase in tax rates. This political aspect may change where the central government puts pressure on local authorities to raise local taxes or cut expenditure by rationing budgetary transfers and national tax shares. However, connection charges and user fees paid locally for services can provide alternative non-tax resources, especially at the local council level. Increases in local service charges and ancillary fees are apt to be accepted more easily than higher taxes. A final point on this matter: in the central and eastern European countries, property revenues (income from alienation or licensing) can continue to play an important role and to increase the proportion of local resources kept under the control of local authorities; this is only a transitional situation, but it is just what is needed to facilitate transition.

b) Own local tax revenue

As far as the structure of own taxation is concerned, there are several observations worth consideration. All countries except Sweden collect property tax, and this tax is generally held to be the most appropriate one for local taxation because of the localization of the tax base. This view is shared by most governments throughout the world. But this tax is dependent on the existence of a fully-functioning land register. As yet no such system functions properly in the Central and Eastern European countries, some of which have no register

In only eight countries is own revenue greater than the total revenue from national tax shares and grants, and is in excess of 40% of the total revenue

15. Lithuania is not included as there are clearly errors in the statistical classification of their resources: in 2002, the local tax revenue of local authorities did not exceed 8.4% of the total of their resources (G. Marcou, *Les structures régionales dans les pays candidats et leur compatibilité avec les fonds structurels (Europe centrale et orientale)* [Regional structures in applicant countries and their compatibility with the structural funds (central and eastern Europe)], Luxembourg, Parlement européen STOA 105 FR, 2002, [Part B: country files]).



The general tendency has been to squeeze own tax revenues, and to prioritize securing revenues over financial responsibility

at all. Local taxation of households is rarely based on a local income tax, though it is the practice in the Nordic countries and in Switzerland; these countries also have the highest levels of local governmental expenditure. In many other countries income tax is a shared tax whose yield is partly or wholly allocated to local budgets. For example, shared income taxes account for part of the local allocations in Austria, Germany, Hungary and Poland; all income tax revenue is used to fund local budgets in Bulgaria, Croatia and Romania. In some countries, local governments can vote for an additional income tax, calculated on top of the state tax (Switzerland) or based on the income tax revenue leveled locally (Croatia). One advantage of channeling income tax revenue to the local level is the taxpayers' increased perception of a direct connection between taxes paid and services used. In Greece, local taxation mainly comprises taxes that represent funding for public services, and not taxes in the strict sense. This was also the case in France with the *taxe d'habitation* (community charge), that is now a direct tax; there is also the same process with the tax for household refuse collection that has in recent years been used as an adjustment variable by many local and intercommunity councils voting rates higher than needed by the service costs.

By contrast, fewer than half of the European Union countries have a local tax specifically levied on economic activity: Austria, Cyprus, Denmark, France, Germany, Hungary, Ireland, Luxembourg, Portugal and Spain. The tax base for economic activity is variable, but considering local tax revenues and budget levels as a whole, this tax is only a significant resource in France, Germany, Hungary, Ireland, Luxembourg and Spain. Moreover, it is vulnerable to economic policy measures aimed at reducing the burden of businesses; such measures have reduced this tax base in recent years, particularly in France, Germany and Spain.

Overall, the general tendency has been to squeeze own tax revenues as a proportion of the total resources of local authorities, to benefit resources whose variations are controlled by the central authorities. In France as in Germany, the tax base for the business tax has been reduced. In France, the business tax rate was capped at 3.5% of value added, a move that affects nearly half of those qualifying to pay the tax. In the Netherlands in 2006, local property taxes were abolished for tenants and capped for landlords, resulting in a reduction in financial autonomy. Sweden and Italy, each within very different contexts, have proved to be remarkable exceptions to this general tendency to shrink own tax revenues. The same has been true since 2005 in Slovak Republic where new local taxes have replaced the allocation of grants. In Sweden, own revenues still provide more than 70% of the resources of local authorities. Italy, since 1992, has continued the process of restoring own taxation, which was virtually abolished in 1971 in an effort to promote equalization. All this means that in most countries, securing resources is prioritized over financial responsibility. The rules used for calculating shared tax allocations, insofar as these are relatively stable or negotiated (as in Austria or Germany) and the guarantees pertaining to changes in grants (as in a "stability pact") ensure that there is a certain balance between resources and costs – within the limits allowed by the economic situation.

c) Other funding techniques

Among the alternatives to public budget funding that have emerged and developed in recent years to fund investments are the various forms of public-private partnerships (PPPs) inspired by the British Private Finance Initiative (PFI) of 1992. Since the end of the 1990s, many countries have adopted legislation on PPPs which, under the various legal formats in different countries, nonetheless follows the same basic process: the public authority entrusts a company or a consortium with an overall mission of designing, realizing, financing and operating or maintaining a public works on the local

government's behalf. This widens the possibilities traditionally offered with the system of concession. The real reason for the development of PPPs is a budgetary one.

Results have been mixed. Even in the United Kingdom, PPPs do not account for more than 11% of public investment. This limited success can be explained by the fact that conditions for local authorities' access to credit were very restrictive until the Local Government Act of 2003, so that the PFI represented the possibility of accessing extra resources.

Although PPPs often help speed funding for certain operations, they also have certain disadvantages. One is that capital raised by the contract partner on the market will be obtained under less favourable terms than those usually given to public authorities. Additionally, the fees payable by the public authority have to cover all costs, including the financial ones, so that the PPP in effect turns the debt into operating costs, though this does not in itself assure an overall saving. Another point of concern is the private companies' push for higher profit margins for additional risks they pretend to bear, and it is difficult for public authorities to control these margins¹⁶. In the other countries, the share of PPPs in public investment continues to be fairly modest, even if governments sometimes set ambitious targets, as for example in France where the avowed goal is 10% by 2010.

Such limitations of the PPP as a tool for funding may explain the re-emergence of funding bodies aimed solely at local authorities. Founded on a cooperative basis, they are modeled on *Kommuninvest*, a cooperative body founded in Sweden in 1986 to provide funding to local authorities¹⁷. Until it was absorbed in a 1996 merger, Belgium's *Crédit Communal* was similar.

III.2. Powers and responsibilities

It is necessary to make clear the status of the different categories of powers and res-

ponsibilities, before reviewing the functions (Committee of Regions: 2002; Marcou, 2007).

III.2.1. Categories of powers and responsibilities

The first thing is to note how the general clause on the scope of local self-government as provided under article 4.2 of the European Charter of Local Self-Government has found widespread application, at least at the level of municipal authorities. This clause is not concerned with the division of powers and responsibilities. Rather, it defines a principle of freedom. This principle is of paramount importance, even if the activities it sanctions remain modest in budgetary terms. Most of the European states at the Council of Europe level now recognize the principle of the general clause as applying to local councils, through their constitutions or laws. A few countries, including Portugal, the United Kingdom and some Central and Eastern European nations, are exceptions; Spain and Italy raise questions of interpretation.

The fact remains that most of the powers and responsibilities exercised by local authorities are established by law. There is a noticeable general inclination to extend the scope of local authority, sometimes in the form of "powers and responsibilities for specific purposes" (as stated in art. 4 of the Charter) exercised in the name of the state and under its direction. This is particularly the case in Germany, Austria, Italy, the Czech Republic, Hungary and Slovenia. It leads to local councils exercising administrative tasks traditionally performed by the state. This does contribute to the overall empowerment of local government, but the real reach of this type of extension of powers and responsibilities depends on the control exercised in practice by the state.

In the Central and Eastern European states, the range of material tasks for which local authorities are responsible is vast, especially where they are the heirs to local bodies formerly controlled directly by the

16. Numerous inquiries reported by the Committee of Public Accounts of the House of Commons suggest cautiousness regarding benefits that can be expected by public authorities from PFI (for example HC 567, 16 July 2003 ; HC 446, 31 March 2005 ; HC 553, 14 June 2005 ; HC 694, 3 May 2006).

17. *Kommuninvest* consists of 196 municipalities and 7 county councils.

The most important variations relating to powers and responsibilities occur in the fields of education, health, and social security or benefits

central state. Exceptions are countries where a separate state administration has been re-established or maintained in some domains at the local level. The "powers and responsibilities for specific purposes" are then predominant in the mission of local government, and can effectively keep local authorities in the position of being agents of the state. This is the case, for example, at the regional level in the Czech Republic. Because the resources provided to local authorities are hardly enough to finance the tasks delegated to them by the state, there is little time or occasion for local bodies to exercise their autonomy.

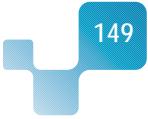
A more detailed study of the system governing local powers and responsibilities also raises the question of how relevant some commonly held distinctions are. Basic powers and responsibilities are always regulated by law wherever they affect domains or tasks that have a national dimension (and are therefore mandatory). What then determines the degree of local autonomy are the fine details and the scope of the pertinent legal regulations. In extreme cases the regulations can make the system governing such functions almost indistinguishable from the system governing delegated tasks. Such a situation led to reforms undertaken in the Nordic countries in the 1980s. These reforms were often grouped under the term of "free municipality," and their aim was reducing the heavy burden of national regulations and financial controls on local governments. In some countries the courts occasionally can ensure that regulations respect the rights of self-government by censuring provisions deemed to exceed the stated aims of the regulations, as in Germany, but such judicial intercession is unusual.

III.2.2. Functions

Regarding functions effectively exercised in application of the law, we will limit our study to the level of municipalities and their consortia. A detailed comparison reveals that

certain tasks are carried out by local councils or their consortia in virtually all European countries. Providing a slight variation, Portugal delegates these tasks to sub-divisions of the local councils. These local tasks typically include: town planning (urban planning, planning permission, development projects), the allocation of social benefits and the management of social institutions for certain categories of the population, particularly for the elderly. They also include roads and public transport, water distribution (with the notable exception of England), accommodation and housing (with the notable exception of the Netherlands, Italy and Switzerland), and the construction and maintenance of school buildings. These days we can add to this list education support in all countries, along with actions for economic development, that can be carried out also through powers that are not specifically deemed to this function, when they are not listed by the law. Together, these tasks can be considered the common substance of local powers and responsibilities in Europe.

The most important variations relating to powers and responsibilities occur in the fields of education, health, and social security or benefits. Broadly, local governments by national law are responsible for such services in the Nordic countries and to a large extent in the United Kingdom. As of this year, regional authorities in Denmark have overall management of healthcare and the health insurance system, which had previously been run to a great extent by the counties. In Sweden, social security is managed at the national level, but the counties run the hospitals and the healthcare system. In Germany, France, Italy and Spain, on the other hand, local governments exercise only partial or marginal powers and responsibilities in these areas. The same applies to education: the recruitment and management of staff is generally the task of state or regional authorities. This is a duty of German and Austrian *Länder*, of the autonomous communities of Spain and in Belgian *communautés*. In the Nor-



dic countries it is the responsibility of municipalities, as it is still to a large extent in the United Kingdom. In Italy, education is outside the domain of regional authorities.

Public safety responsibilities are also devolved to local governments in many, though not all, European countries. In Belgium, the Netherlands and the United Kingdom public safety by tradition is an important responsibility of the mayor or other local authorities. By contrast, in Germany, Hungary and Sweden, public security hardly appears at all in the remit of local governments.

In the Eastern European countries, responsibility for education and health varies considerably, even within individual nations over time. In Bulgaria for example, management of the health system and the schools was first assigned to municipalities, but was returned to the state level in 2003. In Albania, these tasks have been financed out of the state budget since 2003, even though the local councils administer the staff payroll. In Hungary, Lithuania, Poland and Romania, the management of schools and education staff is decentralized. In Estonia, Latvia, the Czech Republic, Slovak Republic and Slovenia, on the other hand, it is divided between the state and local governments, the state retaining responsibility for staff management.

Movement toward centralization can be seen in several countries in the areas of education (United Kingdom), health (Norway) and public safety (Belgium, Netherlands). However, in many other countries local councils are getting more involved in education, as well as public safety. Previously, local councils in these countries had had only limited administrative responsibilities in these areas. A third approach is favoured in the Netherlands, Sweden and the United Kingdom: enlisting the private sector. In these three countries, management reforms focused on attracting the private sector have reduced the remit of local governments.

III.3. Administrative capacity

Administrative capacity depends on the human resources and style of management, both of which have undergone important changes in the past few years.

III.3.1. Human resources

There are substantial differences in the staffing levels of local governments. Unsurprisingly, these differences reflect those already noted for the powers and responsibilities: countries in which local government and particularly municipalities manage both essential public services and the human resources they require, are the countries with the highest staff levels. In the Nordic countries, Switzerland and the United Kingdom, local government staff represent about 80% of the total for public sector employees (63% in Norway). These employees for the most part work in education and the health services. Despite an extensive range of functions, local governments in Eastern Europe have far lower staffing levels (around 40%), except in Hungary (69%) and Slovak Republic (90%) (CNFPT: 2005; Pollitt / Bouckaert: 2004).

The political structure of a state hardly impinges on these staffing issues. In fact it tends to be in unitary states that we find the proportionally highest levels of staff employed by local governments. For the most part, levels of employment for local governments are similar: for example they are 28% in Germany, 31% in France, 24% in Spain, 34% in Belgium, 19% in Italy and 18% in Portugal. Federal states and states with autonomous regions, for their part, are distinguished by the lower staffing levels of their central civil service. Local staffing is also comparatively low because the bulk of their human resources are employed at the regional level¹⁸. The lower staffing levels of local governments in Greece and Ireland also reflect their limited powers and responsibilities.

In recent years, local governments of many countries have had to cut staff levels be-

18. Pollitt / Bouckaert (2004), p.44 et seq.

The countries that have gone furthest in aligning the status and conditions of local government staff with those of the private sector under labor laws include the United Kingdom, and a group of countries that have almost entirely abandoned their old career employment structures in favor of a contract-based system

cause of budgetary constraints and the outsourcing of many activities. Outsourcing increased markedly after the implementation of strategies inspired by the "New Public Management" philosophy, and measures aimed at improving performance.

Staff skills and qualifications are also important factors affecting the quality of local public service. Best practices include recruitment based on merit so the impartiality of the public service is protected. A reasonable level of personnel mobility among local governments makes it easier for small and medium-size governments to attract qualified staff. There are many ways of achieving these objectives, but equally, authorities can fail to achieve them because of an inappropriate employment system.

In the employment structures of local governments, as is the case for public administration in general, we can identify two types of system:

- A career employment structure governed by public law, essentially characterized by a system of appointment and job security;
- A contract-based employment structure with private law as the reference, and no guarantee of job security.

But the employment systems in the European countries vary widely, and often include a mix of methods. Moreover, certain situations can be misleading, and public law structure and career employment structure do not always come to the same thing in practice. In the Netherlands for example, a contract employment system prevails within a public law structure, while in Italy and the Czech Republic, local authority employees have access to a career path within an employment structure determined by collective agreements.

Although local government employment systems have been developing in the direction of increased flexibility of employ-

ment conditions and incentive-based remuneration, thus taking their inspiration from the message of "New Public Management", they continue to take different forms depending on specific national traditions. While some countries have gone more determinedly down the path of contract-based employment, others have maintained the professional career structure as their main system. In many cases, the outcome has been hybridization, mixing features from both models.

The countries that have gone furthest in aligning the status and conditions of local government staff with those of the private sector under labor laws include the United Kingdom (where there is no history of a legal distinction between public and private sector employment) and a group of countries that have almost entirely abandoned their old career employment structures in favor of a contract-based system. These countries are Sweden (1974), Denmark (1969) and Italy (1993). In most countries, the contract-based system has been partially introduced while maintaining a career employment structure for managerial posts. Such "mixed" systems, with their strong element of career employment structure, are particularly common in Germany, Finland and Switzerland. In Germany, this system has long been a feature of local governments, the great majority of staff being employed on fixed-term contracts; but the two systems have ended up converging: after 15 years of fixed-term work, staff are given a permanent post.

In the post-communist countries of Central and Eastern Europe, building employment systems for local government was an uncertain process throughout the 1990s. The form of local employment system that each country chose, often after going through various changes, depended on specific national traditions, different reactions to the post-communism transformation, and efforts focused on training qualified staff and preventing corruption. In addition,

Table 2

Typology of European countries according to the employment system of local governments

Public or private law career structure for executive and managerial posts	Public law career structure applied generally	[Contract-based] private or public law employment
Albania	Belgium	Bulgaria
Austria	Cyprus	Denmark
Bosnia and Herzegovina	France	Macedonia, FYR
Croatia	Greece	Netherlands
Czech Republic	Hungary	Norway
Estonia	Ireland	Poland
Finland	Latvia	Slovak Republic
Germany	Lithuania	Sweden
Italy	Luxembourg	United Kingdom
Serbia	Malta	
Switzerland	Montenegro	
	Portugal	
	Romania	
	Slovenia	
	Spain	

countries preparing for accession to the European Union made changes to accommodate the process of accession itself. The combination of all these factors yielded different results in different countries. Thus, some systems lean more toward contract-based employment, particularly in Bulgaria, Poland and Slovak Republic, while the career employment structure predominates in Hungary, Latvia, Lithuania, Romania and Slovenia.

The fact remains that overall, the career employment structure governed by public law is still predominant. Applying labor law to public service presupposes that there is a system of strict collective agreements in place, which cannot exist without powerful local authority associations and equally powerful trades unions. However, this is the case in only a handful of countries. We should not be misled by the coexistence of two employment systems, because when this is the case, the public law career structure does in fact apply to the executive and managerial positions, even if staff on fixed-term contracts are sometimes employed in such posts. It has kept therefore a decisive place in the system of human resources

management and a key role in the relations between managers and the political staff. Furthermore, in many other countries, we find the vast majority of staff employed under a public law career structure. These observations can be summarised as in Table 2 according to the dominant feature of the employment system.

A major criticism of public administrations based on the career employment structure is lack of recognition for good performance by the remuneration system. Another is that promotion tends to be heavily based on length of service and seniority. The aim of policies to move from career employment structures to a contract-based system was made in order to introduce elements of internal competition and a system of incentive-based remuneration. Systems with the strongest focus on incentives seem to be those introduced in the United Kingdom, Sweden and Italy. However, a move towards incentive-based remuneration can be noted within career employment structures as well.

In countries where employment systems continue to be dominated by public-law career structures, the move toward more

The career system tends nevertheless to prevail, in particular for executive and managerial positions

European

Community law has a decisive influence on how the management of public services evolves and develops

flexible payment and promotion systems has been slower and less marked. Nonetheless, they are now making demonstrable headway in Germany and France.

III.3.1. Human resources

From the beginning of the 1980s, the process of modernization has been driven by New Public Management (NPM) ideas, though the vogue for these seems to be diminishing (Pollit / Boukaert: 2004; Kerting / Vetter: 2003).

The key idea of NPM was to overturn the inflexibility and inefficiency traditionally attributed to public administration ("let managers manage") and to replace its system of hierarchical control with management based on indicators, feedback and follow-up.

In the United Kingdom after 1979, the reforms forced local authorities to accommodate in their organizational structure for services a separation between the roles of buyer and supplier, and to open their services to competition by soliciting outside suppliers (competitive tendering). In 2000, these principles came under review upon the arrival of a new program dubbed "Best Value Authorities," which puts a greater stress on performance over costs. The separation of the roles of buyer and supplier was also introduced for local authorities in Sweden. In Germany, this trend took the form of a "new management model" (*Neues Steuerungsmodell*), which challenged the traditional primacy of legality and hierarchical control. In France, the 1983 elections led to the election of mayors claiming to be inspired by a new concept of municipal management, whereby a town was to be governed like a commercial company. However results of municipal elections have indicated that this model has lost its attraction. Even so, they have not signaled a move away from modern management techniques. At present, the extension to local budgets of the principles of the state budget reform (organic law on budget laws of 2001: mana-

gement based on programs and directed to results) is discussed.

In the Central and Eastern European countries, the traditional model was first used to set up the new administrative structures, so the managerial model has been slower to filter through.

In the debate on modernizing the public sector, two arguments were advanced to promote privatization and the market (Lorrain / Stoker: 1996).

First, turning to privatization was advocated as a means of reducing the weight of the central functions of the "welfare state" by letting market forces take over. The idea of the "lean state" (*Etat modeste, schlanker Staat...*) has been widely promoted since the 1980s at both national and international levels.

Moreover, turning to the market for the supply of services was advocated on the grounds that public authorities should be restricted to an enabling function. Actual performance of public services should be contracted out to private companies on a competitive basis. The European Commission also argued for this approach with the aim of promoting the single market.

These tenets had perhaps their greatest impact in Sweden and the United Kingdom, because it was there that the local public sector monopoly was most extensive. But in Sweden, only about 15% of municipal services have been effectively contracted out. In the Central and Eastern European countries, where social services were wholly delivered by the state or by public bodies under the communist system, there have been fundamental changes in the management and range of services offered. The private sector now plays an increasing role in their delivery. In Germany however, where most social services have traditionally been delivered by private non-profit bodies (*freie Wohlfahrtsverbände*), the local authorities concentrate on organi-

zing and monitoring tasks. The impact of NPM was thus rather limited, though it did later lead to a diversification of "suppliers." In countries like France and Spain, with a long tradition of devolving the operation of local public services to the private sector, the NPM principles did not seem of much relevance, although new tools to facilitate recourse to the private sector have more recently been created. But the focus on performance as the driving force has gained a lot of ground, both through state interventions (for example, reforms in France of local accounts models) and through initiatives taken by the local authorities themselves.

European Community law has a decisive influence on how the management of public services evolves and develops. This is because all services that can be classified as services of general economic interest –as defined under article 86.2 of the Treaty on the European Community– are subject to the rules on competition, unless these rules impede the realization of their mission in conditions compatible with the viability of the enterprise. According to the Court of Justice, if a local authority decides to devolve the operation of a public service to a private company, that local authority must use a competitive [tendering] procedure. This applies even if the authority itself has created a local enterprise specifically to deliver the service in question, unless it can establish that it exercises the same control over this enterprise as it does over any of its administrative services (known as the "in-house" exception). For the Court, it suffices that the company has external shareholders, even if only minority ones, to invalidate this latter condition. The result is that integration through the market, as interpreted by the Court of Justice, means that the freedom of local authorities to choose how to manage the public services they are responsible for is restricted. This applies even though this freedom has long been considered an important part of local self-government in many countries, including France, Germany and Spain. Of course,

other countries have sought to restrict the freedom of local authorities in this respect, in the name of opening up the market (Italy and the United Kingdom, in particular). In the same way, the new regulation 1370/2007 (23rd October 2007) concerning public rail and road transport puts an end to the exception that preserves urban and regional public transport from open competition. However, competent local authorities still have the possibility to provide public transport services directly or through a separate entity over which they exercise a similar control as for their own services and to which they may assign the service directly. The urban transport systems of numerous large European cities will necessarily be reviewed when the new regulation comes into force (3 December 2009). The free choice of local authorities regarding the operational system will therefore be limited. By contrast, most Services of General Interest (SGI) should not be affected by the application of the so-called "Services" directive of 12 December 2006.

IV. Local democracy

The main trends we can identify can be presented by distinguishing among local political systems, supervisory structures, the impact of decentralization on national policies, and the role of the associations of local councilors and mayors, and of local governments.

IV.1. The local political system

The election of municipal councils, or more generally of community-level local governments, by direct, free and secret universal vote is today a reality in all the countries of the Council of Europe. A look back over even recent history is enough to show what important gains have been made. As far as intermediate-level local governments are concerned, the situation is a little more complex: In some cases, indirect elections seem to be a better option for linking intermediate-level tasks

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with local-level responsibilities. This is desirable to prevent legitimate interests at the middle level from competing and conflicting with those of local councils, and also to protect the independence of the latter, as exemplified by regional authorities in Ireland, regional councils in Finland and Romania, and provincial delegations (*deputación provincial*) in Spain. The provincial delegations in Spain are considered part of the local level and are meant to serve the local councils. However, it was decided in Norway and Hungary not to use indirect elections for the county-level councils.

The most significant developments have taken place in the executive ranks of community-level local governments, namely for a certain personalization of the executive role and for direct elections

The most significant developments have taken place in the executive ranks of community-level local governments, namely for a certain personalization of the executive role and for direct elections (Bäck / Heanelt / Magnier: 2006; Szücs / Strömbärg: 2006). The most typical changes here occurred in Italy, Germany and the United Kingdom. In Germany, the former variety among municipal institutions has given way to a unique model, broadly speaking characterized by the election of mayors by direct universal vote, and the possibility of removing them from office. Italy has introduced the direct election of mayors, provincial presidents, and regional presidents. In the United Kingdom, following the election of a mayor of London by direct vote, the law has also provided for other cities to adopt a similar model, along two variant forms. In Central and Eastern Europe, mayors are elected by direct vote, except in the Baltic States, Poland, the Czech Republic and Croatia. The question is being debated in Belgium and the Netherlands. In the Netherlands, a draft bill to amend the Constitution to allow the election of burgomasters failed in 2005, so these officials continue to be appointed by central government on the basis of nominations from the municipal councils, but with the nominations being open to citizen consultations. Mayors continue to be appointed in Belgium and Luxembourg, but, as in the Netherlands, the executive body is a colle-

giate executive body whose other members are elected by the council.

In the United Kingdom, the Local Government Act 2000 led local authorities to abandon the traditional system of council committees exercising executive tasks, to differentiate the executive and non-executive roles and, in some circumstances, to submit to referendum proposals for a local constitution that could include direct election of a mayor. But these reforms did not receive the expected support. Among the 386 local authorities potentially qualifying for an elected mayor, referendums had been held by only 31 local authorities by the end of 2006. The results favored the direct election of a mayor in only 12 referendums. However, a feature of these reforms is that local residents can take the initiative to hold a referendum on the role of mayor by submitting a petition, signed by 5% of registered voters, to their local authority. A less well-known aspect of the reforms, but one with perhaps a greater impact over the long term, is the differentiation of the executive and non-executive roles. This should lead to an enhanced role for local councils in providing policy guidance, and also supervision with respect to the executive bodies. The October 2006 White Paper has resumed revitalizing institutional reforms by reinforcing political leadership in the local authorities. "The Local Government and Public Involvement in Health Act 2007 (c.28) makes possible the election of the council in one ballot and requires the choice between two alternative executive formulas: a leader elected by the council or a directly elected mayor, who, in either case, then forms his cabinet by appointing at least two members of the council".

Useful parallels emerge here with the Netherlands reforms known as "dualization" (*dualisering*), introduced by the laws of March 7, 2002, governing municipalities and January 16, 2003 governing provinces (amending the law of September 10, 1972), providing for a separation of the



executive branch from the assembly. Henceforth, the aldermen (at the province level, the deputies) can no longer be members of the council, and nearly all administrative powers are concentrated in the executive body. To balance this, the legislators wanted to reinforce the assembly's role of policy guidance and supervision. The split timing of the different mandate terms also contributes to this dualization: four years for the council and aldermen, six years for the mayor (the Queen's commissioner).

Behind all these developments and reforms, apparently very different in spirit, lies the same key goal: restoring or reinforcing political leadership in local governments, and above all at the municipal level. Of course this has not been an issue in countries like France or with the *Länder* in the south of Germany. In both places, the figure of a strong mayor is deeply rooted in history. But it should be noted that all of the Western European countries mentioned here have either traditionally had a collegiate local executive body, or have not had an executive body that was distinct from the council. In most countries in Eastern Europe, it was the desire for democracy that drove the introduction of directly-elected mayors. However, it is clear that the various countries have very different approaches to this issue. In most cases, direct election of mayors has seemed the best way to guarantee political accountability, to the extent that their mandate is renewable. But in the Netherlands and probably in the United Kingdom, the preferred approach to reinforcing political leadership is to focus on strengthening the political role of the councils. This ambition was also in the background of the so-called "free community" reforms in the Nordic countries in the 1980s, which gave municipal councils the freedom to determine the internal organization of local government. Previously, the executive committees had been determined by law. The reforms (see in particular the Swedish law of 1991 on local administra-

tion) meant that the councils could have their own choices on their administrative organization in relation to their functions; they have also reinforced the executive council's management lead role in the various specialized sectors.

For local assemblies, the changes are less clear. There appears to be a definite tendency toward what is called "parliamentarization." This condition is characterized by a reinforcement of the rights of councillors, and the possibility of calling the executive branch to account politically. This is particularly evident in Spain in the devolving of powers and responsibilities from the council to the mayor. One avowed aim of this reform is strengthening the executive branch's capacity for action, particularly in the major cities (laws of 1999 and 2003). Calling the mayor to account can in some countries require a procedure for recall by the citizens. This kind of procedure is seen in most of the German *Länder* as well as some Central European countries, including Poland, where several such cases have occurred. In a more general form, we are seeing political groups gaining official recognition in local assemblies of the larger local governments. As in France, these political factions have certain rights recognized by the law in larger councils. This is a form of legal acknowledgment of the role of political parties in the running of local institutions.

In all of these countries, there is a clear trend toward professionalizing the status of local executive officers, and toward strengthening the professional safeguards necessary for the exercise of their mandate

The increasing responsibilities of local governments have inevitably affected the status of elected officials (Guérin-Lavignotte / Kerrouche: 2006). In all of these countries, there is a clear trend toward professionalizing the status of local executive officers, and toward strengthening the professional safeguards necessary for the exercise of their mandate. This tendency to professionalize manifests itself also in the move away from a system of remunerative allowances to one of real salaries, complete with social security and pension rights. In tandem with this, there

is a move toward preventing officials from assuming several executive roles. In Eastern Europe, the former classification of local executive officers as civil servants has acquired a particular relevance in the new institutional context. In Germany, a full-time mayor is classified as a public-sector employee for the duration of his mandate; in most of the other countries, such status is only partial.

On the other hand, the situation for ordinary councilors –the members of the deliberating assemblies– is generally speaking less satisfactory. The system of leave of absence, paid leave and compensation for loss of income that are thought necessary for exercising their mandate often provides insufficient protection. The training of elected officers is poorly organized, and the system for defining ineligibility and inappropriate practices, aimed at preventing conflicts of interest and improper use of certain positions, falls short of acceptable standards in many countries.

Despite all these reforms, one troublesome fact continues to haunt the modern electoral process: low voter turnout for local elections (Gabriel / Hoffmann-Martinot: 1999). Declining voter participation and stagnation in voter numbers reflect a worrying disaffection with politics at large. This new iteration of a kind of voter torpor appears to be more a response to high-level politics at national level and perhaps the international levels, rather than a widespread unhappiness with local authorities. An exception may be found in Eastern Europe where local elections provoke dramatically lower participation than national elections, perhaps reflecting a general feeling that local authorities don't have much of a role to play. Only three countries are bucking the trend: Hungary, Ireland and Switzerland. The United Kingdom is also seeing a rise in voter participation, albeit from a very low benchmark. In Spain the trend in voter participation simply is not clear enough to characterize.

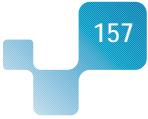
IV.2. Citizen participation

These developments have been accompanied by another notable change, increased citizen participation that alters traditional political dynamics. The most obvious form is the referendum, particularly the citizens' referendums initiated by popular demand. This is being increasingly provided for by the law, though actual use of referendums is still rare, except in Switzerland and to some extent in Germany where they are a traditional institution.

This should be contrasted with the increasing importance given to infra-municipal entities, which allow a representation and a participation of citizens at the closest possible level to where they live. These entities are essentially to be found in countries with large municipalities. They are traditional in Bulgaria, and in Portugal their role appears to be growing, which in turn is giving rise to criticism from council management viewpoint. They can be found in countries that have undergone territorial reforms, but without a role in local administration; in such instances they are intended more to maintain a representation to legitimize the amalgamations, such as parishes in England, communities in Wales and villages in Poland, Greece and Lithuania. These can be compared to the neighborhood institutions in Spain. In the Nordic countries, management tasks are devolved upon infra-municipal institutions with corresponding forms of sector-based citizen participation. In other countries, neighborhood councils have been set up, representing local residents; in France they are mandatory for cities with a population of more than 80,000, and are optional for smaller municipalities. In Italy, neighborhood councils had some popularity in the 1970s, but have since declined.

In fact, it has often been thanks to sector-based procedures that progress has been made in citizen participation, particularly in the fields of urban planning, environmental protection and quality-of-life protection. Here local government

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has sometimes usefully turned to international instruments and used them to raise public awareness and mobilize campaigns. This happened with the Aarhus Convention, and more recently with the environmental impact study plans and programs following the European Community Directive of 2001. The real impact of these procedures on public participatory processes is difficult to assess. Particularly in light of the circumstances and situations where non-compliance of procedures leads to the annulment of the decisions already taken, thus providing citizens with a more realistic appreciation of the room for participatory maneuver and its subsequent bearing on the decision-making process.

Progress in the area of citizens' right to information should not be forgotten either. This does not just concern the publication of local public records. It also speaks to the right of access to administrative documents, which is an essential condition for transparency in local government. Europe has Sweden to thank for the widespread recognition of this principle. Although it has not been implemented in the systematic way seen in Sweden, improved access to local government data does give citizens, associations and the media a more complete picture of the workings of their administration. This is, of course, a prerequisite for effective participation and supervision by civil society. Over the past few years, several Central and Eastern European countries have passed legislation to improve public access to administrative documents, most recently and particularly the Czech Republic and Slovak Republic. The United Kingdom also recently adopted such a law, The Freedom of Information Act.

One related development is the advent of electronic administration in all the European countries. This trend is not restricted to local authorities, and has several aspects¹⁹. The most important relates to the authorities' intention to simplify administrative procedures. The de-materialization of the public markets illustrates the potential

information technology has for improving administrative procedures. One factor inhibiting more computerization of procedures is the need for increased computer security to protect personal data. In many cases this need for confidentiality prevents electronic production and distribution of official notices and certificates. With respect to local democracy, the Internet serves an educational function by multiplying the sources of information that citizens can consult. Of course, it does not guarantee that relevant information will be made available to them for assessing local management or policies. That would require regulations governing what information should be made available to citizens, as is the case in the United Kingdom for performance indicators.

Restrictions, active and passive, still exist in some countries on the voting rights of part of the population. For example, Latvia, Estonia and Lithuania restrict voting by their Russian-speaking citizens. Such voter exclusion is difficult to square with the European Convention on Human Rights. Conversely, the Netherlands and Sweden are extending voting rights to foreign residents (non-European Union nationals), under certain conditions.

IV.3. Supervision

The supervision of local governments is usually exercised by the state, though in federal states this is usually done by the federal members and in self-governing regions supervision is at least partially devolved to the regions.

With regard to administrative controls, there is a general tendency to limit these to legal checks on the lawfulness of actions and procedures, at least as far as the own (or basic) powers and responsibilities of local authorities are concerned. However, one recourse is the "jurisdictionalization" of supervision. This trend is beneficial for local self-government. However, a closer consideration does reveal that in most of

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19. Chatillon, G. / Du Marais, B. (dir.) (2003), *Electronic administration at the service of citizens*, Bruxelles, Bruylant.

Increasingly worthy of note are the widespread forms of cooperation among various levels of government based on contractual arrangements

the states, the administrative authorities have the power to first censure the act under dispute, after which the local authority may submit the case to the courts. The administrative authority also has the power to suspend any act it submits to the courts. Few countries limit the power of the supervisory authority to the submission of cases to the courts. In France, Hungary and Spain, the act under dispute remains enforceable –subject to a few exceptions. In Italy however, the 2001 constitutional review led to the total removal of the legal checks that had previously been carried out at the regional level, though not by the region. There remains a power of substitution (stepping in for the lower authority) that the government can exercise in cases where Italy's international and European Community obligations in particular are at stake. The government also has the possibility of appointing an "extraordinary commissioner" to resolve a problem on behalf of a local authority that has proved unable to do so. This procedure has been used to resolve problems related to water supply and refuse disposal services in a few cities in the south.

Regional authorities can also exercise certain controls, as is the case for urban planning and development in Italy and Spain, where they have the power of prior approval of local council plans and can stipulate certain amendments as a condition for approval.

In some countries, the power of higher authorities to dismiss or dissolve local bodies is only very rarely regulated by the law, and could lead to abuses. Such cases are steadily decreasing under the influence of the Council of Europe and through monitoring of the implementation of the European Charter of Local Self-Government.

Controls on financial management can affect local self-government. While there has been a tendency to decrease the traditional audits for checking the lawfulness of accounts, the development of new management techniques based on the accountability of staff and

officials, and on performance evaluation can translate into heavier controls. These controls can be an even more sensitive issue given that the performance indicators and objectives will have been defined in greater detail. When such controls are carried out by a higher authority, they are by their nature potentially harmful to local self-government, no matter that the official aim is to improve effectiveness.

The case of the United Kingdom (England) is exemplary on this. Recent developments there have led to a reinforcement of the inspections carried out on local authorities, either directly through the audits effected by the Audit Commission for Local Authorities, which can submit cases to the courts, or indirectly through procedures aimed at promoting better public sector management (Best Value Inspection, with the mission of inspecting all services on this basis). If local authorities, bound by the Local Government Act 1999 to constantly improve their results, improve their performance and obtain the qualification of "best value authority," they are rewarded with a greater freedom of action, particularly in what use they can make of the grants they receive. The Best Value Performance indicators are set by the various ministries when these are preparing the annual budget. The Audit Commission (pursuant to the Audit Commission Act 1998) must publish to that purpose a report on its evaluation of the performances of local authorities, and classify these according to their performances into different categories defined by the Secretary of State for Communities and Local Government (pursuant to the Local Government Act 2003, in particular sections 99 and 100). The October 2006 White Paper provides for reducing the number of indicators used in the evaluations from 1,200 down to 200.

Increasingly worthy of note are the widespread forms of cooperation among various levels of government based on contractual arrangements. Such agreements are used

under many different conditions for a variety of purposes. These arrangements are found in the various areas of shared powers and responsibilities, where cooperation creates interdependence. They are used in Belgium, France, Germany, Italy, the Netherlands, Portugal, and Poland (see in particular the 1999 law on territorial development). They even appear in Ukraine (see the adoption in 2005 of the law on regional development and the adoption in 2006 of its implementing provisions). In England the regional offices of the government have since 2004 been negotiating "Local Area Agreements" with the local authorities in order to implement some 40 programs set by ten ministries. The October 2006 White Paper provides for this to apply to all authorities, setting out a legal framework for these agreements that would make them mandatory across the country. This approach has raised considerable interest, which is understandable because it sets an official framework for negotiations, and facilitates the monitoring of how the mutual undertakings are honored. Developing cooperation between the various levels of government represents a step beyond the notion of local self-government as something defined in opposition to the state. Instead, it redefines it positively along the lines of a general participation by local authorities in the different collective responsibilities that the public system must carry out. This highlights how relative the idea of local self-government is in modern states.

IV.4. The impact of decentralization and local democracy on national policies

It is paradoxical that apathy toward local institutions, as reflected in the increasingly low voter participation in local elections, is manifesting itself at a time when the powers, tasks and independent decision-making of local authorities have markedly increased in most countries. Again, evidence suggests that generally speaking this development cannot be blamed on the local institutions themselves.

There is also the phenomenon, well noted for a long time now, by which the more national policies depend for their implementation on local authorities, the more these are in a position to influence *de facto* the national policies. Or they may cause distortions at the local level, forcing the national government to anticipate things by, at least partly, taking into account the demands of the local authorities. This phenomenon has often been studied, and was illustrated a few years ago in France by a report of the *Cour des Comptes* (national audit office) on the "city contracts." The report showed how the contents of the contracts and their implementation strayed from the priorities initially set out by the government (*Cour des Comptes*, 1992).

However, we should not extrapolate too much from this analysis, which only applies to countries where the local authorities, and in particular the mayors, have acquired sufficient political weight to reduce the scope of the methods of control available to the government. In particular, there are no indications that similar observations could be made about the local authorities of Eastern Europe, despite the progress made there.

Connections between national and local politics should not be overlooked. An extreme case of intermingling is France, where the practice of politicians being elected to several mandates exists. This has allowed some local issues to permeate debates in the national parliament, but has also slowed the renewal of the political scene by allowing elected officials to keep at least one mandate if defeated in election for another. This practice makes it difficult to introduce global reforms that would challenge the collective interests of local representatives. The extensive reach of this system stands in contrast to the countries where radical reforms have been carried out, such as the United Kingdom (particularly the reforms of 1972 and 1996). The British system is famous for the separation it maintains bet-

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Local government associations are playing a greater role in Europe, in particular with respect to the EU. Four main functions may be distinguished in their activities, none of them being exclusive

ween national and local institutions, and between politicians of both levels.

In the other countries, although multiple mandates are usually excluded, at least at the level of executive roles, the practice nonetheless appears in several countries in diluted or indirect forms. In Germany for example, municipal or district councillors may also be elected as members of the regional parliaments (*Landtag*); the regional parliaments do in fact play an important role in local administration and finances.

The growing influence of national political parties in local elections –at least in countries with a system of political parties with well-established local presence– works both ways, but more in favor of centralization. Political loyalties do lead to a certain homogeneity in the playing out of issues, even if local candidates for office try to put forward issues specific to their constituency or area. This has long been observed in the United Kingdom, especially since the Labour party established itself at the local level. But for the same reasons, local elections are often considered as a test for the government in power, which means that national issues tend to predominate over local ones.

It is harder to assess the role local politics play in the careers of politicians. Even in France these days, national political careers are more frequently consolidated by a local mandate, a likelier option than getting into parliament after having become known as a mayor. In the other countries, there are few examples of local political leaders who went on to the national level. At most, this applies to the mayors of a few large cities.

IV.5. The role of local government associations

It can safely be stated that local government associations are playing a greater role in Europe, even though their importance varies from country to country. One

of the goals of local self-government building in Central and Eastern Europe was to establish associations of local governments capable of representing their collective interests to central government. These associations in the Western European countries provided crucial support for their establishment.

The role of these associations in the European countries can be evaluated by their status and by the work they carry out.

With respect to their status, legally they are always associations governed by private law. Even so, they are increasingly being given official recognition, to a greater or lesser degree. In most countries there is just one organization representing the local councils, or respectively the intermediate level local governments. This is the situation in Belgium, Denmark, Italy, the Netherlands, Spain and Sweden where, since 2005, only one association has represented the local and county councils. In Austria and Germany, certain differences between cities and municipalities are reflected in the two different associations they have. Added to this is the association representing the districts (*Landkreis*). Austria for its part is the only country where the role of the associations has been enshrined in the constitution: article 115.3 stipulates that the Austrian Federation of Local Councils and the Austrian Federation of Towns are bound to represent the interests of the local councils. A few other constitutions enshrine the right of local councils to form associations to represent their interests (Bulgaria, Estonia and Hungary). In France and Hungary there has been a definite increase in associations forming along sectorial or partisan lines.

From the functional perspective, four categories of associations can be distinguished by what they do in practice. None of these activities is exclusive; on the contrary, most associations take over several jointly. However, the weight taken by one function compared with others allows distinctions to



be made among four categories of associations. The first is that of the associations whose activities are essentially to represent the collective interests of local governments to the central government, or to the regional authorities. These are found particularly in Austria, Belgium, France, Germany, Greece, Italy and Spain, as well as most associations from the eastern countries. The second category is associations that have developed a role of representing the local authorities as employers, and thus play a part in labour relations with the local government's staff; it is the-

se associations that sign the collective agreements legally required for fixing the employment terms of local personnel. This concerns the countries where the employment of local government staff is governed by private law, in particular Denmark, Norway, Sweden, the United Kingdom, and more recently, Italy. This does not mean that the other associations are not interested in such matters; they just do not have any legal responsibilities for the staff. Third, some associations have developed a role as agents for consultancy and other services to the local governments; these

*Today, the Council
of European
Municipalities and
Regions (CEMR)
is a
non-governmental
umbrella
organization for the
national
associations of
local and regional
authorities of 35
European States*

are often the same ones that appear in the second category, though with the addition of associations in Austria, Germany, the Netherlands, Ireland, Finland, and most of the Central and Eastern European countries. In the latter countries the associations receive support for this from their counterparts in the Western European countries. The fourth category is characterized by the difficulty of distinguishing the associations that represent specific interests from those that are legal tools for facilitating cooperation between separate local councils in jointly carrying out shared work on specific tasks (Bulgaria, Estonia, Lithuania). This last category reflects some confusion, at the same time obscuring distinctions that absolutely must be clear if inter-municipal cooperation is to develop on a stable foundation.

We can expect that the growing interdependence of different tiers of government –financial as well as functional– will lead to the development of the role of local government associations in all the countries.

Moreover, local government associations have been developing cooperation at the European level since the 1950s. Today, the Council of European Municipalities and Regions (CEMR) is a non-governmental umbrella organization for the national

associations of local and regional authorities of 35 European States. The mission of the CEMR is to promote a European Union founded on local self-government, and it lobbies to be permitted input on European Community legislation and EU policies. It regularly publishes documents describing its position on EU initiatives or projects in progress, for example on the Commission's Green Paper on energy efficiency (February 15, 2006), on the urban contribution to growth and jobs in the regions (March 10, 2006), on the proposal for a regulation of the European Parliament on public passenger transport services by rail and by road (April 2, 2006), on the role of local and regional governments in relation to migration (October 23, 2006), and on the directive proposal establishing a framework for the protection of soil (April 14, 2007). The CEMR is also the European branch of United Cities and Local Governments. There are other European-level local authority associations, in particular Eurocities, a network of 130 big European cities in 30 countries that has existed since 1986, and whose aims and forms of action are similar, though more from the point of view of the big cities. These organizations can find a support and a relay for their proposals in the Committee of the Regions of the European Union, though this institution is not their only channel for making representations.

V. Conclusion

This panoramic presentation of decentralization and local democracy in the European countries has shown how local self-government has become the general rule, whatever the diversity of institutions through which it manifests itself. In this respect, there are greater similarities between states at the local government level than at the regional level, which does not exist in all countries in institutional form and displays a great variety where it does.

However, similarities can be observed at the level of values and tendencies, rather than between systems. The principles of local self-government at present in Europe form a corpus to which all states adhere. One seeks to rationalize territorial divisions and their scale to make them adequate to their functions. Local government responsibilities can no longer be devised with regard to a local public interest, but more and more to their participation in



functions of overall national interest in a framework established by the law. The distance that existed formerly between European countries, in broad terms between Northern and Southern Europe, is shrinking. This convergence can be found also in the spreading of contractual relationships between government levels. The role of local government has increased considerably, from the economic point of view, in the performance of major collective functions, as well as their autonomy in it. But own resources tend to decrease, although some countries are excepted, if

under these terms are meant the resources of which local governments are entitled to vary the yield, at least within some limits. From the institutional point of view, the tendency to stronger political leadership and the development of participation procedures can be observed everywhere. In sum, Eastern and Western Europe are becoming closer.

The major ground for these convergences has to be found, without any doubt, in the growing integration and interdependence between the various government levels,



whatever the differences in legal status. This is the consequence of the extension of local government functions and of correlative increase of their budgets. Local self-government is not the Asterix' village; this is a relative notion that has to be built through a network of relations, resulting itself from the functions and powers assigned by the law.

By contrast, local government systems are not converging. They further differentiate regarding the forms of regionalization and the role of the intermediate level of local government. Countries with large municipal units further contrast with countries with small municipal units. The understanding of central-local relationships is still marked by historical factors, reflected in local government functions. Only history can explain that in some countries a function is considered local whereas in others it is considered as national. Local finance systems are marked by the structure of national tax systems; it derives from this that the

financing of local government budgets be led by transfers and tax shares or by own tax revenues. Local institutions further differentiate markedly between countries with traditions of representative democracy and countries with participative traditions. In Central and Eastern Europe, and even more in South-East Europe, the burden of the transition is still there; local government is indeed only one piece in the state-building process. Nevertheless, differences do not impede cooperation or exchanges of experience.

Lastly, if decentralization contributes to the development of political democracy, it would be an illusion to think that the confidence crisis reflected in the lower rates of participation in local elections be solved by decentralizing more. Local government is part of a whole. Local government may suffer a loss of sense of politics at the national level that cannot be ascribed to it. But it can demonstrate that it can contribute to give it sense again.