



**Local & Regional  
Europe**

# **Better policy making through enhanced dialogue with Europe's local and regional governments**

## **Proposals for achieving “Active Subsidiarity”**

CEMR position paper

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# CEMR's response to the European Commission's Communication on Subsidiarity and Proportionality<sup>1</sup>

## Context

The successful introduction of new legislative initiatives or the reconsideration of legislation currently in force will often impact on several tiers of government, and therefore, the publication of the Commission's Communication last October on promoting greater subsidiarity and proportionality in EU policymaking, is welcome. This CEMR paper responds to the Commission's Communication, which recognises the clear gains for the EU by achieving a shared management approach of EU policies, particularly where there are territorial interests at stake. The Communication signals real progress, both in its suggestions on how to boost engagement with those responsible at all levels of governance for implementing EU legislation and law making, and on how to lift the quality of that engagement.

This CEMR position paper builds on the issues underlined by the Communication, identifying potential next steps to be taken up during the mandate of the next Commission.

CEMR's **five** proposals to the Commission and other EU institutions, for delivering better policy outcomes through a shared governance approach are as follows:

1. Establish a **structured dialogue** process with local and regional governments and their representative associations
2. Focus on **effective mechanisms for engagement** with local and regional governments
3. **Boost the value** of LRGs' input to EU policy processes
4. Draw upon **LRG data and evidence earlier upstream** in EU policy and legislative processes
5. Enhance instruments to **enable better access** by sub-national governments to policy making

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<sup>1</sup> European Commission Communication of 23 October 2018: [https://ec.europa.eu/info/sites/info/files/communication-principles-subsidiarity-proportionality-strengthening-role-policymaking\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication-principles-subsidiarity-proportionality-strengthening-role-policymaking_en.pdf)

## Introduction

The European Commission's adoption of its Better Regulation Agenda in 2015 has helped advance efforts towards greater subsidiarity, through better annual planning and improved impact assessments. Nevertheless, much more can be done to ensure that all tiers of government are able to maximise their contribution to the effective delivery of EU policies. CEMR's proposals focus on further action that can be undertaken, using existing legal frameworks and procedures, enabling local and regional governments to play their full part in addressing current challenges faced in Europe's territories.

**Part one** of the paper highlights how enhanced consultation with local and regional governments and their representative associations has proven its usefulness in helping to deliver better policy outcomes. This section is completed by the inclusion of proposals for further fine tuning Commission consultation processes, to enhance their ability to take account of LRG views. (**Proposals 1 to 3**). **Part two** focuses on the data and evidence that LRGs have access to and that can be particularly beneficial during the pre-legislative stages of EU policy drafting. (**Proposals 4 and 5**).

## PART 1 – INCREASED INVOLVEMENT OF LOCAL AND REGIONAL GOVERNMENTS IN POLICY MAKING ENHANCES THE ADDED VALUE OF EU LEGISLATION

### ***Governance in Partnership – the key to better policy outcomes***

The European Commission's Communication on Subsidiarity and Proportionality clearly acknowledges that local and regional governments are not simply 'stakeholders', with a passing interest in the outcomes of EU policies. They are key partners in the effective implementation of EU legislation, central to improving how well EU legislation serves its citizens, given their knowledge and understanding of the impact of policies on the ground, where they are delivered.

It is heartening to see that the Communication recognises the multi-level governance nature of many EU policies and identifies key areas where the application of subsidiarity should be improved. In addition, it points out that all EU Institutions, not only the European Commission, need to acknowledge this multi-level governance nature of policy implementation, particularly where powers are shared between different layers of government. The **declaration of the Austrian Presidency** adopted during its conference on subsidiarity in Bregenz<sup>2</sup> in November 2018 underlines too the nature of shared responsibility, in addressing the EU's challenges and helping to come up with appropriate solutions.

Furthermore, a seminar on "Setting the course for the future of territorial and urban policies at European level – governance as a fundamental condition for successful implementation", organised on 13 November 2018 on behalf of the Austrian Presidency in Vienna, addressed the question "how to strengthen territorial soft policies and its governance systems?" The concluding discussions underlined that there should be a stronger integration of the territorial soft policies and governance mechanisms at European and national level. CEMR welcomes this conclusion and is committed to further advancing this agenda.

### ***The growing recognition of CEMR and its national associations of local and regional governments in enhancing EU policy processes***

CEMR and its members have long championed the closer engagement of local and regional governments (LRGs) in shaping EU policies and CEMR has steadily increased its profile and credibility, by presenting the data to support this approach. The EU Institutions regularly look to CEMR to provide evidence based know-how and expertise, to aid understanding of the real world impacts of their policy making. The value of this insight for policy makers is highlighted in the European Parliament's resolution on the role of cities in the EU institutional framework in July 2018, where it states that **CEMR should be recognised as a key partner of the EU institutions by way of setting up a permanent structured dialogue mechanism, particularly at the pre-legislative stage**<sup>3</sup>.

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<sup>2</sup> 'Subsidiarity as building principle of the European Union' – [Declaration](#) by the Chair of the Austrian Presidency to the EU, 16 November 2018

<sup>3</sup> Role of cities in the institutional framework of the Union – P8\_TA-PROV(2018)0273, para 19

The value of CEMR's contribution is also highlighted by its role as a **member of the multi-stakeholder platform on the implementation of the Sustainable Development Goals (SDGs) in the EU**. CEMR's input has been particularly welcomed by DG REGIO, as regards its work on drafting the recommendations on the implementation of the SDGs at the local and regional level. Also noteworthy is CEMR's participation in and contribution to several intergovernmental working structures dealing with territorial cohesion (NTCCP and DGTC) and urban development (UDG, DGUM and URBACT monitoring committee). Furthermore, CEMR's work is valued as it provides genuine views of LRGs of all sizes and from all Member States, in EU discussions and reflections. This is certainly the case for the 8 out of the current 12 **Partnerships of the Urban Agenda for the EU**, in which CEMR participates. Similarly, CEMR provides a notable contribution to the Civil Dialogue Group, which is organised by DG Home and gathers relevant stakeholders representing Civil Society.

Since 2004, and based on scientific representativeness studies that are conducted regularly, CEMR is recognised by the European Commission as the most representative organisation to defend the interests of local and regional governments as employers in the EU. As such, CEMR is consulted at each European initiative related to working conditions and to work organisation in the framework of **the European Sectoral Social Dialogue Committee for local and regional administrations**. With all this experience and expertise gathered in the past years, CEMR aims to build on the recognition of the part that it can and does play in ensuring the rightful place for local and regional governments in shaping EU policies.

### ***Upgrading the dialogue with local and regional governments (LRGs)***

The Commission's Communication has highlighted potential efforts to revise questionnaires so as to increase the chances of capturing the views of LRGs, another important aspect identified that will improve the quality of dialogue with LRGs. This is welcome, however, the involvement of LRGs in EU policymaking remains inconsistent and uncoordinated across the European Commission's services and in different areas of EU policy preparation. The Commission should fully incorporate into its policy development and implementation process a 'governance in partnership' mind-set mirrored across all relevant Commission services. This would enable a robust assessment of the financial, administrative and regulatory impact of EU legislation at the local and regional territorial level, at the earliest stages of decision making. The indications from the Commission's Communication give reason to be hopeful in this respect.

CEMR believes that the time is ripe to establish a "**structured dialogue**" process with LRGs and their representative associations in the development of EU policies. This would allow the necessary room for specific national and local circumstances to be taken into account in EU policy processes. In addition, this would provide an opportunity for introducing greater flexibility in the implementation of policies at the national, regional and local level, increasing the chances of achieving the most effective way to bring forward this legislation, allowing for a more 'tailor-made' approach.

### ***Adaptation of Better Regulation tools for improved dialogue with local and regional governments***

Whilst the Better Regulation approach has no doubt brought important improvements to the process of EU policy design, CEMR urges the Commission to rethink how the Better Regulation tools work together. The consultation of the LRG sector within the context of Better Regulation needs enhancing. In particular, there lack clear channels for LRGs to provide their specific input given that in general, consultation processes are conducted in a centralised way, characterised by a top down one-size-fits-all approach. Currently, it is probable that the receipt of information being submitted to an EU public consultation by a municipality or an association representing multiple municipalities, would be insufficiently weighted and to some extent explains why there remains a poor response rate to EC consultations by local and regional governments, even when their interests are being impacted.

## **CEMR's proposals for enhancing consultation with local and regional governments in EU policy making**

### ***Proposal 1 - Establish a structured dialogue process***

- The European Commission's services need to upgrade their processes, moving towards a structured dialogue, which would enhance the ability of the different services to work with **national associations and their European umbrella organisations, such as CEMR**, to capture the views of LRGs. Both the European Parliament's report on the 'Role of Cities in the institutional framework' (A8-0203/2018) and the European Commission's notion of "Active Subsidiarity", as highlighted in its Subsidiarity Communication, are instructive in this respect.
- The current **Social Dialogue** arrangement provides valuable lessons for how a structured dialogue could be established. Different groups could be created for consultation involving relevant services of the European Commission, depending on the issue in question: cross sectoral actors such as local and regional authorities, sectoral actors such as industry specific representatives, NGOs, sector specific networks, etc.

### ***Proposal 2 - Focus on effective mechanisms for working with representatives of LRGs***

- The Commission should involve the relevant **European umbrella organisations**, such as CEMR and national associations, in the drafting process of the questions for inclusion in consultations, particularly where there are **territorial and geographic concerns**.
- The Commission should introduce **targeted consultations for LRGs** to solicit their specific input, especially where policy outcomes have territorial consequences. In addition, feedback should be provided, to show follow up action to consultation responses. This feedback should be included in an explanatory appendix.
- The Commission should go further than simple consultation with LRGs, but aim to genuinely canvass views, which could be organised at **staff rather than at political level**. These dialogues should involve direct contact with groups of municipalities, national associations or European associations, depending on the issues for discussion.
- Furthermore discussions between the Commission and sub-national partners should not only take place in Brussels, but in member states, at the **sub-national level** with representatives of the local/regional level on the one hand, and the Commission on the other.

### ***Proposal 3 - Boost the value of LRGs' input to EU policy processes***

- The introduction of a "**stakeholder weighting mechanism**" in EU consultations would ensure greater representativeness and legitimacy of stakeholders taking part in consultations. This would afford increased weight to consultation responses submitted by those supported by a democratic mandate.
- In order to better **involve all stakeholders** concerned by a consultation and to raise the value of their input, there should be meetings held similar to those held in the context of the European Semester. These meetings would bring together Commission staff and an array of stakeholders, enabling a broad exchange of ideas and feedback.

## **PART 2 – BOOSTING THE QUALITY OF EU LEGISLATION THROUGH ACCESS TO BETTER DATA, STATISTICS AND EVIDENCE IN THE PRE-LEGISLATIVE STAGES**

The European Commission's efforts to improve Better Regulation tools highlights the Commission's growing recognition that effective policy outcomes need to be informed by reliably sourced data and statistics and backed up by evidence from those with the knowledge of what works, when rolled out in real life situations. Local and regional governments are well placed to provide the Commission and other EU Institutions with this robust evidence and data, permitting the impacts of policy at the local and regional level to be accurately anticipated. This can be facilitated by drawing upon the knowledge and expertise of national associations of LRGs and their representative European umbrella organisations, such as CEMR.

### ***Boosting LRG technical input to impact assessments and evaluating existing laws***

For LRGs, anticipating the impact of new EU legislation or policy as regards potential administrative and regulatory costs is crucial. There are obvious benefits for the European Commission too, of being able to evaluate comprehensively how well policies are being implemented on the ground. The Commission should be able to acquire the knowledge it needs in an intelligent way, using a process that is fit for purpose, drawing directly on the know-how of those with the necessary insight, rather than taking an intermediary route, for example by employing outside consultants. LRGs and their representative associations are well positioned to boost the strategic input to the work of the Commission in this respect.

CEMR's members have voiced their clear support for the Commission's use of roadmaps and inception impact assessments, in order to facilitate a targeted and added value contribution to the drafting of EU policies. Inception impact assessments allow the territorial consequences of policy implementation to be taken into account early on in the legislative process, and should become the normal practice employed across the Commission. This would allow all services to better assess the optimal means of achieving their policy objectives, particularly as not all services of the Commission are equally familiar with the territorial and geographical impacts of their policy choices.

### ***Harnessing the knowledge of LRG representatives to improve the REFIT Platform***

The workings of the **REFIT Platform**, whose objective is to review how effectively EU policies deliver their objectives, is far from optimal in achieving this task. Therefore, CEMR is pleased that in its Communication, the Commission acknowledges the compelling case both to reshape the working methods and the composition of the REFIT Platform. CEMR strongly supports that the representation of the local and regional government voice be increased beyond that of a single representative of the Committee of the Regions and a natural advisory body (Europa decentral). This will ensure a better representation of the diverse array of territorial experiences that are felt across the EU.

## **CEMR's proposals for promoting LRG expertise in EU policy making for better policy outcomes**

### **Proposal 4 – Exploit *LRG evidence earlier upstream in EU policy and legislative processes***

- The Commission's service should maximise execute **Inception impact assessments** before they begin preparing draft legislation and not in parallel and these need to take account of **territorial and geographical impacts** of policy implementation. Furthermore, The Commission should adapt its way of working towards an "**evaluation first**" approach, meaning that no legislation should be amended without have first evaluated the existing legislation.
- The addition to the **REFIT Platform** of a representative from CEMR, thereby strengthening the LRG involvement and which would facilitate the Commission's access on an on-going basis, to technical and concrete expertise where legislation can be simplified or modified.
- Increase **transparency** of the legislative cycle, so as to clarify key moments in the policy making processes where there are key LRG interests. In particular, during trilogue sessions, as regards meeting dates and agenda points.

## **Proposal 5 - Enhance instruments to enable improve access by sub-national governments to policy making Conclusion**

- A system should be created for competent authorities to input their expertise on how best to design policy. Good examples exist across Europe, including in the **Netherlands, Germany, Italy, Sweden, Finland, Denmark, and Austria** amongst others, where LRGs are effectively involved in shaping policy from the earliest stages, alongside central and regional government representatives.
- The **Urban Agenda Partnerships** set up under the Pact of Amsterdam should be examined closely as the early results point to valuable lessons on how to improve policy making across certain areas of policy. This should become a reference for a 'working in partnership model' to be followed by other Commission services and not only for partnerships in urban areas or bigger cities.
- The Commission could look at the **Better Regulation insight Tool** ([Bright-tool](#)) whose method has already been successfully used by the Urban Agenda Partnerships. This tool, commissioned by the Dutch Ministry of Internal Affairs, was developed to empower the Urban Agenda for the EU in delivering its Better Regulation objectives and founded on a bottom-up approach.

## **Conclusion**

The coming months are a crucial period to renew the foundations of Europe, enabling the EU to demonstrate its relevance to citizens and to serve the needs of its towns, cities and regions. Better law making and the genuine engagement of LRGs is essential in that regard. The European Commission has recognised the need to harness the valuable contribution that can be made by LRGs to EU policy making. As is clear from our "[Manifesto for a Local and Regional Europe](#)", CEMR and its members propose the establishment of a European governance model, based on partnership arrangements that enable the full involvement of local and regional governments in the design and implementation of policies. CEMR's core messages and proposals will be taken forward in the coming months, in discussions with the current and future Commission and Members of the European Parliament.



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## About CEMR

The Council of European Municipalities and Regions (CEMR) is the broadest organisation of local and regional authorities in Europe. Its members are over 60 national associations of municipalities and regions from 41 European countries. Together these associations represent some 130 000 local and regional governments.

CEMR's objectives are twofold: to influence European legislation on behalf of local and regional authorities and to provide a platform for exchange between its member associations and their elected officials and experts.

Moreover, CEMR is the European section of United Cities and Local Governments (UCLG), the worldwide organisation of local government.

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