

PARLIAMENTARY COLLOQUY - Regionalisation in Morocco: opportunities and challenges for consolidating decentralised governance

28 November 2017, Rabat, Morocco

Presentation by Leendert VERBEEK (Netherlands, SOC), Chair of the Monitoring Committee of the Congress of Local and Regional Authorities of the Council of Europe

Madam President,
Ladies and Gentlemen,

It is a great pleasure for me to address today to you and to present the legal framework for decentralisation and for local and regional self-government, established in Europe.

I am particularly pleased to do so because I am the Chair of the Monitoring Committee in the Congress of Local and Regional Authorities of the Council of Europe.

The Monitoring Committee is in charge of ensuring the practical implementation of this framework in the 47 member countries of the Council of Europe.

The experience which we gain through this process of monitoring, is extremely useful for further improving local and regional governance.

This experience shows a rich diversity of practices and methods of decentralised governance across the European continent.

As Mr Cadoret has just said, we would be delighted to share this experience with you, our neighbours on the southern shore of the Mediterranean.

But also to learn from you and to enrich our knowledge and tools with your experience.

The legal framework for local self-government in modern Europe has been built over decades.

A short historic perspective, dating back to the Bordeaux Declaration and the Charter of Municipal Liberties in the 1950s and the creation of a European Conference of Local Authorities in 1956, which evolved over the years to become the Congress of Local and Regional Authorities in 1994.

However, in some countries autonomous local self-government existed already in the 19th century, based on relevant laws, and even before if we think of the city-states in the medieval Europe.

So, while local self-government is not new to the European continent, its principles had not been codified at the European level until the adoption of the European Charter of Local Self-Government in 1985.

The Charter, which is ratified today by all the 47 member States of the Council of Europe, has the binding force of a treaty.

And it is considered as a key European convention and a major reference tool for local democracy.

Sometimes referred to as a Magna Carta, a charter of liberties for local authorities, protecting their rights against national governments, the Charter has inspired similar instruments beyond Europe – such as the decentralisation guidelines worldwide, adopted by the United Nations Habitat. And of course the African Charter on the Principles and Values of Decentralisation, Local Governance and Local Development, adopted in June 2014 by the African Union.

In this regard, I would like to congratulate you on the re-integration of Morocco to the African Union in January this year. While your country, as a non-European State, cannot become party to the European Charter of Local Self-Government, the implementation of the African Charter is now within your reach, and the European Charter can always remain a source of inspiration and benchmarking of your efforts for the principles it promotes.

Speaking about these principles set out in the Self-Government Charter, I would like to begin by stressing that first and foremost, the Charter enshrines self-government as a right of local elected representatives – their right to manage a substantial share of public affairs on their own.

The Charter provides that this right of local self-government should be enshrined in the national constitution – which is the case in many countries.

Or at least in the relevant legislation, which is the case in all Council of Europe member States, that adopted relevant laws on local self-government.

Local communities exercise this right by establishing their own government through free and fair elections of local councils, held on a regular basis. This is the next major principle of the Charter.

The local councils, in their turn, have the right to establish their own competent administrations to support their work.

Whereas local councils are accountable to the citizens of their communities that elected them, local administrations are accountable to the local councils and must be protected from the interference from higher levels of government.

Autonomous local administrations and non-interference in the decision-making by local councils are two further principles established by the European Charter.

The Charter provides in particular that administrative supervision of the work of local councils by higher levels of government must be limited to the legality of local action.

Which means its conformity with national laws. At the same time, the higher levels cannot judge the appropriateness of local action. Which is to say, whether or not a local decision was justified and reasonable, as long as it conforms to the national legal framework.

There are exceptions to this principle however. With regard, for example, to the tasks delegated from the higher level, where the higher level remains the owner of the task and the local level acts as an executing agency. Or with regard to the discretionary powers of central authorities to limit the share of the local debt. I hope we will be able to address these issues in greater detail in our discussions during this colloquium.

Ladies and Gentlemen,

After the establishment of local councils and their administrations, it follows that they should be endowed with real powers – or competences – to respond to the needs of local communities and fulfil their obligations to the citizens.

The key principle of the Charter providing for the transfer of competences to the local level – and therefore the decentralisation of power – is known as the principle of subsidiarity.

The principle of subsidiarity says that the responsibility for managing public affairs must be dealt with by the level of government where such responsibility can be fulfilled most effectively and efficiently.

As the local level is the level closest to the citizens, this means that the responsibility for managing a substantial share of public affairs and tasks must be transferred to the local level.

Or to the regional level when the local community is not in a position to fulfil the task on its own.

For example, responsibility for building and maintaining a regional road network, or any other tasks that requires action impacting on all communities in a region. However, very often the same effect can be achieved through inter-municipal co-operation in sharing services and using the economies of scale.

This is also promoted by the Charter. In this regard, many European countries have adopted laws providing for the establishing inter-community unions.

On the other hand, issues as local land development and spatial planning, development of local economy, and many other economic, social and cultural matters, including the protection of individual rights of citizens and ensuring their well-being, are better addressed at the local level and in direct interaction with citizens.

Each country has established his own division of competences between national, regional and local levels. What is important is that this division, and the related competences, are clearly defined by national law, and in this regard to the role of national parliaments.

Your role as national parliamentarians is truly crucial.

In this context, we speak about proper competences of local authorities, shared competences and delegated competences. This is another matter that we can address in greater detail during our debate on this subject.

The next principle of the Charter is that of budgetary and financial autonomy of local councils. Indeed, for local authorities to fulfil their tasks, the transfer or decentralisation of tasks to local councils must be supported by the necessary financial resources that corresponds to these tasks.

The Charter provides that any transfer or delegation of competences must be accompanied by the matching financial resources. This can be ensured by transferring corresponding budgets from central budget to the local, either fixed or ad hoc, by giving local authorities the right to levy and collect local taxes, most commonly, real estate and property taxes. Or by providing for a local share in national taxes. For example, from commercial profit taxes or individual income taxes.

Local authorities should also be able to raise their own revenues through issuing local permits and licences and borrowing from the domestic market – to the limits and in conditions prescribed by law.

Furthermore, the Charter provides for the possibility of mechanisms for financial equalisation to ensure a uniform minimum standard of public services to citizens. Both by vertical equalisation through central government transfers and subsidies. And by horizontal equalisation whereby stronger communities contribute a larger share to help weaker communities. This, again, can be discussed more in our debate on financial decentralisation.

Ladies and Gentlemen,

A core principle of the Charter is the right of local authorities of consultation.

The obligation to be consulted by national authorities on all matters affecting local authorities directly. In practice this means that central, regional and local authorities should hold regular consultations, through both formal and informal consultation mechanisms, on issues on local and regional governance, especially on any relevant national laws or decisions before they are adopted.

The Charter stipulates that such consultations must provide for a reasonable time frame for local authorities to be able to form an opinion and establish a position on a specific issue.

In the same spirit, the boundaries of local communities cannot be changed without due prior consultations with the local authorities concerned – which may choose, and often do so, to consult their citizens through a local referendum.

We in the Congress attach great importance to the principle of consultations.

Which has been the subject of many Congress recommendations and on-going discussions regarding its implementation in practice.

It is clear that regular consultations represent in fact a constant dialogue between all levels of government on the matters of regionalisation and decentralisation of power, such as the current process in your country.

We are pleased in this regard that your parliament has been organising encounters on regionalisation with all the stakeholders concerned. And that plans are underway to establish a national Steering Committee. To us, the advantages of coordinated action of different stakeholders is evident. As well is agreeing on a coherent national strategy.

In some European countries, consultation mechanisms take the form of national Consultative Councils. The Council of Europe encourages a similar mechanism in Morocco. For example, a national commission on regionalisation, as recommended by the Moroccan Economic, Social and Environmental Council. Or in another form.

This dialogue through consultations serves to resolve possible disputes and disagreements between different levels of government.

However, when such disputes do occur, the Charter provides for the right of local authorities to have recourse to a court in order to seek resolution, and often protection against decisions by higher authorities.

The right of recourse to courts is another core principle of the Charter.

Finally, the right to local self-government also entails the right of citizens to participate regularly and directly in the affairs of their local authority.

In recognition of the growing importance of citizen participation at local level, this right was detailed in the Additional protocol to the Charter, adopted in 2009.

To say it in a different way, as much as local authorities have the right to be consulted by higher levels, they also have the obligation to consult their citizens and engage them in the decision-making on the development of their communities.

Last but not least, the Charter provides for the right of local authorities to form their associations. I am pleased in this regard that Morocco already has two strong associations, the Moroccan Association of Presidents of Communal Councils (AMPCC) and the Association of Regions of Morocco (ARM).

Ladies and Gentlemen,

I have just presented to you the core principles of the European Charter of Local Self-Government, and the core rights of local authorities protected by the Charter.

This key treaty for local democracy also provides that these principles are applicable to regional self-government and regional authorities.

However, to complement the Charter, the Council of Europe Framework for Regional Democracy was adopted in 2009 as a non-binding instrument.

This framework sets out the principles of establishing regional structures, their functioning and their relations with central authorities.

Especially in cases of regional autonomy, that must always be based on the respect for territorial integrity of the country and loyalty to its Constitution.

In conclusion, I would like to stress that the national, regional and local authorities across Europe are facing the same challenges in establishing local self-government. This is what our monitoring activities have revealed. I am sure that these challenges are similar here in Morocco as well.

To conclude, a legal framework for local and regional self-government, as the European Charter of local self Autonomy is, might not sound very important.

But it is. In fact it is crucial. It is a safeguard of democracy on the local level.

These are important issues that I very much look forward to discuss with you today.

Thank you.