



EUROCITIES Statement on Smart Regulation

Response to the Consultation following up to the 2010 Communication on Smart regulation

Cities and metropolitan regions are where most European citizens live and work. It is also where most economic activity takes place. Many EU policies and legislation impact on and are implemented by cities. Smart regulation is about delivering effective results on the basis of evidence of what works and what doesn't on the ground. Accounting for 75% of our population, 80% of energy use and 85% of Europe's GDP, cities have to be involved throughout the policy cycle to ensure high quality, relevant regulation. Meeting the European Union's objective of becoming a 'smart, sustainable and inclusive Europe' starts in its major cities.

No legislation without participation

The Treaty on European Union states that 'decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity'. The Protocol on the Application of the Principle of Subsidiarity and Proportionality, reiterates this principle and underlines the obligation for the European Commission to consult widely before proposing legislation, taking into account, where appropriate, the regional and local dimension. These rules logically imply a strong role for local and regional authorities in the policy development phase.

Consultation is not participation

Public consultations through conferences and website enquiries are important tools to gather opinions of all possible stakeholders on a given issue. They are a useful way to gather ideas and to have a sense of the stakeholder's views. But there must also be a stronger participation allowing for a more in-depth and technical exchange with local experts around actual ideas and proposals. The guidelines of the European Commission for Impact Assessments could be further examined in order to include a territorial dimension.

Subsidiarity must go beyond regional level

Cities are the level of government closest to the citizens. Directly elected city mayors and leaders have a clear public mandate and a democratic legitimacy. They have clear insight into investment and policy needs on the ground and know what will work and what will fail when it comes to implementing policies locally. As stated in the Communication on Smart Regulation in the European Union, "*getting legislation right is essential if we are to deliver the ambitious*

objectives of smart, sustainable and inclusive growth set out by the Europe 2020 strategy". It is essential to take local realities into account both to deliver effective legislation and to ensure effective implementation.

Cities have a key role to play in all stages of legislation: policy shaping, making and implementing. The Treaty of Lisbon offers new challenges and opportunities for a better participation. The importance of regional and local self-government is underlined for the first time. Multi-level governance should be at the heart of European integration and the legislative process in all its aspects. The direct involvement of cities in EU policy-making must be reinforced. This can be supported in the following ways:

Participation in expert groups

Expert groups developing EU policies or legislation with a potential impact at local level must include experts from cities in their work. The Commission plays a key role in coordinating the appointment of representatives to expert groups and should ensure that the local level is represented in the meetings that concern them. In the policy-making processes where representatives from cities were included in expert groups, the results have been positive, not just for the cities but for the overall success of the policy's implementation. As a network of more than 130 major cities across the EU, EUROCITIES has previously and is pleased to continue to help the Commission identify relevant experts and to support those experts during their work to assure that the different reality in cities throughout Europe can be taken into account.

Transparency empowers actors implementing EU policies

The Commission has taken the first steps towards more transparency, e.g. the roadmaps for future proposals, the new guidelines for impact assessments; however, more can still be done to improve its communication on proposed regulations. Transparency about the process behind policy making will generate even greater interest among cities on the policies being prepared and empower local authorities to engage with the EU level at key moments of the process. This will only benefit the policy's effectiveness, as can be demonstrated by the examples later. In addition, the Commission should work closely with European networks and associations of local authorities to relay information on upcoming policy developments.

Territorial impact assessments

We think that impact assessment plays an important role in the process of smart regulation. We are aware of the recent work on territorial impact assessment initiated during the Polish Presidency within the NTCCP and UDG groups. We are also following the work carried out by ESPON in such projects as EATIA (ESPO and Territorial Impact Assessment). This project has tested the practical use of tools for territorial impact assessment at national and sub-national level. We think that this method should be implemented as part as the smart regulation policy cycle, and that it would provide useful insight on the impact of EU regulations on the ground.

Annex 1: Examples of effective policy making with cities

EUROCITIES supports the initiative of the European Commission to develop "*evidence-based policy making*". European cities have already contributed to making European initiatives a success:

- Cities' input to 'ICT for Sustainable Growth'

City representatives were invited to participate in the advisory group of 'ICT for Sustainable Growth', coordinated by the Information Society and Media Directorate-General of the European Commission. Input to this work included shaping the Commission's recommendation on mobilising ICTs to facilitate transition to an energy-efficient, low-carbon society (C2009/7604). Because of this input, recommendations to member states now include integrated actions that take full advantage of the resources and knowledge that already exists in cities in different areas such as public-private partnerships at local level or engaging with citizens for changes in energy consumption.

These recommendations encourage member states to look more closely at what their cities are doing. This will lead to increased synergies and faster developments in this area and will avoid wasting resources on duplicating initiatives or infrastructures already running at local level.

- Cities' contribution to the OMC on social inclusion

The Open Method of Coordination (OMC) on social inclusion has had difficulties in bridging the gap between review/evaluation of member states' social policies and impact on the ground. Recently though, cities have been further recognised in this process and were even involved in the work of the Social Protection Committee. This has brought a new dimension to the work being developed in this area and we can now clearly refer specifically to urban poverty, which was not properly addressed until recently.

Although still insufficient, having cities involved in its work has allowed the OMC to tap into the experience of local practitioners, who have the knowledge of the specificities of their territories and know what is needed for successful policy implementation. It is clear that member states that involve cities in their national plans have a much better chance of developing effective national policies.

- Cities' input to EU noise legislation

In the preparation of the European Directive on Noise (2002), cities were represented in the Commission expert group by the city of Birmingham, at that time chair of EUROCITIES Working Group Noise.

Conscious of the 'local reality' and of how important this issue was for cities, Birmingham liaised with the working group and consequently lobbied very strongly to have compulsory Local Action Plans for Noise included in the legislation.

Without this, noise legislation would have remained a purely national affair and cities, where noise has more impact and action can be most effective, would not have been able to play the decisive role they now have in addressing this issue.

Annex 2: Response to the questionnaire

Collecting evidence and monitoring results

1. High quality and recent data are vital prior to developing any legislation. The Commission needs to better target and further develop tools such as the Urban Audit and ESPON, which in principle could provide important evidence to inform policy and legislative developments.

Evaluation

2. Stakeholder involvement improves the quality of evaluation (see good practice examples in annex 1). However, the planning of the Commission evaluation is generally too vague, even if easily accessible on the Commission's website. The forward planning information must give a more precise indication of the timing for the evaluation and provide full contact details for the person in charge at the Commission to make it easier for stakeholders to follow up.
3. As mentioned above, there are particular shortcomings to the Commission evaluation approach. Namely: the planning is not detailed enough and the timing for stakeholder consultations is sometimes too short, especially when it takes place during summer months.

Impact assessment

4. Analysing the economic, social and environmental costs and benefits of possible new initiatives are the right aims for an impact assessment. However, a more transversal approach should be added; we think that territorial impact assessment is paramount to almost all regulation (see dedicated paragraph in statement above).

Strategy

5. The Commission's overall approach to enhancing the quality of EU legislation could be further improved. One idea would be to make better use of the structured dialogues to involve stakeholders at the relevant stages of the policy cycle. We refer to the 2003 communication on dialogue with associations of regional and local authorities on the formulation of European Union policy (COM(2003) 811 final).

Facilitating implementation and compliance

6. We agree that knowledge about the way in which EU law is implemented on the ground should play a greater role. We think that evaluation should not stop at the member state level, but that it could also evaluate the impact on cities, for instance. When designing new legislation, city experts could be involved to raise awareness on the issues to be taken into consideration to facilitate implementation.
7. No comments

8. The availability of information from member states explaining how they implement EU legislation should be further improved. This information should be made more user-friendly for cities and other sub-national public authorities in order to help speed up the implementation process at the local level. Cities can then relay the information to their citizens.

Informing the public

9. No comments

Improving enforcement

10. Information is also key to improving enforcement of EU legislation. The Commission could provide more targeted information on implementation for legislation of particular relevance to local and regional authorities. This could support sub-national authorities in their efforts to monitor the implementation of EU legislation in their member states.

Minimum standards

11. No comments
12. No comments

Scope

13. No comments

Timing

14. (i) Roadmaps are useful for planning ahead. However, they need to be kept up to date. We have also observed that they are never exhaustive enough to really facilitate stakeholder involvement.

(ii) Consultations are too often launched at the end of the legislation design stage, limiting the impact of the responses and turning the consultations into a 'tick box' exercise.

Moreover, some of the Commission's inter-service groups could be involved in the consultation process. It would avoid duplication of work within the Commission. These inter-service groups could be open to stakeholders when they deal with consultations. It would further extend the coverage of Commission consultation.

Outreach

15. We generally become aware of consultations through our subscription to the EU transparency register.
16. (iii) Internet-based applications are welcome but offer some challenges for public administrations and network organisations, where positions need to be developed and approval goes through various stages. Therefore, for example, a downloadable version of an online questionnaire must always be made available to facilitate responses. Also, it should be possible to produce a readout of the finally submitted response for the purpose of

keeping records. Finally, to make sure interested parties and individuals in all Member States are able to take part in the open consultations, it is imperative that these consultations are available in all EU languages.

17. We are regularly invited to represent the views of cities at public hearings, which often provide good opportunities to communicate our views to the Commission and liaise with other stakeholders. However, it is essential that these public hearings are platforms for discussion, reflection and further development, not only quick consultations of a series of stakeholders that must be ticked off a list. Too often the impact of these consultations are not clear in the legislative process.

Representativeness

18. No comments

Feedback

19. See in statement above

Results

20. See in statement above

Progressing together

21. See in statement above

Open questions

22. See in statement above
23. See in statement above