



# **DECENTRALISATION AND MULTI-LEVEL GOVERNANCE IN WESTERN EUROPE: AN OVERVIEW**

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## SUMMARY

- **Local self-government as a subject of constitutional law**
- **Constitutional standing of local self-government**
- **Remit of the local authorities and protection of that remit: general power of competence v enumerated powers**
- **Sub-national government as a counterbalance to the central government**
- **The impact of the European Union and MLG in the EU**



## **LOCAL SELF-GOVERNMENT AS A SUBJECT OF CONSTITUTIONAL LAW**

- **The formation of modern local self-government occurred in the context of the development of the modern state**
- **Since late XVIII and early XIX century: incorporation of the basic principles of local self-government in constitutional charters**
- **Introduction (or reinstatement) of local self-government has a clear liberal (XIX century) or liberal-democratic connotation (since the XX century)**



# **CONSTITUTIONAL STANDING OF LOCAL SELF-GOVERNMENT**

- **“Swedish democracy is founded on the free formation of opinion and on universal and equal suffrage. It shall be realised through a representative and parliamentary polity and through local self-government”**
- **The right to self-government is regarded as one of the fundamental and inalienable rights of local communities (cf. Art. 100 Czech Const.)**
- **UK Localism Act 2011 v parliamentary sovereignty**



## **REMIT OF THE LOCAL AUTHORITIES AND PROTECTION OF THAT REMIT: GENERAL POWER OF COMPETENCE V ENUMERATED POWERS**

- **Own and delegated powers of the local authorities**
- **'Local interest' (or 'local affair') criterion**
- **General power of competence v enumerated powers**
- **Difficulty to determine what is merely 'local'**
- **Subsidiarity**
- **Belgian Constitutional Court: there are powers which are the 'hard core' of local autonomy**
- **Enumerated powers and legal certainty**



## **SUB-NATIONAL GOVERNMENT AS A COUNTERBALANCE TO THE CENTRAL GOVERNMENT**

- **James Madison's Federalist Paper No. 51 (1788) and double separation of powers**
- **Franz Neumann: no ultimate evidence that a decentralised state is more resistant to an autocratic involution than a more centralised one**
- **In most democratic countries there is some degree of decentralisation**
- **De facto decentralisation and MLG contribute to limiting the power of the central government**



# **THE IMPACT OF THE EUROPEAN UNION AND MLG IN THE EU**

- **Hans-Peter Ipsen and the *Landesblindheit* of the EU**
- **Since 1966 the EU has made considerable progress to overcome the lack of involvement of sub-national authorities**
- **MLG in the EU: White Paper of 2001 and Committee of the Regions' White Paper of 2009**
- **MLG as correct implementation of EU policy and appropriate involvement of the sub-national authorities**
- **MLG in the EU resulting from combined work of national and EU level**



## **CONCLUDING REMARKS**

- **MLG is a key feature of all Western European democracies**
- **MLG in the EU is an important issue on the agenda of the EU**
- **MLG promotes legitimate governance, not only on the national level, but also on the EU level**

