

# MULTILEVEL GOVERNANCE FROM THE LISBON TREATY TO THE WHITE PAPER OF MULTILEVEL GOVERNANCE

## LA GOBERNANZA MULTINIVEL DESDE EL TRATADO DE LISBOA HASTA EL LIBRO BLANCO DE LA GOBERNANZA MULTINIVEL

DIANA GAL<sup>1</sup>  
IOAN HORGA<sup>2</sup>

Summary: I. INTRODUCTION. II. MULTILEVEL GOVERNANCE FROM THE LISBON TREATY TO THE *WHITE PAPER OF MULTILEVEL GOVERNANCE*. III. TWO WAYS TO SEE MULTILEVEL GOVERNANCE BY THE CoR'S *WHITE PAPER OF MULTILEVEL GOVERNANCE*. IV. *WHITE PAPER OF MULTILEVEL GOVERNANCE* AND THE ROLE AND CAPACITY OF LOCAL AND REGIONAL AUTHORITIES WITHIN THE EU'S MULTILEVEL GOVERNANCE CONTEXT. V. MULTILEVEL GOVERNANCE REINFORCES THE CoR'S LEVEL THE IN DECISION MAKING PROCESS. VI. CONCLUSIONS.

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### I. INTRODUCTION

The Committee of the Regions (CoR) *White Paper of Multilevel Governance* was launched in 2009 and proposes to bring to the public discussions about how multilevel governance could support the implementation of the provisions of the Lisbon Treaty.

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<sup>1</sup> MA Student, University of Oradea (Romania) & University of Reims Champagne-Ardenne (France). Project Assistant Director at the Institute for Euroregional Studies – Jean Monnet European Centre of Excellence ([www.iser.rdsor.ro](http://www.iser.rdsor.ro)).

<sup>2</sup> Professor PhD, University of Oradea (Romania) Project Director of the Institute for Euroregional Studies – Jean Monnet European Centre of Excellence ([www.iser.rdsor.ro](http://www.iser.rdsor.ro)).

Our work aims to synthesize some reactions and contributions of academic world “vis- a –vis” of the Multilevel governance problem, defined like this in CoR White Paper of Multilevel Governance : “coordinated action by the European Union, the Member States and local and regional authorities, based on partnership and aimed at drawing up and implementing EU policies”<sup>3</sup>.

Multilevel governance first of all represents an “action grid” political rather than a legal instrument. What other words could be translated in that it comes CoR Multilevel Governance propose a political method that complements the European Commission methods which is a legal method.

Before entering the debate itself, must be mentioned scale debate, which resulted in 154 contributions: 6 letters of European personalities<sup>4</sup>, 14 reactions and Contributions from European and international organizations<sup>5</sup>, 37 contributions from associations and networks of local and regional authorities<sup>6</sup>, 23 contributions from local and regional authorities<sup>7</sup>, 14 reactions from regional parliaments and assemblies<sup>8</sup>, 6 contributions of NGO<sup>9</sup>, 3 contribution of national ministries<sup>10</sup>, 14 contributions of other stakeholders<sup>11</sup> and 38 plus contributions from academics.

Under these contributions, we find three important needs for multilevel governance: the need to of strengthening the Union's internal cohesion, the need to have a democratic European process, and finally, the prism of the current global governance.

Making a statistics on EU’s countries:

<b>No.</b>	<b>Country</b>	<b>Number of contributions<sup>12</sup></b>
1	Austria	1
2	Belgium	5
3	Bulgaria	0
4	Cyprus	0
5	Czech Republic	0

<sup>3</sup> *White Paper of the Committee of the Regions on Multilevel Governance*, CoR 89/2009.

<sup>4</sup> Full texts of the contributions can be found at <http://www.cor.europa.eu/governance>

<sup>5</sup> *Ibidem.*

<sup>6</sup> *Ibidem.*

<sup>7</sup> *Ibidem.*

<sup>8</sup> *Ibidem.*

<sup>9</sup> *Ibidem.*

<sup>10</sup> *Ibidem.*

<sup>11</sup> *Ibidem.*

<sup>12</sup> The numbers are referring only to the academic contributions.

6	Denmark	0
7	Estonia	1
8	Finland	2
9	France	1
10	Germany	11
11	Great Britain	8
12	Greece	3
13	Hungary	2
14	Ireland	0
15	Italy	9
16	Leetonia	0
17	Latvia	0
18	Luxembourg	0
19	Malta	0
20	Netherlands	0
21	Poland	4
22	Portugal	4
23	Romania	1
24	Spain	7
25	Slovakia	0
26	Slovenia	0
27	Sweden	4

As you can see, the new members of the EU contributions are very modest, which suggests either a lack of information on the subject, or a lack of cultural debate that lasts with few exceptions at all levels. Also, a huge number of the EU's countries didn't contribute with even a one opinion on this consultation.

In general notion of "governance" has an ambiguous character, but in relation to this and with the many interpretations of multilevel governance is not only a governess with multiple characters but a government in the levels of interdependence.

This means that on the one hand that the decision-making process goes beyond the representative institutions, and other formal power was dissolved between central and institutions "above" and "below". In other words, it is "a creative process in which political power and political influence are distributed between different levels of government".

The main argument is that only the multilevel governance is best suited / most appropriate to mitigate the externalities (positive or negative produced by the provision of public goods at the most appropriate<sup>13</sup>. The theory of multilevel governance must therefore be distinguished from the theory of centralism, which stipulates that the policy of the European Union is determined primarily by national governments, being the link between sub-national levels and European level<sup>14</sup>.

Multilevel governance theory has many connotations in the literature. According to Hooghe and Marks had made a difference when we talk about multilevel governance between a deeper form of cross-territorial convergence and coordination while the latter refers to ad hoc policy association<sup>15</sup>. Trondal proposes two types of administrative fusion: the first is showing characteristics of an emerging EU model of administration to encompass other territorial levels and the second allowing for more variation and diversity in the shape of politico-administrative relations<sup>16</sup>. Besides, practitioners, regional and local actors and informed members of the public also express their own set of views on multilevel governance, which are influenced by their sector and territorial position and their everyday encounters with the EU governance system<sup>17</sup>. From these three examples we can notice that sixteen years after Gary Marks introduced the novel concept of multi-level governance in view of characterizing the specific policy-making process regarding the structural funds, this concept should not become a victim of its success, as Frank Delmartino affirms in 2009 in his commentary about the White Paper on Multilevel Governance<sup>18</sup>.

## II. MULTILEVEL GOVERNANCE FROM THE LISBON TREATY TO THE WHITE PAPER OF MULTILEVEL GOVERNANCE

Although the concept of multilevel governance is not shown very clearly in the Lisbon Treaty, the multilevel governance is seen as a support for the implementation of the provisions of the Lisbon Treaty and the EU's after governance entering into force. Whereas

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<sup>13</sup> L. HOOGHE, M. GARY, "Types of multi-level governance", *European Integration online Papers*, Vol. 5, 2001, [www.eiop.or.at](http://www.eiop.or.at).

<sup>14</sup> T. JORIS, *Le Comité des régions : l'histoire juridique du Petit Poucet ?*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

<sup>15</sup> L. HOOGHE, M. GARY, "Types of multi-level governance", *European Integration online Papers*, Vol.5, 2001, [www.eiop.or.at](http://www.eiop.or.at).

<sup>16</sup> J. TRONDAL, "Administrative Fusion: Less than a European Mega Administration", *Journal of European Integration*, 2009.

<sup>17</sup> E. ANTONOPOULOS, *Comment on CoR's White Paper on Multilevel Governance*, Brussels, Committee of Regions, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

<sup>18</sup> F. DELAMARTINO, *The Paradigm of Multi-Level Governance*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

the Lisbon Treaty provides an institutional recognition for multilevel governance, the White Paper deepens on the understanding of the need for institutional reforms in the EU describing related political mechanisms and their background principles.

The EU wants to achieve the objectives enshrined in the Treaties. Therefore, both the proximity of citizens and the diversity of governance at local and regional constitute assets for the European Union. If the Lisbon Treaty presents the rights of every citizen to "participate in the democratic life of the Union" (Art. 10), CoR's White Paper goes beyond it and proposes multi-level governance mechanisms of its strengthening, "opening the door" for a more active and formalized role of citizens in decision-making at various administrative levels. This particularly means "reinforcing partnership in practice" and encouraging dialogue between actors with different institutional background.

Additionally, it explains roles of regional and local authorities in overall governing process as well as introduces concrete information on the importance and practical functioning of the Committee of Regions than this has been done within the Lisbon Treaty. The multilevel governance mechanisms as laid down in the White Paper support an increasing involvement of the regional and local authorities' representatives within the Council: "In this respect, strengthening the representation and influence of local and regional authorities in the Community decision-making process must be encouraged both within the Committee of the Regions and in the activities of the Council of the European Union. Since 1994 the Treaties have allowed the regions, in accordance with the respective national constitutional structures, to participate in the activities of the Council of the European Union. This direct participation allows the representatives of the regions concerned to be included in Member State delegations, to be authorized to lead the national delegation and, where necessary, to assume the presidency of the Council."<sup>19</sup>

In opposition to these views, Simona Piattoni think that "Multilevel Governance can't be a real support for the implementation of the identity documents of the Lisbon Treaty because on the one hand, multilevel governance does not, however, apply to all EU policies, and when it does, it rarely applies symmetrically or homogeneously", and on the other hand, EU institutions and the Member States – for their insufficient efforts to "do away with such administrative cultures that stand in the way of the ongoing process of decentralization."<sup>20</sup>

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<sup>19</sup> A. AUGUSTYN, *Opinion on the White Paper on Multi-Level Governance*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

<sup>20</sup> S. PIATTONI, *The Committee Of Region's White Paper on Multilevel Governance: Some Reflections*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

### III. TWO WAYS TO SEE MULTILEVEL GOVERNANCE BY THE COR'S WHITE PAPER OF MULTILEVEL GOVERNANCE

On the one hand, seen through the prism of Eduardo Ongaro, Multi-Level Governance employed in the White Paper would mean coordinating the European Union, the Member States, and Local and Regional Authorities, based on partnership and aimed at rowing up and Implementing EU policies built for the European Space Administration<sup>21</sup>.

The European Administrative Space speaks about three distinct but interconnected dimensions: the establishment of organizational designs and routines that facilitates and provides incentives to the systematic coordination and cooperation among public administrations at all levels in the EU policies in the same way that the Lisbon Treaty is promoted; the development of processes of administrative fusion, whereby decisions stem more and more from multi-level interaction of administrative systems between the European institutions and national and local administrations; the development of processes of convergence, whereby administrative systems at all levels of government throughout Europe, though retaining distinctive features, develop some common traits that characterize them as 'European' administrations<sup>22</sup>.

On the other hand, externalities of the policy related to the implementation of the provisions of the Lisbon Treaty can be identified also at the regional and local level. Regional and local actors are best suited to voice concerns of the sub national level and provide critical feedback and information in consultations preceding EU legislative action. Multilevel governance can contribute this way to better regulation. Besides, the strengthening of the economic and social cohesion objective with the promotion of territorial cohesion requires enhanced role for regional partnerships, not least in the management and implementation of the structural funds. Therefore, the use of multilevel governance mechanisms is indispensable to pursuing the territorial cohesion objective.

Analyzing from this perspective the role of multilevel governance in implementing the Lisbon Treaty we can see that the "inter-parliamentary cooperation" becomes a vital component of EU democratic system. The interrelations among members of political representative chambers are bound to multiply. Even those Members States that lack a second regional chamber will nevertheless have to allow local and regional authorities to collaborate with the parliamentary chamber in monitoring the subsidiary principle, which provide a type of partnership model for governance.

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<sup>21</sup> E. ONGARO, *Implementing multi-level governance in Europe requires an understanding of, and the development of, the European Administrative Space*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

<sup>22</sup> *Ibidem*.

#### **IV. WHITE PAPER OF MULTILEVEL GOVERNANCE AND THE ROLE AND CAPACITY OF LOCAL AND REGIONAL AUTHORITIES WITHIN THE EU'S MULTILEVEL GOVERNANCE CONTEXT**

The regional and local authorities are therefore “partners” each level must be mutually supportive. It should be emphasized that the MLG is not a division of powers, but rather a process of power sharing. Governance should therefore become more flexible and dynamic system: the power-sharing at all levels.

In our opinion, the essence of the “partnership” model of governance suggested by the White Paper (p. 11) is an equal democratic status of local, regional, national and European tiers of government and the voluntary cooperation among these different tiers. Voluntary cooperation presupposes a mutual recognition of the partner’s democratic legitimacy. As democratic legitimacy does not necessarily require a “thick” identity as an attachment of citizens to one tier of government but is ensured through participation and accountability mechanisms, the EU tier of government relies on independent sources of democratic legitimacy and qualifies as a partner of equal status. According to Martin Brusis “a crucial precondition for these guidelines to take effect would be the existence of horizontal associations of local and regional governments and, ideally, assemblies across the European Union”<sup>23</sup>.

Horizontal territorial cohesion remains related but not completely dependent on multilevel governance. In this regard, the open method of coordination remains crucial for the horizontal element. Harmonization of legal frameworks and standardization of practices is another part of the process. A large number of the undertakings and recommendations of the White Paper implicitly relies on local and regional authorities being sufficiently aware of the opportunities which partnership and cooperation with authorities in other Member States and at the European level can offer and on them being willing to actively engage in such partnership and cooperation.

Yet the European governance context remains a fairly remote framework for most of the smaller local, as well as quite a few of the regional authorities vested with rather limited autonomy and constitutional powers within their national setting. “Shared” governance in the European context might appear to them as a rather abstract concept of little practical use as long as they perceive their national governments as their only really relevant link to the European level and as long as knowledge about European institutions, policies and cross-border cooperation possibilities remains limited.

Reinforcing the effectiveness and efficiency of multilevel governance through partnership and cooperation can only succeed if there is also a broad and strong interest of

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<sup>23</sup> P. BURSENS, “*Reflections on the role and the position of the Committee of the Regions in the multi-level polity of the European Union*”, The Contributions to the 2008 Ateliers, Brussels, 2009.

the lower level governance authorities in seeking and exploiting partnership and cooperation possibilities right up to the top of the governance hierarchy. This interest will need to be encouraged, stimulated and – in many cases – in the first place awakened. A number of the White Paper recommendations go in that direction<sup>24</sup>, (White Paper on Multilevel Governance, p. 8-12) and the “Covenant of Mayors” is an interesting example of such mobilization. More openness and reaching out of EU institutions towards local and regional authorities are surely important facilitators, but the bulk of the mobilization effort would need to be carried by the local and regional authorities themselves through enhanced information and networking efforts, more pressure on their national authorities regarding enhanced participation possibilities in European matters, the creation of new cooperation structures amongst themselves which can reach across borders and up to the level of the EU, and quite often also a certain change in political perception and mentality by looking systematically for the European dimension in all things local and the local dimension in all things European<sup>25</sup>.

## **V. MULTILEVEL GOVERNANCE REINFORCES THE CoR’S LEVEL THE IN DECISION MAKING PROCESS**

Under the new Treaty, the CoR obtains the right to bring legal actions in the European decision making process. In addition, the Lisbon Treaty identifies regional parliaments with legislative powers as actors in the EU decision-making mechanism under the subsidiarity monitoring procedure. From this perspective there are two major objectives of the Committee of Regions.

On one hand, a greater participation in European and more particularly, by sub-national entities. Indeed, he proposes to complement representative democracy with participatory democracy. Regional and local authorities as custodians of democratic legitimacy and citizen, they are able to help achieve this goal. Premièrement, la représentation des autorités régionales et locales doit être consolidée. The Lisbon Treaty strengthens the position in this regard the CoR. Second, political cooperation should be organized between all jurisdictions and based on mutual trust. Finally, stimulation of participatory democracy is possible through networks, associations and organisations<sup>181</sup>, horizontal cooperation as well as a decentralized communication policy closer to citizens<sup>26</sup>.

On the other hand, multilevel governance must strengthen the effectiveness of community action, therefore, coordination is essential. First, we must develop and implement common policies in partnership. The question arises about how to cooperate and

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<sup>24</sup> *The Committee of the Regions White Paper on multilevel governance*, CoR 89/2009.

<sup>25</sup> J. MONAR, *The White Paper on Multilevel Governance: relevance and challenges of implementation*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb1>.

<sup>26</sup> *The Committee of the Regions White Paper on multilevel governance*, CoR 89/2009, pp.16-17.



decide together. The degree and type of coordination depends on each different target<sup>27</sup>. In this regard, the European cohesion policy is a good example of partnership between institutions because it uses public and private partnerships and financial tools of the European Investment Bank (EIB). Then, the process should be coordinated by the European coordination methods. For example, the Open Method of Coordination (OMC) used by the Commission in the areas where the Community has only a coordinating role or support the objective of strengthening the compatibility and convergence of national choices by monitoring, reference standards and policy guidelines and objectives<sup>28</sup>.

## **VI. CONCLUSIONS**

Multilevel governance is essential for achieving the territorial cohesion. Has to be improved through new management models based on partnership, experimentation and territorial cooperation, as well as be clarified regarding the extent of the autonomy granted to local and regional authorities in the European Union by the Lisbon Treaty.

The multilevel governance represents a political system with interconnected institutions that exist at multiple levels and that have unique policy features.

One of the main instruments that could contribute to the implementation of the major political priorities and objectives of the European Union and, therefore, that could forge a sustainable pattern of multilevel governance consists in the contractualisation of the European public actions.

If we consider multilevel governance as a hierarchical structure among the different levels of decision making that participate within the EU processes, we can notice that the competence delimitation is quite clear regarding the relationship between the European Union and the member states.

The multilevel governance in EU can be assumed as a regional model of governance where different actors act and interact in a partnership and a hierarchical cooperation in order to manage challenges and opportunities associated with the globalization. What we call global challenges are in fact threats or opportunities which transcend national borders or regional dimensions and affect all structures of the society.

The multilevel governance can be used as a partnership system where local, regional and national preferences can have a more functional approach than a political one. This system can gather preferences, interests and expectations from different levels of

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<sup>27</sup> J. THEELEN, *Le Comité des régions : l'histoire juridique du Petit Poucet?*, 2009, <http://www.cor.europa.eu/pages/EventTemplate.aspx?view=detail&id=63df5e06-978e-4ec5-bce9-9cc6d99ffeb>.

<sup>28</sup> *Ibidem*.

governance and the communication and consultation among these levels can provide better solutions for common external action. Consequently, common positions and policies will reduce the costs and resources addressed by each member state separately, through its separate action. Through its institutions, organisms and agencies, EU can provide better answers to issues such as climate change, epidemics, transnational organized crime, terrorism, information society, pollution control, management of natural disasters, management of natural resources, etc.

## **MULTILEVEL GOVERNANCE FROM THE LISBON TREATY TO THE WHITE PAPER OF MULTILEVEL GOVERNANCE**

**Abstract:** This note aims to synthesize the reactions and contributions of the academic world “vis-a-vis” of the Multilevel governance problem, defined in the CoR’s White Paper of Multilevel Governance. In this article, we find three important needs for multilevel governance: the need to of strengthening the Union's internal cohesion, the need to have a democratic European process, and finally, the prism of the current global governance. The multilevel governance is seen as a support for the implementation of the provisions of the Lisbon Treaty and the EU’s after governance entering into force.

**Keywords:** Multilevel governance. Committee of the Regions. Lisbon Treaty. European Union.

## **LA GOBERNANZA MULTINIVEL DESDE EL TRATADO DE LISBOA HASTA EL LIBRO BLANCO DE LA GOBERNANZA MULTINIVEL**

**Resumen:** Este nota pretende sintetizar las reacciones y aportaciones del mundo académico acerca del problema de gobernanza multinivel, definida en el Libro Blanco del Comité de las Regiones sobre la Gobernanza Multinivel. En este artículo, nos encontramos con tres necesidades importantes para la gobernanza de múltiples niveles: la necesidad de reforzar la cohesión interna de la Unión, la necesidad de contar con un proceso democrático europeo y, por último, el prisma de la gobernanza mundial actual. La gobernanza multinivel es vista como un apoyo a la aplicación de las disposiciones del Tratado de Lisboa y la gobernanza de la UE después de la entrada en vigor.

**Palabras claves:** Gobernanza multinivel. Comité de las Regiones. Tratado de Lisboa. Unión Europea.

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