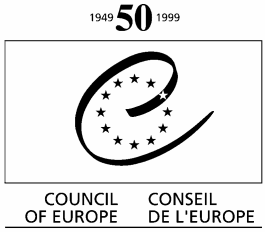

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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

FEDERATED AND REGIONAL ENTITIES AND INTERNATIONAL TREATIES

Report adopted by the Commission at its 41st meeting

At its 38th meeting (in March 1999), the European Commission for Democracy through Law approved a questionnaire on federated and regional entities and international treaties. The questionnaire was sent to the members and observers from federal and regionalised states and those containing autonomous entities. Replies were received from 13 states.[1] *This report highlights the main aspects of the replies, which are also summarised in a comparative table distributed simultaneously. The Commission's study of this question parallels the work of the Congress of Local and Regional Authorities of Europe on regions with legislative powers.*

In general, the term "entities" is applied in the report to units of public authority below national level, whether federated states or regions, including autonomous regions of unitary states.

A. Introduction

Europe is currently experiencing shifts of power both away from and towards the centre. A trend towards increasing the powers of public authorities at sub-state level - and specifically the growth of federalism and regionalism - coincides with the accelerating integration of Europe. As the number of tiers of authority increases, the question of the *allocation of powers* becomes ever more important in constitutional law.

At the same time, *international relations* are becoming increasingly important. To make them the exclusive responsibility of central government, as they have been traditionally, has a much more centralising effect today than it did fifty years ago. Moreover, cross-border co-operation is developing, with the result that certain issues have to be regulated at both international and sub-state level.

For these reasons *the allocation of powers in the field of international relations* has now acquired new importance and is a live issue in all federal or regionalised states and those containing autonomous entities. Typically, the first aspect of the question - to which most of this report is devoted - is that of international treaties. The report will therefore deal first with the allocation of treaty-making powers (ie of substantive responsibility for treaty-making) between the central authority and the entities (section B below); it will then look at procedural powers (section C) before considering some actual examples of treaties concluded by entities (section D). However, entities are involved not just in those treaties that they themselves conclude, but also in treaties made by central government. They may be asked to take part in the process leading to the conclusion of such treaties, either by being consulted or by participating in negotiations (section E). They may also be required to adopt the implementing provisions of such instruments or to incorporate them into their own legislation (section F). Apart from questions of treaty-making, the report will cover the participation of entities in the (increasingly important) work of international and supra-national organisations (section G), before very briefly looking at specific questions about the delegation of treaty-making powers and the settlement of disputes concerning treaties concluded by entities (section H).

[1] Argentina, Austria, Belgium, Bosnia and Herzegovina, Canada, Denmark, Finland, Germany, Italy, Portugal, Switzerland, Ukraine and the United States.

B. The power of entities to conclude treaties

1. Substantial competence

The following sections are concerned with the substantive authority to conclude international treaties (ie treaty-making powers) - the equivalent, in relation to treaties, of legislative powers in the field of unilateral law-making.

a. The principle and legal basis

In several of the states which replied to the questionnaire, entities are empowered to conclude international treaties (*Argentina, Austria, Belgium, Bosnia and Herzegovina, Denmark, Germany, Switzerland*). The only exceptions are *Canada, Finland, Italy, Portugal, Ukraine and the United States*.

In *the United States*, however, States can conclude agreements and compacts with foreign countries.[2] No clear distinction has yet been made between agremments/compacts and treaties. In *Italy*, the regions are authorised by Presidential decree to undertake development initiatives abroad and other activities with implications outside Italy, subject to government approval. In *Canada*, the Franco-Canadian Cultural Agreement concluded by the federal authority in 1965 empowers Quebec (and any other province) within the framework established by the Agreement, to conclude agreements (but not treaties) directly with France.

In almost all the states concerned, the entities' powers in relation to international affairs are based on the constitution.[3] The only exception is *Denmark*, where the relevant powers of the Faeroe Islands and Greenland derive from laws on the self-governing status of those regions. In *Belgium*, the constitutional provisions are amplified by the special law on institutional reform of 8 August 1980 and by a number of "co-operation agreements" between the federal state and the regions or language communities.

b. The apportionment of substantial treaty-making powers

The fact that entities in a given country have substantial treaty-making powers tells us, in itself, relatively little and it is important to look more closely at what those powers actually cover. This varies greatly from one country to another.

aa. The most advantageous arrangement from the entities' point of view is a "parallel" approach. This is where the entities, like central government, can conclude international treaties in the same areas in which they can make their own legislation, subject to the provisions of special clauses allocating the treaty-making powers. Only two of the states that replied have this arrangement. In *Belgium*, the principle on which treaty-making powers are allocated is that they should parallel legislative powers as closely as possible.[4] *Argentina* also takes the parallel-powers approach, but with certain provisos: international treaties concluded by the provinces must not be incompatible with national foreign policy and must not impinge on the authority vested in the federal government or on the national interests. Moreover, the provinces may not conclude treaties of a political nature.

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2 Article I, paragraph 10 Constitution.

3 The relevant provisions are cited in section 2 (below) on the apportionment of treaty-making powers.

4 Article 167 of the Constitution.

The "parallel" approach to apportioning powers is a simple concept, but in practice it can give rise to a complex legal situation. As illustrated by the arrangements in *Belgium*, three scenarios are possible:

a. a treaty is the exclusive responsibility of central government;
b. a treaty is the exclusive responsibility of the entities;
c. a treaty is the responsibility of both central government and the entities.

The first two cases, of treaties concluded exclusively by either state or entity, pose no particular problems. However, the third type of treaty (c) - very common in a state like Belgium with complex internal arrangements for the apportionment of powers - is a joint treaty that must be approved by the relevant organs of both central government and the entities.

bb. By contrast, in other countries the central authority has general substantial treaty-making powers, while the entities may conclude treaties within their internal sphere of competence. This is the system in *Austria*[5] and in *Switzerland*[6]. Under the principle that federal law takes precedence, however, the Austrian Länder and Swiss cantons may not conclude treaties that conflict with the provisions of federal treaties. In other words, the conclusion by the central authority of a treaty on a matter within the remit of the entities deprives the entities of substantial treaty-making powers in that field. A similar situation exists in *the United States* concerning agreements/compacts.

cc. The *German* Constitution provides that: "Insofar as the Länder have power to legislate, they may, with the consent of the Government conclude treaties with foreign states."[7] The scope of this provision was disputed from the moment of its adoption. According to one reading, it meant that treaty-making powers must parallel internal legislative powers, but others maintained that the federal state had general substantial treaty-making powers and that the Länder could conclude treaties only in areas where the state had not done so (as in the Austrian and Swiss model, see above). In 1957 the Federation and the Länder reached a *modus vivendi*, known as the Lindau Agreement, which, in practice, provided a solution to the problem. One of the provisions of the agreement is that if the Federation concludes a treaty in a matter that the Länder deem to fall within their exclusive jurisdiction, the consent of the Länder is required before the treaty can become binding under international law. It should be noted that the constitutionality of the Lindau Agreement is not universally accepted.

dd. The arrangements adopted in Bosnia and Herzegovina are quite specific: the state has responsibility in the area of foreign policy, while the entities may conclude separate treaties with neighbouring states. Special relations with neighbouring states may not impinge on the sovereignty and territorial integrity of Bosnia and Herzegovina. The entities may also conclude other treaties with the permission of the national Parliamentary Assembly. The Assembly may grant specific or general permission - the latter by passing a law that exempts certain types of agreement from the requirements of parliamentary approval.

ee. Lastly, in *Denmark*, general power is vested in central government. The scope for treaty-making enjoyed by the (autonomous) entities is limited to administrative arrangements, ie international treaties of a technical nature - mainly fisheries protocols concluded with the other

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5 Article 16.1 and 10.1 + 3 of the Constitution.
6 Articles 54-56 of the Constitution.
7 Article 32.3.

Nordic states. Other treaties - mainly concerning trade and fisheries - are negotiated on behalf of the state and the autonomous regions jointly.[8]

c. Restrictions on the choice of contracting parties

Most states that give their entities international treaty-making powers do not restrict the choice of contracting parties, which may thus be states, neighbouring or otherwise, entities of other states, or international organisations (see the cases of *Argentina*, *Belgium*, *Germany* and *Switzerland*, with the proviso that in Germany treaties on the transfer of sovereignty by the Länder to transfrontier institutions[9] may only be concluded with institutions of border regions). In *Bosnia and Herzegovina* special bilateral relations are permitted only with neighbouring states. In *Denmark*, most of the autonomous regions' agreements are concluded with Nordic countries, although there is no legal obligation in this respect. By contrast, under the *Austrian* Constitution,[10] the entities may conclude treaties only with neighbouring states or regions. Lastly, in *Canada*, the provinces may only conclude agreements - not treaties - with France under the Franco-Canadian Cultural Agreement.

A related question is whether entities are empowered to conclude multilateral as well as bilateral treaties. The answer is yes in all the states - except *Denmark* - whose entities have substantial treaty-making powers. In Denmark a very particular situation arises with regard to matters in the European Union's sphere of competence: the two autonomous regions, the Faeroe Islands and Greenland, are not part of the EU, so there are occasions when Denmark enters into an international commitment solely on behalf of one (or both) of these regions.

2. Formal competence

The fact that an entity has substantial treaty-making powers (the substantive power to conclude treaties) does not necessarily mean that it has formal competence for such treaty-making - ie the ability to negotiate, sign and ratify a treaty itself. What follows is a description of the various systems that apply in different countries, starting with those that afford the greatest role to the entities and concluding with those that give them least scope.

a. Of the states which replied to the questionnaire, *Argentina* and *Belgium* go furthest in applying the "parallel powers" principle and that includes giving the entities formal competence for treaty-making. In *Argentina* it is the entity that negotiates, signs and ratifies treaties that fall within its sphere of competence. The National Congress must simply be informed after the event.[11] In *Belgium*, the communities and regions act alone in negotiating, signing and ratifying international treaties that are their exclusive responsibility.[12] But the full picture is more complex. Firstly, under the special law on institutional reform of 8 August 1980 the community and regional governments must give the King prior notice of their intention to conclude a treaty and of any legal measure that they then intend to take with a view to the conclusion of the treaty. Within 30 days of such notice being given, the Council of Ministers (the Cabinet) may inform the government in question that there are objections to the proposed treaty. This triggers a complex mechanism that may result in the final suspension of the treaty procedure by royal decree (against which there is a possibility of appeal to the Council of State). However, there are

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8 Section 8 of the Faeroe Islands (Self-government) Act and Section 16 of the Greenland (Self-government) Act.

9 Article 24.1a of the Constitution.

10 Article 16.1.

11 Article 124 of the Constitution.

12 Article 167.3 of the Constitution.

only four, specifically enumerated, cases in which such suspension can take place, namely: (1) if Belgium does not recognise the other contracting party; (2) if Belgium does not maintain diplomatic relations with the other contracting party; (3) if Belgium's relations with that party have been broken off, suspended or seriously compromised; and (4) if the proposed treaty conflicts with Belgium's international or supranational obligations. This mechanism has not so far been used. Secondly and most importantly, only certain treaties are the exclusive responsibility of the entities: the joint treaties - on matters within both the federal and the communities' or regions' spheres of competence - are the subject of an extremely complex co-operation agreement concluded between the state and the communities and regions in 1994. In practice, the entities concerned and the federal authority negotiate on an equal footing, but the instrument of ratification of the treaty requires the King's signature.

b. In other countries, formal competence matches substantive responsibility but the treaties that entities conclude are subject to the approval of central government. In *Germany*, the Länder negotiate, sign and ratify their own treaties but these then require the federal government's approval. In *Austria*, the governor (*Landeshauptmann*) of an entity must notify the federal government before entering into negotiations and then request its authorisation to conclude the treaty. Such authorisation is deemed to have been granted if, within eight weeks of the request being received, the federal government has not notified the governor to the contrary.[13] Treaties concluded by the entities of *Bosnia and Herzegovina* are signed by the President of the entity but must either be approved by the national parliament or fall within the scope of enabling legislation that it has passed (giving, in effect, prior approval).

In the *United States* agreements/compacts are negotiated and concluded by the States. Under the Constitution approval by Congress is necessary.[14] Case-law has nevertheless specified that this consent does not need to be given in advance or in any particular form and that it can even be implied.

Moreover, in *Austria* the federal government may ask a Land to revoke a treaty and, if the Land refuses, may then revoke the treaty itself.[15] In *Bosnia and Herzegovina* it is the national parliament that may require the revocation of a treaty concluded by an entity.

c. By contrast, in *Switzerland*, the cantons' treaties are, in principle, concluded through the intermediary of the Federal Council (the government), which conducts the negotiations and signs and subsequently ratifies the instruments. The cantonal representatives take part in the negotiations alongside representatives of the Confederation. The cantons may, however, deal directly with the lower-ranking authorities (local authorities or the governments of federated entities) in foreign countries.[16] Before concluding a treaty, however, the canton must notify the Confederation and the treaty must be approved by the Federal Council or, in some cases, the Federal Assembly.[17]

In *Denmark*, national and regional government representatives sign treaties negotiated in the name of the state and the autonomous regions, but the national authorities have sole responsibility for their ratification. Technical administrative agreements, on the other hand, are negotiated and concluded by the entities on their own behalf.

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13 Article 16.2 of the Constitution.
14 Article I, paragraph 10, cl. 3 of the Constitution.
15 Article 16.3 of the Constitution.
16 Article 56.3 of the Constitution.
17 Articles 184, 186 and 166 of the Constitution.

C. Practical application of the entities' treaty-making powers

The extent to which entities engage in international treaty-making varies greatly from country to country. The *Austrian* Länder, for example, have not yet concluded any international treaties, even in the field of cross-border co-operation. The few treaties concluded by the *Argentine* entities are mostly with federated states in Brazil. The *Danish* autonomous regions are parties mainly to fishing agreements and to certain trade treaties.

By contrast, in *Belgium*, with the application of the "parallel powers" principle, and given the extent of the entities' powers, the communities and regions are parties to many treaties - in the main joint (rather than exclusive) agreements on matters within the remit of both central government and the entities. The entities in *Bosnia and Herzegovina*, *Germany* and *Switzerland* also conclude a significant, if lesser, number of treaties. In Switzerland these are, for the most part, treaties concluded by border cantons with their neighbours, in a very wide range of matters including border adjustments, double taxation, education, health and nature conservation, whereas in Bosnia and Herzegovina the entities have concluded treaties with neighbouring states (Croatia and Yugoslavia).[18]

D. Participation by the entities in the process leading to the conclusion of treaties by central government

Apart from cases where entities are empowered to conclude treaties themselves, domestic law in certain states provides for them to be involved - either through consultation or by participating in negotiations - in the process leading to the conclusion of treaties by the central authority.

1. In a first group of states there is, in principle, no provision for entities to be consulted about, or participate in the negotiation of, treaties concluded by central government. The countries in this group are, on the one hand, *Ukraine*, where the Republic of Crimea has no powers in relation to international affairs, and, on the other, *Argentina* and *Belgium*, which apply the principle of parallel powers in both domestic and international matters. It should, however, be recalled that Belgium negotiates many joint treaties, to which both the central authority and the communities or regions are parties. The federal government is also required to inform the different community and regional governments, on a regular basis, about foreign policy, including treaties that it intends to conclude. Moreover, the community and regional councils must be notified at the start of any negotiations with a view to the revision of the treaties establishing the European Communities.

2. In *Canada* there is no legal obligation in this respect, but in practice the provinces are consulted before the signing of treaties that may impinge on their *powers*.

3. In other countries there is a requirement for consultation if the *interests* of the entities may be affected. In *Austria*, for example, the Länder must be consulted before the conclusion of any treaty that affects their interests or requires them to take implementing measures.[19] In *Finland* the government of the Åland Islands must be informed about a treaty being negotiated with a foreign state if it concerns a matter within the jurisdiction of the Islands[20] or, in principle, a matter of particular importance to them. The *German* Länder are consulted before the

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[18] Recent practice has revealed that agreements have also been concluded between the entities and the Yugoslav Federated Republics.

[19] Article 10.3 of the Constitution.

[20] Article 58 of the Stature of Autonomy.

conclusion of treaties affecting their own position[21] (this consultation is made without prejudice to the fact that, under the Lindau Agreement, the consent of the Länder is required for the conclusion of treaties in matters within their exclusive jurisdiction has already been mentioned.[22]) In *Denmark*, if a treaty applies to either of the autonomous regions, its government is, in principle, consulted and, if need be, a territorial reservation is entered in respect of the region.[23] In *Portugal*, autonomous regions participate in the negotiation of international instruments which concern them directly; moreover, they are consulted on other international instruments that affect them.[24] In *the United States* the Union is in contact with the States in the process which leads to the conclusion of international treaties, for political and not for legal reasons. Finally, in *Italy*, the regions are not normally consulted before the conclusion of international treaties, but in the case of the regions of Friuli-Venezia-Giulia and Sardinia, which have special status, there is a statutory requirement that they be consulted about certain trade agreements, and, in Sardinia's case, that the regional authority take part in the negotiations.

4. In *Switzerland* the Constitution provides for the cantons not only to be consulted, but also to take part in, *decisions* on matters of foreign policy impinging on their powers or fundamental interests. The Confederation is thus required to give the cantons timely and detailed information about such decisions and to seek their views.[25] The Constitution further stipulates that the cantons' opinion on matters impinging on their powers shall carry particular weight, and in such cases appropriate arrangements shall be made for their involvement in the international *negotiations*.[26] Likewise, in special circumstances, the *Finnish* autonomous region of the Åland Islands may be involved in international negotiations.

E. The introduction and implementation of treaties

Once treaties have been concluded, they must be incorporated into the domestic legislation in particular of those states that practice a dualist system and, when necessary, implementing legislation must be introduced unless the treaties are *self-executing*.

Generally, the entities are competent to introduce and implement their own treaties.

Concerning the introduction and implementation of central state treaties, it is possible to distinguish the following categories:

1. states where the "parallel powers" principle applies with regard to both domestic and foreign affairs (*Argentina* and *Belgium*), in which it follows that the central authority, on the one hand, and the entities, on the other, are each responsible for the introduction and implementation of their own treaties;

2. states (notably *Ukraine*) where the central authority has exclusive responsibility in international matters, including the introduction and implementation of treaties. In principle the situation in *the United States* is similar, but it should not be forgotten that States can conclude agreements/compacts (and implement them).

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21 Article 32.2 of the Constitution.

22 See B.2.3 above.

23 Section 7 of the Faeroe Islands (Self-government) Act and Section 13 of the Greenland (Self-government) Act.

24 Articles 227.1 and 229.2 of the Constitution.

25 Article 55 of the Constitution.

26 Article 55.3 of the Constitution.

3. in *Portugal*, the actual incorporation of treaties is the responsibility of the national parliament, but if the implementation of a treaty requires the adoption of new rules on matters within the regions' jurisdiction, the regions are empowered to pass the implementing legislation; the same rule applies in *Italy*, unless national interests are at stake or co-ordination of initiatives is needed;[27]

4. certain states (such as *Canada* and *Germany*), where central government is responsible for incorporating treaties but responsibility for their implementation depends upon the apportionment of domestic powers;

5. in other countries, the central authority's substantial treaty-making powers are also broader than its legislative powers. Nevertheless, responsibility for incorporating and implementing international treaties corresponds very broadly to the apportionment of domestic legislative powers (ie *Austria*[28], *Denmark, Finland* and *Switzerland).*

It is possible that the entities do not implement, or do not implement correctly central state treaties, even though they have the competence. In many cases (see *Germany*[29] and *Austria*[30]) central government is also empowered to supervise the implementation of treaties. The *Austrian*[31] and *Swiss*[32] Constitutions, as well as Italian and Belgian law (in Belgium only in the case of condamnation by international or supra-national jurisdiction) authorise the central state to take over responsibility from the entities when the latter do not respect their obligations to implement a treaty.

It is also possible that an entity does not implement one of its own treaties. In *Switzerland*, the Confederation's right to take over responsibility also exists, since the central state (the Confederation) is responsible under international law for the proper execution of treaties.[33] By contrast, in other countries (*Argentina, Canada* and *Finland*) the central authority may not take over responsibility from the entities in this way.

F. Participation in the activities of international and supranational organisations

1. International organisations

Some of the states considered authorise their entities to participate in international organisations. In many cases, such authorisation applies to one particular organisation - the Nordic Council, for example, in which the Faeroe Islands and Greenland (*Denmark)* and also the Åland Islands (*Finland*) have separate representation. Within the francophone Agency for Cultural and Technical Co-operation, Quebec and New Brunswick (*Canada*) have the status of participating governments. The *German* Länder are also empowered to participate in international organisations.

Another type of arrangement is where the entities participate within a national delegation. The representation of *Belgium* and its entities in numerous international organisations is governed by the 1994 framework co-operation agreement between the Federal State of Belgium, the Communities and the Regions, concerning the representation of the Kingdom of Belgium in

27 Article 80 of the Constitution.
28 See Article 16.4 of the Constitution.
29 Article 85 of the Constitution.
30 Article 16.5 of the Constitution.
31 Article 16.4 of the Constitution.
32 See Article 184 of the Constitution.
33 See Article 184 of the Constitution.

international organisations whose activities fall within the sphere of shared responsibilities. This provides for a representative of the entities to be included in the Belgian permanent delegations to international organisations and for each relevant tier of government to be represented in the Belgian delegation in question, which is chaired by the level of government most directly concerned. In *Denmark* there is provision for the autonomous regions to be represented in Danish delegations at international level, according to the spheres of activity concerned and the regions' interest in them.[34] The *Portuguese* autonomous regions are specifically represented in the permanent national delegation of a number of international organisations, such as the International Labour Organisation, the World Health Organisation or the World Tourism Organisation. Likewise, *Canadian* delegations can include representatives of the provinces.

In *Argentina*, the provinces send observers when an international organisation is discussing a question that may have fundamental implications for them.

By contrast, the entities in *Austria* and *Italy* may not participate in international organisations. The situation is the same for the *Swiss* cantons, except that there is provision for them to be consulted.

2. The European Union

Given the ever-increasing powers exercised by the European Union, the exclusion of federated states or regions from the Union's decision-making processes would make central states more powerful, at the entities' expense. For that reason, the entities of the Union's federal or regionalised member states are involved, in one form or another in EU decision-making on matters for which they have responsibility.

In *Germany*, the Länder are involved in EU deliberations not directly but through the Bundesrat [upper house of parliament], in which their governments are represented. In *Italy* a conference of the state and regions meets twice a year to ensure that the country's European policy on matters within the regions' remit is co-ordinated with regional interests and needs. The conference advises the government on the implementation of European Community directives and appoints regional representatives to the Italian permanent delegation to the EU.[35] *Austrian* law goes further, stipulating that a common position adopted by the Länder, the association of municipalities and the association of towns is binding on the Federation in cases where European Union bodies propose initiatives that impinge on Länder powers. Only for compelling reasons of European foreign policy may the Federation disregard such a position. Moreover, if a European Union project affects both the Federation and areas covered by Länder legislation, the federal government may instruct a representative nominated by the Länder to take part in the decision-making process in the Council of Ministers.[36] In *Belgian* law, the co-operation agreement of 1994 distinguishes between matters for which the federal state has exclusive responsibility (here Belgium is represented by a Federal minister), matters for which the communities or regions have exclusive responsibility (in these, a community or regional minister represents the state) and matters of shared responsibility. In decision-making on the latter, Belgium is represented by a federal, community or regional minister, as appropriate, assisted by a minister representing the other level of authority concerned. The communities and regions are represented on a rota basis, and permanent co-ordination takes place within the Ministry of Foreign Affairs. *Portuguese* autonomous regions participate in the delegations involved in Community decision-making

[34] Section 8 of the Faeroe Islands (Self-government) Act and Section 16 of the Greenland (Self-government) Act.

[35] Legislative Decree No. 281/1997.

[36] Article 23d of the Constitution.

processes where these relate to matters of specific interest to them.[37] Furthermore, they participate in the interministerial Commission for the European Communities, which prepares the Portuguese position on the European Union agenda and the technical implementation thereof.

Lastly, the Åland Islands government formulates *Finland's* position in connection with common Community policies on matters for which it is responsible; it also helps to formulate the national position in other matters within its domestic jurisdiction or of significance to the Islands.[38]

G. Other considerations

1. Delegation of the central government's treaty-making powers

Broadly speaking, central authorities may not delegate treaty-making powers to their entities. The only real exception is *Bosnia and Herzegovina*, where a law passed by the national parliament may assign treaty-making responsibility in a particular field. *Denmark* does delegate responsibility to its autonomous regions to conclude administrative arrangements.

2. The settlement of disputes

In the event of a dispute about the interpretation or application of a treaty concluded by an entity, the authority responsible for taking part in the settlement procedure is the central state in every case[39]. In the same way, the central state is responsible at international level for the implementation of treaties concluded by the entities.

H. Conclusion

Participation by federated and regional entities in international relations (particularly treaty-based relations) is an increasingly contemporary phenomenon, not only because of the growth in international links but also because of developments in the apportionment of powers, with a tendency for federated states and regions to have a greater share of international responsibilities. But national arrangements vary widely, from the concentration of responsibility for international questions at central government level, to the system in which international powers parallel domestic responsibilities. In addition to concluding their own treaties, entities may be involved in the preparation or implementation of treaties concluded by central government. Where there is provision for such involvement prior to the conclusion of a treaty, it takes the form of consultation or, more rarely, participation in negotiations. The extent to which entities are involved in implementing treaties depends generally on the apportionment of responsibilities. Clearly, the entities' role is greater in states with a dualist tradition, where international law always has to be incorporated into domestic law, than in those with monist systems, where implementing provisions are needed only for treaties that are not directly applicable. Entities' participation in international organisations is less developed than their involvement in supranational bodies: the fact is that the latter enjoy real legislative powers and it is essential that entities participate in the process of European Community decision-making.

In the debate about the allocation of powers - a major issue in the countries considered - the international dimension can no longer be ignored.

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[37] Article 227.1.x of the Constitution.

[38] Article 59a of the Statute of Autonomy.

[39] See, for example, in Belgium, Section 81.7 of the special law on institutional reform of 8 August 1980 and the co-operation agreement of 11 July 1994.