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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

(VENICE COMMISSION)

**FEDERATED AND REGIONAL ENTITIES  
AND INTERNATIONAL TREATIES**

**Replies to the questionnaire  
by:**

**PORTUGAL, UNITED STATES**

**COMPARATIVE TABLE OF REPLIES TO THE QUESTIONNAIRE  
ON FEDERATED AND REGIONAL ENTITIES  
AND INTERNATIONAL TREATIES**

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- Column B Power of the entities to conclude treaties in the field of international relations (question 1.a)
- Column C Source of this power (question 1.b)
- Column D Apportionment of treaty-making powers between the central state and the entities (questions 1.c and 1.d)
- Column E Potential contracting parties of the entities (question 1.e)
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- Column G Apportionment between the central state and the entities of procedural responsibilities concerning treaties concluded by the entities – need for the central state’s approval (question 2)
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- Column K Apportionment of powers between the central state and the entities with regard to the introduction and implementation of treaties concluded by the central state or the entities/possibility of the central state taking over this responsibility from the entities (questions 3.a and 5)
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A	B	C	D	E
State	Power of entities (Q.1.a)	Source of power (Q.1.b)	Apportionment of powers (Q.1.c-d)	Other potential contracting parties (Q.1.e)
<b>Argentina</b>	Yes	Constitution	Similar to the apportionment of powers at domestic level; treaties concluded by the provinces must not be incompatible with national foreign policy or impinge on national interests	Any state, entity or international organisation
<b>Austria</b>	Yes	Constitution	Federation: general powers; <i>Länder</i> : powers within their internal sphere of competence	Neighbouring states or entities
<b>Belgium</b>	Yes	Constitution: 1990 special law on institutional reforms; co-operation agreements between the federal state, the regions and the communities	Powers to conclude international treaties corresponds to domestic legislative powers	General right to conclude treaties ( <i>ius tractati</i> ): states; international organisations; entities within states

A	B	C	D	E
State	Power of entities (Q.1.a)	Source of power (Q.1.b)	Apportionment of powers (Q.1.c-d)	Other potential contracting parties (Q.1.e)
<b>Bosnia and Herzegovina</b>	Yes	Constitution	State: foreign policy; entities: special bilateral relations with neighbouring states with due regard to the sovereignty and territorial integrity of Bosnia and Herzegovina; other agreements with the (general or special) permission of the Parliamentary Assembly of Bosnia and Herzegovina	Special bilateral relations: neighbouring states; other states, international organisations: with the (general or special) permission of the Parliamentary Assembly of Bosnia and Herzegovina
<b>Canada</b>	In principle, no	N/A (Not applicable)	General power is vested in the central state. Although the provinces are unable to conclude treaties, the Franco-Canadian Cultural Agreement enables them to conclude agreements with France	See column D
<b>Denmark (Faeroe Islands and Greenland)</b>	In conjunction with the central state and for administrative arrangements (technical side)	Laws on the autonomy of the Faeroe Islands and Greenland	General power is vested in the central state. The entities can only take part in international negotiations concerning matters within their jurisdiction	In principle, no restrictions, but in general, Nordic countries
<b>Finland (Åland Islands)</b>	No	N/A	Only the central state has treaty-making powers	N/A

A	B	C	D	E
State	Power of entities (Q.1.a)	Source of power (Q.1.b)	Apportionment of powers (Q.1.c-d)	Other potential contracting parties (Q.1.e)
<b>Germany</b>	Yes	Constitution	The <i>Länder</i> may conclude treaties within their internal sphere of competence; there is some dispute as to whether the Federation has treaty-making powers in matters within the exclusive jurisdiction of the <i>Länder</i> ; under the Lindau agreement, the Federation must request the consent of the <i>Länder</i> if it wishes to conclude a treaty in a matter within the exclusive jurisdiction of the <i>Länder</i>	All states, entities or international organisations; treaties on the transfer of sovereignty to transfrontier institutions may only be concluded with institutions of border regions
<b>Italy</b>	No, but the regions may undertake development initiatives abroad	N/A	Only the central state has treaty-making powers	N/A
<b>Switzerland</b>	Yes	Constitution	Confederation: general powers; cantons: within their sphere of competence, provided that the Confederation itself has not already concluded a treaty in the field in question	No restrictions (states, territorial authorities, international organisations, etc.)

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>State</b>	<b>Power of entities (Q.1.a)</b>	<b>Source of power (Q.1.b)</b>	<b>Apportionment of powers (Q.1.c-d)</b>	<b>Other potential contracting parties (Q.1.e)</b>
<b>Ukraine (Crimea)</b>	No	N/A	Only the central state has treaty-making powers	N/A

<b>A</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>State</b>	<b>Multilateral treaties (Q.1.f)</b>	<b>Procedural responsibilities (Q.2)</b>	<b>Settlement of disputes (Q.3.b)</b>
<b>Argentina</b>	No actual cases, but the possibility exists	Province: Congress is simply informed	Province
<b>Austria</b>	Possible	The <i>Land</i> governor; must inform the federal government before beginning negotiations; must request federal government's permission before concluding the treaty; full powers to negotiate and conclude the treaty are conferred by the President of the Republic on the proposal and with the countersignature of the governor; the President of the Republic may delegate this power to the regional government; the <i>Land</i> must denounce the treaty at the request of the federal government; if the <i>Land</i> does not do so, power to denounce the treaty passes to the Federation	No specific procedure
<b>Belgium</b>	Yes	A) Treaties concluded exclusively by communities or regions: the communities or regions themselves (with the approval of their respective councils); the King must be informed; the Council of Ministers may suspend the procedure; if the federal state and the entities fail to reach an agreement, the King may confirm suspension of the procedure only in exceptional cases – B) “joint” treaties (involving the federal state): negotiation, signature and approval by the relevant parliamentary assemblies: the federal state and the entities; ratification: the King	The federal state

<b>A</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>State</b>	<b>Multilateral treaties (Q.1.f)</b>	<b>Procedural responsibilities (Q.2)</b>	<b>Settlement of disputes (Q.3.b)</b>
<b>Bosnia and Herzegovina</b>	Yes, with the special or general permission of the Parliamentary Assembly of Bosnia and Herzegovina	President of the entity, with the consent of the Parliamentary Assembly of Bosnia and Herzegovina; the Parliamentary Assembly of Bosnia and Herzegovina may demand the denunciation of a treaty by an entity	
<b>Canada</b>	No	N/A	N/A
<b>Denmark (Faeroe Islands and Greenland)</b>	No, but some agreements are concluded on behalf of the entities	Negotiation and signature: central state and entities; ratification: central state; administrative arrangements: the entities may act on their own initiative	Cf. powers for negotiating and concluding treaties
<b>Finland (Åland Islands)</b>	No	N/A	N/A



<b>A</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>State</b>	<b>Multilateral treaties (Q.1.f)</b>	<b>Procedural responsibilities (Q.2)</b>	<b>Settlement of disputes (Q.3.b)</b>
<b>Germany</b>	Yes	The <i>Länder</i> ; treaties are subject to federal government approval	The party bound by international obligations (Federation or <i>Länder</i> ; there is some dispute as to whether treaties concluded by <i>Länder</i> are binding on the Federation)
<b>Italy</b>	No	N/A	N/A
<b>Switzerland</b>	Yes	Confederation (Federal Council); cantons may, however, conclude treaties directly with lower-level authorities in foreign countries; such treaties must be approved by the Federal Council and, if necessary, the Federal Assembly	The authority responsible for concluding the treaty (column G)

<b>A</b>	<b>F</b>	<b>G</b>	<b>H</b>
<b>State</b>	<b>Multilateral treaties (Q.1.f)</b>	<b>Procedural responsibilities (Q.2)</b>	<b>Settlement of disputes (Q.3.b)</b>
<b>Ukraine (Crimea)</b>	No	N/A	N/A

A	I	J	K	L
<b>State</b>	<b>Consultation/ participation in negotiations (Q.4.a-4.d)</b>	<b>Delegation of powers (Q.4.e)</b>	<b>Introduction and implementation of treaties (Q.3.a + 5)</b>	<b>Treaties concluded by the entities (Q.6)</b>
<b>Argentina</b>	No	No	According to apportionment of treaty-making powers	Mostly treaties with entities of other states (Brazil, Italy)
<b>Austria</b>	The <i>Länder</i> must be consulted before the conclusion of any treaty which affects their interests or which entails carrying out measures by them	No	Cf. general domestic jurisdiction; if a <i>Land</i> fails to act, responsibility passes temporarily to the Federation	No examples; transfrontier co- operation has taken place without any formal treaties being concluded; treaties have been concluded between the Federation and the <i>Länder</i>
<b>Belgium</b>	Treaties concluded exclusively by the federal state: the community and regional governments are simply informed; “joint” treaties: see column G	No	Cf. domestic and external jurisdiction; the state may temporarily take over responsibility from entities failing to act, so as to ensure compliance with the country’s international or supranational obligations	Numerous examples of treaties concluded exclusively by the entities and, in particular, “joint” treaties

A	I	J	K	L
<b>State</b>	<b>Consultation/ participation in negotiations (Q.4.a-4.d)</b>	<b>Delegation of powers (Q.4.e)</b>	<b>Introduction and implementation of treaties (Q.3.a + 5)</b>	<b>Treaties concluded by the entities (Q.6)</b>
<b>Bosnia and Herzegovina</b>		Yes, by decree of the central state		Numerous examples
<b>Canada</b>	No legal obligation, but in practice, before signing treaties that may impinge on the powers of the provinces, the central authority consults them and allows them to take part in negotiations	No	Introduction: central State; implementation: cf. domestic jurisdiction (dualistic system); the central state may not take over responsibility from the entities	No
<b>Denmark (Faeroe Islands and Greenland)</b>	In principle, the government of the entity is consulted if the treaty is intended to apply to the entity; if need be, a territorial reservation is entered	Yes, the negotiation and conclusion of treaties by the entities takes place on behalf of the central state	Cf. Domestic jurisdiction; if an entity fails to implement a treaty, the matter is settled through discussion between central government and the entity	Numerous examples of fishing agreements; trade agreements
<b>Finland (Åland Islands)</b>	Consultation if the treaty concerns a matter within the jurisdiction of the autonomous authorities of the Åland Islands or is of particular importance to the Åland Islands (in principle); the Åland Islands may take part in the negotiations if there are special grounds for doing so	No; the Åland Islands are only empowered to make proposals	According to domestic jurisdiction (dualistic system); the central state may not take over responsibility from the Åland Islands	No

<b>A</b>	<b>I</b>	<b>J</b>	<b>K</b>	<b>L</b>
<b>State</b>	<b>Consultation/ participation in negotiations (Q.4.a-4.d)</b>	<b>Delegation of powers (Q.4.e)</b>	<b>Introduction and implementation of treaties (Q.3.a + 5)</b>	<b>Treaties concluded by the entities (Q.6)</b>
<b>Germany</b>	The agreement of the <i>Länder</i> is only needed in the event of territory being ceded to a neighbouring state (plebiscite); <i>Länder</i> are consulted before the conclusion of a treaty affecting their own position	No	Treaties concluded by the Federation: introduction: central State; implementation according to apportionment of powers at domestic level; the <i>Länder</i> must implement federal treaties and the Federation enjoys supervisory powers; treaties concluded by <i>Länder</i> : the <i>Länder</i>	Many practical examples over the years
<b>Italy</b>	Consultation of two regions with special status is compulsory in the conclusion of certain trade agreements; occasional consultation of other regions	No	In general, the state; the regions, where new regulations are to be issued in fields within the regions' jurisdiction, unless national interests are at stake or co-ordination of initiatives is needed; the state may take over responsibility from regions failing to act	No

<b>A</b>	<b>I</b>	<b>J</b>	<b>K</b>	<b>L</b>
<b>State</b>	<b>Consultation/ participation in negotiations (Q.4.a-4.d)</b>	<b>Delegation of powers (Q.4.e)</b>	<b>Introduction and implementation of treaties (Q.3.a + 5)</b>	<b>Treaties concluded by the entities (Q.6)</b>
<b>Switzerland</b>	The cantons are involved in formulating foreign policy decisions impinging on their powers or fundamental interests; they are informed and consulted; they are involved in international negotiations in matters impinging on their powers		According to the apportionment of powers at domestic level; if treaties are not implemented, the Confederation may take over responsibility from the cantons, even in the case of cantonal treaties	Numerous examples, particularly concerning border cantons
<b>Ukraine (Crimea)</b>	No; Crimea may, however, make proposals concerning the conclusion of international treaties	No	The central state; Crimea, with the consent of the Ukrainian Minister of Justice, may make proposals concerning the legislation governing implementation of an international treaty	No

A	M	N
State	Representation of entities within international organisations (Q.7.a)	Representation of entities within the European Union (Q.7.b)
<b>Argentina</b>	No, but observers are sometimes sent	N/A
<b>Austria</b>	No	The <i>Länder</i> must be informed when European Union bodies propose initiatives that impinge on <i>Länder</i> powers; if a common position is adopted by the <i>Länder</i> , the association of municipalities and the association of towns, it is normally binding on the Federation; in such matters, the Federation may delegate a representative of the regions to represent the Federation on European Union bodies, with the consent of the Federation representative
<b>Belgium</b>	A representative of the entities may be included in the country's delegation to an international organisation; each level of authority concerned may be represented on the Belgian delegation; the delegation is chaired by a representative of the level of authority most affected by the particular issue	Matters within the exclusive jurisdiction of the communities or regions: the regional or community minister, depending on the particular case; matters falling within the joint jurisdiction of two (or more) levels of authority: Belgium is represented by a federal, community or regional minister depending on the particular case, supported by an "assistant" minister representing the other level of authority; in both cases, the communities and the regions are represented on a rota basis; permanent co-ordination takes place within the Ministry of Foreign Affairs

<b>A</b>	<b>M</b>	<b>N</b>
<b>State</b>	<b>Representation of entities within international organisations (Q.7.a)</b>	<b>Representation of entities within the European Union (Q.7.b)</b>
<b>Bosnia and Herzegovina</b>	No	N/A
<b>Canada</b>	Quebec and New Brunswick are members of the Agency for Cultural and Technical Co-operation (“Francophonie”); in other cases, a province may be represented on the Canadian delegation	N/A
<b>Denmark (Faeroe Islands and Greenland)</b>	Separate representation within the Nordic Council; representation on Danish delegations, depending on the particular issue and the interests of the entities’ respective governments	N/A; the Faeroe Islands and Greenland are not part of the European Union
<b>Finland (Åland Islands)</b>	Yes: Nordic Council (Parliamentary Council; Council of Ministers, without voting rights)	The Åland Islands government formulates Finland’s position in common policies applicable to the Åland Islands; it is informed about, and helps formulate, Finland’s position in matters within its domestic jurisdiction



<b>A</b>	<b>M</b>	<b>N</b>
<b>State</b>	<b>Representation of entities within international organisations (Q.7.a)</b>	<b>Representation of entities within the European Union (Q.7.b)</b>
<b>Germany</b>	Possible	No, but <i>Länder</i> governments are involved, through the <i>Bundesrat</i> , in the decision-making process at European level (to the same extent as in the decision-making process at domestic level)
<b>Italy</b>	No	The State/Regions Conference is responsible for appointing the regions' representatives within the Italian Permanent Representation to the European Union; it co-ordinates central government policy on European affairs falling within the regions' jurisdiction
<b>Switzerland</b>	No; consultative role before the central state formulates its own position	N/A

<b>A</b>	<b>M</b>	<b>N</b>
<b>State</b>	<b>Representation of entities within international organisations (Q.7.a)</b>	<b>Representation of entities within the European Union (Q.7.b)</b>
<b>Ukraine (Crimea)</b>	No	N/A