

EU & Local Governments:

Triangular relationship founded on principles ... and strongly depending on transposition of these principles into national law

The European Union and the local level of government concern two distant levels of competence. However, under the impetus of secondary Union law, the legal distance between the two is decreasing significantly. *But which law regulates the relationship between the European Union and the numerous local authorities that fall under the 27 Member States?*

Despite the proliferation of rules of secondary Union law applicable at the local government level, there is no clear (Union) legal regulation in this respect. This is due to the national identity principle, which implies that the European Union tends to adopt a more reserved attitude towards local governments. In the absence of a specific framework in primary European Union law (the so-called treaties), the Court of Justice has developed settled case law in which it bases the relationship between the European Union and the local level of government on a number of principles of European law. More specifically, the Court has related the principle of institutional autonomy and the principle of loyal cooperation. The ECJ also made clear the concrete impact of these principles on the relationship between the EU and local governments. In doing so, the ECJ clearly puts the focus on the principle of loyal cooperation and states that institutional autonomy cannot weaken these European implementation duties on behalf of local governments.

Despite this clear teleological approach of the ECJ, which, based on the above-mentioned principles, makes the effective effect of European law at the local level an absolute priority, one cannot ignore the fact that the success of the principle-based approach of the ECJ is highly dependent on its support by national law. After all, national law is, for the time being, the primary source of law for local government action.

Teaser: Belgian administrative law has the potential to turn the Court's principle-based approach into national reality.

Wondering how? Feel free to contact me to further discuss this topic!

Short bio

Loth Van der Auwermeulen is a PhD researcher within the field of administrative law. Her research concerns cross-border cooperation by local actors. More specifically, she focuses on the interaction between international, transnational, national and subnational law when it comes to regulating cross-border cooperation. Flemish local governments are the starting point of her research.