

Austrian Local Government Interest Representation at EU level

Simona Wolesa

Head of Brussels Office, Austrian Association of Cities and Towns

Simona Wolesa has a doctorate in Law, set up the Association of Austrian Cities and Towns (AACT) Brussels office and has been leading it since 1994. The office is located in the Permanent Representation of Austria to the EU and, together with that of the Austrian Association of Municipalities, is well integrated into the work of Austria's embassy to the EU.

stb-bxl@outlook.com

RESUMO: A Oficina de Bruxelas da Asociación de Cidades e Povos de Austria (AACT) está integrada na Representación Permanente de Austria ante a UE e está en vigor desde 1994 antes da adhesión de Austria á UE. A Asociación está baixo a constitución federal austríaca obrigada a ser consultada na maioría dos asuntos relacionados coa UE. O autor, que dirixiu a oficina ao longo de toda a súa existencia, ofrece unha perspectiva persoal das formas e medios de defender os intereses subnacionais a nivel comunitario.

Palabras Chave: Austria, Federalismo, gobernos subnacionais, Unión Europea.

RESUMEN: La Oficina de Bruselas de la Asociación de Ciudades y Pueblos de Austria (ACACT) está integrada en la Representación Permanente de Austria ante la UE y ha estado en funcionamiento desde 1994 antes de la adhesión de Austria a la UE. La Asociación está bajo la constitución federal de Austria requerida para ser consultada sobre la mayoría de los asuntos relacionados con la UE. El autor, que ha dirigido la oficina a lo largo de toda su existencia, ofrece una perspectiva personal de las formas en que se defienden los intereses subnacionales a nivel de la UE.

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ABSTRACT: The Brussels Office of the Association of Austrian Cities and Towns (ACACT) is embedded in Austria's Permanent Representation to the EU and has been in place since 1994 ahead of Austria's EU Accession. The Association is under the Austrian federal constitution required to be consulted on most matter related to EU. The author, which has led the office throughout its entire existence provides a personal perspective of the ways and means subnational interests are advocated at EU level.

Keywords: Austria, Federalism, subnational governments, European Union.

Context

Austria joined the EU in 1995 and from the start of the Austrian accession talks with the EU-Commission, the local level was involved. Members of the Association of Austrian Cities and Towns (AACT) were always part of the Austrian EU accession negotiations. Austria had the largest delegations for accession negotiation ever. All representative bodies of the different sectors of society took part (depending on their specific point of interest): all levels of government, i.e., unions, chamber of labour, chamber of commerce, chamber of agriculture, the National Bank, the local government Associations etc. We always arrived at these negotiations with long lists of questions on issues of importance to the local level. (Karlhofer and Pallaver, 2015). Without the network of associations at CEMR (*Council of European Municipalities and Regions*) plus the generous assistance of associations from countries that had already joined the EC before us, we would never have been that well prepared and been made familiar with the (mostly legal) challenges for the local level that comes with EU accession.

Before the interest representation-office in Brussels was established, it took a while to explain to our members that lobbying for local government interests was not an “unsavoury” business, that it is not a form of propaganda or corruption, practised by unscrupulous people operating in dark places, but was legitimate and necessary, and that it has its roots in the British parliamentary tradition: the “Lobby” is in front of the debating chamber of the House of Commons, which is the place where Members meet the public who try to explain, persuade or entreat parliamentarians to support or oppose a cause. The AACT Brussels office finally began its work in 1994.

1. The Austrian Model

The Austrian local governments had the best prerequisites for lobbying in Brussels. Their interests, according to the Austrian Federal Constitution, are safeguarded by the Association of Austrian Cities and Towns (AACT) and by the Association of Austrian Municipalities (AAM).¹ Both associations have offices in the Austrian Permanent Representation (PermRep) to the EU and are fully integrated into its organisational system (Bishchof, 2006). This guarantees rapid information exchange with representatives of federal ministries and direct contact with other Austrian representative bodies in the PermRep. As the AACT and AAM staff members belong to the official Austrian delegation to the EU they may participate in Council working groups on specific local government issues (*eg public procurement, urban mobility, digital policy etc*). This is quite a unique possibility in the EU. Nevertheless, their main job in Brussels is similar to the rest of local government liaison offices in Brussels, i.e., monitoring, lobbying, networking and promoting local government interests at EU level.

In 1995, in the process of the so-called the EU adjustment of the Federal Constitution prior to Accession, the Länder and the local governments were given the right of participation in EU-integration-policy issues concerning them [Article 23c)² and d)³ of the Federal Constitution] (Bußjäger, 2015). This gives both Associations the right of information and to comment on issues concerning local

¹ Article 115 Paragraph 3 of Austria’s Federal Constitution (B-VG) specifies that: «The Association of Austrian Municipalities and the Association of Austrian Cities and Towns are the authorised representatives of local-government interests.»

² Article 23c Paragraph 4 of the Federal Constitution :

³ Article 23 d Paragraph 1 of the Federal Constitution :

governments. Information is channelled through the Federal Chancellery, the Federal Ministry of Foreign Affairs and the other respective federal ministries. The Associations receive a wide variety of documents and participate in the internal preliminary discussions of the ministries [Article 23 d) para 1]:

“The Federal Government must immediately inform the Länder about, and give them the opportunity to comment on, any projects within the European Union framework that affect the autonomous sphere of activity of the Länder or that may otherwise be of concern to them. Such comments should be addressed to the Office of the Federal Chancellor. The same applies to local government in cases where its actual sphere of activity or other major concerns are involved. On these matters, the Association of Austrian Cities and Towns and the Association of Austrian Municipalities are responsible for representing local authorities (Art. 115 Para. 3)”.

According to a provision in the Austrian constitution, the Länder and the two Associations are additionally entitled to propose delegates to the government to be nominated to the Committee of the Regions of the European Union [Article 23 c) para 4]:

„Austrian co-operation with the nomination of the members of the Committee of Regions and their representatives should be based on proposals made by the Länder and by the Association of Austrian Cities and Towns and the Association of Austrian Municipalities. In this respect, the Länder, the Association of Austrian Cities and Towns and the Association of Austrian Municipalities should together nominate three representatives.“

In 1999 a further important legislation for Austrian local governments came into existence: The Consultation Mechanism. (Gamper, 2008). It is an Article 15a agreement between the Federal Government, the Länder and the local governments on the coordination of legislative projects and ordinances, in particular with regard to their financial effects. The agreement contains provisions on the bearing of costs in the event that legislative measures of a territorial authority burden other territorial authorities participating in the financial equalisation system with costs. The consultation mechanism includes mutual information obligations with the opportunity to comment on all legislative measures (Kiefer, 2007; Kiefer, 2008). In such a case, the Federation, the Länder and the AACT and AAM can demand negotiations on financing in a consultation body. (*Federal Law Gazette I No. 35/1999*).

These are agreements based on Art. 15a of the Austrian Federal Constitution (B-VG). They are concluded between the Federation and one or more/all of the Länder or agreements between the Länder themselves. Municipalities and cities cannot be contracting parties. If they are to be included, a separate constitutional basis is needed. Such a basis has only been created once so far, namely with the Federal Constitutional Act on authorisations of the Austrian Association of Municipalities and the Austrian Association of Cities. This made it possible to conclude a joint agreement between the federal government, the Länder, cities and municipalities on a consultation mechanism and a stability pact (Elías Méndez, 2010; Palermo, 2019).

2. The Brussels Office

The Brussels Office combines the roles of listening post and advocate for local government interests. It is a locally-based, multilingual primary contact-point on Austrian local government for MEPs and EU institutions and enquiries from non-Austrian local authorities.

Its main task is intelligence-gathering on legislative, policy developments and advice to the main office in Vienna, both via the AACT monthly magazine "ÖGZ" (*Österreichische Gemeindezeitung*), contributions to AACT committees, and in response to direct enquiries. It takes on speaking engagements and contributes to publications. It tries to wield influence through established contacts with key policy-makers, decision-takers and opinion-formers. It is the general liaison point with Brussels Offices of other national associations, both bilaterally and via the European Local Authority Network (*ELAN*).

Why is the Austrian Association of Cities in Brussels? We never questioned the municipalities as EU players, they were a matter of course. Because we don't join the ranks of petitioners to the EU, but rather work actively on EU legislation, get involved and want to pass on Austrian know-how, and because the Austrian municipalities had the impression that the federal government did not provide enough information about European affairs, or that they did so too late. Because, together with the other national associations in Brussels, we wanted to set up a municipal contact point for the EU institutions.

Everyone that has rank and name has a presence in Brussels. A total of around 20,000 lobbyists and around 3,000 accredited journalists can be found. That's even more than in the lobbyist capital of the world, Washington D.C. Only 6% of lobbyists come from the regional and local level. Industry and business representation offices form the main part. In addition, there are the diplomatic representations of the 27 EU member states and the approx. 150 diplomatic representations of third countries (e.g. USA, Japan, China, Switzerland, Norway, etc.). The Austrian Association of Cities and the Austrian Association of Municipalities may fall under the lobbyists category in Brussels, but they have the privileged position of lobbyists at constitutional level.

The work in Brussels is described in four catchy English words: monitoring – observing and supporting the legislative process in the legislative projects and initiatives that are important to us; Networking – establishing and maintaining formal/informal contacts with colleagues in the EU institutions, other liaison offices and our umbrella organisations; Lobbying – influencing the legislative process and other initiatives; Promotion - presentation of the office (through exhibitions/readings etc.) - this is intended more for the larger offices (Pazos-Vidal, 2019).

A core skill is trying to hear the grass grow. Actually, even before the Commission even considers an initiative, a legislative proposal, we are trying to find out whether it will actually happen and what effects this could have on the municipalities. That means, from an almost endless flood of information from the Commission, Council and Parliament, a jumble of projects, recommendations, hearing procedures, guidelines and proposed regulations, one tries to identify those projects that could become important for the cities in Austria. The work programs of the European Commission are regularly trawled through, green and white papers, communications, proposed directives and proposed regulations are read and explained. A preliminary interpretation is carried out. In addition, the Association of Cities takes part in events organized by international bodies and the delegates of the Association of Cities to the Committee of Regions and Municipalities (CoR) are looked after.

Just like in Austria, you forge coalitions, including rainbow coalitions. We "municipalists" act together with our colleagues from the other national municipal associations and our umbrella organization. We are a pugnacious, stubborn and critical mass in Brussels.

Why can't this work be done from Vienna? Because for the same reason that the work of the Austrian Association of Cities, the Austrian Association of Municipalities, the liaison office of the federal states in Vienna (the body that brings together the Lander in Austria) and not somewhere else in Austria. The German associations (Germany is a founding member of the EC and has therefore been

part of it since 1957) tried to do this from Germany for a few decades before they opened their offices in Brussels in 1992 (Panara, 2010).

If you want to work proactively, make contacts and get initial (internal) information, it's easier on site. Confidential discussions cannot always be conducted by e-mail or telephone. Actually, it would be about time to perceive Europe as an administrative and governmental level. One could, as the association of cities does, instead of avoiding polemics against the EU, support the EU decisions constructively and one could stop in good time with presenting European decision-making processes as being remotely controlled.

3. Lobbying

Lobbying is the most important function of the AACT Brussels Office. The process starts with the setting of annual lobbying priorities based on the AACT strategic priorities and an analysis of how the European Commission's work programme impacts on those priorities. Once priorities have been established, a strategy is developed by identifying key objectives, key contacts and estimating a timetable. We try to influence decisions mostly during the drafting phase of the Commission.

Thus, establishing and maintaining contact with Commission officials is important. The Commission has grown much more conscience of the need for evidence-based lobbying and therefore, key support that the Brussels office often seeks is specific evidence, drawn from the ground, on the implementation of EU policy which provides proof to support AACT's positions and claims. Commission officials are usually open and helpful and naturally prefer to receive representative groups covering several Member States, rather than pleading from an individual country. This is where the role of CEMR as a representative body can be so decisive and was indeed helpful. Unfortunately, this role of CEMR has diminished in the last years due to a major change in its policy focus.

Once a Commission proposal has been published, it enters into a more political phase of decision making, involving the European Parliament (*EP*) and Council as key decision-makers. The EP is a most effective vehicle for exerting influence. Having good collaboration with local government friendly MEPs and their staff from various Member States is key. Over 50% of EP amendments are included in final legislation. More and more EU legislation is adopted as "framework legislation" which allows more scope from national parliaments to implement as they consider appropriate. Domestic decisions are made about who will be responsible for implementing new policies and paying for it (Hein, 2015).

This phase is crucial for local governments and the AACT Office in Vienna is monitoring the process of domestic implementation of EU legislation very closely, so that no unjustified additional financial burden is transferred to the local governments. Should this be the case both local government associations are entitled to call on the Consultation Mechanism (*see above*).

4. Europe needs the cities

The municipal agendas in Brussels are not only represented by the Association of Towns and Municipalities but by another 20 national offices of the municipal umbrella organizations. Together they try to influence EU policy in the interests of the municipalities and, together with the European umbrella organization (the Council of European Municipalities and Regions, CEMR), represent a competent municipal contact point for the EU institutions and other organizations.

They are a pugnacious, persistent and critical mass in Brussels and know very well that the EU institutions and the EU member states can only implement their ambitious initiatives, mostly designed without municipal expertise, together with the municipalities (this form of europeanisation of local mobilisation is described *inter alia* by Kern and Bulkeley, 2009).

For example, the so-called Green Deal, which is promoted by the Von der Leyen's Commission as Europe's "trademark" and is intended to make climate neutrality legally binding by 2050, does not mention European cities and communities at all

Decisions that have a massive impact on municipalities are still being made at a completely different level. For example, there is the so-called Notification Directive, which is intended to introduce mandatory notification of all zoning and development plans to the European Commission. This guideline shows a certain lack of reality and is met with a complete lack of understanding by the local authorities. What role is actually given to cities and municipalities with regard to the challenges facing Europe (Brexit, budget issues, migration, digitization, climate policy)? Are they only the delivery agents of the Member States and the EU institutions? EU and national measures achieve the greatest added value where they support the local authorities financially (accompanying) and publicly effective while maintaining their self-government (Wohleser, 2020).

The European idea is fascinating and one should not transform the European Union into a "pot of frustration" into which one throws all disappointments, annoyances and fears, including one's own domestic, national problems. Nevertheless, it is high time that Vienna and Brussels recognized that Europe can only be realized in partnership with well over 100,000 local authorities, which have very different decentralized histories, structures, competences, legal situations and traditions.

The striving of the Union to be closer to the citizens must also mean a greater understanding and an adequate consideration of the rights and duties of the cities and municipalities in Europe, an appreciation for those places where the citizens actually live.

5. COVID-19: Europe in (municipal) turmoil

Suddenly they were back, the 2020 border controls in Europe. For decades they were almost been invisible, we had us at the requirements of the Schengen Agreement used to. National borders became closed and the export of medical and chemical devices and material was prohibited.

There was also zen in solidarity with each other of, there was a loss solidarity Behavior of both individuals and up to to that of the Member States. the noble We have lost the principle of solidarity came. When the virus hit the 10 million city of Wuhan and paralyzed large parts of China, we sat still amazed on the sofa and could not imagine that this virus would cover the whole globe. The Corona Viruses SARS and MERS did not have it far beyond China. Once again the European Union was accused of failure, as Health policy is a matter for the member states. The Union can at best coordinate and has leeway when it comes to finances. It only takes on an important role at the question of how the economic consequences of the pandemic are to be limited, and themselves there becomes national "priority" of the Member states in the foreground (see e.g. EU Recovery and resilience facility – the key part of the Next Generation EU Programme worth €750bn and hastily put together after the outbreak of the pandemic by incurring for the first time into massive EU common debt issuance. However this extensive financial support program does not automatically give access to it to municipalities.

This is despite the fact that there is a strong case that it is at local level where it can be demonstrated the added value of EU support. Crucially this support is crucial to ensure that local government are able to retain their financial autonomy and public support. However, this crisis has once again given the impression that local authorities are perceived at national and EU levels as primarily as vicarious agents of the member states and the EU institutions.

The unleashed globalization seems good to be over. The goals of the time are now sustainable domestic business community runs (with generous exceptions from EU state aid law), regional supply security and the municipal public services of general interest. So these are those Goals for which we as representatives of Municipal associations in Brussels for many years in the EU internal market: to

protect the special task of the municipalities for the citizens to provide the Services of general interest - understood to have as a duty as well as a right has just shown itself in the pandemic.

After the shock in the city of Brussels and the EU institutions moved to quickly find virtual procedures and decision-making mode. The policy work resumed with vehemence and under strict protective measures.

Back in 2020 it seemed like everyday one new legislative proposal published will. A virtual seminar was followed by a virtual briefing, despite never having left the kitchen or living room table. The Green Deal, the Corona aid package (Next Generation EU), the vaccination strategies and much more.

In European Parliament and the Committee of the Regions fully moved to vote and proceedings being held via digital remote participation. In the Council of the EU, amendments were hastily made to the to the Voting Rules and the ordinary written procedure as a way of making decisions was accepted. For risk reduction physical meetings of the Council Working Groups (CWG) were scaled back, as well as the weekly Mertens meeting, which for the first time ever took place as a video conference. Only the Committee of Permanent Representatives (COREPER, bringing together the 27 EU Ambassadors and who plays a central role), continued to meet physically. Even the formal Council meeting or ministers were called and held by way of informal video conferences, with the full interpreting regime being maintained as much as it was possible to do.

Also the municipal agendas in Brussels of the national associations of towns and associations of municipalities were moved online. In addition to bringing together the 20 national associations that do have an office in Brussels, and due to their continued contact by way of CEMR Expert Groups, supporting the Committee of the Regions members and MEPs as well as their own monthly meetings as European Local Authorities Network (ELAN), the move to virtual means of participation provided for further participation of those national associations that do not have (chose or did not have the means to) a permanent Brussels office. This collaboration between our own peers is critical to have sufficient critical mass to be influential at EU level, the more so as they are relatively small teams of on average one or two persons per association.

Though the Austrian cities and municipal associations are privileged in the sense that they are the only ones that are based at their Permanent Representation (with special access and privileges provided by it), most other associations are co-located at the House of Municipalities next to European Parliament, where they share premises and resources alongside their pan-European umbrella body CEMR.

The possibilities of direct and effective EU participation for the municipalities are small, while EU decisions loom very large and with a very direct effect upon municipalities. Although the cities and Municipalities are separated by very different national histories, structures, competences, rights and traditions, they are united – by a common European cultural identity and through common challenges and opportunities provided by the EU institutional framework.

6. Personal conclusions

Lack of information has long ago ceased to be a problem in EU affairs, but finding information that is relevant from one's own point of view in the mass of otherwise interesting information may prove difficult. Having already set priorities, it is easier to filter the flow of information. However, new questions arise continually, and it is important to be able to study them in detail, sometimes without being prepared.

My Brussels working model is characterised by being pro-active, constructive, and innovative. One that involves delivering results to decision makers rather than position papers, one that requires

building partnerships with a wide and diverse range of stakeholders rather than looking for support in a narrow circle.

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