# Abstract

This project is combining a theoretical frame with empirical data, collected through interviews, with the aim to unravel Danish local governments possibilities to take influence on European Union legislation, in the special case of the last revision of the European Public Procurement Directive.

In the first section the theory of multi-level governance, the policy cycle and lobbyism is introduced. They explain how a complex decentralized political system, like the European Union, works, how legislation is adapted and through which means actors from outside this system are able to take influence and take part in shaping certain legislations. Since this depicts a very general view on how a certain political system is going work, this theoretical approach is embedded in reality in the next section of this project.

The European institutions are merged with the previous theoretical frame and draw a picture of how the EU legislation process should work ideally according to the theory and the EU’s own ambitions on subsidiarity and proportionality.

After a presentation of the interviews, conducted with representatives of Kommunernes Landsforenings and Danske Regioners offices in Brussels, the analysis forms the last main section of this project.

In the analysis the theoretical ideal picture drawn of the EU legislation process is discussed opposite the actual process of the procurement directive as it was perceived by the Danish local government representations in Brussels.

It showed that local Danish governments in many ways have good general conditions to get in contact with officials of the European Parliament and the European Commission, especially since the treaty of Lisbon, but that a strong network is needed to really get heard and be able to make a difference.

While the general conditions for local governments seem to be good, the specific case of lobbying the procurement directive also appeared to have a promising outlook. In the end though, factors out of Danish local governments influence prevented a success for Kommunernes Landsforning and Danske Regioner and they didn’t get their core demand through. It seems though; they were able to lay a good foundation for lobbying in the next round of revision, which is bound to come eventually.

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# 1.0 Introduction

In a common position paper by Kommunernes Landsforening and Danske Regioner from 2012, those two organizations, representing the Danish municipalities and regions respectively, made their take on the European Procurement Directive clear. Decisive for this paper was the fact that the EU initiated a revision of the Directive at the time. Danish Regions and Municipalities were fore long been dissatisfied with the limitations, inflexible rules and procedures required by the EU, put on local governments purchase of goods. The Commissions ideas of revision weren’t seen as going far enough and intense lobbying was done to change decisions in the favour of Danish local governments. Local governments in Denmark alone spend around 140 billion Danish kroner on goods and services a year, so the affected areas in daily business are to be seen as vast. At the same time the desired effect of the Procurement Directive, which was introduced 20 years prior, is relatively minimal. The main idea was to encourage trade across the member states borders in order to ensure that public money was spend most cost efficient, and the regions and municipalities could get the advantage of the best bid from around the whole of the European Union. Not to forget that open competition across the borders is essential to the European common market. In 2012 though, still only 1,6% of all contracts signed involved providers from another country, and 3,6% when measuring the total value of the contracts. In fact only 1 out of 10 of the Danish local governments had signed a contract with a provider from a foreign country within the past five years. One of Kommunernes Landsforenings and Danske Regionsers aim was to raise the bar, for when a purchase has to be done in accordance with the European Public Procurement Directive, from 1,5 million kroner today to 7,5 million kroner and by this to halve the number of EU procurements, which would mean a massive relief for the local governments who would be able to save a lot of time and money.[[1]](#footnote-1)

The European Union consists today of roughly 270 regions and an overwhelming 90.000 local authorities. They accumulate one third of all public spending, which equals 16% of the EU’s GDP and about 70% of all European legislation is being implemented on local level.[[2]](#footnote-2) The regions influence on policymaking should thus reflect their importance and liabilities.

The process of adjusting and revising EU legislation in the specific case of the Public Procurement Directive and specifically the Danish local governments possibility to take influence, is going to be the theme of this project.

# 2.0 Problem formulation

The aim of this project is to shed light on local governments possibility to influence the EU policymaking affecting these local authorities. Examining the above-mentioned Public Procurement Directive, through literature and interviews with local government representatives involved in this case, it is sought to find an answer to how local governments interests are being represented in Brussels. The problem formulation this project seeks to answer is thus:

**In the case of the EU’s public procurement directive; how can Danish local authorities in specific take influence on EU policymaking in the initial start and/or during later revisions?**

# 3.0 Methodology

In this chapter the projects layout will be described and the reasoning behind the structure and chosen approach presented. A more detailed discussion of the chosen theories will follow at the end of the actual theory chapter.

## 3.1 Layout

In the following four chapters it is sought to answer the above problem formulation. This will be done in a step-by-step approach where we start out by introducing the main theoretical frame of this project. The Policy-Cycle approach, as by Harold Dwight Lasswell, will be described in order to give an idealized picture of the policy-making process. The theory of multi-level-governance is going to shed light on the working in a system with many different authorities and finally the concept of lobbyism will be presented to bind everything together. The chapter of theories will be wrapped up by a discussion of the chosen theoretical approach and possible alternatives.

The next step is going to be a description of the policy-making process within the EU. The for this project most important actors and authorities will be presented and ideally fitted into the policy-cycle in order to draw a picture of how the EU is supposed to work and to prepare for the later analysis of the Public Procurement Directive case. Now there is a thorough picture of how the EU works and directives are formed is established, it is time to address the core of the question postulated in the problem formulation. Through which means, channels and committees are Danish regions and municipalities able to take influence on the shaping of EU legislation. Since the EU officially encourages making politics as close to the “end user” as possible, a picture of how this is supposed to be achieved is drawn. Last but not least the case of the Public Procurement Directive is going to be introduced, this chapter will consist of a timeline showing the development in legislation and most importantly of interviews with representatives of Danish regions and municipalities who actively have been involved in defending Danish interests in this specific case. The main idea is now to have drawn a picture of how the EU works in theory and how it worked for Danish regions and municipalities in reality in the specific case of Public Procurement. The analysis chapter’s task is to map the effective influence Danish local governments had and have in the case of the European Procurement Directive.

## 3.2 Approach

In order to achieve this, as it is described above, there was chosen an approach that makes use of triangulation and more specifically of methodological triangulation. Triangulation refers to the use of more than one approach to gather information, as in this case, previous studies, theories and laws on the one hand and direct first hand information taken from interviews on the other. This is done in order to enhance the confidence in the results, since, as described by Eugene Webb, *“Once a proposition has been confirmed by two ore more independent measurement processes, the uncertainty of its interpretation is greatly reduced”[[3]](#footnote-3)*. Though one has to be wary not to jump to the conclusion, that just because an assumption has been proved by two or more methods, the ultimate truth has been found. Another point of critique is aimed at the fact that information, gathered by different methods, not necessarily can be compared, since special circumstances can result in two different results on the same question.[[4]](#footnote-4) In the case of this project the interviews can contain personal interpretations of situations, which can differ greatly from how another person would have perceived them. In any case triangulation can give this project more depth regardless of the end result might turn out inconclusive.

## 3.3 Interviews

The interviews incorporated into this project lead us to the next challenges, connected to qualitative data gathering. The problem with qualitative research is, that it doesn’t rely on precisely measurable data that can be expressed in tables and charts. It is hard to determine when a remarkable observation is remarkable or only pure coincidence. On the other hand qualitative research, as individual interviews, open up for the possibility to look further and to shake of restrictions, that quantitative research can contain. One can move more free in order to answer question, which otherwise are hard to answer.[[5]](#footnote-5) In interviews the most important questions to ask are “what?”, “why?” and “in what way?”, and a good preparation of the topic is essential to avoid unnecessary repetitions. What is already known, what would be interesting and what topics are worth of getting in depth with are the questions one has to ask oneself, when preparing an interview. While preparation is essential, it is also important to be able to respond spontaneous to the development of the interview.[[6]](#footnote-6) In general it is possible to structure the interview in two ways, as, metaphorical speaking, a tree or a river. The tree is fixed and well defined and the scenes, the branches, are to complete the information. If the researcher knows the problem well, this model is to prefer, since he knows where to go and what to ask. The “river” model on the other hand is to be seen as a river with many side-rivers, the longer you get down the interview the more information comes from the side-rivers and alters the interview. This model can be selected if the researcher has an idea about a topic, but is able to and desires to incorporate new information in to his work.[[7]](#footnote-7) Another aspect of the interview can be to decide to do interviews individual or in smaller or bigger groups. While the individual interview can give the person a sense of confidentiality that enables him/her to talk more freely, the discussions that can occur when two or more people are interviewed together can bring new and exiting insights. People reacting to each other’s answers can add a new dynamic to the interview, where the researchers work is to keep the interviews topic on track.[[8]](#footnote-8)

For this projects interview a more “river” like approach was chosen. While the theoretical knowledge of local governments lobby work was good, the aim was get a sense of how the reality looks like. Furthermore the interview was conducted with representatives of Danske Regioner and Kommunernes Landsforening at the same time, this gave the interview a conversation like character where the prepared questions only worked as a guideline. The fact that both organizations work closely together made it even more obvious to do it this way. The number of interviewed people and their background only can give answer to certain aspects of the lobbying the procurement directive case and in the ideal case more involved would have been interviewed. Restrictions on time and resources set a limit though.

## 3.4 Case Study

The big advantage of a case study over other methods is that it roots in a real-life context and contains the possibility to examine a certain case in-depth.[[9]](#footnote-9)

This method is aided by collecting data in a natural setting and makes the work thus independent from processed statistics, which can put limitations on the possibilities for new discoveries.[[10]](#footnote-10) The most obvious field of use for this method are descriptive or explanatory problems where the aim is to produce first-hand understanding of events.

The method isn’t so different from other methods, but the most striking difference is that collection and analysis of data have to happen at the same time. In case interviews contradict each other, one need to find the reason, redo parts of the interview or find more interview partners in order get a good result.[[11]](#footnote-11)

When working on a case study, in order to get the full advantage out of it, it is important to stay open minded and not to assume results beforehand.

When it comes to designing a specific case study, the first thing that needs to be done is do define the case in detail and then to decide whether to use a single or multi case approach. Focusing on one case makes it necessary to devote careful attention to the case. The multi case approach though opens up to strengthen the researches result, through multiple results verifying the same assumption[[12]](#footnote-12)

Last but not least it is necessary to choose if one does want to solely rely on the collected data and make new discoveries from scratch, or to incorporate a theoretical perspective. Incorporating theories can on the one hand prevent new discoveries but on the other side also be used to challenge or extend a certain hypothesis. The case study design should thus at a minimum involve the definition of the case, a justification for the number of cases and a explanation whether for or against to incorporate a theoretical perspective.[[13]](#footnote-13)

In the case of this project the case is as defined in the section “Limits” at the end of this chapter. Only one case was worked with, due to limited time. But in order to have reached a clearer result in regard to answering the problem formulation, it would have made sense to not only incorporated the views and experiences of Danske regioners and Kommunernes Landsforenings consultants in Brussels, but also to have talked with other involved actors, such as the main office in Copenhagen or representatives in the CoR. This would have made a clearer and more diversified picture of the actual situation and not only angled it from the point of the Brussels offices. As it already was mentioned above, the project incorporates a certain amount of theories. The idea is to either verify the theoretical findings and or to reveal discrepancies between the local governments theoretical possibilities to influence EU legislation and the actual real-world situation as described through the interviews.

## 3.5 Limits

There are a few limitations to this project, both in regard to what it aims to answer and what it can answer. The most obvious is, that the goal isn’t to give a general answer to local governments influence on EU legislation. There are too many types of legislation, different procedures and countless actors and committees to consider in order being able to give a general answer to this. So in this project the focus is on European Procurement Directives and more specifically on Public Procurement. The aim is to shine light only on the last renegotiation of the directive which took place 2011-2014, both because their have been made many changes to treaties over time and competencies have shifted between the different actors, but also due to limitations of tine and size of this project. Furthermore the main focus during the analysis and answering of the problem formulation is to be the threshold for public procurement within the EU. This is due to the fact that it was the main goal for Danish local governments to raise this threshold and because it is a rather concrete, measurable goal, while many other desired changes were rather technical and difficult to grasp. It is also important to mention that the aim isn’t to give an answer to what might have gone wrong or where there is room for improvement, the purpose of this project is only to draw a picture of the process and the role of local governments in reforming the public procurement. That said it isn’t a full picture of Danish local governments influence. The focus lies on Danske Regioner and Kommunernes Landsforening and more specific on their offices in Brussels, it thus leaves out other crucial actors or only touches them slightly, as for example their Copenhagen head offices, the Committee of the Regions, CEMMR or the European Economic and Social Committee.

# 4.0 Theories

In this Chapter the main theories of this project will be described, the theory of the Policy-Cycle, which was introduced by Harold Dwight Lasswell back in the year 1956. It gives a idealized picture of the process of policy making and though it might be difficult to apply in reality, it still is able to provide a good general idea and a basis for later analysis. The theory of lobbyism will be presented here continuously in the course of this project, when seen fit and necessary. The theory of multi-level governance will be introduced and the chapter ends with a short discussion of the advantages and disadvantages of these theories and a brief introduction to a possible different approach.

## 4.1 What is policy?

So what is policy? One of the founders of modern Policy Science, Harold Lasswell, defined it, as far as the public policy is concerned, as *“public order decisisions”*. Thomas Dye, one of Lasswell’s current colleagues, described it as, “Public policy is whatever governments choose to do or not to do”.[[14]](#footnote-14) In order to better understand policies and how they work, it is possible to classify them in a bunch of categories. From an analytical point of view, a few have shown to be interesting for the analysis of a policy. Those categories are each focussing on the nominal, the impact, the controlling principle, and the nature of a policy. Below those categories, except for the one called impact, since it is deemed not to be relevant for this project, will be presented briefly.

**Nominal** category: The nominal category narrows the policy down to its institutional limitations, for example by defining a certain policy as, foreign policy, agriculture policy, immigration policy. Those terms limit the policies to certain responsible institutional actors and restrict those who are involved.[[15]](#footnote-15)

**Controlling principal** category: This category simply describes with which instruments certain policies are going to be achieved. Force and punishment or simple encouragement could be possibilities, as would be providing goods in exchange. One possibility to control policy implementation will be described in detail, since it is of value to solving this projects problem formulation. Commandment and ban is a very common way to achieve a policy. When only few options seem to be able to realize a certain aspect of a policy, it is often chosen to enact a ban or command, which is especially effective when it is possible to describe a policy’s conditions in detail. Those policies will most often be found to control companies, employee working conditions, consumerism, nature conservancy and areas of that nature. Traffic regulation is also an example of where the government wishes to enact a general valid behaviour and fines violation of those regulations.[[16]](#footnote-16)

**Nature** category: A simple question to ask is what a specific policy consists of, if it is of material or immaterial nature. Financial aid, infrastructure programmes, distribution of non-cash assets or simple immaterial services provided by the government. Since we in this project are going to deal with a directive, the regulative nature of a policy is of special interest.   
Those regulative policies are widely found throughout society, as already mentioned in the above paragraph.[[17]](#footnote-17)

## 4.2 Policy cycle

The policy cycle is, in its core, a very simple theory, which explains the making of policies. Policymaking is a dynamic process, which in this model is divided into several phases as followed, the identification of a problem, setting of a political agenda, formulation of a policy, implementation of a policy, followed by an evaluation and amendment or termination. The political administrative system does in this case not only consist of constitutional political institutions, but of actors such as interest groups as well.

As mentioned above this model is very simple in its core, what makes it more complicated is the fact that the described stages in general do occur in this certain order, but that they often overlap each other or even appear parallel. Thus it can be difficult to classify those stages in reality. Still this model helps to understand policies as something dynamic instead of static and in a later analysis of a certain policy it can be very helpful and interesting to see eventual differences between the actual policy and what it was attended to look like to begin with.[[18]](#footnote-18)

Figure - The Policy Cycle

In the following the occurring stages will be presented in more detail.

### 4.2.1 Problem identification

In the beginning of every policy cycle stands the identification of a problem. In this dynamic model the process of identifying and specifying a certain problem will be continuous and extend through the whole cycle. It is hard to define the process of problem identification and explain why certain problems will be regarded as important enough to be discussed in the political arena, while others are going to be dismissed. This is due to the fact that this first phase of the policy cycle is highly influenced by individual actors, media, interest organizations and whoever else wants to participate in the public discourse. This lack of institutional structures makes it difficult to analyse the process and to pinpoint responsibilities. The manifestation of a problem happens in the public consciousness. Another contributing factor to the difficulty of analysing this first phase lies in the nature of a problem. It doesn’t exist per se, but occurs as soon as somebody identifies it as such, how we perceive a certain policy as a problem is very individual and dependent on many personal factors. Bot conscious and unconscious selection criterions play a role when choosing a situation as a problem that deserves to be dealt with.[[19]](#footnote-19)

### 4.2.2 Setting of a agenda

When a certain problem is identified and seen as worthy to be dealt with, it moves on to the next phase, which is the setting of a specific agenda. This stage serves as another filter before the problem finally reaches the political arena, where binding laws and regulations can be introduced. It can be seen as the bridge between the identification of a problem and the formulation of a policy.[[20]](#footnote-20)

Most issues making it on the political agenda are reoccurring, some are to be dealt with on a yearly basis, like the approval of public budgets, others are more infrequent. Every once in while, as mentioned above, a problem is identified that “deserves” to be dealt with and for this an agenda is to be set. In order to lift such a problem to the level where political decisions are made, political resources are needed, with which it becomes possible to allocate key actors of the decision process. These lobbyists push some problems to the front and, through persuasion and bargaining, build up a political coalition.[[21]](#footnote-21)

In many cases though there is no need for an external actor to set the agenda. Setting an agenda directly from within an authority is a promising method. In cases of excess capacity, in terms of especially personnel, it can seem very attractive for an authority to launch a policy-problem by putting it on the agenda. This can for example be done out of the desire to please authority affiliated third actors. To begin with the authority classifies problem as an item of potential action, which means a state of assessment, then, in case it is accepted, as a problem which requires action. For this to happen there are two conditions have to be fulfilled, a) the authority is responsible for the political area and b) the authority is convinced of being able to handle the problem in an adequate manner. If this is the case there are issued new priorities and the authorities agenda will get modified. For such a proposal to work it is also essential that one can expect a long-term interest in the cause.   
It can be established that it needs the political will and the political power to set such an agenda, but this is only the instrumental aspect of the case. A cultural normative aspect plays the other role. As mentioned during problem identification, there must be a broad consensus in society to acknowledge a problem as such. The closer a policy problem is situated to the fundamental core values of society, the higher is the chance of a policy problem to be passed through to the next level where binding political decisions are made.[[22]](#footnote-22)

Another popular approach to a successful introduction of a policy problem to the next stage of the cycle is policy-labelling. In order to increase the chances of an actual formulation of a policy, it is possible to present a certain problem as something concerning a huge part of the society, even though only a small part actually will benefit from a coming policy on that topic. In most cases it is possible to highlight certain aspects of a problem in order to achieve this effect. An example could be redistribution of income in society. While only a relatively small portion of society can benefit from this, a proper labelling of the problem can appeal to people’s emotions and common values. So in the case of income redistribution it for example could be possible to gather the whole of a country around the wish for an more equal society. While this in the short term can work really well, there is a chance that this common interest argument is being perceived as phony and in this case a possible coalition can dissolve quickly. In general the media and their interest in that matter play a huge role in this approach. Without an interested media the message can’t get out to the broad public.[[23]](#footnote-23)

### 4.2.3 Formulation of a policy

When there is a problem, which is put on the agenda and gets adopted, it is time for those, with power du make binding political decision, to collect all the threats and formulate a concrete policy concerning that problem. Information is gathered, processed and turned into a policy proposal, which is put up for vote in a law making political organ. Discussions and bargaining follows that in the end might result in a majority voting for the policy proposal and by that make it a binding law.[[24]](#footnote-24)

When it comes to get to an agreement on the adoption of a policy proposal, the political system and its conditions play a key role. The analysis of policy formulation has for long been of special interest to political scientists who study the effect of decentralised or centralised governments, possibility of plebiscites or socioeconomically factors on the policy cycle. All these factors do influence the policy cycle beyond the formulation of policy and shapes the arena for later implementation and evaluations. A central thesis is for example that the political administration only to a certain degree and very selective is able to deal with complex, interdepartmental problems. This is due to alleged missing communication between responsible resorts, which in many cases only occur as a result of disturbance rather then positive cooperation. This has the fragmentation of problems as a result and makes the allocation of resources difficult seen from the centralised organization point of view. Aside from the conflict between centralized and decentralized politics, studies also have shown that there are big differences between the possibilities in the cases were decisions are taken in parliaments and were they are taken by the public through plebiscites. In the case of referendums in Switzerland it showed that 90% of progressive innovative initiatives were dismissed and only had a chance of being passed after have been altered by the parliament to a less radical version. The cause for this can be that while parliamentarians have the responsibility to act for the country as whole in the name of a greater good, while individual citizens vote out of their immediate surroundings in accordance with their own needs.[[25]](#footnote-25)   
In many cases it is a cost benefit analysis that builds the foundation to determine if a policy proposal is considered good or not. Even though it might look like a proposal could be passed and become law, because it is considered key issue of political fraction in the parliament, it can happen that it will get dismissed. Various reasons could play in hear. The proposal could be deemed not to be radical enough or there could be a fear of loosing bargaining power in other cases. A left wing issue could be dismissed by the left wing fraction of the parliament, simply on basis that a right wing party proposed it.[[26]](#footnote-26)

When formulating a policy and delimiting its reach and extent, the accountable have to decide if it’s going to be a strict policy with clearly defined goals and how to reach them (Rule of Law), or a more loose version where there is space for interpretation and discretionary leeway (Policy-Without-Law). A policy without clear guidelines can be the result of the inability to agree upon those or the wish to extract potential conflict, in order to increase the chances for it to be passed. In that case a cost benefit analysis isn’t easy and conflict after implementation isn’t unlikely. Not agreeing on clear formulations doesn’t though always result from inability. The effect and needed measurements can in some cases basically not be known. In other cases it can be believed that local governments, closer to the subject are better at handling and implementing laws and regulations at its own discretion, rather then a centralized government dictating on a matter outside there expertise. A clear definition on the other hand can also have the benefit of a parliamentarian being able to present him/herself as a reformer, as somebody who solves problems. In the case it becomes impossible, or only with difficulties, to trace back why a policy is shaped as it is and who exactly is responsible, it gets lost in the bureaucratic structures. Furthermore it opens up for the possibility of no fraction in the parliament feeling like the looser of a process since all negotiation already has happened on the lower level and they can pass a finished policy. Last but not least the parliament, its composition, the power of the present ruling party or coalition is a contributing factor in how a policy is shaped out, since it always will be done with the goal for it to pass. In any case, in order for a policy to succeed in the long run, it is important that the involved follow up on the developments even after the stage of policy formulation.[[27]](#footnote-27)

### 4.2.4 Implementation of a policy

Over time it has shown time and time again, that some policies, for various reasons, didn’t had the desired effect. While it easy to assume that policies that pass the previous stages and become binding law are getting implemented and unfold the anticipated way, numerous factors and actors influence the process. Understanding the institutional apparatus, its shape and functioning, is essential for a proper implementation. Top down and bottom up structures have totally different requirements and effects on legislation. On the one hand it can be argued that top down implementation guarantees the implementation in a certain way without being thinned out, although that depends on the number of stages a policy has to pass before reaching to the bottom. . On the other hand one can assume it easier to react to local features in a bottom up structure and thus optimize a certain policy.[[28]](#footnote-28)   
The prior mentioned blurred borders between the phases of the policy cycle model, become especially clear when looking at the phase of implementation. There can’t be clear distinguished between policy formulation and implementation, since the actors responsible for implementation in most cases already take heavy influence on the formulation of the policy. During the process of formulation, as described above, conflict and disagreements arise that have to be dealt with. If these conflicts aren’t resolved and put to rest during the formulation, it is most likely they will reoccur in the process of implementation and prevent satisfactory results. In case those conflicts are avoided in total, it puts the administrative actors and courts in a much stronger position during implementation. Subsequently the intertwining of the phases are a fact and a necessity without effective policymaking isn’t possible. Since those responsible for implementation take direct influence on the formulation of a policy the question for why certain policies doesn’t work becomes even more interesting. In order to find an answer it is not enough to look at final implementations, but at the whole development from beginning to end.[[29]](#footnote-29)

### 4.2.5 Evaluation of a policy

The last phase of the policy cycle model is where a certain policy gets evaluated. Since this model is based on a cycle, the last phase can as well be the first one, if the people involved in a policy see amendment as a necessity. The evaluation of a new law can happen in various ways, formal, informal, spontaneous or be missing. The form of evaluation also depends on who the affected of a policy is. If the policy concerns citizens in general, authorities or public servants does influence the way an evaluations is shaped. Different groups of people have different possibilities to express them self and be heard by those who can make a change. The phase of evaluation give lobbyist once again the chance to take part in moulding the possible changes to come or to convince people right to begin with that a policy isn’t working. As with many other phases of the model, there is taking an overlapping place, where the evaluation can begin as soon as the policy’s implementation has started. [[30]](#footnote-30)

## 4.3 Multi level Governance

Over the past decades a change in government style could be observed, it was found that 63 out of 75 surveyed developing countries recently have undergone a process of decentralization. The same counts for European countries, where no country since 1980 has shown signs of moving towards a centralized government. This trend has can also be seen in the theoretical field of political science, where multi-level governance appeared as a new theoretical approach build on the experiences with the on-going European integration.[[31]](#footnote-31) When measuring the level of centralization and categorize the type of governance, the easiest step and first indicator is to count the levels of jurisdictions. While this gives a good first impression, it is important to have a look at the nature of those jurisdictions, what kind of policy competencies, what influence on taxation and what relationship between the jurisdictions, are questions that must be asked.[[32]](#footnote-32) Furthermore one can ask the question what effect it has when the decision makers on multiple levels all belong to the same centralised political party? Regardless of the otherwise official decentralized system, this must have an effect on the governance, towards possible centralization.[[33]](#footnote-33)   
In the following the theory of multi-level governance will be introduced in further detail; it is one of many theories that aims to explain the more decentralized systems that have been establishing itself over time. All the theories refer to the dispersion of authority away from central government, upwards to a supranational level, downwards to subnational jurisdictions and sideways to public and private networks, which open up for incorporating lobbyism in the act of governance.[[34]](#footnote-34)

By many scholars it is argued, that a decentralized political system with many levels of jurisdiction is more efficient, based on the assumption that different problems are better solved on different levels. While some problems can be global, like climate change, problems with services provided by cities are local and have to be treated differently in another theoretical framework.[[35]](#footnote-35) While it is widely agreed upon that decentralized governance is beneficial, the organization of those multi-level systems is still up to debate. There are in general to contrasting visions:

Type I: Authority is dispersed to a limited number of jurisdictions, which do not overlap and are relatively stable. In this system jurisdictions tend to bundle in large packages and by that limit the amount of levels.

Type II: In this system, there is an indefinite number of jurisdictions, which tend to overlap each other. In many cases they are very flexible and can appear and disappear, as the need and demand for them changes. These systems jurisdictions are likely to have very fungible competencies, which can be spliced further into functionally specific jurisdictions.[[36]](#footnote-36)

Info Box 1 - Multi-level Governance

The type I governance style is closely related to federalism, where power is shared among a limited number of governments, operating just a few levels. It focuses on the relationship between a central government and a tier of sub-national governments.[[37]](#footnote-37) In federalism it is believed to be very difficult to split authority into too many small packages, hence multi-task jurisdictions are very common, which also can be widely observed in Europe. Here local governments exercise wide spread functions, which reflect the concept of general-purpose authorities. And as in federalism, there are strict and clear jurisdictional boundaries, which, in combination with the multi-tasking principle, set a limit on authority division. Furthermore it is believed, that jurisdiction need a certain size in order to function efficiently. The same goes for the number of jurisdictional levels, which are rather limited in this governance system. In general the ideal number of levels are heavily discussed, but it is agreed upon to distinguish between a local, an intermediate, and a central level. The positive or negative effects of more levels haven’t been agreed on yet, but empirical studies from Belgium have shown too many levels to be redundant. The existing jurisdictions and levels in this system though are very stable and are unlikely to be changed over time. Since it is very costly to reform a system entirely, alterations mainly affect and change the allocation of policy functions across the existing levels of governance.[[38]](#footnote-38)

While this Type I is strongly connected to federalism and intergovernmental relations, it is not limited to this and captures a conception of governance among many European scholars. In the European Union we have for a long time seen a tendency of not only distributing jurisdictions on a supranational level, but increasingly also on a sub-national level.[[39]](#footnote-39)

In the Type II governance we find the distinct opposite characteristics, jurisdictions are broken down to very specific areas of expertise. So citizens aren’t served by their government, but by different “public service industries”. Those jurisdictions, although presumably small and very specified, don’t work within defined borders and overlapping occurs regularly. Bruno Frey and Reiner Eichenberger coined the acronym FOCJ to describe this system, it stands for *“functional, overlapping, and competing jurisdictions”*. As said, the jurisdictions in Type II governance are in general smaller then in Type I and are overlapping and this less formal and restrictive form is a reason for a higher number of jurisdictions in this governance system. Every collective action problem of a group of citizens can enable a new jurisdiction to arise. This diversity of jurisdictions and the more open structure also shows itself in the number of jurisdictional levels. This is due to the belief that each public good should be provided by the jurisdiction that effectively internalizes its benefits and costs, plus the fact that some public goods demand jurisdiction on multiple levels.[[40]](#footnote-40) Last but not least the jurisdictions in this Type II governance are flexible and can disappear as fast as they emerged, in accordance with the publics changing preferences and functional requirements. The idea is that, as on an open market for commodities, the citizens freely can move between competing overlapping jurisdictions, which appear when needed and are discontinued when their service no longer is in demand.[[41]](#footnote-41)

While it above says, that Type II governance is distinctly different from Type I, it doesn’t mean, that they exclude each other and hybrids can occur. Due to the rationale and the emphasis on free decision making the schools connected to this type of governance are neoclassical political economy and public choice theory, but also the ideas of different scholars from federalism and international relations overlap with this approach.[[42]](#footnote-42)

In Europe, as already mentioned, we have seen a trend towards decentralization on national level, which especially in Spain, Belgium and Italy has changed the political arena drastically. In some areas has France also undergone tangible change, while the German and Austrian federal republics since their founding after World War II are based on a highly decentralized system. Common for those changes happening in various European national states is that they follow the Type I governance, with few, clear divided jurisdiction.[[43]](#footnote-43) So while their on national level has been a tendency to strengthen subnational governments, the European Union has grown in importance and influence until today, where it has a become a supranational government, affecting and shaping a wide range of policies. The majority of EU policies apply to a single unified jurisdiction.[[44]](#footnote-44) At the same time does the EU encourage decentralization and promotes the creation of trans-regional institutions financially, which in some cases resemble Type II governance. Interreg is a perfect example of how cross regional cooperation can strengthen economic and social cohesion. So it can be argued, that the EU incorporates both Type II characteristics and I.[[45]](#footnote-45)

With the Lisbon treaty multi-level governance became, though not directly, a mean to fill the treaty with life and the Committee of the Regions has since published a white paper that illuminates the essential need for multi-level governance.[[46]](#footnote-46)

## 4.4 Lobbyism

The word lobbying is derived from the word lobby, where members of parliament would gather before and after debates and it was possible to talk with and influence politicians. Nowadays though, lobbying isn’t limited to the lobby of a parliament anymore and takes place many places and takes on various forms. The Council of Europe understands lobbying as a:

*“concerted effort to influence policy formulation and decision-making with a view to obtaining some designated result from government authorities and elected representatives. In a wider sense, the term may refer to public actions (such as demonstrations) or “public affairs” activities by various institutions (associations, consultancies, advocacy groups, think-tanks, non governmental organisations, lawyers, ect.); in a more restrictive sense, it would mean the protection of economic interest by the corporate sector (corporate lobbying) commensurate to its weight on a national or global scene.”*[[47]](#footnote-47)

While it is clear, that most lobbyists are active for organisations representing business interests, one can be sure of that there, out the estimated 15.000 to 30.000 lobbyist active in Brussels, still are plenty to target local interests. The big differ in number of lobbyist, is a result of that there is no official statistic counting them, and the definition of who is a lobbyist is quite blurry.[[48]](#footnote-48)

The sheer amount of institutions and actors in the European Union, of which some will be shortly described in the next chapter below, brings both advantages and disadvantages, when it comes to lobbying the EU. While there is an endless amount of possible ways to influence policymaking through various organs, it is, at the same time, impossible for any interest association to have an elusive access to relevant officials or politicians. The highly intertwined institutions make it possible to lobby the same case from many different positions.[[49]](#footnote-49)

In 2002 the CONNECS-Database listed 941 European organizations, out of those who provided the information, 59% (212) had a basis in Brussels. The number of organizations lobbying the European Union is strongly correlated to the extend of European integration. The founding of the Coal and Steel Union, the EC, the internal marked all boosted the number of organizations significantly. But even in the periods in between, even in the period up to the early 80’s, where European integration has come to a halt, there could be observed a steady increase of organizations lobbying their interests on a European level. European regions only started their lobbying activities in the 70’s but increased their work during the 80’s and 90’s along with the European Unions competences widened to affect more and more of the Regions daily business.[[50]](#footnote-50)

*“Political systems need legitimacy from their subject in order to undertake a full range of governance functions. Legitimacy arises from two sources: inputs (the ability to participate in the political decision making); and effectiveness (results). The limited nature of the EU as a political regime can partly be explained through its lack of input legitimacy”*[[51]](#footnote-51)

Since the EU, as a supranational organization, is dominated by national governments representatives, also known as the the Council and a large bureaucratic apparatus that is the Commission, while the European parliament remains weaker than its national counterparts, the democratic deficit is still a challenge for the EU.[[52]](#footnote-52) On the one hand one can argue that the role of lobbyism helps to solve this democratic deficit, since it adds another level and another mean of being heard to the democratic process. While it on the other hand can be argued, that only a limited amount of actors have the recources to actually do lobby work and by that only a limited part of the people and their needs are heard. This works in the direct opposite of what democracy stands for.[[53]](#footnote-53) In general though, ceteris paribus, it is safe to say that:

*“They bring much needed resources to policy making, implementation, and monitoring. In some accounts of how the European integration develops, they help the EU to acquire more policy competencies by brining irresistible demands to member states doorsteps, and assist in the popular identification with the European Union”*[[54]](#footnote-54)

An interest organizations ability to act is made up by to components, on the one hand it is determined by what role the organizations is able to fill out and on the other how it is able to handle and solve the tasks it meets. Such an organization can be an autonomous actor, it can be a forum for its members to discuss and streamline point of views or it can be just an instrument used by some of it members or even authorities. Depending on the organizations role and abilities it works with:

* *the process of relevant information and distribution to its members*
* *the establishment of connection to the European institutions*
* *the bundling of different interests to one common position*
* *the organizations public relations and influencing public oppinions*
* *the representation of interests in the European decision making process*
* *the formulation and implementation of European acts.[[55]](#footnote-55)*

In the role as the defender of the European treaties, the Commission still is a main target for lobbying activities, although the European Parliament has gained importance, as itself has gained influence in the shaping of policies. The Council and the European Council are hard to penetrate by lobbyist in Brussels, since they are made up by member states government officials, and interest organizations have an easier time to take influence on national levels. The tendency to lobby the Commission and the Parliament have been strengthened since it in the single European Act was decided to strengthen the EU’s competencies and qualified majority voting later on made it even more difficult for national parliaments to block laws and reforms.[[56]](#footnote-56)

In accordance with multi-level governance theory, decisions are made on many levels within the EU. Hence lobbying on national level is still important, also regarding decisions made on EU level. National interest organizations don’t have unlimited resources, so when lobbying a cause, it can be more effective to lobby it on national level or join an European interest organization, than to embark on an independent lobby mission in Brussels. So the closer an interest organizations ties are to local networks, the less it becomes probable to lobby on a big scale in Brussels. The other way round, loose and weak connections on national level, is more likely to trigger an organizations substitution with European authorities. Since the world we live in isn’t black and white, can strong connections on national level, in certain cases also benefit the establishment and maintenance of connections on EU level, and vice versa.[[57]](#footnote-57)

## 4.5 A possible different theoretical approach

The policy cycle paints, as a model consisting of phases, an ideal picture of how policy is made. It is a template to systemize the phases and enables to analyse the processes as a whole from a logical perspective. As a critique it can be argued that the policy cycle isn’t a theoretical model in the classical sense. There isn’t a clear line of causes and no verifiable hypothesises. Furthermore, as already mentioned, the phases described in the cycle don’t occur as clear and distinct in reality as the model would suggest. Last but not least the model describes from a strict top-down perspective, where the interaction between the different levels of the policy process don’t play an important role. While it is true, that the policy cycle isn’t able to test hypotheses, it can be used to determine logical connections after studying a specific case. And while it also is true, that the phases in reality rarely are as strict divided as in the policy cycle, it later can be seen that the phases in the case of the procurement directive are quite distinct. As such I would argue, that the policy cycle model is a good choice for the later analysis of the European Procurement Directive.

The approach taken in this project basically mirrors the decision making process on national level, especially within decentralized states such as for example Germany. Instead of taking this internal politics approach, it could be thinkable to incorporate theories of international relations to analyse the negotiations of the revision. As for this project it though was chosen to go for an internal politics approach, since the actors focused on, Danske Regioner and Kommunernes Landsforening, don’t have the same options to react as a national states, don’t have any official power in Brussels and don’t have any leverage when bargaining. Their work and role in Brussels doesn’t differ much from their work in Denmark.

# 5.0 Local authorities and their influence on EU policy

Local authorities throughout Europe have the possibility to participate actively in shaping policies that concern the local community. Officially they are even encouraged to contribute the process, as the EU has the goal to make politics as close to the final consumer as possible. This chapter’s aim is to sketch a picture of how and with what means, it is thought able to achieve the EU’s wish of being as close to the citizen as possible and the local governments desire to be heard in the EU and take influence. In the following it will be described what lobbyism consist of and who, in the Danish case, are the most important actors to consider.

## 5.1 Kommunernes Landsforening / Danske Regioner

Kommunernes Landsforening as well as Danske Regioner, have permanent representations in Brussels, where their main task is to assist their members who participate in plenary sessions and commissions of the Committee of the Regions. Furthermore they try to establish and maintain a tight and close network with the European Commission and other actors, like the Danish EU parliamentarians to discuss the Danish municipalities opinions and coordinate their interests. Those contacts are in general used to discuss current issues on the European agenda that concern Danish municipalities and regions. Since issues in many cases are treated simultaneously in the European Parliament and the Committee of the Regions, the ties that have been established through those offices can benefit both sides and help to get the best deal for the Danish municipalities and regions.[[58]](#footnote-58)

Danske Regioner maintain an office in Bruxelles since 1991[[59]](#footnote-59), but only after heated discussions with the Danish government, which for a long time didn’t approve the idea of having a direct competitor in external relations.[[60]](#footnote-60)

Both Kommunernes Landsforneing and Danske Regioner are partners in the Council of European Municipalities and Regions (CEMR). This organization has been founded in 1951 and has since aimed to promote a united Europe on the basis of subsidiarity. This is done through two main working areas, the active influencing of European policy and legislation affecting municipalities and/or regions and providing a forum for discussion where representatives for local governments can meet.[[61]](#footnote-61)

## 5.2 Committee of the regions

The committee of the regions was established in 1994, according to the Maastricht Treaty and serves as an assembly of local and regional representatives, who ensure local governments a voice within the EU. The big leap in European integration, the Maastricht Treaty was, made it necessary to legitimize EU’s decision making by bringing it closer to the citizens. The Committee of the Regions role was strengthened over time by the:

**Amsterdam Treaty (1997)** – It was made possible for the Committee to also be consulted by the European Parliament

**Nice Treaty (2001)** – Members of the Committee are required to be elected or accountable to local governments

**Lisbon Treaty (2007)** – The Committees right to appeal to the Court of Justice of the European Union was confirmed.[[62]](#footnote-62)

According to the Committees Mission Statement from April 2009 they are an…

*“assembly of holders of a regional or local electoral mandate serving the cause of European integration”* with the mission *”to involve regional and local authorities in the European decision-making process and thus to encourage greater participation from our fellow citizens”[[63]](#footnote-63)*.

This task is met by close working ties with the European Commission, the European Parliament, the Council of the European Union and diverse authorities in the member states, in order to promote multilevel governance. The Committees work consists of voting on political recommendations and participation in the preparation of legislations, drawn from the experience and expertise from the authorities that most often are responsible for implementing legislation, the local and regional authorities. Furthermore the Committee sees itself as the guardian of the principles of subsidiarity and proportionality and is, as mentioned above, able to appeal to the Court of Justice of the European Union if they see the observance of those principles threatened.[[64]](#footnote-64)

Those principles define the boundaries for the European Unions legislative work and will briefly be presented below, since they outline the fold of power of the EU and the regional governments respectively.   
**Subsidarity:** The principle of subsidiarity, as defined in Article 5 of the Treaty on European Union, ensures that decisions are made as close to the citizens as possible and that constant checks are made to make sure, that actions on EU level are within its limits, so that the possibilities for policy making on local and regional level are utilized to the fullest. It warrants that decisions on EU level only are made in case it’s more effective than on local, regional or national level, unless, of course, the decisions fall within the EU’s exclusive competences. Since the Treaty of Lisbon’s entry into force, the principle of subsidiarity is required to be respected in every legislative acts and national parliaments are enabled to object, with the consequence of for example amendment or withdrawal of the legislation.[[65]](#footnote-65)

**Proportionality:** As the principle of subsidiarity, the principle of proportionality regulates the bounds of power of the European Union. Basically it sets action and goals in proportion, which means that actions taken by European institutions shall be limited to what is necessary in order to achieve the objectives of the Treaties. The principle of proportionality is as well defined in article 5 of the Treaty on European Union.[[66]](#footnote-66)

In both cases, where the principles are breached, the Committee can address the Court of Justice of the European Union directly.

As for the structure of the Committee of the Regions, it is divided into three working areas. A president elected for a 30-month period serves as head of the Committee, he guides the work, oversees plenary assemblies and serves as the Committees representative. In case he or she isn’t able to participate in meetings or perform his duties in general, a vice-president, who as well is elected for a period of 30 month, represents him or her.   
The ruling body of the Committee compromises of the Bureau, in general it meets seven times a year to draft the Committees policy programme and to instruct the administration. The Bureau consists of 63 members, the president, the first vice-president and 28 vice-presidents, representing each member state. Furthermore the presidents of the five political parties represented are participating, as well as 28 other members from the member states.

In the Plenary Assembly, which consists of the 353 members of the Committee of the Regions, opinions and resolutions are discussed and adopted during six meetings a year, often accompanied by representatives of the Commission and the EU-presidency.[[67]](#footnote-67) As mentioned further above the Committee members have to be local or regional representatives, who got their mandate through election or in another way can be held accountable to the local authorities they are representing. In the case of Denmark we talk about 9 representatives and an equal number of alternates. Three are representing the Danish regions and six are chosen from the municipalities. The only legal basis for the nomination of the representatives is laid down in article 305 (ex 263) of the “Treaty on the Functioning of the European Union”, which in says that *“The Council shall adopt the list of members and alternate members drawn up in accordance with the proposals made by each Member State”*.[[68]](#footnote-68) The procedure of the nomination can vary from country to country, depending on the political system and traditions. In Denmark the Danish Ministry of Foreign Affairs asks the Association of Danish Regions, the Association of Danish Local Authorities and the city of Copenhagen and Frederiksberg, to create a list of four, four and one candidate respectively and an equal number of alternates. These lists are then submitted to the Danish government, which takes the decision to submit the full list to the European Commission, which appoints the Commission of the Regions members. The aim is an equal number of men and woman and every Danish member and alternate have to be directly elected representatives, whose term of office is terminated if they loose their national mandate.[[69]](#footnote-69)

Further down, at the base the Committee, six commissions specialize in different areas to create the foundation for the Committees work. *Territorial cohesion policy* - ***economic and social policy*** - *natural resources - environment, climate change and energy* - *culture, education and research* - *citizenship, governance, institutional and external affairs*.[[70]](#footnote-70)

The Commission for Economic Policy (ECON) is responsible for questions related to the internal market, among others.

## 5.3 EU parliamentarians

The European Parliament is, as already mentioned, made up by 751 members, who represent the 28 member states, roughly by their size of population. Since 1979 Members of Parliament have been elected by direct universal suffrage for five year periods at a time. How these elections take place are up to the individual member states, but the general democratic ground rules have to be followed, such as the equality of sexes and a secret ballot. The proportion of men and women in the parliament has overtime changed, so that for now around one third of the MEP’s are women. Most of their time the MEPs spend in Brussels where they attend meetings of the parliamentary committees and diverse political groups. 12 plenary sittings a year they also have to attend in Strasbourg in addition to take time for their constituencies.

Although they are voted as representatives of their constituencies, the political blocks in the Parliament aren’t decided by national affiliation, but political affinity.

To be eligible for election a coming MEP has in general only to fulfil the requirements of being citizen of a EU country and to be 21 years of age.[[71]](#footnote-71)

# 6.0 EU policymaking

The aim of this chapter is to draw an overview of the policy-making process within the EU in general and to connect it with the theory of the policy cycle. EU institutions will be presented and added into a visualized diagram of the Policy-Cycle in order to prepare for the later analysis of the Public Procurement Directive case.

## 6.1 EU Institutions

Before a review of the actual policymaking process within the EU, the major EU institutions will be briefly presented below. This is done to ensure that further down in this project no confusion will occur regarding responsibilities and powers of the different institutions.

### 6.1.1 The European Commission

The European Commission was created to represent the EU’s general interests; hence its key responsibility is to ensure that defined treaty aims are realized. In order to do so the Commission is able to act fully independent and only have obligations to the “EU”. This makes it a very important actor in the process of policymaking where it is represented at every stage of the legislative process and holds a formal monopoly on legislative initiative. It is said that the Commission propose and the Council dispose.[[72]](#footnote-72) Furthermore the Commission has the power to actively take actions against the Council or member states in case it sees obligations violated or not met. Last but not least the Commission also is responsible for representing the EU in the negotiation of bilateral agreements.[[73]](#footnote-73) On a daily basis it can be seen as the government of the EU.

The Commission consists of 28 commissioners one from each member state, since the Commissions work though is to guard the EU treaties and to deepen integration, those commission shall not be seen as national representatives of their home countries. The president of the European Commission is elected by the Council, with which the president in cooperation will appoint the other 27 commissioners, who in the end all have to be approved by the European Parliament.[[74]](#footnote-74) Each of the Commissioners are assisted by their own cabinet. When talking about the European Commission both the Colleague, consisting of the 28 commissioners and the different working groups and specialised departments of the Commission are meant.

### 6.1.2 The Council of Ministers and the European Council

The Council of ministers originates in the early stages of the EU and was the “Special Council” during the European Coal and Steal Community. It wasn’t until the mid 1970’s that it was agreed upon for the Council to meet at least three times a year, which promoted it to the political most authoritative institution of the European Community.   
The Council of Ministers is today a decision-making forum, where the Commissions proposals are discussed, as well as negotiations between the member states take place. Its responsibilities lie within economic and monetary cooperation as well the juridical. Together with the European Parliament it can make decisions through a qualified majority voting[[75]](#footnote-75). Since the Lisbon Treaties entry into force the Council defines the EU’s political directions and goals, as well as treaty reforms.   
The Council of Ministers is composed of heads of states and governments assisted by their respective foreign ministers[[76]](#footnote-76); they stand atop of a pyramidal structure over the, among others, the Committee of Permanent Representatives, who prepare the ministers meetings.[[77]](#footnote-77)

### 6.1.3 The European Parliament

The first elections for the European Parliament were held back in 1979, when the Parliament itself still hadn’t any law making power and it still only was a common assembly to check upon the High Authority. Over time, with new treaties, the Parliaments role was strengthened, which became necessary to compensate for restrictions on member states direct influence on EU work. The Single European Act was big leap forward and today the Parliament is not only equipped with budgetary power but also has a last saying in the composition of the European Commission and can even dismiss the Commission through a 2/3 majority voting. It as well has to approve the Councils agreements on external policy.   
As of 2014 the Parliament has 751 elected members, roughly distributed according to the member states populations[[78]](#footnote-78), and since the Amsterdam Treaty entered into force 1999 it works as a second chamber in most areas alongside the Commission.

### 6.1.4 The European Court of Justice

The European Court of Justice was created with the Rome Treaty and serves today mainly as an institution for the review of the legality of actions taken by the EU, as well as an observer of the rightful implementation of laws and directives within the member states. Furthermore member states can appeal to the European Court of Justice and ask for an interpretation of a specific act.[[79]](#footnote-79)   
As it is with the Commission there is one Judge of each member state represented in the European Court of Justice. Every country can appoint their own judge but the judge has to be ratified by all other member states and, as it is written in the treaties, the judge has to be chosen from legal expert with undoubting independence. The judges are in office for a six-year renewable period.[[80]](#footnote-80) In addition there are eight advocates general, to work on the different cases with the judges and who are able to articulate a first non-binding opinion. A president is voted for three years at a time, which can be renewed.[[81]](#footnote-81)

## 6.2 The policy-cycle within the EU

In the following segment the idea is to paint a picture of how the policy-cycle works within the EU, the previous defined actors will be placed in a diagram and the legislative process described in detail. Since different areas of legislation demand different procedures and involve different actors, it will, as previously, be focused on Figure - Decision-making

the case of the Procurement Directive. To begin with it is necessary to state, that there

are two different kinds of EU decision-making processes, the “*ordinary legislative procedure*” and the “*special legislative procedure*”. In the case of this project, only the ordinary legislative procedure is of interest, since it is used to agree legislation concerning the European internal market in far the most cases.[[82]](#footnote-82)

Before any official legislative procedure for any case is initiated there probably already has been going on a lot of lobbying for the future proposal, as described in the theory chapter. The most important actors for interest groups are throughout the whole process the European Parliament and, in cases concerning local governments, the Committee of the Regions.[[83]](#footnote-83) Both formal and informal meetings between representatives of interest groups and members of Parliament, Commission and Committees are the backbone of lobbying a cause in Brussels and the earlier this process starts, the higher the chances are that interest groups wishes are met with success. Convincing members of Parliament, the Committee of the Regions or the Commission that there is a need for a certain legislation or amendments, can help initiate the whole legislative procedure.[[84]](#footnote-84)

As said above, the ordinary legislative procedure is the main procedure for passing legislation and not only for internal market related matters. The ordinary legislative procedure, previously known as co-decision, was introduced with the treaty of Maastricht (1992) and strengthened the role of the Parliament tremendously. In this procedure, before any proposal by the commission can become law, both the Parliament and the Council have to agree. The following treaties of Amsterdam, Nice and Lisbon all strengthened the role of the Parliament and widened the areas where the ordinary legislative procedure applies.[[85]](#footnote-85) While the Parliament nowadays is equally important as the Council, the sole right to initiate legislation still belongs to the Commission, which is responsible for drafting legislative proposals. Various interest groups and other European institutions though can influence the Commission. This is illustrated in the top of “figure 2” below, Parliament and Council may ask the Commission to submit a proposal and in a few cases other institutions like the Central Bank, publics initiatives or the European Court of Justice might do the same.[[86]](#footnote-86) The commission is also likely to ask other relevant institutions for advice on their own. When it is decided that a certain topic needs legislation the Commission usually will publish a “Green”- or “White”-paper, where the Green Paper is a loose collection of thoughts on a certain topic and is a call for the opinion of other parties. A White Paper is more detailed and contains concrete policy proposals. In this initial start, during the consultations, it is possible for other European bodies, national states and interest organizations to influence the drafting of the Commissions proposal. The next step will be for the Commission to send its drafted legislative proposal to the Parliament, the Council, to the Unions member states and if relevant to the Committee of the Regions and the Economic and Social Committee. Member states have the possibility to object to a legislation proposal if they see it breaching the principle of subsidiarity.[[87]](#footnote-87)   
In accordance with the Treaty on the Functioning of the European Union the Committee of the Regions and the Economic and Social Committee is supposed to be consulted by the Parliament, the Council or the Commission, where the treaties provide the possibility and where those institutions feel it appropriate. Both Committess, then will come up and provide the concerning institution with their “opinion” on the matter.[[88]](#footnote-88) Although this rule is formulated in a very vague way, it seems to work fine in reality.

When the Commission has prepared their legislative proposal it goes to European Parliament for its first reading. The responsible Committee will develop a position on the Commissions proposal, based on their own expertise and a discussion of possible amendments that can be submitted by any member of the European Parliament. The altered proposal will then be debated by the whole parliament in plenary session and accepted or rejected by a simple majority voting. While it is unlikely, a proposal can also be passed by the parliament without any amendments. The Commission will, in case they deem it favourable, incorporate some or all amendments made by the parliament into a new proposal, which then is send to the Council for their first hearing.[[89]](#footnote-89)

At this point will interest groups already have had multiple chances to lobby their cause to both the parliament, the Committee of the Regions and to members of the Commission. As mentioned their work even begins before the Commission is drafting an actual proposal. As it is illustrated in the above figure, lobbyists are in close contact to members of Parliament and the Committee of the Regions. Their work consists, of course, of bringing forth their ideas to the people who are actively in charge in the actual decision making process, but as a side product they also serve as an important link between the diverse actors.[[90]](#footnote-90)

In the first reading of the Council the Commissions amended proposal will be at first considered in working groups for there after to come up in a sectoral Council meeting, where a official decision on the proposal is made. Here the Council either accepts the proposal and it gets adopted or it dismisses the proposal and adopts a common position. On average it will take the Council 15 month to adopt a common position in which it sets out their opinion on the Commissions proposal and the amendments proposed by the Parliament. In reply to such a possible common position the Commission will prepare a communication in which it summarizes their respective view on the Councils position. All documents are then forwarded to the European Parliament for their second reading. In case the Council decides to pass the proposal without further changes, it has to do so by a qualified majority voting.[[91]](#footnote-91)

Basically the procedure now starts a new, except for the difference that both the Parliament and the Council in this second round of readings have a time limit of three month to take the legislation forward. If the Parliament misses this deadline, it enables the Council to adopt the proposal on the basis of their common position. If the parliament choses to propose possible amendments to the Councils common position, it has to be passed by a simple majority. If the Parliament choses to put the common position by the Council up for voting, it has to be passed with and absolute majority or else it will result in the proposals termination.[[92]](#footnote-92) Once more the proposal will get a reading at the Council, which has the options to either pass it or reject it. In case it gets rejected there is one last possibility to carry on the process to possible positive ending, which is through the presidents of the Parliament and Council convening a conciliation committee.[[93]](#footnote-93) Since most proposals by now already have been passed or dismissed, there is no need to go into detail with this committee, also because it is irrelevant for this project.

# 7.0 Altering the EU procurement directive - a case study

The basis of the European Public Procurement Directive are the provisions of the “Treaty on European Union” (1992) and the “Treaty on the Functioning of the European Union (1958) that prohibit barriers to intra Union trade. The first programmes to tackle public procurement in Europe were adopted in 1962 and regulations have increased since the signing of the “General Agreement on Tariffs and Trade (GATT) in 1979 and especially since the “Single European Act” in 1986. With the official completition of the single market project in 1992, the directives on procurement were complete and have since been modified several times. In 2004 the system was simplified by bundling the Directives into two groups, Utility Directive and Public Sector Directive, and in 2014 it was amended once more. The process of the last amendment is of interest to this project and will be described in more detail below. The second part of this chapter consists of the results from the interviews conducted with officials from Kommunernes Landsforenings and Danske Regioners offices in Brussels.

## 7.1 EU procurement directive – a timeline

Below there is a timeline that incorporates the main events after the Commission published their proposal on public procurement in the end of 2011. Every step will shortly be described and summarized in accordance with the respective opinion reports, press releases and position papers.

The European Commission published their proposal on the 20th of December 2011 and officially transmitted it to the Council and the Parliament the following day. While the thresholds in some areas were altered, they stayed the same in the majority of cases. So it says:

*“EUR 200 000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities.”*

The Commissions proposal was immediately discussed by the Council under Danish leadership, which already took it up in their 3147th meeting on February 20th 2012. In their first ministerial debate the main focus was on the “*flexibility that should apply in the use of competitive procedures with negotiation*.”[[94]](#footnote-94) Further debates in the Council were held May 30th and December 10th 2012, with focus on electronic systems in public procurement and governance monitoring[[95]](#footnote-95) and a draft directive on public procurement respectively.[[96]](#footnote-96)

The Commissions proposal was addressed for optional consultation with the Committee of the Regions and for mandatory consultations with the European Economic and Social Committee. [[97]](#footnote-97)

The European Economic and Social Committee were the first of those two to take the topic up for debate and released their opinion on April 26th 2012. In regard to the threshold, which for the Danish local governments were a main concern, the EESC widely agreed with the Commissions proposal and considered:

*“…the threshold for the application of both directives laid down in Articles 4 and 12 of the proposals to be appropriate.”[[98]](#footnote-98)*

The Committee of the Regions followed on October 9th with their opinion and came to a totally different conclusion on the current and proposed thresholds.

*“The Commission is asked to significantly increase the thresholds for procurement. Given that a minuscule percentage of public procurement is cross-border, and in view of the administrative burden the regulatory framework creates for authorities and suppliers, the thresholds do not need to be as low as they are.”[[99]](#footnote-99)*

And even at this stage suggested to open up on the Agreement in Government Procurement (GPA) and to renegotiate a significant increase of the thresholds. The CoR suggestion was to raise the threshold from 200.000 Euro to 1.000.000 Euro.[[100]](#footnote-100)

On January 15th 2014 the European Parliament concluded upon their first reading, in regard to the thresholds in the Procurement Directive that:

*“The GPA applies to contracts above certain thresholds, set in the GPA and expressed as special drawing rights.”*

The threshold in the European Public Procurement Directive should according to the Parliaments position be adjusted over time so they correspond to the Euro equivalent. Apart from that the Parliament concluded that:

*“Apart from these periodic mathematical adjustments, an increase in the thresholds*

*set in the GPA should be explored during the next round of negotiations thereof.”[[101]](#footnote-101)*

Without further alterations the Council accepted the Parliaments position on February 11th 2014 and the altered Procurement Directive was signed by the President of the Council and the President of the Parliament on February 26th 2014 and by that enacted.[[102]](#footnote-102)

## 7.2 Lobbying the European procurement directive

This section mainly is based on the interviews conducted with Kommunernes Landsforenings and Danske Regioners representatives in Brussels. They have followed the case of the European Procurement Directive closely over the course of several years and are responsible for those two organizations lobby work in Brussels.

As with many cases the regions and municipalities began their lobby work long before there was an actual proposal by the Commission. In case of the European Procurement Directive this was possible because there was a general awareness that this case would come up for revision eventually at one point.[[103]](#footnote-103) In general the agenda for their Brussels offices are set by their respective organization back in Copenhagen, where the board gives their representatives in Brussels a mandate to lobby certain cases. While it in this case, as said, was possible to get a head start, they usually have to rely on the Commissions Work Program to be able to set a rough agenda for the coming year. And since their have to deal with limited resources, the amount of work is limited to about four cases being dealt with simultaneously.[[104]](#footnote-104) The sizes of the offices maintained by Kommunernes Landsforening and Danske Regioner in Brussels are quite small, consisting of only two and one consultants respectively, aided by a secretary and interns. Those offices though are integrated parts of the main offices in Copenhagen and by that also have access to a bigger staff of experts and lawyers who specialized in European Law, who develop reports and collect data and information on various cases. For Kommunernes Landsforening thtat means around 28 lawyers who work in the department of “Law and EU”.[[105]](#footnote-105)

In the case of the European Procurement Directive, since both the municipalities and the regions had the same goal, their work relation was close and coordinated, bundling their competences. While they had separated their offices in 1993[[106]](#footnote-106), they still work closely together on key cases, which is eased by the fact, that they both have their offices in the same building, along with other regional representations on the same floor level. As important as a close relationship between Danske Regioner and Kommunernes Landsforening is, cooperation across country boarders is essential. Much of this cooperation is coordinated through CEMR through which both Danish representations had initial meetings with Commission representatives about the Procurement Directive.[[107]](#footnote-107) Much of the work is to maintain a good network, while it is fairly easy to get a meeting with a Member of the European Parliament, Danish local governments can’t pull on a case alone. It always has to be remembered, that European Law is made with the aim to affect the European Union as a whole, so single states and interest organizations wont get the Commissions or Parliaments attention for long. The broader the alliance the more likely it is to get heard by the right people.[[108]](#footnote-108)

When talking about alliances, it can’t be said, that there is a special Scandinavian alliance. While there in the field of labour market is a close relationship with other Scandinavian countries, due to their shared economic model, one can see a wide variety of countries working together under the umbrella of CMRE. When speaking general, it can though be observed, that the Nordic countries, the UK, Germany and some eastern countries, are the ones most active in CMRE. [[109]](#footnote-109) One thing one always has to remember is, that Europe is about the best result for everybody and that not every country special need can be met. If Danske Regioner and Kommunernes Landsforening want to have success, it isn’t enough to know what they want and why they want it, they also need to know where other countries stand and why.[[110]](#footnote-110) When forging alliances and lobbying the idea of changing the Procurement Directive, the Danish representatives ran into, seen with Danish eyes, rather odd problem. There was a hard time agreeing with the Baltic countries on how the Procurement Directive had to be changed. While Denmark as described above all, wanted to raise the threshold for when something would have to fall under European procurement, the Baltic countries would have liked to lower the bar to zero, so all public procurement would need to be European. Seen from Denmark that seemed very odd and irrational, but what the Danish side, to begin with, wasn’t aware of was, that there were no national laws on public procurement in the Baltic countries. The Baltic countries representative’s fears were that a higher threshold would increase corruption in these countries. And as the Danish side learned it wasn’t only the Baltic countries that had this problem but also a few other,[[111]](#footnote-111) the response was to lobby the idea that every country should have mandatory procurement laws by its own. While the idea to begin with was met positive, it lost momentum after a few weeks and died out.[[112]](#footnote-112)

Another moment during the lobbying process where the Danish side was surprised, was when they found out that the threshold they wanted to raise, had just been fixed by the signing of an international agreement. Just prior to when the Commission was about to release their revision proposal on the Procurement Directive, the Agreement on Government Procurement (GPA) was altered and passed by the Commission. In this agreement the threshold for Procurement within the EU was defined and later changing of this threshold would have demanded the alteration of the international agreement GPA. So with that Danish regions and municipalities biggest wish, was buried.[[113]](#footnote-113)

As mentioned the Brussels offices have a big back-up team back in Copenhagen, which is responsible develop reports, newsletters and statements. Momentum is Kommunernes Landsforenings newsletter, and their newsletter on the Procurement Directive got a lot of attention, both in politics and the media. The information gathered and processed by Kommunernes Landsforening was copied by a variety of media outlets and was very helpful in directing the public debate. In this case it made very well sense to use the media, since the core information concerning the Directive was easily relatable and could be expressed with a few charts and significant numbers. In other cases, where the issue is more complicated and abstract, it can be best not to incorporate the media in this way, because the uncertainty and vagueness can leave room for a lot of interpretation, which can easily backfire.[[114]](#footnote-114) When possible though, can the media be used to put political pressure on the responsible people. By giving the press certain information and lobby their cause, Kommunernes Landsforening and Danske Regioner wanted to pressure the, at the time Danish, chairman of the European Council to take an official opinion on the threshold specifically. This never happened also due to the, at first sight, counterintuitive condition of Danish presidency. While it might seem that holding the presidency would mean shaping the agenda and pushing through interests, it in reality contains the role of being the mediator, who’s main role is to guide towards a consensus. Thus it actually limits the chairman’s possibility to polarise and make demands.[[115]](#footnote-115)

The local governments lobby work stands on two legs. On the one hand they are able to freely set up meetings with Members of Parliament and other EU-officials and on the other hand they are also represented in the Committee of the Regions. The CoR plays a key role in many cases, even though it in it self doesn’t have any political power. It’s work consists of giving professional opinions on matters related to local governments, either by its own initiative or because the Commission or the Parliament asks for advice.[[116]](#footnote-116) Danske Regioners and Kommunernes Landsforenings office support the Danish representatives in the CoR and take part in meetings. If the Danish delegation manages to unite the CoR behind a initiative, it gives the cause a lot more weight and the more weight the people behind have, the higher um in the European hierarchy it will be possible to get heard.[[117]](#footnote-117) After the CoR has taken a position and moved on to other topics it’s the local governments representations task to follow up on those and see them through.[[118]](#footnote-118) In the case of the Procurement Directive, one of the first moves by Kommunernes Landsforening and Danske Regioner was to approach their delegation in the CoR and together with both a Social Democrat and a Conservative to set up meetings with Members of Parliament. This served in two ways, firstly it weight heavier and secondly it showed the Parliamentarians that this wasn’t a question of ideology but practicality, and that there was a real need for change.[[119]](#footnote-119) Usually the Danish representations will contact the Danish Members of Parliament before going to other countries. This is due to it being easier to build up a good relationship to your own Parliamentarians and the fact that they have good access to the other Members through their network in CEMR. Using this network saves time and resources and gives good results for all parts. When necessary tough, also foreign Parliamentarians can be contacted directly.[[120]](#footnote-120)

All in all it must be said that Kommunernes Landsforenings and Danske Regioners main work consists of their work within the CoR and their independent lobbying of the European Parliament. While the working process with the Commission is good and they need the input to create legislation most parts can agree on, the main partners are the national states and not the subnational organizations. As is it the case with the Council and in addition it is hard to follow what the Council actually is up to. While documents are available online, the exact document reference is necessary to access them.[[121]](#footnote-121)

In the case of the Procurement Directive Danske Regioner and Kommunernes Landsforening actually found a rather unusual partner to lobby their case. They teamed up with Dansk Industri and together signed an official appeal to the Danish government. It doesn’t happen to often that public and private actors work together to achieve a common goal, but this gave their appeal even more weight.[[122]](#footnote-122)

Even after the Lisbon treaty lobbyism on national level still plays a role to a certain extent. Altough lobbyism in Brussels costs a organization a lot of resources, it is still important, since the national actors in many case are too slow and act to late. The Danish governments Europaudvalg works with issues connected to the EU, but often steps in too late, when it is hard to influence the on-going process. [[123]](#footnote-123) And while the Danish government in many cases agrees with the regions and municipalities, there also have been occasions where there have been large divergences in their interests. As an example one can mention the last EU Budget negotiations. Here the Danish government was in favour of a discount for the Danish state, if at the same time they would give up on some money from the EU’s structural fund. Lower expenses for the state and lower investments for the regions and municipalities, there wasn’t a consensus between the state and the local governments in that case.[[124]](#footnote-124) So individual lobbying in Brussels is essential, because the regions and municipalities can’t rely solely on the state and one can’t underestimate the value of up close and in person working relationships with the people in charge in Brussels.[[125]](#footnote-125)

# 8.0 Analysis

The European Public Procurement Directive is, as the name suggests, aimed at public institutions on national and subnational level. Regulations in the field of procurement have existed for a long time now and have been revised several times with the aim to simplify the law and make it more applicable.[[126]](#footnote-126) So when looking at the policy cycle, one can conclude that the process of revision has been made several times over time, which means that revision and problem identification are basically the same and exchangeable. Before the last alteration of the directive, local governments have been highly unsatisfied with some of the restrictions that were put on them. They saw the procurement directive to be cost-ineffective, with a low number of actual offers from other European countries and high costs. As a solution for this problem, it was desired to have a higher threshold and through that to lower the number of EU procurements. As this problem was identified, Kommunernes Landsforening and Danske Regioner put the case on their political agenda. Since the directive was bound to be renegotiated at one point, the risk they took by allocating resources to this case was comprehensible. The boards of these local government organizations put lobbying of the Procurement Directive officially on the agenda and gave by that their consultants in Brussels a mandate to promote the cause.[[127]](#footnote-127) Since the case was easy to express in numbers and charts, media and other public actors both in Denmark and in Brussels quickly picked up releases through their newsletter. The Commission itself put it officially on their agenda and released their proposal on December 20th 2011, through which it started the next phase in the policy cycle, the policy formulation. Although the process of policy-making officially only starts with a proposal by the Commission, much work has already been done and much of the coming course has already been set.

An assumption was made, that a central administration only to a certain level could cope with legislation efficiently. The more complex the matter is, especially when interdepartmental, the higher is the risk of an unsatisfying result. Within the EU there are several actors to ensure that the necessary information are passed to the actor responsible of making a decision. The Committee of the Regions is officially optional to consult by the Parliament and Commission, but is effectively involved in most cases concerning regional matters. The European Economic and Social Committee has to be consulted if relevant, as in the case of public procurement, and then there are lobby groups and interest organizations, as for example Kommunernes Landsforening and Danske Regioner who also help to connect these actors. In the bargaining process, participants will most likely act out of a simple cost benefit analysis. For instance, in the case of public procurement, Danish local governments valued a possible raised threshold higher than anything else and were ready to give up on other demands on their agenda, if only this bar would have been raised to ideally 1.000.000 Euro.[[128]](#footnote-128) At one point though, limitations became clear, as the actors realized that the threshold already was incorporated into the Agreement in Government Procurement. Unlikely to change that agreement anytime soon, the demand was dropped for the most part. Also because countries with no national procurement law were reluctant to the idea and both changing an international agreement and implementing national law, takes a lot of time and resources.[[129]](#footnote-129) Furthermore, compromises are important when making legislation in the EU, particularly when it comes to laws or directives, which are strictly defined and expected to be followed, as it is the case with the procurement directive. Since local governments don’t possess any official political power by themselves and thus only can recommend and lobby a certain position. All official legislative institutions have to agree and nobody has to feel like the looser. So after all the negotiations the directive was signed and enacted. As said a directive is precisely formulated and binding for the member states, although the shaping of implementation on national level, is up to the local authorities. Though enacted, the European Parliament, already during the phase of policy formulation, opened up for the next revision of the directive by suggesting that the threshold in the GPA should be renegotiated at the next possible occasion, and through that to open up for the possibility to revise the European Procurement Directive.[[130]](#footnote-130)

As mentioned, there is an assumption that centralized governments aren’t the most efficient governments. Over the last decades though, decentralization has occurred in many European countries, as it has in the EU. Latest since the treaty of Lisbon it can be observed that the structure of the European Union more resembles a supranational government, while at the same time subnational authorities were promoted and strengthened. In addition the private, corporate and governmental interest organizations have added another dimension to governance. It can be argued that this change to multi-level governance, away from the focus on the Commission and Council, helped to lower the European Unions democratic deficit, both through strengthening the European Parliament, but also by giving lobbyist from every area a better access to the institutions and by that getting heard.[[131]](#footnote-131) This wouldn’t even be possible if the ordinary legislative procedure wouldn’t have become the by far most used procedure to adopt legislation. It lifted the idea of subsidiarity to another level, by giving it an actual chance. Not only do the people’s votes in the European Parliament elections actually represent political power, but the shift away from member states to supranational institutions gave lobbyist easier access to those in charge of making decisions and made their work more effective. Three main institutions, the Commission, responsible to guard the European treaties, the Parliament, democratically elected and with cross boarder parties rather then national fractions and the Council composed of national representatives are know enganged in the making of most legislation. The conclusion was that qualified majority voting added that no single country any longer could block proposals in the Council. Lobbyists could now lobby one cause from many angles with possible positive outcome

The idea of making politics as close to the end user wouldn’t even be possible without interest groups, since the EU body is rather small and administrative, with limited resources. There is a need for lobbyists to gather information and transmit the practical needs from those actors who are responsible to implement the legislation, as for example local governments.[[132]](#footnote-132)

Though lobbyism in Brussels is important on both sides, and the Parliaments role has been strengthened, lobbying EU proposals on national level still plays a role, if only a limited. A fundamental problem is, that member states governments in many cases are too slow to react when it comes to lobby EU legislation and that member states governments not necessarily agree with local governments in all cases.[[133]](#footnote-133) In the case of the European Procurement Directive, there was though a general agreement on the need for changes, even if that didn’t give the Danish local governments any advantages.[[134]](#footnote-134)

When looking closer at the lobbying process of the procurement directive it becomes clear that the multi-level governance structures of the European Union have enabled Danish local governments to do their work on many levels and from many angles. They both approached EU parliamentarians directly and through their work in the Committee of the Regions, they allied with Dansk Industri in order to put pressure on the Danish government, and they had meetings with the Commission through their participation in the CEMR.[[135]](#footnote-135) In all cases it can be observed that not only connections to the institutions that are to be lobbied are important, but that a broad network is essential. The alliance with Dansk Industri, the close relationship with the CoR and their participation in the CEMR show clearly that networking beats individual lobbying. The result of their efforts in the end were mixed, while the CoR as a whole, showed full support of the Kommunernes Landsforenings and Danske Regioners demands, it doesn’t have the political power to make a difference. The Parliament showed general support but had to realize that it wasn’t possible to make those changes now, in this round of revision and Council simply adopted the position of the Parliament and the Commission.

In many ways it can be argued that the theoretical working process of the EU mirrors the reality rather good. In the case of the European Procurement Directive, this can though be caused by the very streamlined history of the revision. A clearly defined case, good access by interest organizations, broad consensus on most topics, a Council that without further negotiations adopted the Parliaments position. It seemed to have been a relatively short case without much unnecessary conflict, which expectedly helped the Danish local governments.

# 9.0 Conclusion

Danske Regioners and Kommunernes Landsfornings overall goal wasn’t to abolish the Publich Procurement Directive or to express a complete dissatisfaction with it, but to alter certain key factors, which would have made the directive more applicable for Danish local governments.

In general it can be argued that Danske Regioner and Kommunernes Landsforning had good working conditions when they lobbied their ideas for a revision of the Public Procurement Directive. Not only did the Danish government support the idea, but also an alliance between Dansk Industri and Danske Regioner and Kommunernes Landsforning was forged. Private and public actors working together in such a case doesn’t happen often and put extra pressure on the Danish government as well. In addition, since a revision of the directive was expected, it was possible for them to position themselves very early in the process, which enabled them to take influence prior to a official proposal even was released, which raises the chances of success.

In contrast to the general, seemingly good conditions, there were unexpected obstacles out of the influence of both organizations. In the European Union, with its 28 member states, compromises are very important and on the daily agenda. Thus it isn’t just enough to know ones own positions and to lobby them, but also to understand where the European partners stand. Good and thorough research is essential and can otherwise lead to frustrating setbacks, as it was the case with the Baltic countries reluctance to raise the threshold or the fact that this threshold just was anchored in the GPA. To gather all this necessary information it is needed to allocate huge amounts of human recourses, which makes lobbying a costly affair and also diminishes, to a certain extent, the argument that lobbying reduces the democratic deficit in the European Union. The number of possible actors able to afford lobbying is limited and furthermore concentrates on big corporate interest organizations. For smaller interest organizations it is possible to unite under an umbrella organization in order to safe resources and to bundle competencies, as it is the case within the CEMR.

The Ordinary Legislative Procedure and qualified majority voting created a general accessible and efficient arena for lobbying of interest groups, which clearly showed in the case of the procurement directive, where it was possible to lobby all three main organs, with mixed results though. The changes made to legislative procedure within the EU have given it a multi-level governance appearance, which gave the idea of subsidiarity and proportionality more life and thus local governments a more important and influential role. To sum it up it can be said, that Danish local governments in general have seemingly good conditions to do their work and get heard in the EU, in the special case of the procurement directive it showed that it was possible to access the negotiations on many levels from different angles, but that success not only depends on the right network, but that timing is an essential and not calculate able factor to consider.

In the end, although the revision was passed without Kommunernes Landsforning’s and Danske Regioner’s main demand incorporated, the case wasn’t totally lost. In their opinion paper the European Parliament suggested a revision of the GPA at the next possible occasion and opened by that already up for the next revision of the European Public Procurement Directive. The foundation for the next round of revision is laid and the odds for a positive outcome have increased.

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