

Le bicamérisme et la représentation des régions et des collectivités locales : le rôle des secondes chambres en Europe

Conférence organisée par le Sénat de la République Française et le Congrès des Pouvoirs locaux et régionaux du Conseil de l'Europe en coopération avec l'Assemblée Parlementaire du Conseil de l'Europe et la Commission de Venise du Conseil de l'Europe

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Au-delà de la représentation locale et régionale

Speech by Mr Jan Erik HELGESEN

(President of the Venice Commission)

Ladies and Gentlemen,

As the newly elected president of the Venice Commission I am particularly pleased to take the floor today; the first time I have had the opportunity to address a multilateral seminar.

The Venice Commission, which is composed of independent experts from the member countries of the Council of Europe as well as of a number of non-member countries, is participating in this event as the body of the Council of Europe specialised in constitutional matters and has worked on the main constitutional issues since its creation in 1990. Our field of action is constitutional law understood broadly, including in particular issues such as constitutional justice, the protection of minorities, electoral issues and political parties. Today however, we are really at the core of constitutional law: its institutional aspects. The powers and the designation of Parliament are indeed one of the most traditional issues for constitutional lawyers.

The Venice Commission has frequently been involved in discussions on this theme. For example, an important element of the revision of the Romanian Constitution, for which the Commission co-operated actively with the Romanian authorities, was the re-definition of the powers of the Chamber of Deputies and of the Senate, from a nearly equal bicameralism towards specific powers of each chamber.

I am pleased to welcome here a number of Venice Commission members who will address this session. They are part of a large panel of specialists from various backgrounds: politicians of European calibre and academics, as well as personalities who combine both qualities, such as Senator Gélard who prepared the general report for the Venice Commission on the basis of contributions by its members.

Since we shall hear from Senator Gélard in a few minutes, I will not summarise his report. I would prefer to emphasise a few aspects of the issue of second chambers which I find important.

The subtitle of this conference is the role of second chambers in the representation of regions and local authorities. This is worthy of comment. Firstly, the term “regions and local authorities” and not “regional and local authorities” is used. This reflects reality: even if second chambers are often elected at regional or local level, direct election by the people has become more and more frequent. In the case of direct election, the issue may be raised as to what really distinguishes second from first chambers, at least in non-federal states.

Secondly, and from a much larger perspective, the purpose of the second chamber must be raised. The discussion should therefore go beyond the issue of regional and local representation. Representation of orders or the nobility or other “happy few” may appear somewhat old-fashioned today and be questionable from a democratic point of view. Of course, the House of Lords still exists, but its composition has been dramatically changed and its powers somewhat limited for almost a century. Strong discrepancies vis-à-vis the representation of the population are natural in federal states, where the federate entities have to be recognised as equal at national level, but are much more questionable in unitary states. We then come back to representation of the population as the most natural alternative to regional and local representation; one of the questions which must be asked is: does it make any sense and, if so, how? The most traditional argument is that the second chamber helps reflexion, but would there not be other grounds?

One of the scopes of this conference could also be to define the future of second chambers: should there be any harmonisation at European level? This does not seem to be the case concerning the powers or their mode of selection. However, the question may be asked whether the emphasis should be put on local and regional representation, as suggested by the title of the conference, or whether the current system is satisfactory? The debate should not just be limited to a description of the legal or even political context of each state, but raise issues of principle. This is not a choice for or against regional and local representation, but rather a discussion as to whether such representation must be central for each second chamber or not. Information about projects for

reform, succeeded, failed or still in the pipeline, could let us know what the current trends are, and whether they go generally in the same direction or whether second chambers remain one of the last aspects of constitutional law (and even of law in general) continuing to be resistant to harmonisation.

Thanks to the impressive range of participants present here today, from all over Europe, from many different backgrounds, it should be possible to answer these questions.

May I conclude by thanking once again the French Senate, the Congress of Local and Regional Authorities as well as the Parliamentary Assembly of the Council of Europe for their contribution to the organisation of this event.