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### Effects of the European Union on Sub-National Decision-Making: Enhancement or Constriction?

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# Effects of the European Union on Sub-National Decision-Making: Enhancement or Constriction?

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**ABSTRACT** It is commonly assumed that the European Union (EU) influences sub-national authorities (SNAs), but it is not clear exactly to what extent and how it does this. Some scholars conclude that the EU strengthens SNAs (e.g. by funding), others claim that the EU weakens them (e.g. by rules). This article presents a theoretical framework in which various forms of enhancing and constraining effects are represented, and by which the empirical merits of the contesting points of view can be assessed. The research was conducted in two municipalities and one province in the Netherlands, by detailed study of their administrative practice. The research shows that the EU influences sub-national decision making to a fairly large extent, that some of this influence can be concurrently constraining as well as enhancing and that the influence of the EU at the local level is predominantly enhancing and indirect, while at the provincial level it is predominantly constraining and direct.

**KEY WORDS:** Decision making, European directives, Europeanization, local and regional government, local autonomy, structural funds

## Introduction

Among political scientists and scholars of public administration there is wide attention paid to the effects of European integration and of Europeanization on national administrative systems. In the current discourse some advocate that due to Europeanization regions have gained a stronger position towards central government (Sharpe 1993; John 2001). Others find national central

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level is losing prominence in favour of the European Union (EU), since national legislation increasingly has its origins in EU policies. Hooghe & Marks (2001) stressed the emergence of (non-governmental) networks and multi-level governance in which no actor dominates permanently. Other scholars have investigated how nations adapt their policy making towards processes of Europeanization (e.g. Cole & Drake 2000) and to what extent such practices show a convergent or divergent trend among European countries (Börzel 1999).

A specific part of the Europeanization literature focuses on the effects of the EU on the position of sub-national authorities (SNAs). However, there does not seem to exist broad consensus on the nature of these effects. Roughly said, the different points of view are: the EU has strengthened SNAs, has weakened SNAs, or does not make any difference (see e.g. Bourne 2003). Though all three positions have been substantiated with empirical data, existing literature has — as will be shown later in this paper — a certain bias or it turns out to be less conclusive than suggested. Moreover, common to the three perspectives is the lack of a systematic approach in which possible enhancing and constraining EU effects are considered simultaneously, and of a thorough analysis of daily administrative practice at sub-national level. The latter, in particular, is striking, since it is often assumed that European legislation is increasingly penetrating the daily work of the administrations within the national states (e.g. Page 1998). This also came up in the debates that followed the French *non* and the Dutch *nee* in the referenda on the European constitution. This paper tries to fill the existing lacunas by addressing the following question: ‘To what extent and how does European policy and legislation influence sub-national decision making?’. To assess the amount of influence of the EU on sub-national decision making and, allied to this, the relative importance of the different ways Europe is influencing the autonomy of SNAs, three cases in the Netherlands were researched.

## Literature on EU Effects and Sub-National Decision Making

### *Enhancement, Constraints or No Effects*

In the discussion on the effects of the EU three positions can be discerned: it strengthens the position of SNAs, it weakens their position, or it makes no difference (cf. Bourne 2003). Among the proponents of the first position are found Hooghe & Marks. Central to their work on multi-level governance is the idea that governmental power is no longer concentrated within one single organization, but that it is shared between different actors at different levels. Governance and networks are the dominant concepts that have marginalized the concept of government. Concretely, this means that — since European decision making increasingly acquires supranational traits — central governments are increasingly losing control. That this is not leading to an omnipotent European level, is due to the EC’s way of decision making which increasingly involves authorities on the sub-national level, bypassing central governments (Hooghe & Marks 2001). The establishment of the European

Committee of the Regions and negotiations with SNAs on regional funds are often-mentioned illustrations (see Hooghe 1996; Marks *et al.* 1996; Scharpf 1997; Peters & Pierre 2001; Hooghe & Marks 2003). Similarly, SNAs are increasingly proactive in serving their interests in Europe without the necessary support of central government, as is witnessed by the rise of transnational cooperative networks between European regions, and the increase in sub-national lobby offices established in Brussels (Hooghe & Marks 2001; Ercole *et al.* 1997). These observations are in line with the so-called hollow state thesis. This thesis implies a relative strengthening of the position of the SNAs towards central government induced by the opportunities the EU offers to SNAs and, as a result, the increasingly weaker position of central government (cf. Rhodes 1997).

Based on the same observations one might also defend the position that the EU has enhanced SNAs, irrespective of possible changes in the position of central government or in the SNAs' relation with the tier above. The Commission's regional policy offers a new arena in which central governments do not, as yet, play a prominent role. Consequently SNAs are particularly enhanced with respect to their capabilities in the field of socio-economics, which mainly determines the Commission's regional policy. The precise nature of this enhancement is twofold: there is enhancement in the sense that SNAs are offered channels to express their interests in Europe, and in the sense that the SNAs' capacity to get things done for and in their communities is increased. In the latter case, instead of constraining rules (as may be conceived of as typical to traditional intergovernmental relations), EU regional funding that is 'showered' on SNAs is finally enabling them to perform certain previously unattainable activities.

A second view on the effects of the EU on the position of SNAs is predominantly constitutional and states that, briefly put, European integration "undermines legal and constitutional arrangements guaranteeing regional autonomy" (Bourne 2003, 59; also Bullain 1998). The main reason is the EU's institutional bias against regions; central governments are the first with whom the Commission deals and in the EU's supreme body — the European Council — representation is by central governments. It is also central government that is responsible for the implementation of European directives at the sub-national local level and therefore it will be held accountable for any failures made by lower governments. As a consequence a gradual (re)centralization will be seen: central government will tighten its control over SNAs, diminishing regional and local autonomy (Fleurke & Hulst 2003, 58–65).

The EU does not only constrain sub-national autonomy indirectly via its influence on national constitutional or other general legal arrangements. According to national legal studies European directives are of importance to SNAs. These studies mainly hypothesize the procedural effects of directives and, to a lesser extent, the substantive impact. This top-down carry-over of European legislation may be direct (e.g. the obligation to report the support of ailing firms to the Commission), or indirect; through its implementation in national legislation (e.g. waste policies; Sieben & Ziller 1989; Hessel

2000; Lefebvre 2000). The EU therefore also constrains sub-national autonomy indirectly or directly through its legislation.

Bourne (2003) discerned a third general position, which states that in the end there are no substantial effects of the European integration on SNAs. This intergovernmentalist approach — of which Moravcsik (1993) is a main representative — stresses the supremacy of the national states in international deliberations and decision making. According to this view the European institutions are seen as agents of the national states rather than as autonomous political actors (Bourne 2003, 602). If regional governments have the opportunity to raise their voice in Europe this is prescribed by central government. The idea of central government as a gatekeeper rules out the possibility of sub-national governments as independent political actors in the European arena.

### *Critical Remarks*

Returning to the initial research question, what do the approaches mentioned above tell us about the impact of the EU on sub-national decision making? Up until now, ambiguity rules in the literature concerned. This ambiguity is partially a result of the selection of essentially different objects of analysis. The enhancement and ‘no difference’ positions have specific policy networks or alliances as objects, whereas the constraints hypothesis emphasizes constitutional and other legal arrangements. Also, the specific choice of networks to be studied biases the final conclusion. If one chooses to study, for example, the European cohesion policy (like Hooghe 1996), one is very likely to find benefits for regional governments. Similarly, a focus on Europe’s foreign policy neglects the supranational authority the EU increasingly has on other fields. Moreover, the gatekeeper’s role is not as dominant as the intergovernmentalists suggest, nor does multi-level governance prevail (Bache 1998). Since many European directives are regulative (especially those concerning the environment), a focus on European legislation may lead easily to support for the constraints hypothesis, whereas a focus on rules regarding the allocation of money or competencies may obscure the constraints and highlight the opportunities.

Also, commonly made case selections tend to be restricted to a specific SNA within a certain type of administrative system. Yet, processes of European enhancement or constriction might differ from one system to the other, which is often neglected in the relevant literature. First, regions in some states may profit more from the European cohesion policy or from the existence of a European arena than regions in other states. Further, depending on their constitutional competences or attributed tasks, SNAs in certain countries have more opportunities in dealing with the European Commission than SNAs in other countries (see also Jeffrey 2000). For example, in a centralized system that leaves little space to SNAs for activities in the socio-economic field (as in French *communes*), the concerned SNA will be confronted less by European measures than in a region that has the discretion to pursue an active employment and socio-economic policy (such as a German *Land*).

Also, the direction of European influence may be different in various systems. In some (centralized) systems European rules may constrain SNAs indirectly via implementation in central legislation which, in turn, affects SNAs, while in others (less centralized systems) SNAs may be confronted by European rules more directly.

Another consequence of the differences in selection of objects of analysis is that subsequent statements on the impact of the EU on the actual position of SNAs are derivative. However convincingly beneficial a transnational alliance may seem for a certain region, it remains best to assess whether it actually profits at the regional level itself. Studying central government regulation, Fleurke & Willemse (2006b, 72) posed that “legal indices generate information about the potency of instruments of central government, rather than give a clear insight into the actual autonomy of local government”. This may hold equally for European directives and other rules.

Several authors have met this objection by studying SNAs themselves. For example, Wolters (1997) and Wollman & Lund (1997) assessed the actual extent to which SNAs receive European structural funds. Goldsmith (1993) studied whether local governments appointed a special civil servant or set up a civil service department solely entrusted with European affairs. Balme & LeGalès (1997) and Goldsmith & Sperling (1997) analysed the extent to which SNAs perceive the need to lobby in Brussels. Von Bergmann-Winberg (1997) studied the extent to which SNAs absorb the information about and rules from the EU, as did De Rooij (2002) and Hoetjes *et al.*(2003). All studies have shown positive outcome on the used indicators, though the impact of Europe is definitely not equally strong in every country or even in different SNAs within one member state (Klausen & Goldsmith 1997; Martin & Pearce 1999; Cole & John 2001). None of the studies have systematically analysed the effectiveness of the SNAs’ activities in and towards the EU.

The variety in used indicators of European influence notwithstanding, the existing literature does not offer a comprehensive picture. Most studies analyse large SNAs, such as the German *Länder* or the Lille region, or cities that obviously have large economic interests in Europe (e.g. port cities such as Marseille or Rotterdam). Case studies on smaller SNAs hardly exist, with the notable exception of the study of De Rooij (2002) who also analysed municipalities of around 5,000 inhabitants (where he found no European influences). Alternatively, Martin & Pearce (1999) have performed a survey among all kinds of British local authorities, thereby avoiding the risk of a bias through case selection. They found a large differentiation in how local authorities respond to the EU. Unfortunately, their study suffers from a deficiency in common with the literature on the enhancement hypothesis: they fail to take into account opportunities and constraints simultaneously. Many observers tend to reduce the meaning of the EU to a potential money-bag, whereas the legal literature shows there may be constraints as well. Indeed, these may even compensate for or outnumber the benefits a particular SNA reaps from European integration.

In order to obtain a well-balanced insight in the actual enhancing and constraining influence of the EU on SNAs one needs to carry out empirical

research into daily administrative practice itself. Possible effects should not be hypothesized or reasoned, but measured or assessed. Before proceeding with such an approach, an analytical framework must be created within which the actual impact of the EU on sub-national decision making can be described and assessed and in which possible enhancing or constraining effects are combined. This enables assessment of the empirical merits and scope of each of the contesting positions as described in the existing literature.

## Conceptual Framework

### *Autonomy of SNAs*

Central to the framework is the distinction between enhancing and constraining European influence on the autonomy of SNAs. In relation to the EU, autonomy is considered to have three indicators:

- “sub-national decision-making is free from European enforced executive tasks;
- sub-national policy can be implemented without obligations of European co-operation, or permission from or compliance to restrictive European rules;
- sub-national policy can be prepared without the need to overcome barriers raised by European rules and directives” (Fleurke & Willemse 2006a, 89).

As a mirror of each of the constraints implied in the indicators mentioned above, their antipodes are also considered, that is three opportunities with which sub-national decision making can be enhanced. This results in three twin concepts. With regard to each concept a distinction will be made between a direct and indirect effect of the EU regulation in question. Thus, the conceptual framework consists of twelve possible ways the EU steers the decision making of SNAs.

### *Three Twin Concepts*

A first twin concept is **enforcement & invitation**. In the case of enforcement, the EU compels an authority to undertake a decision it would not have taken otherwise. By doing this, the EU sets the local or regional agenda and the SNA acts as its executive agent, a situation from which it cannot withdraw. We speak of a **direct enforcement** if a SNA is bound to European regulation without intervention of the state. An example of **indirect enforcement** is the planning of ecologically important areas. The EU aims to preserve these areas through the Habitat Directive, applied to territories designated by the member states. In a hierarchical physical planning system central government may force SNAs to adjust their zoning plans to the Habitat Directive.

In the case of invitation, the EU sets the local agenda and the SNA has the possibility of withdrawing from the European incentive, but the incentive is sufficiently attractive as to warrant taking the according decision. A decision

to set up a lobby office in Brussels is an example of a **direct invitation**. An appeal to EU funds allocated by central government is an example of **indirect invitation**, but only insofar as it concerns a brand new project developed in order to receive European funding.

The second twin concept is **hampering & facilitation**. A sub-national decision can be called hampered if it can be implemented only with the necessary cooperation or permission of the EU, or if European rules limit the discretion in the formulation or implementation of a policy. An example of **direct hampering** is the reconstruction of a concert hall costing over €500,000 which, according to European law, must be tendered publicly. We speak of an **indirectly hampered** decision, e.g. in a zoning plan of a municipality that includes a new recreational waterway, in which changes are ordered by the regional Water Board. This Board in turn takes its directives from EU regulation, for example the Water Directive.

The same European regulations that may hamper sub-national decision making may also facilitate decision making in the broadest possible sense. Initially Fleurke & Willemse (2006a) used the concept of improvement, but in order to prevent ending up in a normative discussion on what is good or bad according to whom, the term facilitation is now preferred — with its more neutral connotation. An example of a **directly facilitated** decision is when local officials welcome the obligation of a public tender because it reduces the risk of clientelism and because it realizes a free market. European financial impetus can also facilitate decision making, for example in the case of an already planned and designed project that can be extended and carried out more quickly because of the extra funding. The question of whether the plans already existed and would have been carried out anyway — though on a smaller scale — is the essential difference with invited decision making (where the plan is newly developed). If a higher government tier has allocated the EU money, it is called an **indirectly facilitated** decision.

The third twin concept is **obstruction & enabling**. Obstructed decisions may exist in two forms. First as a non-decision, or put differently, a widely supported policy desire that cannot be fulfilled because of European legislation. An example of a **directly obstructed** decision is the banning of government support to ailing firms following European rules on fair trade; the idea of support will therefore never be developed. In the second form of obstruction, ideas are maturing and find their way to the drawing board, but in the end do not result in a final, formal decision. An example is the inclusion of a new recreational waterway in a zoning plan — perceived as necessary for the tourist development of the area — which is later overruled by the province because it is adverse to the EU Bird Directive: this is an **indirectly obstructed** decision (compare the idea of hampering, in which case the water way will be constructed but in an adjusted manner). As an adaptation of the initial framework of Fleurke & Willemse (2006a), obstruction does not necessarily lead only to (formal) non-decision making, but may also imply (halfway) unfinished or abandoned decision making.

An enabled decision is an unattainable desire (a situation of non-decision making) that can be fulfilled with the support of the EU. The decisive



**Table 1.** Three twin concepts

Constraint or opportunity	Direct or indirect	Type of sub-national decision in relation to the EU
Enforcement	Direct	Directly enforced
	Indirect	Indirectly enforced
Invitation	Direct	Directly invited
	Indirect	Indirectly invited
Hampering	Direct	Directly hampered
	Indirect	Indirectly hampered
Facilitation	Direct	Directly facilitated
	Indirect	Indirectly facilitated
Obstruction	Direct	Directly obstructed
	Indirect	Indirectly obstructed
Enabling	Direct	Directly enabled
	Indirect	Indirectly enabled

difference between this and an invited or facilitated decision is that a preceding situation of unwanted non-decision making has occurred. An example of a **directly enabled** decision concerns a SNA suffering a chronic lack of money as a result of which it cannot pursue a highly desired policy to restructure the regional economy. European funds for regional policy may enable the SNA to finally develop new initiatives. In the case where EU funds are distributed by central government (such as the employment subsidies of the European Social Fund), these are **indirectly enabled** decisions.

These concepts are summarized in Table 1.

## Method

### *Case Selection*

To assess the extent to which the various types of European effects mentioned above occur in daily practice, an analysis of the decision making in all major policy areas of three sub-national governments in the Netherlands was performed. The empirical research is not only characterized by the width of the object, but also by its perspective. The local level is taken as the object of research and local decision making is related to possible direct and indirect European influence. In other words, empirically there is a local approach, but conceptually a top-down perspective.

The data presented in this paper were collected in the Dutch municipalities of Almere (pop. 159,000) and Lelystad (pop. 70,000). These two cities are situated on land reclaimed in the 1950s and 1960s and are among the largest in the Netherlands (respectively 179km<sup>2</sup> and 764 km<sup>2</sup>). Lelystad and Almere were chosen because large parts of these municipalities consist of or are situated nearby a valuable natural area (the *Oostvaardersplassen*, the

northernmost breeding place for spoonbills), which falls under the Habitat Directive. They are further surrounded by fresh-water lakes, to which the Bird Directive applies. These cities were also selected because they are situated in the only Dutch province that receives grants from the European Fund for Regional Development: the province of Flevoland. The decision making of this province was studied as well, in the same way as in both municipalities. The province is an intermediate tier between central government and the municipalities, it has several coordinative tasks and it acts as supervisor of the municipalities. Studying both municipalities together with the province in which they are situated may result in a clear picture of their intertwined decision making.

An accusation of serious bias in the case selection could be made based on the argument that the chance of finding European influence is much higher here than in a study of SNAs ineligible for EU funding and located at a distance from any bird sanctuary. However, this paper disregards the average influence of the EU on SNAs and focuses rather on direct and tangible European policies and legislation, and on the extent and specific shape of this influence. The case selection, then, although it is restricted to only three specific SNAs within a certain type of administrative system (see earlier), offers the opportunity to assess the amount of influence of the EU on sub-national decision making and, allied to this, the relative importance of European constraints *vis-à-vis* opportunities, which would not be likely with random selection.

### *Unit of Analysis: Files*

What will be the unit of analysis if all local decision making is to be studied in the three cases? Study was not made of separate decisions taken by a specific municipal or provincial body (cf. Fleurke & Willemse 2006b), but instead it was decided to study files. In archive terms a file consists of several records concerning the same subject or project. A file is defined as a relatively isolated group of interrelated decisions and/or activities serving a specific goal and taken and performed by or within the apparatus of a government. 'Relatively isolated' means that the implementation of the policy and decisions is more or less independent of other files. Caution is adopted in the formulation because it is acknowledged that ultimately (any decision in) any file is circumscribed by the parameters set in the overall budget. Yet, conceptually it is possible to discern between groups of decisions where the implementation of one group does not fundamentally affect the implementation of the other. 'A specific goal' means that the decisions or activities should serve a certain desired output or outcome or the performance of a certain municipal or provincial task. 'Interrelated' decisions that make up a file mean that a specific decision could not have been taken without another decision in the same file or that a decision influences another one in the same file.

Using this definition, the annual budget would not be considered as a file, but as consisting of a number of files. A zoning plan will be considered a file

insofar as it cannot be split into separate files such as partial plans. A plan to restructure the city centre that consists of several partial plans or projects with various purposes, implemented separately, is not a file, but the separate projects are. For, without some of the partial projects there would still be a main plan, though smaller. All activities with respect to building control are also considered a file, just like a policy document directed at a specific goal (like a document on how to enhance the position of young people on the housing market). The files are deliberately not called cases, since three cases have been chosen as the objects of analysis.

Since each file consists of interrelated decisions, any EU influence on a file consequently means that it affects all separate decisions. An example is a restructuring project enabled with European money. Not only the decision to restructure, but also the decision to hire a specific contractor, the decisions on colour and size of the pavements, the width of the cycling lane, or the way citizens are allowed to have their say etc. would not have been taken if there had not been any European funding.

Taking files instead of decisions as the unit of analysis is not only advantageous because it makes the scope of the research manageable. It also fits in with the way municipalities organize their work, e.g. in project teams or groups of officials, and how they document and arrange their activities — in the archives documents are primarily grouped according to subject, and not to period or department.

### *Selection of Files*

How to select the files? In order to prevent focusing on trivia, the study was started with an analysis of the decision lists of 2003–June 2004 of the executive boards of the mayor and aldermen of Almere and Lelystad, and of the executive board of the province. These are the boards where political and administrative spheres convene and where all important and topical issues are dealt with. Every issue (formalities excluded) was scored to which policy area it pertained, after which the decisions were grouped under common denominators or themes, e.g. city extensions in the area of housing; industrial estates in the area of physical planning; waste collection within the area of environmental issues. The most frequently occurring themes on the lists were selected. The themes were further subdivided in files. In many cases this was possible by looking at the explanation of the board decision(s). In other cases desk research and conversations with municipal officers were needed. In every main theme interviews were used to check whether important files on decision making in the period of January 2003 to June 2004 had been missed. Finally, sixty-six files in Lelystad, eighty-six in Almere and fifty-one in the province were selected.

### *Collecting and Interpreting the Data*

To detect whether the cases faced any European constraints or, alternatively, seized the opportunities the EU has to offer, two methods were deployed:

document analysis and interviews. The documents consisted of all possible paper work, varying from general plans and sketches to detailed drawings, bills and accounts. Also email and other correspondence were consulted. Interviews were held with the civil servants who had the most knowledge of the file. The findings from the analysis of the documents were checked in the interviews, as well as — if needed — the reverse. In total forty interviews were held.

In all files two questions were always asked: has there been any financial or other support and has the concerned case experienced any constraints in the realization of its plans? In the case of direct European influence, it was obvious that the EU has played a role. Yet, to uncover any indirect influence required investigation of the background of any support of or constraint by central or provincial government, since it is possible that higher tiers acted as a messenger. A few cases thus entailed consulting provincial and national plans or employees.

Finally, application of both ways of reasoning does not yet yield a comprehensive picture of the extent to which all local activities are influenced by the EU, since the study was confined to the files in the areas in which most of the board's decision making takes place, leaving aside the areas of sports, welfare and recreation, education and culture. In these minor fields Dutch SNAs are certainly no passive players. In order to be as complete as possible additional interviews were held. Any possible European influence indicated by an interviewee was verified by further document study.

In the characterization of the detected opportunities, no normative judgement was made. Particularly in the case of European funding, strict criteria were needed to assess whether we should speak of invitation, facilitation, or enabling. **Invitation** exists when a government develops an entirely new plan or initiative in response to a certain European incentive. The documents and interviews should indicate that in the period before, the concerned plan or idea had not been discussed or already developed. In case of **facilitation** the initiative already existed and the European money fastens the implementation of the plan or enlarges it. Typically, this will be a plan that is already being implemented, or a plan for which the government has already found financing from other sources. European funds have an **enabling** effect if an initiative would not have been developed or cannot be developed otherwise. Indicative of enabling are plans or desires that already existed before the funding, but could not be carried out at the time. Another example is a new plan heavily funded by European money, of which it is acknowledged that without this money the whole project would be cancelled.

Not only European funds, but also European rules may facilitate decision making, such as the ones concerning free competition and public tender. The latter, in particular, may be welcomed, since they burst a possible local tradition of clientism. To assess this kind of facilitation, it is difficult to refrain from normative interpretation. Therefore, a European rule was only considered as having facilitated decision making if in written documents of the

government board there is an explicit reference to the rule and its positive effects.

Also, in assessing the type of constraints normative notions of whether the concerning European rules should be welcomed or not were not taken into account. Only an assessment was made of whether the EU induced local policy changes or initiatives, for better or for worse, therewith giving the concept of constraints a rather rational-technical connotation. **Enforcement**, then, is fairly easy to detect, as there should be a formal command to undertake something. Hampering and obstruction are more difficult to discern empirically. We scored a file as **hampered** if, for example, a certain rule delays the implementation of a certain plan (resulting in extra costs and possible claims), if it limits policy discretion, or if it leads to obligatory changes in initial plans not undermining the central ideas of the plan. An example of the latter would be a plan for a luxury holiday park near a special protection zone falling under the Bird Directive. The case where the province would demand a local authority to reduce the planned area to such an extent that certain special species will not be endangered, would be called hampering. On the other hand, if it would force the authorities to abandon the whole plan — also if it is part of a larger plan — this would be classified as **obstruction**.

Obstruction may not only exist in the case of abandoned plans or unfinished or unformalized decisions, it may also imply non-existing decision making. To assess the possible presence of this type of obstruction, a path was followed that had been developed successfully previously by Fleurke & Willemse (2006b). A non-decision is a policy desire that (1) cannot be fulfilled, (2) is consequently not decided upon, (3) is broadly supported (i.e. by both board and council members) and (4) is frequently expressed in at least two consecutive years. To detect non-decisions analysis was made of the minutes of the meetings of the municipal and provincial councils — the ones of the discussions on the annual budget in particular — since substantial non-decisions are most likely expressed in the political debate. If necessary, findings were checked in an interview with the *griffier* (registrar) of the council.

Finally, files may be encountered in which the EU is mentioned, but for which this conceptualization and operationalization is inadequate. A European obligation to tender publicly that is followed without complaining, that does not change the content of the concerning plan, or that even codifies an already existing practice, is such a situation. Another example is an obligation to perform a test to determine whether any bird protected by the Bird Directive is endangered. If the outcome is negative, there is no substantive European impact since it does not result in any significant changes in the plans. Government has ‘just’ followed a procedure or complied with a rule (as it does with so many national or sub-national rules), experiencing at most some financial setback due to research activities. This type of influence will be called **procedural effects**; though EU rules do penetrate sub-national administrative practice, they do this in a procedural manner only. In this case the EU neither enhances, nor constrains decision making.

## Results

### *Extent, Direction and Type of Influence*

As Table 2 indicates, in the three cases the EU influences sub-national decision making in a fair to substantial degree. European rules and directives have affected a third (Almere) to half of the files (Lelystad and Flevoland). Making a distinction between direct and indirect influence, a pronounced difference is noticed: in the researched municipalities nearly all European influence is indirect, and in the province a majority is direct. The bulk of the EU's influence is exerted through the province, which allocates European money and tests municipal spatial plans against national and European rules. In a few cases the water board in the province (applying directives on water quality) and central government play an intermediary role. This also holds for the province itself (e.g. in case of application of central rules which are an implementation of European norms). Yet, if the EU plays a role in the province it is much more direct. This appeared to be particularly true for European subsidies about which the province has direct contact with the European Commission, and which it receives directly.

If the EU influences sub-national decision making, does it do this in an enhancing or constraining way? Table 3 breaks down the influence into the different types in the conceptual model. It can be noticed immediately that Lelystad's decision making has been enhanced much more than constrained by the EU. Though much less pronounced, the same is true for Almere, but the reverse can be said for the province.

In the case of constraints, hampering is the most common way the EU affects sub-national administrative practice. Facilitation is generally the most commonly provided opportunity. The other types of influence do occur, but much less frequently, resulting in rather small differences between the three governments.

In Table 3 one further notices that obstruction sometimes occurs. In these cases it concerns parts of plans that were abandoned during the formal decision-making procedures. Analysis of the minutes of municipal and provincial

**Table 2.** EU influence as percentages of files, and direct or indirect influence as percentages of influenced files

	Municipality of Lelystad	Municipality of Almere	Province of Flevoland
No effect	51.5	64.2	45.1
Effect	48.5	35.8	54.9
of which direct	12.5	16.7	61.5
of which indirect	96.9	86.7	46.2
<i>n</i>	66	81	51

Note: *n* of Almere is less than the initial amount of 86 selected files, because of five missing files in the area of physical planning. Numbers of direct and indirect influence do not add up to 100, because the EU can influence a file in both ways.

**Table 3.** Types of EU influence, in percentages of EU influenced files

	Municipality of Lelystad	Municipality of Almere	Province of Flevoland
Enforcement	3.1	0.0	10.7
Hampering	25.0	34.5	53.6
Obstruction	6.3	13.8	0.0
Total constraints	34.4	48.3	57.1
Invitation	3.1	3.4	17.9
Facilitation	65.6	41.4	35.7
Enabling	12.5	6.9	14.3
Total opportunities	81.3	55.2	53.6
<i>n</i>	32	29	28

Note: Totals do not add up to 100, because e.g. decision making may be enhanced (through funding) as well as constrained (by a directive).

council meetings of 1996–2004 did not uncover any further strong desires that never made it to the drawing board.

### *Policy Areas*

On which policy areas is the influence of the EU most manifest? Table 4 shows that the EU influences local decision making quite strongly (that is, in

**Table 4.** EU influence on major policy areas expressed in percentages of files of each area, total and in terms of constraints (Con) and opportunities (Opp)

	Municipality of Lelystad				Municipality of Almere				Province of Flevoland			
	Total	Con	Opp	<i>n</i>	Total	Con	Opp	<i>n</i>	Total	Con	Opp	<i>n</i>
ES&G	70.6	23.5	58.8	17	63.6	40.9	28.0	22	72.0	60.0	40.0	25
EA	64.3	28.6	50.0	14	61.1	27.8	42.1	19	72.0	36.0	44.0	25
WW		—				—			77.8	66.7	11.1	9
T&T	64.0	8.0	60.0	25		—			44.4	44.4	0.0	9
PP	62.5	20.0	50.0	40	36.0	24.0	17.0	50	73.9	56.5	30.4	23
Housing	50.0	20.8	37.5	24	32.1	28.6	3.6	28		—		
SA	40.0	20.0	40.0	5	42.9	0.0	42.9	7		—		
PO&S	22.2	11.1	11.1	9	14.3	0.0	14.3	7		—		
PW&R	18.2	0.0	18.2	11	20.0	0.0	20.0	10	14.3	0.0	14.3	7
Culture		—			16.7	0.0	16.7	6	12.5	0.0	12.5	8
Sports		—			28.6	14.3	0.0	7		—		
Education		—			30.0	10.0	20.0	10		—		

ES&G, Environment, Sanitation & Green; EA, Economic Affairs; WW, Water Works; T&T, Transport & Traffic; PP, Physical Planning; SA, Social Affairs; PO&S, Public Order & Safety; PW&R, Public Welfare & Recreation. —, less than five files were found.

at least half of the files) in the areas belonging to the so-called physical infrastructure (the use of territory), and relatively weakly in areas belonging to the social infrastructure (demarcated with a dotted line in Table 4). The EU manifests itself at the sub-national level in environmental and economic issues, as well as on physical matters. Interestingly enough, though with small variations in all these areas, the EU constrains and enhances decision making at the same time. There appears to be only one substantial difference between the cases — apart from the fact not all areas score equally — which is the level of the European influence on physical planning. In Almere this is relatively low. Also, the province is confronted relatively often with constraining activities of the EU, whereas for both municipalities the European opportunities are more visible.

Additional interviews were held to ascertain that research had not missed any substantial influence in other areas (such as education, culture, sport and welfare and recreation). Respondents recognized the initial findings that these areas receive relatively little political and administrative attention. A telling characterization of these municipal activities was ‘try’n keep the holes plugged’.

### *Legislation, Funding and Their Effects*

Which instruments did the EU use (deliberately or not)? What kind of files does the EU mostly affect? Though the conceptual framework does not rule out the possibility that directives have an enhancing effect, it was found that in almost all files where European legislation plays a role it does so in a constraining way (95 per cent). Similarly, 95 per cent of all enhancing European effects can be traced back to the European funds. An exception — an example of invitation — is a local waste plan with which Lelystad tried to conform to a national waste plan. This central plan was partially an implementation of the EU Waste Directive. Because Lelystad did not have an obligation to set up its own plans accordingly, it apparently foresaw positive implications in doing so.

Which European rules play a constraining role? In the municipalities of Lelystad and Almere the Habitat and Bird Directive play a prominent role. For example, in two files the province withheld its consent to the respective zoning plans of Lelystad, since there was — with an explicit appeal to the Habitat Directive — not enough evidence that plans to build houses and a regatta centre outside the dykes would not substantially harm the habitat of the smew (*Mergus Albellus*). As a consequence, the original plans have been mothballed for three to four years. It is not likely that the original plans will be carried out completely by then. A similar thing happened to Almere’s plans for an industrial zone near a nature reserve where the hen and marsh harrier (*Circus Cyaneus* and *Circus Aeruginosis*) have their habitat. The Bird and Habitat Directive have an effect on provincial decision making too, since they constitute criteria with which the province scrutinizes the municipals’ physical planning and protection of valuable nature. The same applies to licenses and permits in the areas of environment, waste and water. In its



review procedures the province is obliged to apply many criteria that can be traced back directly to European directives.

Several files were found in which a certain European rule was mentioned and applied, but with no substantial consequences. In particular the Directive on Public Tender has a mere **procedural** effect. In three files the same can be said about the Habitat and Bird Directive; obligatory tests were done, along with all other procedural requirements, but without any further consequences. The same applies to tests on air pollution, required by the European directive on national emission ceilings for certain atmospheric pollutants, and performed during the development of all zoning plans; in none of the cases (expected) were emissions so high that initial plans had to be changed or abandoned.

As has been said, the EU has exerted its enhancing influence mostly through European funds. Since the province manages most European funds and allocates them to the municipalities, citizen groups and private firms, a direct relation exists between the EU and Flevoland, and an indirect one between the EU and Almere and Lelystad. Almere and Lelystad have reaped benefits from the European Fund for Regional Development (EFRD; in twenty-nine files) and, to a much lesser extent, from the European Social Fund (ESF; four files). Respondents in both municipalities and the province related that in the distribution of the allowances the province does not apply additional criteria to the already existing European ones. If a plan meets these norms, the principle ‘first come, first served’ is followed.

One may expect that this principle induces local authorities to invent projects that otherwise would not have existed. During research no convincing examples of such kinds of **invitation** were found. On the other hand, in most files in Lelystad (sixteen out of twenty-one) and Almere (twelve out of fourteen), the funding can be characterized as having **facilitated** decision making. Many urban renewal projects in Lelystad are funded by the EFRD, but, considering for example a *Wijkontwikkelingsplan* — a plan to renew a certain part of town and consisting of all kinds of files, the amount of European money is relatively small (20 per cent on a total of €18.5 million). Central government also subsidizes urban renewal as it has been doing for decades. Moreover, plans for regeneration had been made already in the mid-1990s, well before there was any certainty about possible European funding. Another striking example of facilitation is a new railway station in Almere. When the funding was granted the station had been realized almost completely; the European money turned out to be no more than an extra. This is not to say that the EU has never enabled new projects. If it does so, it is through the ESF with which Almere and Lelystad have financed several integration and safety projects, the continuation of which will be endangered if the ESF-budget dries up.

With respect to the province there are similar findings. Flevoland is involved in twelve EU subsidy programmes, of which not one can be considered as **enabling** decision making. In three cases one can speak of invitation (two interregional projects and Leader +) and in one of enforcement (subsidies for the EU-driven restructuring of the fishery). With respect to projects seeking other funds — European Agricultural Guidance and Guarantee Fund

(EAGGF), EFRD, ESF, parts of the Financial Instrument for Fisheries Guidance (FIFG) — it is difficult to maintain that these institutions helped to develop long-desired projects that would not have come about otherwise. Indeed, judging from the deliberation of the provincial board on the socio-economic development of the area and looking at the budgets at the beginning of the 1990s, nothing indicated that Flevoland suffered from a chronic lack of means. In 1995 it became clear that the province was eligible for European funding. It was central government that lobbied for the designation of Flevoland as a developing region, and not the province itself. A well-known anecdote is that the Prime Minister phoned the Queen's Commissioner of Flevoland with the question of 'whether the province wanted to be poor'. Given this, it was not unexpected to find more feelings of surprise and astonishment than of relief in the minutes of the board and in articles in the press of that period.<sup>1</sup>

## Conclusions

There are a number of conclusions from this study. First, the EU influences sub-national decision making to a fairly large extent. Though one could expect some European influence because of the selective criteria used in choosing the cases, it is still felt that the resulting percentage of EU-influenced files (*c. fifty*) is fairly high. This conclusion is strengthened by the fact that this figure includes only substantive influence. If the study also included all merely procedural obligations stemming from European rules, the European impact on sub-national decision making is even higher. In any case the position in the literature that the EU does not affect the position of SNAs cannot be upheld when considering daily administrative practice.

A second conclusion is that the EU constrains sub-national decision making as well as enhancing it. This is an important finding, since judging by the existing literature it would seem that the EU either enhances or constrains sub-national decision making. This picture arises because of the essentially different choices in the objects of analysis that are made by the proponents of the two seemingly contending positions. The research presented here, in which the focus is on the daily work of SNAs, unmistakably shows that the EU plays both roles: with its money it enhances sub-national decision making and, through its legislation — in particular the Bird and Habitat Directives, the Waste Directive and several directives on the protection of water quality, it constrains SNAs' decision making.

Thirdly, though the EU is clearly present at the sub-national level, it is not omnipresent. Its role differs per area. The extent and nature of EU influence is contingent on the specific context and problems with which a SNA is coping. Not all SNAs have valuable nature reserves within their territory and, even if this is the case, not all will pursue an extensive physical development policy. Similarly the extent and nature of EU influence is determined partially by the formal responsibilities a SNA has in various areas (which may explain possible cross-national variations). European rules on water quality and waste collection in principal apply to all SNAs equally, but, since

in the Dutch system many formal responsibilities in these areas have been attributed to the province, it is the province where one finds the most EU influence in these areas.

A fourth conclusion is that the EU steers in a direct manner and an indirect manner. It appears that the SNA's position in the national administrative system determines which manner dominates. The EU seldom has a direct impact on the municipalities; most of its influence on this smallest unit is indirect through the mediation of central and provincial government, and occasionally of water boards. If the EU steers the province indirectly, it is often via central government and water boards. Given its intermediate administrative position as a 'regional' government, direct EU influence on the province is more frequent.

Further, when in these cases the EU enhanced the decision making, it did so by facilitating the decision making — making already existing projects bigger, cheaper or speeding up the implementation — and not by enabling new long-desired projects. This is quite striking since this enabling is essentially the objective of the European funds; it is in contrast with the suggestion in the literature on multi-level governance that the position of SNAs is strengthened or that the European funds make the impossible possible. This is not to say that the European funds do not enable projects elsewhere or are not needed in poorer regions in Europe. The results make clear, however, that the European influence on sub-national administrative practice is much more differentiated than is often suggested in the literature. The typology of influence used here has proven sensitive enough to uncover such differentiations.

Sixthly, the current European programme in Flevoland ends in 2006 and the officials are well aware that funding after this period will be much smaller, and therefore will diminish the extent to which their decision making is enhanced. On the other hand, the constraining European directives still exist and there are no indications this will change in the next years. If one dares to take a glance in the near future the EU may predominantly constrain Dutch sub-national decision making instead of enhancing it.

Finally, these results come from only three cases in just one of the twenty-five member states of the EU. Application of the conceptual framework to a greater number of SNAs, to different SNAs and to different states will result in a more nuanced picture of the various kinds of influence of the EU on local, regional and provincial administrative practice.

## Note

1. The reason why Flevoland was eligible was its Regional Gross Product, which was below the European average. Yet, unemployment figures were more or less standard. Most people in Flevoland did have work, though not in their own region: Flevoland was a commuter region.

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