

Tomasz Żylicz

The Subsidiarity Principle

We often hear that decisions should be taken by those who are close to the problem. Therefore let the inhabitants of a town decide what level of noise they consider acceptable or what to do with the waste. However, in the April issue of *Aura* I discussed the NIMBY syndrome that questions the rule to let the "closest" to a problem solve it. At the same time, the Subsidiarity Principle has been acclaimed a foundation of environmental policy of the European Union (and other institutions).

The Subsidiarity principle, asserts that decisions should be taken at the lowest level that is appropriate for a given problem. The source of this strange name is to be found in the catholic church tradition that allowed local bishops to take decisions concerning their dioceses without consulting them with a higher level. Nevertheless some decisions are centralised there, so that local administrators are not independent. Thus, how does one know when a problem can be left to the discretion of a lower level, and when it should be taken away?

The answer is provided by economic analysis of so-called external effects, which make that certain decisions affect not necessarily those who take them. If my emissions affect adversely somebody else, then I am not supposed to take a decision how much to emit. Likewise, if a municipality can get rid of the sewage problem by polluting its neighbours, then the permit should be written by an authority where interests of both sides are represented. Without contemplating their substance, one could solve such problems once and for all by centralising any decision so that no neighbours can be hurt. However such a solution would deprive people of any initiative and alienate them from decisions that affect their life. Are we ready to live in a situation where all substantial decisions are taken by a higher level?

The subsidiarity principle resolves the problem by asking the question what would have happened if a decision was taken at the lowest level. Only when such a solution generates significant external effects, the test should be replicated at the immediately higher level. Sometimes the test reveals no significant external effects already in the first round; sometimes the decision making authority should be moved to a higher level.

If the colour of internal walls at our home affects the family, but it does not hurt anybody else, then – according to the subsidiarity principle – the decision should not be taken anywhere higher. The colour of external walls and window frames in an apartment house is another story. Here letting all the tenants choose the colours freely could result in upsetting some of them. Therefore it is appropriate to let the building administrator adopt a coordinated approach. Similarly, customers of a heating plant should not decide on the abatement of its sulphur dioxide emission, since increasing the height of the stack could be found a solution that is satisfactory to them; the emission would be the same except that it would be expected to disperse over a larger area, especially if there are strong winds. Finally even the central government of a country should not decide on the level of carbon dioxide abatement, because the emission affects the entire human population.

The subsidiarity principle suggests what decision taking level is appropriate for a given problem. Sometimes the level can be as low as a local community council, sometimes a provincial government, and sometimes a supra-national entity. In the European jargon, the subsidiarity principle answers the question which decisions should be taken by the European Commission, and which can be delegated to national governments (or to a lower level). In this

case the criterion is somewhat broader, since not only external effects need to be taken into account, but also potential interference with other activities of the Union. For instance, from the point of view of external effects, the noise emitted by lawn mowers can be regulated by local authorities. However such a solution would interfere with the free trade principle, as a product accepted in one place could turn out to be illegal in another. That is why we have a number of directives regulating decibels emitted by lawn mowers; in this case the subsidiarity principle had to yield to the free trade principle.

In the Polish legal system large cities – such as Cracow – have competences similar to those of counties. They can decide on air pollution from certain plants, on car traffic and some other environmental issues. The subsidiarity principle lets them enjoy an independence from the central government, which can come in with its decisions only when the independence makes the neighbours suffer external effects.