

2020-25

ANALYSING DISAGREEMENTS WITHIN THE ESEC: A STUDY

The COVID-19 health crisis has highlighted the complexity and uncertainty of public decision-making today. Refusing to recognise the complexity of such situations can lead to well-known and unfortunately frequent tendencies, including relativism, which holds that since the subject is complex and science cannot give a definitive answer, all opinions are equal, and conspiratorial thinking and mistrust, which hold that important truths are being concealed.

The purpose of analysing disagreements is not to provide a universal answer to these tendencies. It is to provide a concrete methodology for the issues under the ESEC's remit, one that facilitates our understanding of the viewpoints involved by presenting them to all parties, which seems critical to finding sensible solutions to conflicts. The aim is to help people understand the reality of the issues raised, so that substantive debates can later focus on ranking the arguments and the most relevant choices. The analytical method described in the study is part of a much broader collective effort to improve public decision-making processes.

Two situations specific to the ESEC, where a good understanding of the disputes is important, explain the origin of this approach:

- In many of its papers, the Council makes recommendations to public officials on controversial issues, based on the views of the civil society organisations that are represented on it. The way in which these controversies are analysed is essential: it must distinguish between, on the one hand, issues over which a consensus or compromise may be reached between the organisations represented on the ESEC, and on the other hand, issues that arise from fundamental disagreements, which are normal in a pluralistic society and pointless to ignore. In the latter case, it is also important to highlight the arguments involved in order to draft appropriate opinions that can advise public officials both on the decisions they will have to make and the consensus findings (often already known or presumed), or potential avenues for compromise.
- the draft organic law currently being debated in Parliament would expand the ESEC's remit when it comes to organising public participation in the preparation of decisions. In this new framework, the preliminary work of analysing existing disagreements over some of



Michel Badré

is a Senior Civil Engineer in charge of Bridges, Waters and Forests, and a former President of the Environmental Authority. He is a member of the ESEC's Delegation for Forward Planning and Public Policy Evaluation, where he represents the Environment and Nature Group.

Contact:

michel.badre@lecese.fr
01 44 43 64 22

the questions put to the public should be of great importance. Adapted to the specific circumstances of public debate, the proposals in this study could help improve discussions and the resulting reports, as they would enable citizens to better understand the arguments and power games involved in any controversial debate, without having any initial expertise on the issues discussed.

THE ESEC'S POINTS OF CONSIDERATION

SEVEN METHODOLOGICAL PRECAUTIONS

The process that led to the final version of this study highlighted seven areas that required the following methodological precautions:

- **A particular classification of the issues that warrant analysis by the ESEC:** analysing disagreements may only be useful if there is a clear choice between two or more alternative options.
- **The wording of the question:** making the question as specific as possible helps narrow down the scope of investigation during the subsequent process and explain the decisions that led to a particular wording.
- **The relative weight of the criteria (scientific, technical, legal, economic, ethical, etc.):** arguments for or against each option must be analysed as objectively as possible, without giving more credence to any one of them.
- **Sources:** no information may be used in an analysis if it is not backed up and sourced, and if its author(s) are not identified.
- **A position of "active neutrality":** this position is complicated by nature and leads to an emphasis on exactness and precision when selecting criteria to compare options.
- **The summary:** this is an essential element, since it will serve as the basis for subsequent phases, i.e. preparing the draft opinions, conducting studies or soliciting citizens' contributions.

FIVE KEY STEPS IN THE ANALYSIS PROCESS

- **1. Each particular case must be examined to determine whether an analysis is warranted in order to prepare an opinion or study for the ESEC or conduct a public participation initiative.** This will of course depend mainly on the disagreements identified as important to the subject matter, but also on the overall timeframe of the initiative. This review should be carried out at the time of the referral itself, and its outcome incorporated into the referral note, given its importance for further work.
- **2. If it is decided to carry out such an analysis, the first step is to designate the team of two or three people responsible for steering it (normally chosen from among the members and administrators of the working group responsible for the referral).**
- **3. This steering group should start by identifying the main issues of contention in relation to possible policy options, and the proponents of the arguments on these issues.** It should describe the controversial issues precisely, if possible in coordination with these proponents.
- **4. It should then explain, based on the available sources, the arguments for or against the various options in response to the questions posed.**
- **5. An overall summary of these arguments should then be drawn up for all the issues, incorporating general considerations that will be helpful for further work done by the working group or the citizens' group.** This summary will be submitted for approval to the main proponents, if the timetable allows. It should in no way anticipate the positions that may be adopted later by the working group or the citizens' group.