



**CONGRESS OF LOCAL AND
REGIONAL AUTHORITIES OF
THE COUNCIL OF EUROPE**

**REGIONALISATION TRENDS IN
EUROPEAN COUNTRIES**

2007-2015

A study by members of the Group of Independent
Experts of the European Charter of Local Self-
Government

Edited by Prof. Francesco Merloni

The Congress



Le Congrès

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Edition: June 2016

Layout: Congress of Local and Regional Authorities

This study reflects the views of the contributing members of the Group of Independent Experts of the European Charter of Local Self-Government

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INTRODUCTION

Trends in regionalisation in European countries (2007 – 2015)

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Purpose of the study

The Congress entrusted the Group of Independent Experts on the European Charter of Local Self-Government with the task of producing a comparative academic study. This study is based on information from Council of Europe member States affected by the regionalisation process and on recent regionalisation developments in Europe.

The main aim of this study is to evaluate regionalisation trends, towards both more and less regionalisation, in individual countries and consequently in Europe as a whole. At the same time it seeks to determine whether the various countries considered actually have regional institutions as defined by the 2009 Council of Europe Reference Framework for Regional Democracy.

The intention is to review the situation regarding regionalisation since the 2007 report of the European Committee on Local and Regional Democracy (CDLR)¹. Following on from this, the idea is to achieve a broader understanding of the phenomenon from both the legal and institutional angles.

The present study formed the basis of a report on the current state of regionalisation in Council of Europe member States (rapporteur: Ms Marie Madeleine Mialot-Muller)².

The study is based on a questionnaire, drawn up by a working group, covering six key points for evaluation of regionalisation processes and on the replies from experts in each of the countries concerned.

- I. General regionalisation trends
- II. Institutional and administrative organisation
- III. Powers
- IV. Financial autonomy
- V. Supervision
- VI. Relations with other tiers of government

Definition of regionalisation

The study takes the definitions of regions given in the Council of Europe Reference Framework for Regional Democracy, which considers regional authorities to be “territorial authorities between the central government and local authorities. This does not necessarily imply a hierarchical relationship between regional and local authorities.” It further states that “where regional authorities exist, the principle of regional self-government shall be recognised in domestic legislation and/or by the constitution, as appropriate”, defining regional self-government as “the legal competence and the ability of regional authorities, within the limits of the constitution and the law, to regulate and manage a share of public affairs under their own responsibility, in the interests of the regional population and in accordance with the principle of subsidiarity”.

Again, according to the Reference Framework, “the right of regional self-government shall be exercised by assemblies elected through direct, free and secret suffrage. This provision shall in no way affect recourse to citizens’ assemblies, referendums or any other form of direct citizen participation, where it is permitted by law.”

¹ European Committee on Local and Regional Democracy: Report on European practice and recent developments in the field of regional self-government, 2007 - <https://wcd.coe.int/ViewDoc.jsp?id=1240827&Site=COE>

² Trends in regionalisation in Council of Europe member States: Resolution 390 (2015) 2 of the Congress of Local and Regional Authorities and Explanatory memorandum - [https://wcd.coe.int/ViewDoc.jsp?Ref=CPR/2015\(29\)2FINAL&Language=lanEnglish](https://wcd.coe.int/ViewDoc.jsp?Ref=CPR/2015(29)2FINAL&Language=lanEnglish)

Countries covered

The study has been limited to countries with institutions that can in principle be considered “regional” according to the Reference Framework definition.

It covers 31 countries out of the 47 Council of Europe member States and has excluded the sixteen countries that definitely do not possess regional institutions, either because they are too small for regionalisation (seven member States: Andorra, Cyprus, Liechtenstein, Luxembourg, Malta, Principality of Monaco, San Marino) or because they have expressly ruled out any such process (nine member States: Armenia, Bulgaria, Estonia, Iceland, Latvia, Lithuania, Montenegro, Slovenia and the Former Yugoslav Republic of Macedonia) and have only one (municipal) tier of territorial self-government.

For these countries not included in the study there was no new drive towards regionalisation in the period under consideration (2007-2015). Given these exclusions, the study was confined to the following countries: Albania, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, the Russian Federation, Serbia, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom.

The questionnaire was answered by 27 experts, who wrote the chapters on the individual countries, thus providing an excellent overview of regionalisation trends in Europe.

New regionalisation initiatives

The purpose of the study was to verify whether:

- a) there were countries where, as from 2007, the existing regional institutions had been further reinforced in institutional and constitutional terms;
- b) there were new cases of partial regionalisation, i.e. involving only parts of national territory.

The answer to a) seems to indicate a negative trend, with Belgium being the only notable exception, as the sixth constitutional reform of the Belgian State was enacted in 2014. This reform has introduced three types of change. The first relates to the new composition of the upper chamber, which has become a real second chamber representative of the regions and communities. The second is a reinforcement of the competences of the regions and communities, with both a larger number of matters coming under the regions' authority (matched by corresponding financial resources) and more active participation by the regions in the national legislative process. The third change relates to the Brussels-Capital Region, which has been put on an equal footing with the other regions. Through this reform Belgium has become a fully-fledged federal state.

The answer to b) is more complex. On the one hand, there are cases which raise the question whether the particular autonomy granted by a country to a specific territory is tantamount to instituting a true and proper (special) region.

Here, consideration must be given to the cases to be found in Serbia, where there is again a growing demand for autonomy for the territories of Kosovo and Metohija, on the one hand, and Vojvodina, on the other. But the Constitution does not provide for any form of regional autonomy, only for “autonomous provinces”. Kosovo and Metohija have not even been recognised as autonomous provinces, because the fate of these territories is a focus of international attention, given that they are directly seeking their independence, entailing their secession from the Serbian State.

The situation is different in Vojvodina, where the discussion focuses not on recognition of autonomous status, but rather on the scope of such autonomy. Following two decisions by the Constitutional Court, a new statute was enacted in 2014. On this basis, it can be asserted that the level of autonomy granted is comparable to “regional” autonomy, although the Constitution makes no provision for the country's regionalisation. In this regard, the establishment, in 2009, of five regions (apart from Kosovo and Vojvodina, the other three regions are Belgrade, Šumaija and Western Serbia, and Southern and Eastern Serbia) governed by ordinary law and having delegated tasks (development planning and collection of statistics) cannot be deemed to constitute regionalisation of the whole country, but only partial regionalisation confined to certain territories.

On the other hand, there are cases of territories that have already been granted regional autonomy and which are seeking independence, like Catalonia and Scotland. While the general thrust in both cases might seem to be the same, the background institutional scenarios are very different.

In the case of Catalonia, the demand for independence must be viewed in the context of the Spanish Constitution, which indeed provides for autonomous regions, even very strong and highly differentiated ones, but excludes any rupture of State unity. This makes it extremely difficult for a move towards independence to be lawful and constitutionally acceptable. Until now, even the possibility of a referendum which might result in Catalonia being separated from the Spanish State has been completely ruled out. To enable such a referendum to take place, the current Constitution would have to be amended beforehand in order to provide for the possibility of a non-traumatic secession of parts of State territory. The clear rift which nowadays sees those in favour of independence pit against central government has not yet opened up any prospect of a solution along federal lines, affording the autonomous regions further scope for differentiation and tending towards an asymmetrical form of federalism.

Scotland enjoys a very particular form of autonomy, since a Parliament and a government which deal with any matter solely affecting Scottish territory have been established and recognised, through legislation passed by the Parliament at Westminster, for lack of a written constitution. The lack of a constitution enabled a referendum to be held, but only on Scottish territory, in which the people came out against independence. What is left is a political situation which has actually strengthened the independence party, with a likelihood of further demands for devolving new legislative and administrative powers to the Scottish authorities. Lastly, the lack of a constitution poses problems for any move towards federalism in the United Kingdom, as that would entail, at least, the creation of separate assemblies for all the State's constituent parts (including England itself), intended to govern the interests of the various regions, in addition to a parliament and federal government agencies.

Ultimately, in both cases, regionalisation, in a strong form or based on a federal model, could have played a role as a valid alternative to independence. In actual fact, due to the very lack of any practical prospects, recognition of regional autonomy (special autonomy for Catalonia within the regionalisation arrangements in Spain and partial regionalisation for Scotland) has ended up having the opposite effect, advancing and strengthening separatist tendencies.

The impetus towards the transformation of regions as part of a wider territorial reform processes

In a number of countries, major local government reforms are being carried out, with a more or less significant impact at regional level. Examples of the countries concerned are: Albania, Denmark, France, Greece, Ireland, Italy and Spain.

Territorial reforms are taken to mean those aimed at reducing the number of tiers of government (for instance by removing the second tier of government) or decreasing the number of local bodies at the same level of government (cutting the number of municipalities or administrative bodies operating at municipal level; reducing the number of second-tier bodies).

Territorial reforms at municipal and regional levels

Many countries have a high number, often regarded as excessive, of local government bodies which do not have a sufficient geographical area or a large enough population to exercise the administrative functions assigned to that level. This is a result, above all, of a broader application of the subsidiarity principle, whereby tasks are to be assigned to the level of governance closest to citizens.

"Simplifying" the administrative map of the municipalities has been a constant aim, pursued in many different ways. On one hand, more radical policies involving the merger of several municipalities have been applied, creating a new body of larger dimensions. On the other hand, there have been policies for creating associative, collaborative bodies with varying degrees of authority (weak associations, which leave the municipalities with separate administrations that coordinate their actions, or strong associations, giving rise to unified local administrations, which operate according to directives given by associative governance bodies).

With regard to policies for merging municipalities, the process already initiated in various European countries in recent decades was pursued throughout the period under review (2007-2015) affecting a number of countries such as Albania, Czech Republic, Denmark, Greece and Ireland.

In Denmark there has been a drastic cut in the number of local government bodies. The number of municipalities has fallen from 275 to 98, and the 14 counties have been replaced by five regions, with completely new boundaries. Another factor to be considered is that the new "regions" perform virtually a single key function: responsibility for health care. Instead of a structured, wide-ranging system of local autonomy, Denmark has opted for a single tier of self-governing local authorities with general competences, in the form of municipalities. Beyond this, there are only the regions with their responsibility for a single sector.

Ireland has substantially decreased its number of municipalities, from 114 to 31, and has removed one of the two tiers of supra-municipal government (the former 29 county councils). The single remaining tier comprises three regional assemblies (instead of the previous eight) whose main task is to coordinate and support development planning, but they do not have any active functions and are not directly elected.

A major territorial reform law in Albania has reduced the number of basic local government bodies from 373 to 61 municipalities. It also eliminated the intermediate tier composed of the districts, while keeping a second tier of government in the form of 12 qarks (counties), the nature of which has yet to be assessed. Experts perceive the main thrust of the territorial reform as focusing on the operation of the municipal tier, with little attention being given to the second tier of government, the qarks. The latter bodies' councils are elected indirectly by the municipal councillors. They have limited local functions and enjoy limited financial autonomy, which is more equivalent to NUTS 3 than NUTS 2 level in the European classification.

Greece is the country which has carried out the most far-reaching restructuring of its territorial autonomy system. The number of municipalities has been cut from 1,034 to 325, with a reduction in the number of peripherias (prefectures) (regarded as a second tier of local government) from 50 to 13. The larger size of the new second-tier bodies might suggest that these are real regions, comparable to similar institutions in highly regionalised countries. However, the expert view is that this is not the case in Greece because the peripherias, while having their own governing bodies elected directly by local citizens, are not sufficiently robust in terms of administrative competences and financial autonomy. At the same time, the Greek Constitution does not recognise any "regional" form of autonomy, but only "two levels of local government" (Art. 102, paragraph 1). Therefore, although one should not completely rule out the possibility that the new territorial structure amounts to a form of regionalisation of the country, it would, in any case, constitute only a weak regionalisation process.

As regards policies aimed at reinforcing inter-municipal forms of association and cooperation, in countries where there are still significant problems in adopting policies for the merger of municipalities there has been a great deal of focus on reinforcing associative and cooperative structures at supra-municipal level.

In Spain, Act no. 27, passed in December 2013, has strengthened the role of the diputaciones (provincial councils), which, as second-tier local entities (whose bodies are elected by the province's municipalities), are already performing functions specific to the municipalities, particularly in the case of the smaller ones. The new law stipulates that municipalities with a population of less than 20,000 must exercise their more significant functions via the diputaciones. No real merger policy is likely, unless direct provision for a policy of this kind is made by the comunidades autónomas (autonomous communities), which have this competence within their remit.

As for France, for some time now it has been pursuing a policy of strengthening inter-municipal associations (municipal, agglomeration and urban communities). Recently (2010) the métropoles have been given further prominence among the urban communities. These are associations established in France's largest conurbations. However, the policy of gradually phasing out the intermediate level, corresponding to the département, is still only at the draft stage. This should result in a redistribution of the functions performed so far by these local bodies (which are difficult to remove given that their territory coincides with that of the prefectures), firstly, to the regions and, secondly, to the associations mentioned above. However, one significant development, more from a symbolic angle than in terms of actual institutional change, was the adoption of the new Map of France in December 2014, with the number of regions reduced from 22 to 13. This reform cannot be included among territorial reorganisation policies, because it is based not on a new set of competences and powers, but on a more general desire to "strengthen" the institutions at regional level.

In Italy, while the map of the municipalities has remained unchanged, territorial reform policies have mainly affected the provincial level. First and foremost, Act No. 56/2014 brought about a far-reaching transformation of the provinces, with a view to eradicating them under a constitutional law. Secondly, it resulted in the

setting up of metropolitan cities in 10 metropolitan areas. Both the “new, transitional” provinces and the metropolitan cities no longer have directly elected bodies, since their members are chosen indirectly by the municipal councillors in the relevant territory. In this respect, they are now very similar to the diputaciones in Spain, which are also indirectly elected bodies. Important functions of the provinces have been transferred to the regions and, to a lesser extent, the municipalities. Secondly, the aim of Act No. 56 is to strengthen associations via an obligation, incumbent on smaller municipalities, to carry out a number of functions through such an association. A draft constitutional law is currently being passed, which will remove the reference to the provinces from the existing constitutional law, even if central government retains legislative competence over the “regulation of area vasta bodies”. Therefore, territorial reform has had only an indirect impact on regionalisation, since it can be regarded as resulting in an increase in functions for the benefit of the existing regions (whose status is generally not being reviewed). This means that the regions are gaining some competences to the detriment of the provinces, while at the same time, as a result of the current constitutional reform, they are losing competences in favour of the State.

An examination of the more significant cases of territorial reform shows that these reforms have a varying impact on regionalisation. On the one hand, they can have a direct impact. For instance, in Denmark, Greece and Ireland, territorial reform is also affecting the “regional” level, even if doubts remain about the genuine regional basis of the new institutions. In Denmark, this is linked to the single-sector nature of the new regions. In Ireland, it results from their limited administrative competences and the lack of any directly elected bodies. In Greece, it relates to a lack of constitutional recognition of the regional tier in a country which remains a strongly unitary state.

In other cases, the impact appears to be indirect. In Spain, the modest reform of the competences of the diputaciones does not seem to be having any major impact in terms of regionalisation, with the comunidades autónomas remaining very strong, even as regards the administrative competences which they exercise directly. In France, only the abolition of the département level, often envisaged but never carried out, could have a major impact on regionalisation. In Italy, even though the constitutional reform providing for abolition of the provinces is at an advanced stage, there remains some doubt as to whether the area vasta will survive or not. In metropolitan areas, on the contrary, second-tier local entities are maintained. Metropolitan areas are different from the provinces and are intended to perform functions, precisely those of a broad metropolitan area, which cannot be assigned either to the municipalities (even within an association) or the regions. On the other hand, the complete elimination of the local area vasta (provinces) bodies would result in considerable strengthening of the regions, if only in strictly administrative terms (new tasks, not new legislative competences which are, conversely, currently being centralised at the State level).

Reduction in the number of regions

Lastly, we are seeing trends, reflected more in intentions and mounting public debate than in actual measures, towards a questioning of the regional structure.

The most noteworthy example is the recent move by the French Government (Valls, 2014) to reduce the number of regions significantly by amalgamating existing regions or transferring departments from one region to another in order to reduce the number from twenty-two to 13.

A similar debate has begun in Germany and Italy, even if no practical action has been taken. Germany recently amended its Constitution, but with no effect on Länder boundaries. In Italy too, the constitutional reform under debate has not broached the subject of reducing the number of regions, although this is quite widely discussed in academic circles. The recent territorial reform (Law No. 56 of 2014) and the next constitutional reform may add fuel to the debate. On the one hand, abolition of the provinces and the transfer of most of their powers to the regions would not provide the impetus for a reduction in number, while on the other, having new public institutions to manage powers covering large geographical areas (the aree vaste) would make it possible to reduce the number of regions (private members’ Bills for the creation of 12 or 13 regions rather than the current 21 have been tabled).

Powers

Introduction

When it comes to 'competences', the powers and responsibilities exercised by Europe's regions, Europe offers a huge array of gradations, and taking into consideration advances and retreats, as well as experimentation, we see the emergence of a kaleidoscope that is as rich as varied. Whereas the map of European states contains but entities of a singular nature, all equal in so far as sovereign, the regional map of the continent, instead, presents an enormous variety of entities, each with its own name (regions, provinces, counties, communities, states, republics, territories, to name but a few), and each with its own set of competences. Some, share political power, until then a reserve of sovereignty – the so called 'legislative regions'; others assume a part in the administration of social life within their respective territory, and others yet are but auxiliaries of the respective central state's organs of authority. In all cases, we witness a tremendous range of gradations. At one end of the spectrum, regions are understood as incomplete or imperfect states, with some regions possessing an array of competences that places them close to the position of states in their own right, particularly in the context of the European Union. At the other end of the spectrum, we encounter regions entrusted with no more authority than the material execution of a limited set of policies that are centrally adopted.

Furthermore, even as the circumstance of European regions, in the middle of the last decade, was best characterized by a wide diversity, the changes that they have undergone since then has been, itself, markedly differentiated. So much so that from the perspective of the competences entrusted to them, European regions seem to defy any attempt at systematization. Nevertheless, for the purpose of this section, we will examine regional change in Europe around five basic clusters. Firstly, regions in which change has been inexistent, or small. Secondly, regions that either failed to emerge or fell victim to recentralization. Thirdly, we shall point to cases of experimentation, first steps and hesitation, with regard to both robust and weak regionalization attempts. Fourthly, we register a set of strong regions that have undergone some, albeit minor, change. Finally, attention is drawn to those regions that have known substantial change.

Little change

Countries like Albania, Bosnia-Herzegovina Croatia, Denmark, Finland, Georgia, the Netherlands, Norway, Portugal (mainland territory), Romania, Slovakia and Sweden, experienced little or no change in their regional organization, even if, in some cases, proposals for reform have been forwarded with more or less intensity while, in others, the subject is completely absent from the political agenda.

In Albania, the 2008 Cross Sector Strategy for Regional Development, aiming at the empowerment of the country's 12 regions, particularly in terms of sustainable and balanced development, remains unimplemented, and the regional development law drafted in its wake has yet to become effective. Weak, in terms of the competences assigned to them, Albanian regions do not function well. They do not count on clearly defined competences. Those assigned to them have scarcely been put into practice and the fact that the national ministries detain their own regional organization adds to their weakness. Furthermore, they are lacking in both financial and administrative resources.

Neither did Bosnia-Herzegovina witness particular change in the reference period. And yet, as the distribution of competences between the cantons, on the one hand, and both the centre and local authorities, on the other, is far from clear. Described by many as excessively baroque, with a wide array of administrative structures and territorial units, the country would appear to find itself at an impasse and in need of reform.

Likewise, the Republic of Croatia experienced little or no change in the period under consideration. Its units of regional self-government, the counties, remain too small and too weak either to create or to implement policies and the competences assigned to them are poorly defined, with much overlapping. The country's signature in 2008, without reservations, of the European Charter of Local Self-Government could constitute an important impetus for reform of the country's regional structure, with the prevailing view pointing to the replacement of the 12 counties with five more solid and robust regions.

The regional organization of the Nordic countries, Denmark, Finland, Norway and Sweden, has known little change either. In Finland, neither the political autonomy of the Åland islands (its single autonomous region, dating back to the League of Nations) nor the administrative competences of the statutory regional councils in place in the country's mainland have undergone significant change. The single exception is the attribution

to the regional councils of competences regarding regional development and planning, particularly in context of the EU structural Funds. In Denmark, Norway and Sweden, regional competences have not changed significantly. In Norway, the 2005 attempt at regional reform bent on replacing the country's 19 counties with larger and more robust regions was stranded and resulted in mirror adjustments only. Moreover, the absence of constitutional recognition of Norwegian regions has allowed for a certain erosion of their competences, falling mainly in the fields of upper secondary schools, dental services, county roads and land use planning, public transport and regional development. And, judging from the current political environment, further regionalization is unlikely. Finally, the Danish and Swedish regions remain centred upon the management of hospitals and other institutions connected to health care – with the major exception of the Danish island, Faroe and Greenland, which continue to enjoy a strong status of political autonomy.

In Georgia, the single major change has to do with the establishment, in 2011, of Regional Development Councils, serving as consultative bodies, integrating representatives of local government, heads of regional subdivisions of central authorities and representatives of local business and civil society with the objective of familiarizing the Regional Governor with the situation in the territorial units under their responsibility. Although elected as a governmental priority, the revision of the status and competences of Georgian regions remains postponed. The strong asymmetry of Georgian regionalism, coupled with the geostrategic challenges facing the country, gives rise to fears that regionalization may constitute a threat to the country's territorial integrity. Accordingly, it is unlikely that revision and change can be expected in the near future.

In the Netherlands, the provinces remain the most stable tier in the Dutch territorial organization, as both their number and competence remain unchanged for centuries. They remain, however, object of discussion, particularly as the recent amalgamation of municipalities has led to an erosion of their traditional functions as mediators between the centre and the local authorities as well as subsidiary partners of municipalities, both with regard to inter-municipal relations and to the assistance in the fulfilment of those competences for which they lack the appropriate dimension and resources. With provinces somewhat squeezed between the national centre and the local authorities, their competences are, at present, under revision, along three major lines: firstly, the strict identification and delimitation of their responsibilities; secondly, amalgamation of provinces; and thirdly, the decentralization, to the municipalities, of all aspects of social competences, often at the expense of the provinces.

In Portugal, even as the regionalization of the national mainland continues to be a constitutional desideratum, since the 1998 national referendum, in which the project was systematically refused across the entire country, the issue has been entirely absent from the political agenda and there are no indications that this circumstance may change in the foreseeable future. The situation of the country's insular autonomous regions is somewhat different and will be addressed in section four.

Change in Romania and Slovakia has not been significant, either. In the former, the major innovation has to do with the introduction in the appropriate normative corpus of the principles of subsidiarity and proportionality and the direct election of county heads. In Slovakia, there is an ongoing debate regarding its territorial organization pointing, in concrete, to the merger of the present eight regions into three, plus the capital city of Bratislava.

Recentralisation

A second set of regions either failed to emerge or experienced a process of direct or indirect recentralization, with two countries standing out in this context: Hungary, Serbia and the Ukraine.

Between 2002 and 2010, Hungary promoted a regionalization reform bent on replacing the counties, some of which were but decentralized organs of the central government, although entrusted with competences in the fields of territorial and urban development, spatial planning and territorial coordination, with a new regional organization of the state. Poorly designed, that reform failed to harness the political support required for approval and, following the fall of the government, was taken off the political agenda. Furthermore, the counties saw their already limited competences erode further to the point where they were left with but formal functions – while losing, as well their institutions, most of their resources. All in all, recent developments point to a strong recentralization, to the point of becoming a quasi-one-tier local government system, with county competences and resources being assumed by the central government.

Serbia represents a second case in point. With Kosovo and Metohija basically out of reach, the other autonomous province of the country, Vojvodina has witnessed the erosion of the substantive autonomy

foreseen in the national constitution, particularly at the hands of the Constitutional Court which, in 2012, struck down a plurality of provisions of the province's proposed autonomous statute. Furthermore, this ruling basically equated the statute of Vojvodina to the level of those foreseen for local authorities. On the other hand, in 2009, Serbia adopted a regional organization of the country around five regions, expressly understood as "statistical functional territorial units established for the purpose of planning and the realization of regional development policy." All in all, regional, provincial, autonomy in Serbia appears to be shrouded in uncertainty, with its scope in decline and its future uncertain.

Ukraine appears to remain divided between centralization and decentralization. Whereas decentralization continues to be perceived as the most adequate compromise between, on the one hand, the traditional centralization of the country, and, on the other, its federalization, threats to Ukrainian territorial integrity have effectively led to centralization, including the concentration of real power in the hands of the central government, and of its representatives, at the expense of local and regional authorities. Criticism of the country's regional and local organization, dating back to the 1930s and 40s and perceived to be inadequate and dysfunctional, has yet to lead to effective reform. Despite the high and enthusiastic expectations that accompanied it, the constitutional reform of 2004 did not lead to effective reform, lacking a clear political direction; the project would be finally abandoned in 2008 as it proved unable to attract the necessary popular support.

Regional reform was brought to the fore for a second time in 2009, only to culminate in failure. By 2011-12, territorial reform would, once again, become a national priority. Yet, even as regionalization and local self-government gained momentum in the national political agenda and public discourse, concrete reform has met with systematic obstacles and barriers.

Officially, the Ukraine appears to be strongly committed to the reformation of its regional and local territorial organization, as well to the principles of regional and local autonomy. Reform, however, is proving to be an uneasy and costly process, and been effectively obstructed by domestic hesitations and contradictory political agendas, and by the security threats presented to country from the outside, with the annexation of the Crimea and the ongoing conflict in Donbas.

Experimentation

Experimentation, first steps, complexity and hesitation appear to best describe the recent experience in a third set of states including Greece, Ireland, France, Sweden, Russia and Italy. During the period under review, these countries proceeded with the revision of the respective structure of territorial organization, culminating with the outright creation of a regional level, even if endowed with strictly administrative competences, or with more or less gradualist experimentation.

In Sweden, 2009 witnessed the emergence of the first two experimental regions, becoming definitive in 2011. Immediately afterwards, two more regions obtained that status, while regional cooperation councils were foreseen for the rest of the country. Finally, in 2014, six more regions were created, at the expense of the previous county and county cooperation councils. In total, the country became organized in 10 regions and 11 county councils. In material terms, health care remains the major competence of regions, and, where these have not been implemented, county councils – the main difference between the two being that the regions have an overarching responsibility and more resources for the promotion of economic development in the respective circumscription.

Furthermore, whereas in seven of these councils, competence over regional development is attributed to regional-cooperative councils, in the remaining four it remains with the very administrative boards of the county itself. Accordingly, the complexity of the Swedish territorial organization remains and, if anything, has been incremented in so far as regional reform has been piecemeal, voluntary and dependent on the will and the initiative of local and county levels and comprehensive nationwide reform has yet to be implemented. Whether the recent trend towards gradual regionalization will go forward and lead to full national regionalization is unclear, yet. Moreover, as public support for regionalization of the country is limited, it is not likely that the issue will be among the national political priorities.

Greece and Ireland have opted for a different approach, operating, instead, for the creation of regional authorities of a strictly administrative nature.

Along with reducing its municipalities, from 1034 to 325, Greece restructured its deconcentrated state administration in seven units and organized the country in 13 regions. Competences of these regional

authorities are defined both by the national constitution and by ordinary law and include the specific domains of economic development, the environment and infrastructures and transports. No special statutes are foreseen, with the exception of the express need to take into account the specific circumstance of both islands and mountain areas.

Strictly administrative, regions are not foreseen to possess either political autonomy or legislative competences, with the exception of those that may be delegated to them by national parliament. The context in which they will function is as "organs of the executive power of the state". Nevertheless, regions are foreseen to enjoy the right to self-organization and, therefore, to adopt a charter and rules of their own, within the framework established by national legislation, the extension and detail of which assures a certain degree of standardization. Furthermore, the distribution of competences by the state across regions is symmetric, without prejudice to the island and metropolitan regions obtaining additional competences given their specific circumstances, although there have been no concrete developments with regard to the latter. Moreover, almost entirely dependent on state grants, regions lack financial autonomy. Neither do they possess any authority over the municipalities.

Greek regions were artificially drawn up by the state, without regard to historical identities. Since 2011 they have lost competences to the deconcentrated units of administration of the central government. Furthermore, they have been heavily hit by the current economic crisis and the austerity measures adopted to face it. All in all, Greece remains a strictly unitary state, and, the importance of the recent reform notwithstanding, it would appear to be more appropriate to describe it as the development of a second tier of administration in a centralized state, instead of regionalization of the country.

Ireland, too, underwent a major reorganization in 2014, based upon the government reform program published two years earlier, reducing its local authorities from 114 to 31 and replacing its two regional levels with a single one integrating three regional assemblies: the Southern Regional Assembly, the Eastern and Midlands Regional Assembly and the Connaught-Ulster Regional Assembly. As regional identity is not specifically developed in Ireland, regions were not designed on the basis of identity affiliation.

These regional assemblies are administrative, lacking either political or fiscal autonomy. They do not hold legislative competences and their responsibilities, conferred by the central government, fall within three broad domains: i) regional planning; ii) management and monitoring of European Union co-financed expenditure; and iii) oversight and audit of local government, scrutinizing the efficiency of the respective activities.

Their idiosyncratic nature is further underlined by the fact that they fulfil no responsibilities involving direct interaction with the citizens. They are not directly elected, being headed by a Director who is appointed through an open recruitment process and involve a rather small staff. All in all, these regional structures remain rather "invisible" from public view and more or less marginal actors in Irish social and political life.

Recent studies point to the empowerment of these regional assemblies through the assumption of added competences, namely in the fields of healthcare, environment protection, water management and supply, economic development and roads and transportation infrastructures. Finally, whereas the initial impetus towards a regional organization came from the European Union, more recently, owing to a growing interest in regionalism in the country, we have also witnessed the emergence of domestic pressure.

France has given decided strides in the regionalist road, even if not always in the same direction and including legislative advances and retreats, and stands now far from the traditional strictly unitary and homogeneous paradigm of territorial organization.

During the period under review, important legislative reforms were undertaken. The country, accordingly, is now organized in 12 metropolitan regions and overseas regions, with Corsica holding the special statute of being a territorial authority. Whereas, moreover, that Mediterranean island can be counted as a region, the same does not hold for the overseas authorities of the Republic.

One of the reforms came in 2011, being implemented this year, pointed to the creation of single authorities, replacing the departments and the regions cohabitating in the same territory. Guyana and Martinique acceded to that condition. In another new development, Mayotte became, in 2011, the fifth overseas department, receiving regional competences and becoming a kind of overseas region.

Furthermore, on December 2010, France adopted a law of reform of its territorial authorities. In an attempt to clarify the distribution of competences between the region and the department and to avoid the concurrent

treatment of the same matters by these two administrative tiers, the law suppressed the previous general competence clause, which recognized in both regions and departments the right to decide over matters of the respective interest.

Until that moment, French regions and departments did not possess an exhaustive list of the matters under their competence over which, therefore, their respective organs of authority could act. Instead, regional and departmental competences were assigned according to the broad principle of the interest of the territorial unit in question. Each territorial unit was considered to be competent to handle those matters that constituted or touched upon its interests – with the ensuing conflicts being settled at the jurisdictional level. The abolition of such general clause was expected to open the way to a clarification of the distribution of competences to each of these levels through its material enumeration. Yet, that legislation itself foresaw a series of exceptions and derogations and ended up being suppressed, in January 2014, before it could enter into force, foreseen for January 2015, and the principle of “general competence” reinstated.

Surprisingly, French regions are the first to request the suppression of this general clause, or perhaps not, for while it is full of possibilities with regard to their competences, it also allows for a margin of jurisdictional interpretation regarding the resolution of conflict among territorial tiers that is equally wide. In Portugal, for example, the notion of “specific interest” was originally adopted as the kernel principle for distribution of competences between the central organs of power and the new Autonomous Regions of the Azores and Madeira following the revolution of April 1974. In face of the jurisprudence produced by the Constitutional Court, often identified by the regions as excessively restrictive, that principle has been replaced by the adoption of lists of competences.

Coupled with the impact of the economic and financial crisis, which has an evident burden upon the regions, instead of leading to the simplification of the very delicate problem of repartition of competences and overall territorial organization of the country, these legislative hesitations increase it, impressing upon it an added level of uncertainty as well as an additional urgency to the revision of French territorial organization.

Russia also continues to experiment with its territorial organization, housing a complex and strongly asymmetric array of no less than 85 units including 22 national republics, 46 regions, nine territories, four autonomous regions, one area and three cities with federal status. Furthermore, upon coming to power, Putin proceeded to consolidate the vertical distribution of power within the country through the establishment of federal districts, the ninth of which, the Crimean Federal District, was created in March 2014.

Since 2010, the political autonomy of the regional elites with regard to the centre has been gradually eroded, with the strengthening of the federal level at the expense of the regional bodies. It is also possible to witness the simultaneous weakening of the regional representation at the federal bodies and the creation of special ministries dealing with the regions.

A concrete major change during the period in question includes also the restoration, in 2012 of the direct election of regional governors, recognized in the constitution.

Even when regions possess their own constitutions or charters and their own legislative and executive bodies, with various names, according to historical, national or other traditions, the federal structure of the country, as a whole, is grounded upon the unity of the state’s authority system.

Russian regions’ own competences were substantially challenged in June 2012, when the Final Resolution of the IV Congress of the All Russian Council of Local Government determined that the delimitation of power in the federal system could be replaced at will by an “administrative delegation top down”. This allows for the replacement of relations between central and regional and local tiers of government based upon constitutional independence by hierarchical relations leading to the implementation, by the lower tiers, of competences and tasks delegated by the central authorities.

In another innovation, in 2013 a new procedure for the formation of the Federal Council of the Federal Assembly of Russia was also put in practice, introducing the principle of election.

All in all, Russia appears to continue its development as a federal state, going through a period of experimentation, particularly with regard to the equilibrium between the required unity of the federal whole with the autonomy of its constituent parts. In the period under consideration, regionalization was an important aspect of the democratization of the Russian Federation, with its regions becoming increasingly important agents in the political space of the country. In parallel, we have also witnessed a process of re-centralization, particularly marked by a tendency towards the de-formalization of institutions and processes.

On the one hand, Russian regions appear to present a major interest, not in social and democratic federalism, but in ethnic federalism. And, on the other, the regional and federal core values of autonomy, subsidiarity, proportionality and participation have yet to become consolidated throughout the political culture of the country.

In Italy, autonomous regions are now facing increasing difficulties. The austerity measures adopted by the central government introduced substantial shortcuts to regional autonomous spending capacity. This reality is aggravated by the fact that Italian regions lack an effective involvement in decision making at the central level, as the Senate is not a territorial chamber and intergovernmental coordination relies on a system of conferences that ensure a merely consultative role, the work of which can easily be overcome. Accordingly, the crisis is bringing a counter-wave of centralization. The “debt break” clause of 2012 and its strict budget stability objectives, as well as the spending review imposed by the central government represent serious threats to the political autonomy of Italian regions, risking to confine the regional legislator to a mere implementing role.

As things stand, Italy risks undergoing a recentralization and a re-asymmetrisation process, with the re-emergence of a cleavage between the 5 special regions and their remaining ordinary counterparts, with the former enjoying a higher degree of financial autonomy. Furthermore, ongoing debate over constitutional reform could lead to substantial encroachments upon regional autonomy, centred, as it is upon the revision of the Senate, in the re-allocation of competences including, inter alia, the abolishment of concurrent legislation, at the expense of the regions, the attribution of almost all relevant legislation to the central organs of authority, and the express allowance of the central authorities to seize regional competences in the name of the national interest.

Minor change in strong regions

A variety of countries organized in robust, political regions, Austria, Germany, Italy, Portugal, (the Azores and Madeira), Spain and Switzerland, have known only minor change and adjustments, even as the present economic and financial crisis – and the mechanisms developed to face it – appears to be hitting hard at regional political autonomy.

Austria, a strong symmetrical federal state, has witnessed four broad innovations. Firstly, after acceding to both legislative and executive power, the Lander have, since 2014, assumed their share of the Austrian judicial system, with the adoption of Land Administrative Courts of their own, responsible for deliberating on most administrative appeals. A second novelty pertains to the new financial obligations of the Lander in the terms of which whenever a tier of power adopts legislation that may place a financial burden upon others it will be financially responsible for it unless the “consultation committee” consisting of representatives of all tiers, is able to settle the issue. Thirdly, establishing the domestic patterns for the verification of the fulfilment of the European Union’s convergence criteria, the Austrian Stability Pact of 2012 assumed an evident impact in the autonomy of the Lander. Finally, the Lander have also profited from the mechanisms foreseen in the Lisbon Treaty, particularly with regard to both their participation in European affairs and to the development of cooperation strategies across borders with their regional counterparts.

On the other hand, the distribution of competences between the federal level and the Lander remains highly intricate and fragmented, particularly with regard to the material exercise of specific aspects of broad shared competences (such as health and social services, for example). A reform has been on the agenda for years, but has yet to be adopted. A highly centralizing proposal presented in 2008 was broadly refused by the Lander, nevertheless, reform remains in the political agenda. A final aspect deserving to be highlighted pertains to Lander participation in the federal level decision making, given the Austrian system of imperfect bicameralism. Although integrating Land representatives, the Bundesrat is far from ably assuring that role. Absent an effective reform of that organ, such dysfunction has been somewhat compensated by the Conference of Land Governors, an informal, though political strong, body able to promote vertical representation of Land interests at the federal level.

“Stability through continuity” appears to be an apt motto of German federalism which, in the recent past, has known minor adjustments only. The most significant change appears to be of a dual nature. Firstly, the gradual loss of importance of the legislative activity of Lander parliaments, particularly as the scope of land legislation becomes increasingly limited due both to the growing dominance of EU legislation in a plurality of policy fields previously entrusted to the Lander and to the equally growing presence throughout German political life of direct democracy at the Lander level: citizen petitions, initiatives and referenda. Secondly, the

financial and economic crisis has led to the reinforcement of the role of the federal government, at the expense of its Land counterparts, exemplified by the constitutional amendment requiring balanced budgets at all tiers of government.

Stability and robustness of cantonal autonomy remain the hallmarks of Swiss federalism. In view of their size and resources, the Swiss cantons, the smallest of which, counts only 16,000 inhabitants, have been the object of occasional calls for territorial reform, including the amalgamation of smaller cantons, so that they may be better able to fulfil their wide and important responsibilities. These, however, have not been heeded. Instead, and keeping to the Swiss tradition of subsidiarity, proximity to the citizens and responsiveness to their preferences, reform has focused on the strengthening of inter-cantonal cooperation, grounded upon the negotiation of cantonal agreements and the holding of inter-cantonal conferences. With these instruments of horizontal federalism, cantons expect to obtain economies of scale that may better allow for the joint fulfilment of the wide ranging cantonal obligations (namely in terms of the minimal standards presented to the cantons), without loss of cantonal autonomy.

Since 2008, the distribution of competences between the federation and the cantons has been redefined on the basis of subsidiarity, fiscal equivalency and congruency. Moreover, whereas all competences not specifically attributed to the federal level remain entrusted to the cantons, it is possible to identify a certain trend towards centralization in Switzerland, ensuing from the adoption, by the federal level, of guidelines and minimal standards which the cantons are then called to implement. Recent examples include the fields of education, health and planning.

The major change to the regime of political autonomy of the Portuguese autonomous regions of the Azores and Madeira originates in the present economic and financial crisis. Firstly, because of the alterations introduced in 2010 to the national organic law fixing the finances of each of them, secondly, through the Memorandum of Understanding signed between the national government and the regional government of the Azores, on the one hand, and the Program of Economic and Financial Adjustment of the Autonomous Region of Madeira adopted following the request of financial assistance presented by Madeira to the central government. Following directly from the Memorandum of Understanding signed by Portugal with the troika, these documents – the Madeiran far more detailed and overbearing than the Azorean – represent as many encroachments upon the financial autonomy of each of these regions. In the case of Madeira, basically placing the region in a position in which its relation to the central government parallels that of the country to the troika during the period of intervention.

Moreover, profiting from the constitutional revision operated five years earlier, the Autonomous Region of the Azores also promoted the revision of its Statute in 2009, so as to produce a rearrangement of its regional autonomy. Major innovations comprise the express introduction of a series of fundamental principles in its political organization including subsidiarity, cooperation, solidarity and autonomic acquis, as well as the condition of outermost region, the suppletive character of national legislation, social and economic development and regional financial and patrimonial autonomy. The new statute also transposes the replacement of the figure of the Minister of the Republic by that of the Representative of the Republic (and its new, more limited functions) operated by the previous constitutional revision. Some provisions of the proposal presented by the Regional Legislative Assembly of the Azores had to be removed, since the Constitutional Court considered them contrary to the national constitution – like the reference to the “Azorean people”. Widely contested, at the time, the issue has since died out.

The Spanish “State of the Autonomies” has also experienced only small adjustments, namely the reinforcement of regional legislative competences in a variety of sectors including education, health, social welfare, economic development, environment, infrastructures, transports and the legal system of local authorities. This was the result of a conjugation of factors, namely 1) the completion of some decentralization processes initiated previously, 2) the amendment of the statute of several of its autonomous communities, and 3) the specific transfer of competences from the central organs of power to their regional counterparts in selected autonomous communities as a result of ad hoc compromises (for example, traffic supervision in Catalonia and the Basque country, whereas in the rest of the kingdom this is a competence of a central state agency).

Problems arose, specifically with regard to the amendment of the statute of Catalonia, as a number of the proposed new clauses ended up being challenged in the Constitutional Court. In the end, the Court ruled various new articles to be unconstitutional. This ruling produced an outright storm, opening a political crisis that is far from closed and threatens the very integrity of the state.

Two years after that ruling, the Catalan parliament approved a couple of resolutions claiming for the region the recognition of the “right to self-determination” (*derecho a decidir*). The first of these resolutions was adopted in the autumn of 2012, before the regional elections, and the second the following spring. Following an appeal by the central government, the Constitutional Court issued an injunction suspending the effects of the resolution. Yet, instead of backing down, in December of the same year, the autonomous government called for a referendum on self-determination. Given that the present Spanish constitutional framework does not allow for such an initiative, it was formally rejected in March 2014.

Nevertheless, the Catalanian authorities went ahead with a popular consultation, rather than a formal referendum, on the political future of Catalonia, on 9 November 2014. In the consultation voters were presented with two interrelated questions: first, “do you want Catalonia to be a State?” and second “if so, do you want Catalonia to be an independent State?” In the end, 80.72% of those who participated in the consultation voted “yes” to both questions. Finally, on November 2015, the Catalanian Parliament approved, by 72 votes in favour and 63 votes against, the preparation of a manifesto of intentions for the preparation of the foundations of the future Catalanian Constitution, in what is intended to be the beginning of the process of detachment from Spain.

In conclusion, regional autonomy in Spain would appear to be confronted with three major challenges: firstly, the reform of the Senate, which, should it evolve in the direction of becoming a regional chamber would open the way to an additional competence for the Spanish regions: participation in the central legislative process; secondly, the effect of the economic and financial crisis upon regional autonomy, with reduced resources exacerbating public regional debt and effectively curtailing the full exercise of regional competences; and thirdly, and probably more urgent, the situation in the Basque Country and, even more so, in Catalonia and the respective demands, no longer for added competences, but for self-determination and independence. Paradoxically, the complexity of the Spanish, and Catalanian, system of political parties and the challenges presented by the last election results, including the obstacles in which they translate, with regard to obtaining a clear and stable parliamentary majority and government, would appear to serve a palliative function, both for the Autonomous Community of Catalonia and for the Spanish State as a whole.

Substantial change

Belgium and the United Kingdom underwent major regional reform. Between 2011 and 2014, Belgium underwent a thorough State reform, the sixth since the country’s shift away from a unitary nature. Apart from overcoming the long impasse around the electoral constituency of Brussels-Halle-Vilvoorde, BHV, this reform entailed a significant strengthening of the competences of the Belgian regions and communities, translating into the outright displacement of the country’s centre of gravity from the federal level to that of its federated entities.

In terms of regional competences, major change occurred on three levels. Firstly, through the reshaping of the Upper House of the federal parliament, which was transformed into a chamber of country’s sub-national units, the regions and communities; secondly through the transfer from the federal centre to the regions and communities of additional competences, inclusive of a financial nature; and thirdly, through the revision of the status of the Brussels capital region.

With the reform, Belgian regions and communities earn the competence to participate in the federal legislative process – even as the House of Representatives becomes the central institution regarding federal politics and legislation, whereas the Senate is entrusted, above all with tasks of policy coordination and co-decision on crucial matters. This is further highlighted by the fact that the position of senator is not full time, which means that federal senators are also members of regional parliaments from where they originate.

The transfer of additional competences to the regions and communities entails the correlative transfer of additional financial resources and personnel. The reform unfolded along the balance between, on the one hand, the nature and characteristics of the social security system, understood to be paradigmatically federal, and, on the other hand, its material implementation in the individual realities of the three communities and regions. New responsibilities attributed to the communities include health care and assistance to the elderly, not including pensions, the handicapped and the mentally ill, as well as the licensing rules, construction and renovation of hospitals. The regions, received new competences with regard to employment, mobility, energy, agriculture, local authorities, and fiscal expenses. Furthermore, the reform also resulted in additional fiscal autonomy for Belgian regions and communities.

Finally, while the reform enlarged the constitutive autonomy recognized to the regions, it also translated into a certain re-symmetrization of the state in so far as the Brussels capital region acquires the same statute as the other Belgian regions, including the competence to adopt legislation of the same juridical nature as that recognized to its counterparts.

The United Kingdom had already also witnessed major change, shifting away from its traditional status as a multinational unitary state, even if asymmetrically, in Scotland, Wales, Northern Ireland and London – change which continued during the period under review.

During this same period, Scotland did not undergo substantial financial devolution, with the exception of its modest, and so far unused, tax-varying competence. Nevertheless, in areas transferred to the competence of Scottish authorities significant specificities have emerged, for example, in health care (with free eye and dental examinations and free prescriptions) and education (with students paying no tuition at Scottish universities).

Furthermore, the demand for increased legislative competence for Scotland led to the adoption of the 2012 Scotland Act, whereby the regional parliament obtained a series of new competences including the right to adopt income tax rates in Scotland with more autonomy than before, differentiating them from those in place in the rest of the United Kingdom. The Act also contemplates new financial competences namely in terms of stamp duty land tax, landfill tax, the power to create new taxes and new borrowing powers.

Change in Scotland culminated in the September 2014 referendum on Scottish independence – defeated under promises of added transfer of competences, including the right to issue bonds as well as new legislative powers regarding air weapons, drink driving and speed limits, a role in appointments in broadcasting and the Crown estate and a new procedure for Scottish criminal cases that go to the United Kingdom Supreme Court.

In Wales, change has been slower, yet followed the broad direction that unfolded in Scotland. Following the March 2011 referendum, the Welsh Assembly has seen its autonomy extended and consolidated. On the one hand, it became able to legislate in those matters that were transferred to its competence, without needing first the agreement of the UK Parliament. On the other hand, instead of being called Assembly Measures, its proposed laws are now called Bills and its enacted laws Acts.

Furthermore, the pressure to extend the competences of the Welsh Assembly remains persistent and strong. As in Scotland, demands for greater autonomy have been channelled through independent Commissions. In a response to the report published by the last one, in 2012, the United Kingdom government assumed, a year later, the commitment to adopt thirty of the thirty eight recommendations presented by the Welsh commission – which will translate in the devolution to the Welsh autonomous authorities of additional competences, including borrowing capacity.

The situation in Northern Ireland, meanwhile, is more complex and less stable. During the period under review, its Assembly has served a full term, receiving new and important competences in relation to justice and police, transferred on April 12th, 2010.

England, meanwhile, has undergone a certain recentralization, with the abolition, in 2010, of the Regional Development Agencies, replaced by Local Enterprise Partnerships, organized along the lines of consortiums of local authorities. A regional organization was presented both as a continental construct, foreign to the English model of social and political organization and as excessively costly. The Local Enterprise Partnerships that replaced the Regional Development Agencies would be financed through a Regional Growth Fund with a budget of less than one third of that of the respective predecessors.

The position of London remains different, as the Mayor and the assembly remain strong, due to their democratic legitimacy and to the strong cultural identity upon which they are grounded. Their autonomy remains limited, yet the pressure for change is evident here too.

In conclusion whereas the United Kingdom remains a centralized state, its regionalization is ongoing and there is pressure to increase its depth and scope, even if asymmetrically. And, with the consolidation of the competences foreseen for Scotland, Northern Ireland and Wales, the political autonomy of England emerges on the agenda, with calls for the creation of an English Parliament. Furthermore, with London threatening to emerge as a 21st century “city state”, the entire political organization of the United Kingdom would appear to be under review. The direction, however, in which change will unfold, remains unclear.

Underlying causes of processes observed

The phenomena reported suggest some shift in systems of government towards either open questioning of the basic elements of the system (number of levels of government, number of self-governing territorial authorities at each level) or calling into question of the relations between levels of government and regional self-government.

The idea here is to point out the possible causes of this shift. Very briefly, we shall single out just two underlying causes: on the one hand, the economic and financial crisis that has affected all European countries to a greater or lesser extent and, on the other, the impact of the European Union's "regional" policies (for the states covered by them).

Economic and financial crisis

The experts' replies, confirmed by the Congress monitoring reports adopted since the start of the economic and financial crisis (2008), plainly demonstrate a close link between the crisis and most of the changes that have or are supposed to have occurred either at the local level (with repercussions for the regional tier) or directly at the regional level.

The crisis has made it necessary to simplify the structure of government or simply reduce public authority costs. This explains the policies observed:

- 1) Recentralisation policies. The crisis plainly seems to entail a reduction in public spending and, in some cases, in rights acquired during the age of the welfare state.
- 2) Policies strengthening central government to ensure stricter control of public expenditure (or reduce debt). Here the link is even closer: control of public finance seems to imply stricter control of spending by self-governing authorities.
- 3) Policies reforming local and regional government. The crisis seems to be forcing drastic cuts in spending. The underlying reason for the local and regional government reforms that we have seen over the past few years is the crisis. An overcomplicated and over-costly system has had to be "simplified", reducing the number of tiers of government (the abolition of an entire tier of local government at a single stroke (Greece, Ireland, Italy and, possibly in the future, France) can be presented as cutting the costs of government) and the number of public institutions in each tier of government (especially at the municipal level (Greece and Ireland again, although there have been policies to reduce the total even at other levels).
- 4) Paradoxically, even the more "extreme" drives to regionalisation in the form of calls for independence are clearly explained by the economic and financial crisis. It is often the wealthiest regions (Catalonia and the Basque Country in Spain; Scotland in the United Kingdom) that seek to escape the obligations of solidarity and, more generally, the common fate of the countries affected by the crisis.

Introduction of EU regional policy

It is common knowledge that the European Union does not require its member States to establish uniform systems of local government. Every country is free to construct its own system of government, based on one, two or three tiers.

The only way in which the system of government is affected by the EU is through implementation of the latter's regional policies. Hence a tendency on the part of some countries, even if they have no real regional institutions (taking the Reference Framework definition), to define as "regions" the government structures specifically handling EU structural funds.

In a number of cases, EU regional policy is managed by government structures without the status of real public institutions, without (directly or indirectly) elected policymaking bodies or without the general responsibilities associated with the role of democratic institutions accountable to the public for the results of their actions.

This is the case in Ireland, where the regional assemblies (the second tier of government) manage EU regional policy and have powers of coordination but do not have the status of real self-governing institutions, in Hungary, where the second tier of government, which could have moved towards genuine regionalisation on

the basis of EU regional policy, has recently been substantially weakened by central government, and in Romania, where the third tier exercises powers confined to EU regional policy implementation, coordination and statistics, again without being made into a proper self-governing and democratic tier of government.

In Finland, the second tier of government, in the shape of associations of municipalities, has typically municipal powers on the one hand and duties relating to EU regional policy implementation on the other.

A new and updated classification of the regionalisation models adopted in the various countries

Following the analysis of the main trends emerging from the study, including the conclusions of the experts who drew up the individual items for each country, the classification already adopted in the report "Trends in regionalisation in Council of Europe member States" has been confirmed. The Group of Independent Experts moreover already made some initial input to that report.

Non-regionalised countries

Firstly, it is confirmed that in the countries not included in the study there has been no observed impetus towards regionalisation, either in general terms or relating to certain parts of the territory.

Countries with weak regionalisation

1. Countries with partial regionalisation

Partial regionalisation means regionalisation which involves only certain parts of a country's territory. In these parts of the territory forms of autonomy are recognised which can be considered regional, as they are comparable to regional autonomy as defined in the Reference Framework adopted by the Congress. Therefore, in these parts of the territory, this "special" autonomy can also have been taken further than many confirmed cases of regional autonomy, even to the point of recognising legislative autonomy or exclusive competences and a high degree of financial autonomy. This type of regionalisation remains "weak" because the country as a whole is not undergoing regionalisation. Apart from these restricted areas of regional autonomy, the remainder of the national territory, frequently the greater part thereof, continues to be organised according to the unitary state model where, above the tiers of local government, the sole authority is that exercised by central government.

There are various reasons for recognising this particular type of autonomy. Very often these are geographical reasons (parts of the territory which are more isolated and difficult to access) or cultural and identity-related reasons (linguistic, ethnic) or political reasons.

Partial regionalisation should not be confused with "asymmetrical" regionalisation, even if the reasons for both these types of regionalisation may be very similar. In the first instance, only a part of the territory is regionalised, whereas, in the second instance, the entire national territory is regionalised, but not in a uniform way, with differences between regions; in other words, there can be regions with a greater degree of autonomy than others. This is the case in Spain and Italy and could also apply to all federal countries, where recognition of strong autonomy may lead, but not necessarily, to asymmetrical regionalisation.

There are different reasons for these forms of recognition, but they all converge in a need to give the State a useful tool for establishing and differentiating the legal status of autonomous territories, while affording the flexibility required to be able to adapt to the complex demands of the rule of law in our modern age.

A number of Council of Europe member States fit this category, having regions with a special status: Azerbaijan (Nakhchivan), Finland (Åland Islands), Georgia (Autonomous Republic of Adjara), the Republic of Moldova (Gagauzia), Portugal (the Azores and Madeira), Serbia (Vojvodina) and the United Kingdom (Scotland and Wales).

In all these cases, whether we are talking about partial regionalisation or asymmetrical regionalisation, special status is granted to specific parts of a state's territory.

There are different reasons for these forms of recognition, but they all converge in a need to give the State a useful tool for establishing and differentiating the legal status of autonomous territories, while affording the flexibility required to be able to adapt to the complex demands of the rule of law in our modern age.

Partial regionalisation is still limited to the countries that already had this special type of self-government in 2007.

2. Countries with mono-sectoral regionalisation

“Mono-sectoral” regionalisation is regionalisation of a specific type involving only a single or a small number of responsibilities and where the regional institutions do not manage – as the Congress puts it – “a substantial share of public affairs”.

This type of regionalisation is to be found in Denmark and Sweden. In Denmark, the only responsibility that municipalities are deemed unable to manage is responsibility for health, which has led to the establishment of a special regional tier: special-purpose regions, competent for health alone. No reform of Denmark’s local government structure seems likely at the moment. During the last election campaign (2011) some parties, particularly the Liberal Party, *Venstre*, supported dissolution of the regions. Their main argument was that the regions had been unable to manage the hospital system efficiently and effectively and had not met the targets set by central government. They therefore wanted the hospital system to be managed by the latter. The Social Democrats, on the other hand, supported strengthening the regions and increasing the scope of their authority. Despite this debate and the victory of the Social Democrats, the structure of local government has remained the same, and change is not on the agenda.

In Sweden, 2009 saw the first appearance of two experimental regions (*Västra Götaland* and *Skåne*), which became permanent in 2011. Between 2011 and 2014, eight new regions were created, to the detriment of the former counties and county cooperation councils. Overall, Sweden has thus been reorganised into 10 regions and 11 county councils. In reality, the regions’ main responsibility is still management of hospitals and other healthcare-related institutions: expenditure in this field represents approximately 85% of their budgets. Their duties are laid down in special legislation such as the 2001 Social Services Act, amended by the 2011 Social Assistance Act, and the 1982 Health Services Act. The regions are able to raise taxes to ensure that the health system works properly.

3. Countries with administrative regionalisation

We will now examine the cases of various countries which qualify as having attained the highest level of territorial autonomy, that is to say entities established, across the entire national territory and at a level below central government, as “regions”. In actual fact the situation in these regions varies, but what they have in common is a reduced autonomy as compared with that enjoyed by central government. Above all, unlike in countries with a “strong” degree of regionalisation, they do not have any legislative competences or the possibility of adopting a statute determining their own, differentiated operating conditions. The autonomy accorded to them is definitely political, at least in all the cases where these entities are governed by bodies elected directly or indirectly by the citizens.

Let us first consider the situation in those countries where the “regional” level is the only tier of intermediate government between the municipal level and central government. This applies to Albania, Croatia, the Czech Republic, Greece, Hungary, Ireland, the Netherlands, Norway, and Slovakia. In all these countries the supra-municipal tier of government is recognised and guaranteed by law, but it is not always clear whether this constitutes explicit recognition of regional status or whether what one has is a second tier of local government (similar to the province/département level) without any of the features of regionalisation. This issue is most disputed in the case of Greece, where far-reaching territorial reform has created second-tier entities called *peripherias*. Their territory extends far beyond that of the previous 50 prefectures, but, in the view of the experts, they still do not seem to be fully regional in terms of their legal status. The same can be said in the case of Ireland, where a similarly radical territorial reform seems to have focused more on creating a strong basic municipal tier (which is stronger precisely due to the sharp reduction in their number) rather than on establishing a proper regional level (as the bodies of the three regions are not directly elected).

We will now look at countries which have three tiers of government below the central State administration: France, Romania and Ukraine. In the case of Romania, the relevant chapter clearly illustrates a process of consolidation involving a two-tier local government system comprising the municipalities (numbering more than 3,000) and the counties (*județe*), with above them eight “regional” authorities, whose size might make them compatible with genuine regionalisation, but which do not, in fact, have any significant competences (only statistical functions). The debate about creating proper regions is still on-going and seems far from reaching a swift conclusion. This merely confirms that it is difficult to regard both the counties and the regional-level authorities as proper regions. In Ukraine it seems that the drive towards regionalisation is currently blocked by the present conflict, for fear that recognising regional autonomy might also afford some parts of the territory a legal basis for seeking their secession, resulting in a break-up of national unity.

In the case of France, the regionalisation process can indeed be described as merely administrative in nature, because French regions have not been assigned all the characteristics associated with strong regionalisation. However, this does not mean that the country's regionalisation is to be considered as nonexistent. In fact, the regions show many features of considerable autonomy, such as direct election of their governing bodies, a degree of financial autonomy and a range of not insignificant administrative functions, which might also increase if the reform of local government entities were to be implemented, especially the envisaged abolition of the départements. The gap between the French experience and the situation in the other countries mentioned here in terms of weak regionalisation remains significant. The territory of the regions, particularly in the wake of their recent reduction to 13, is certainly consistent with the magnitude of a real region. There is genuine political autonomy (the regions can draw up their own priorities and policy guidelines, which are separate from those of central government). They also have substantial administrative functions.

Countries with strong regionalisation

1. Regionalised countries

While they point to a serious risk of recentralisation, the processes restricting the powers granted to the regions discussed in section 4 above do not seem to suffice to justify a change in the classification of the two countries traditionally included under this head: Italy and Spain. In fact, in both these countries, during the period under review, there was nothing to undermine the key features of strong regionalism, ranging from statutory autonomy (particularly relevant to certain "asymmetrical" regions, such as the special regions in Italy, and some regions in Spain) to legislative competence, strong dialogue with the state (in parliament and via the conference system) and a constitutional guarantee of regions' powers.

However, in both cases, it must be noted that any process of change from a regional to a federal form of government has come to a halt. In Italy, "federalism" has long been referred to as a destination of the regionalisation process. However, the economic and financial crisis, with particular emphasis being placed on centralisation so as to contain public spending, seems to have swept away this prospect. As for the constitutional reform currently going through the approval process, on the one hand, it significantly reduces the areas of regional legislative competence, and, on the other hand, while transforming the second chamber (the Italian Senate) into a chamber that is more explicitly territorially representative, in which a majority of the future senators will be regional councillors, it will not make of it a chamber of the regions (there will also be representatives of the municipalities present) nor a federal chamber (modelled on the Bundesrat). As for Spain, the demand for independence first raised by the Basque Country and now more actively by Catalonia seems, so far, to have tended to obtain a centralist response from the national government, which has ruled out any opening up towards federal type models compatible with a further differentiation of the status of the various regions, precisely because it has perceived a risk of being overly receptive to separatist aspirations.

2. Federal countries

That leaves federal countries which, apart from the three traditional ones (Austria, Germany and Switzerland), include Belgium (which has now completed the entire process), Bosnia and Herzegovina and the Russian Federation. Within each of these countries there have been some moves towards greater centralisation, above all in connection with the need to control public spending, but without any questioning of the formal foundations of government, leaving the key features which differentiate federal from regional states intact.

Correlation between our classification and the Regional Authority Index

Our classification of countries by degree of regionalisation is broadly consistent with the measurement method used by the Regional Authority Index (RAI) developed by the University of North Carolina. The data in this index cover subnational levels of government with an average population greater than 150,000. The sample includes all European Union member states, member states of the Organisation for Economic Co-operation and Development (OECD) and 10 countries in Europe outside the European Union. The RAI measures regional authority and the depth of the regionalisation process using a set of indicators: institutional depth, policy scope, fiscal autonomy, borrowing autonomy, representation, law-making, constitutional reform, executive control, borrowing control and fiscal control. These 10 dimensions are aggregated into two domains: self-rule, or the authority exercised by a regional government over those who

live in its territory, and shared rule, or the authority exercised by a regional government or its representatives in the country as a whole.

By way of example, countries that we have classified as having a high level of regionalisation had the following scores:

Belgium	28.1
Bosnia and Herzegovina	30
Germany	29.1
Italy	22.7
Russian Federation	16
Spain	22.1

For other countries where regionalisation is less advanced, the RAI shows lower scores:

France	16
Ireland	6
Poland	8

France's score – the same as the Russian Federation's – is significant and confirms our evaluation: France, despite a form of purely administrative regionalisation, still has a robust, well-established system.

Underlying trends

The study of regionalisation processes in Europe from 2007 to 2015 has brought to the fore two very distinct patterns. On the one hand, there are no explicit, formal transformations taking place as regards the form taken by the state, while, on the other hand, regionalisation models are undergoing substantial change, with internal adjustments being made to the model.

No formal transformations are taking place in the sense that:

- a) there is no sign of any general regionalisation process, with a network of entities having the characteristics of regional autonomy being created across the entire national territory;
- b) there are no further instances of partial regionalisation;
- c) there are no cases of regional models being converted from weak to strong or from strongly regional to federal;
- d) opportunities are opening up for strengthening some regions to the detriment of others (Scotland is heading in this direction, whereas in Catalonia the outlook is still very uncertain).

Even without any transformation of the formal model, the context in terms of regionalisation is shifting almost everywhere. This is down to reforms which are affecting the role and the weight of the regional institutions within each country. We have seen the effects of territorial reforms, especially of the local government structure (reduction in the number of tiers of government and the number of bodies at each level), on the competences and role of the regions. We have also seen the impact of the financial crisis on the regions' legislative and administrative competences, with the trend seeming to be heading, albeit at a modest pace, towards a renewed concentration of powers in the hands of national governments. We have seen the same impact of the crisis on procedures aimed at reducing and harmonising public finances, with an increased role played by national governments.

Regionalism is therefore at a standstill, if not in a slow, but obvious phase of decline. In the European Union, the role of the member States is being reaffirmed with greater vigour, to the detriment of the closer links which could be achieved by the regional level. This raises the underlying question whether the regional idea, promising autonomous and separate development, solidarity and equalisation of financial resources, cannot be regarded as too closely linked to the long period of expansion of social rights and the rise of the welfare state and is not at risk of being undermined by austerity policies, the sharp reduction in public spending and the role played by public intervention in the economy and society.

ALBANIA

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Basic units of Local Government

The Parliament of Albania passed a new law on Local Self-Governance on 18 December 2015. Starting from January 2016, the new law replaces the law no. 8652 of 31 July 2000 "On organization and functioning of local governance. The new law "On local self-governance ", was preceded by another important law, the law 115/2014 "On the territorial and administrative division of local government units in Albania that was passed by the Parliament on 31 July 2014. According to the effects of the latter law, which has envisaged the so called Territorial and Administrative Reform (TAR), the number of local government units in Albania is reduced from 373 (divided in 308 communes and 65 municipalities) to only 61 municipalities. The new number of local government units was rectified and therefore became effective with local elections that took place in June 2015.

According to the Constitution of the Republic of Albania and the newly effective legislation of Local Self-Governance in Albania is organized in two tiers of governance units. Municipalities are the basic units of local government and represent the first tier. They have similar public responsibilities and possess similar types of authority and competence. Currently Albania has 61 municipalities.

Regions constitute the second tier of local government. The Albanian name for what is translated in English as Region is "Qark", whereas the governing body of the Region/Qark is the Regional / Qark Council. Although of recent legislative changes Albania has still 12 Regions/Qarks.

The region represents an administrative-territorial unit, composed of several municipalities with common geographic, traditional, and economic, social and community interests. The territorial area, name and capital of the region are determined by law. Regional boundaries match with the peripheral boundaries of composing municipalities. The new law on local self-governance has abolished the districts as administrative subdivisions of the regions.

When the new constitution (1998) and the following new organic law of local government (2000) were designed and effected, the main purpose was to create the first tier of local government on the basis of the "subsidiarity" principles of the European Charter of Local Self-Government and to develop the decentralization reform which would lead towards self-sufficient municipalities and communes. Therefore, at that time, little thought was given to detailing the role, functions and resources of the second tier. The regions/qarks were created more as a response to EU regionalization efforts, although the immediate purpose was to define administrative divisions, taking into account some former form of organization, with ambiguous legislation for self-regulation of the role and functions of the region/qark. The region/qark is composed of two organs, the regional council otherwise the representative body and the executive body. The representative body is composed of members from composing municipal councils represented proportionally to their constituency. Mayors of municipalities are members of regional council. The chairman of the regional council as representative of the executive body is elected by the council.

By virtue of law, regions as the second tier of local self-governance enjoy the same rights as municipalities at the first tier. According to the provisions of the local self-governance law, the region has powers and responsibility for certain areas, including self-governance, property, generation of revenues, levy of fees and taxes and developing economic activities. They exercise these rights in relevance with their own designated functions as defined by the same law. The region is recognised as exercising three main functions: a) design and implementation of regional policies and the alignment of these with state policies at the regional level; b) functions that are delegated by municipalities; and c) functions that delegated by the central government. It should also have a coordinating role in harmonizing national policies with local and regional ones.

Regions are financed from the state budget under the unconditional transfer designated to local self - government units. In 2016 the share of unconditional transfer to regional councils is as much as 3.4% of the total unconditional transfer designated from the state budget to local self-government. Rural regional roads along with designated funds from the state budget, which were defined as regional roads until 2015, are now transferred to municipalities, consequently reducing the amount of budget allocated in 2016 as compared with a year ago.

Historically, since the regions are created, almost none of the functions defined for the regional/qark councils have been put into practice. Since 2003, with donor support, all regions have designed regional development strategies. Despite the good experiences that have been collected in some of the regions and donor support in designing and development of regional strategies, there is still a low level of practical implementation. In 2008 a Cross Sector Strategy for Regional Development was approved, which aimed at social and economic sustainable and balanced development from a spatial perspective and the empowerment of the regions to contribute to this development. A regional development law was drafted in the framework of this strategy, but has not yet become effective, so the strategy has yet to be implemented. The draft law defines objectives, principles, instruments and the institutional framework for management of regional development and promoting of a balanced regional development in the Republic of Albania.

The impact of socio-economic development at the regional level has been weak, owing to the lack of a clear model for regional operation, lack of financial resources, assets and low capacity.

So far, the country has yet to effectively implement a regional development policy. The Cross-cutting Strategy for Regional Development, 2007 (CSR) primarily dealt with the needed institutional setup and regional strategic planning and management processes, while financial mechanisms were developed independently through the fiscal policy (competitive grants, since 2010 under the Regional Development Fund). The interrelations of regional development and decentralization have not been closely analysed and assessed, and indeed there is no consensus as to at what level regional development policy should be applied. Integration into the European Union, which is a strategic choice for Albania, will require the adoption and integration of EU regional (cohesion) policy principles and practices into the domestic RD policy framework.

Nonetheless, the new Decentralization Strategy 2015 – 2020, and consequently, the new law “on local self-governance” appear to try to, if not diminish, save the role and the functions of regions/qarks in Albania, at least until a new formula is politically agreed for the national election system. Territorial and administrative reform (TAR) will affect the organizational revision of the state structures at the local level in accordance with the new division into 61 municipalities. Regional departments of Agriculture, Education, Environmental, State Police, etc. will undergo restructuring. These functions will be shared with municipalities rather than being transferred to regional councils.

In future the role of the region as a local self-governance unit of second tier is likely to diminish. The government is planning to establish at least four regional economic development agencies which will be subordinated to central government. It seems that when these agencies will become effective, they will take over part, if not all, of the functions of the regions, namely to design and implement regional policies and align these with state policies at the regional level.

So far, there are neither administrative nor self-governing regions in Albania that correspond to NUTS 2 level classification. Regions/qarks are the equivalent of NUTS 3 level. Currently in Albania there is no clear definition of a development region. However, in general it is perceived that qarks can be considered an appropriate level at which regional development can be analysed, promoted and monitored.

Statistical data concerning local authorities

Albania is one of the smaller countries in Europe, both in terms of population and surface area. It is comparable to many of NUTS II regions.

According to the size of population Local Government Units are categorised as in the following table. Most of the LGU or 75.6 % fall within the group with a population size of 2,001 to 10,000 habitants, with only two of them or just 0.5% representing cities with populations over 100,000 habitants.

Table 1: Statistical data for regions in Albania

Regions	Municipality/communes		Population		Surface km2	
	Absolute	%	Absolute	%	absolute	%
Berat	25	6	239,185	5	166.4	0.6
Diber	35	9	194,873	4	2373.1	8.57

Durres	16	4	397,925	9	704.7	2.55
Elbasan	50	13	431,113	10	3251.2	11.7
Fier	42	11	473,611	11	1739.5	6.28
Gjirokaster	32	8	161,817	3	2902.2	10.48
Korce	27	7	359,091	8	3503.2	12.66
Lezhe	37	9	115,120	2	1514.4	5.47
Kukes	21	5	210,692	4	2479.1	8.96
Shkoder	33	8	334,462	7	3184.2	11.5
Tirane	29	7	951,364	22	1645.9	5.94
Vlore	26	6	359,177	8	2719.5	9.82
Total	373	100	4,228,430	100	27682.4	100.0

According to the Civil Census Register, Albania has a population of 4,228,430 habitants, whereas data of the 2011 Population and Housing Census of Albania indicate a resident population of 2,831,741 habitants. For the purpose of the state budget law of 2016 and the definition of the local government unconditional transfer, population of the country was calculated based on the adjusted number of Census 2011, with the addition of the difference of population from the Civil Registry minus Census 2011, multiplied by 30% (Census 2011 + (Civil Registry-Census 2015)*30%). As result of this adjustment, the population of Albania as of end of 2015 is calculated to be 3,305,004 habitants.

In 2011, for the first time in the history of the country, the population living in urban areas (53.7%) surpassed the rural population.

Following the new territorial and administrative division, population data indicate that:

- 8 % or about 5 municipalities have a population ranging from 9,000 to less than 20,000 habitants;
- 44% or about 27 municipalities have a population ranging from 20,000 to 50,000 habitants;
- 31 % or 19 municipalities have a population ranging from 50,001 to 100,000 habitants;
- 9 or 15 % of municipalities have a population from 100,001 to 250,000 habitants; and
- only Tirana, the capital of the country has a population over 500,000 habitants

Institutional and functional characteristics of Regions/Qark in Albania

The law no 114/2014 "On the territorial and administrative division of the local government units in the Republic of Albania", adopted by the Albanian Parliament on 31 July 2014 and cleared by the Constitutional Court in September 2014, paved the way for the organization of local elections of June 2015 on the basis of a new organizational structure of 61 local governments in Albania through merging the former 373 LGUs. Therefore, since June 2015, the local government in Albania operates through 61 municipalities, which have assumed the responsibilities and challenges of managing local public matters, delivering municipal services and promoting local development.

Institutional and administrative organisation

The administrative and territorial reform represents a major achievement about enabling the environment for improving the efficiency and effectiveness of local governments; however the further consolidation of this

reorganization and the efficient functioning of the local government units remains a challenge for both the central government and newly established municipalities.

With the new law on local self-governance that was passed by the Albanian Parliament on 17 December 2015, municipal mayors are directly elected for at least two consecutive four year mandates, with the right of re-election after a vacant mandate following the first two ones. Municipal council members are elected by proportional representation, with their mandates not being limited.

As the second tier of local government in Albania, the region represents an administrative-territorial unit, composed of several municipalities with common geographical, traditional, and economic, social and community interests. The territorial area, name and capital of the region are determined by law. Regional boundaries match the peripheral boundaries of composing municipalities and communes. Districts are administrative subdivisions of the regions.

The representative body of a region is the council of the region, consisting of delegated representatives from elected councillors of constituting municipalities in proportion to the number of inhabitants, but with a minimum of at least one representative; the mayor/head of the municipality/commune is always a member of the regional council. The number of the representatives from the municipalities and communes in the council of a region is set in proportion to the number of residents in the municipality or commune in the region as stated in the new Law on local self-governance, Article 73, as follows:

- Municipalities with population up to 20 000 inhabitants have 2 representatives;
- Municipalities with population from 20 001 to 50 000 inhabitants have 4 representatives;
- Municipalities with population from 50 001 to 100 000 inhabitants have 5 representatives;
- Municipalities with population over 100 001 inhabitants have 5 + 1 representative for each additional population of 1 to 50 000 inhabitants;

The chairman of the regional council chairs council meetings, oversees implementation of council decisions and public administration action at the regional level, supervises the activities of economic institutions and companies and prepares the draft budget.

Competences

The regional council, as a community representative body, is established in compliance with Article 110 of the Constitution.

Essentially, the regional council is established for the administration of resources in those sectors where efficiency can be achieved through economy of scale. Thus, it was conceived to optimise the action of economic, social and political factors, securing a long-term governing efficiency in the service of citizens at regional level.

The primary function of the region/qark according to the provisions of the new law 139/2015 on local self-government, is the responsibility for the design and implementation of regional policies and the alignment of these with state policies at the regional level; it has a coordinating role in harmonizing national policies with local and regional ones.

According to Article 73 of the same law, the region is obliged to exercise other functions as they are delegated from the first level of local government and/or from the central government agencies. Nevertheless, delegated functions, exercised by region bodies under the authority of the State, are limited; this is consistent with the fact that ministries and their national subordinated institutions have their own field services based at the regional or district level.

Law 139/2015 establishes that local governing units, including regions can create administrative structures to carry out their functions/exercise their powers (Article 9). The organizational structures and staff of all local offices at the region level are determined by the local bodies themselves with respect to standards as defined by other laws. The local council makes the final decision on the administrative structure, personnel and regulations on internal operations.

Compared to the municipalities, regions are weak in terms of the functions they have been assigned. But, it is argued that they are a recent creation and will take time to grow into their role. Others would argue that, since they are primarily made up of local elected representatives, the latter are naturally not inclined to

transfer powers and financial resources to the regions, a level of government outside their sphere of direct competence.

When analysing the role and functioning of regions in Albania, one can gain the idea that regions do not function by themselves. However, the reason for this could be related to the fact that their functions have not been clearly defined, they lack financial and administrative resources and that they are arguably too many in number.

However, the future of regions in Albania has not yet been permanently decided; their reform is very much related to the national election system, therefore changes at the number and border of regions are a sensitive political issue, which addresses requires a political consensus.

Perhaps by reshaping the regional authority, Albania could make use of the EU regionalization principles, so that the size and functions correspond to those of NUTS 2 regions.

Financial autonomy

The new law 139/2015 sets out the framework of finance at local level. The law establishes the right of local governments to generate revenues and make expenditures in the course of the execution of their functions. They have the right to set taxes and fees in compliance with the legislation in force and the interest of the community. They also have the right to adopt and execute their own budget.

In executing their functions, local government units are financed with revenues deriving from locally levied taxes and fees, funds transferred from the central government and funds derived from shared national taxes.

Locally revenues comprise a) local taxes, b) local tariffs/fees, c) loans, d) different donations and sponsorship, e) other revenues generated by the economic activity, rents and sale of property, and f) the right to use local public property and the issuance of licenses, permits, authorizations and issuance of other documentation.

The Law on Local Self-Government defines revenues deriving from national resources which consist of: a) shared national taxes, consisting of a portion of certain central government taxes, such as the personal income tax and the company profit tax; b) Unconditional transfers from the state budget; and c) Conditional transfers from the central government.

The 2002 State Budget Law introduced the concept of unconditional transfers, the distribution of which is based on a formula. The earlier formula is revised with the State Budget Law of 2016. A major improvement in the formula of 2016 is the adjustment of population, since it is the most important criteria for the allocation of funds through all municipalities. This formula also balances the need to take account of objective criteria related to the cost of local services and to ensure a measure of equalization to support poorer local governments. The equalization criteria were introduced in the formula with the implementation of the local fiscal package.

The share of the regions in 2016 consists of 3.4 % as compared to 9% in 2014 of the total state budget unconditional transfer, which is dedicated to the functioning of local governments. The reduction of state budget allocated to regions indicates clearly a reduction on their administration, functions and responsibilities. Most of the unconditional transfer (99%) is allocated to financing the execution of the basic functions of the region and 1% is a kind of contingency fund for emergencies. These basic functions include the salaries of local administration employees, leaving little for financing any development action.

Although the regional council has the right to levy taxes and generate own revenues from own legal resources, in practice this has been impossible to implement, therefore the fiscal autonomy of regions is limited to their discretionary autonomy to allocate the unconditional transfer they receive through the allocation of the state budget. Any other funding is earmarked and is mostly related to maintenance of roads, which are classified as regional when serving or connecting more than one either communes or/and municipalities.

The organic law implies that member municipalities, to the decision of their councils, may pay a membership fee to the regional council. This expenditure is at the discretion of the constituting municipal councils. Nevertheless, not always and not all member municipalities pay the fee. However, since no penalties are imposed on those member units that do not pay their membership fee, this has never become a real source of revenue for the region.

In the 2010 budget year, the government introduced some changes to what was formerly known as the "Competitive grant system" for financing of small local infrastructure, which was later renamed as the "Regional Development Fund". Although the system was renamed, the system allocating regional development funds remains the same, with the Albanian Development Fund, a non-profit state organization, in charge of evaluating the proposals for general infrastructure projects, and line ministries in charge of screening sector projects. In addition, the Grant Award Committee for the Regional Development Fund has been chaired by the Prime Minister and is composed of nine ministries and representative of local government associations. Initially qarks received substantial support from competitive grants but eventually became practically absent as beneficiaries. The major reason for this is the limited investment competences given to qarks under the current decentralization policy. In 2006 the competitive grant given to the councils of regions/qarks constituted 34% of the total, in 2007 15% and since 2008 the figure has been less than 3%, whereas the State Budget Law of 2016 sets it at 0 %.

Control and Monitoring of Local Government Activity

Article 13 of Law 139/2015 establishes a general principle of control and oversight of local self-government activity. In the case of financial control, this oversight is aimed at ensuring legal compliance. Ministries oversee local government activity related to the execution of relevant delegated functions. Paragraph 2 of Article 13 foresees that decisions, acts and regulations and financial operations are subject of inspection and verification on legislative substance from bodies that are defined by other laws.

Particularly on financial aspects, the activity of local government units is subject to control by exterior bodies and central government relevant institutions on conditional and delegated functions from the State Budget, which authority is defined by another law.

Local government activity is also subject of control from the Supreme State Council. Unlike the previous law (no. 8652/2000) the new Law 139/2015 does not make reference to the Prefect role in the control of legacy over acts, norms and regulations that are issued by local government units.

Prefect control

The Prefect is the representative of the Council of Ministers at the regional/qark level. Although the new law 139/2015 on Local Self-Governance does not make any reference to the role control role of the Prefect, still, according to the Article 6 of the Law no. 8927 of 25.July 2002, "On the prefect" as amended, the Prefect's is the only authority with the right of control over legacy acts, decisions and regulations issued by local government units, including decisions issued by regional councils. Any intervention by the Prefect office in local government (including regional council) acts does not necessarily lead to the execution of these acts being interrupted.

According to the Prefect law, if the local government act is found to be incompatible with the legislation, the act is returned for revision to the decision-making authorities. If after revision, the act is still found not compatible with the legislation, then the Prefect can take the case to court for final decision, while the local governments may continue to execute the act in question.

Internal audit

Internal audit is regulated by Law no. 9720 of 23 April 2007 "On internal audit in public sector" as amended by Law no. 10318 of 16 September 2010. According to this law all state organizations including local governments which receive state budget funding are subject of auditing. It covers the audit of all decisions and acts that involve financial actions, including revenues and expenditures, management of local assets and debt management executed by local government units.

According to the law "On financial management in the Republic of Albania", all government agencies (including local government) are responsible for establishing a sustainable system of management and financial control and an independent structure of internal audit. The internal audit units in each local government report both to the local government and to the General Directorate of Audit at the Ministry of Finance.

In addition, according to Article 54 of the Local Self Government Law, internal financial control is exercised by the Finance Committee of the Municipal and Council. The council is entitled with the authority to establish a

finance committee, which controls the income and expenses incurred by the executive body in accordance with the budget approved by the council.

External Control

External control is exercised by the State Supreme Control (SSC). The SSC is an independent institution, the highest institution for economic and financial control of the Republic of Albania. In exercising its competences, it is subordinate only to Parliament. The head of the SSA is appointed by Parliament.

Article 13 of the Local Self-Governance Law makes local government units subject to the control of the SSC. The SSC performs economic and financial control and evaluates the legitimacy and regularity of acts and the overall activity of local governments. It operates on the basis of an annual program and also at special request of state or local government bodies.

Relations with other levels of government

The legislation which regulates co-operation among local and regional authorities is based on the Constitution and the Law on Local Self - Governance. Article 109 of the Constitution states the right of local governments to create joint institutions for their representation. It also specifies their right to cooperate with local units of other countries and join international organizations of local governments.

The new law on local self –governance contains a special chapter on cooperation between municipalities and among them and central government agencies. Chapter V and the articles 14 of the Law provides for their rights to be organized in associations in conformity with the respective legislation for associations. The establishment of the Albanian Association of Regions (AAR) as a representative and lobbying group creates a practical basis for implementing inter-municipal cooperation among local government units. However, the AAR has not been very active in recent years.

Cooperation among local government units is also encouraged by other legal acts. Thus the law on Territorial Planning (Section III including articles 15-20) defines types of cooperation, intermediation and delegation to authorities and tasks between levels of governance, to include central government agencies, communes/municipalities and the regional council.

Cooperation between Local Government Units

The objective of such cooperation is to link neighbouring municipalities and them with region council and, if necessary, with central government agencies, with regard to the supply of public services such as water supply, road maintenance, sewage discharge and urban waste and with primary and secondary schools.

Cooperation also focuses on the implementation of projects aimed at local sustainable development, increasing the efficiency for use of funds as well the concentration of financial resources in inter-communal and inter-regional projects. Cooperation is also supported through financial incentives for various sectors and projects where evaluation criteria for competitive grants or development funds have led to different type of cooperation.

Local cooperation at the regional level aims at establishing joint authorities in technical areas of local government (such as water supply, waste management and regional planning) which, in principle, can be better organized and managed at a higher level than a single unit of local government (subsidiary principle).

Cross-border cooperation

Cross-border cooperation is seen as a key requirement for integration, perceived as supporting sustainable development on both sides of the border, promoting economic and social development and more importantly helping to provide better service qualities for citizens on both sides of the border.

Under the Instrument for Pre-Accession Assistance, the European Union has granted important funds to stimulate the development of cross-border cooperation between Albania and neighbouring countries, primarily including EU member countries such as Italy and Greece, but also other countries such as Montenegro, the Former Yugoslav Republic of Macedonia and Kosovo.

United Nations Development Programme has strengthened the capacity of stakeholders in the Kukes region, as other donors have done with other regions, to participate in cross-border cooperation programmes

between Albania and Montenegro, Greece, Italy and between Albania and Kosovo in future programmes to strengthen capacities of local authorities, civil society organizations in managing cross-border cooperation programmes.

Despite this, the legal framework is still uncompleted, leading some communities to implement cross-border co-operation agreements through civil society, foundations, businesses, while respecting the rights of each country. Examples of this type of co-operation include citizen festivals, fairs, markets, sport activities, cultural performances, exchange of students etc. This has come as a result of providing information, guidance and assistance to local units in order to encourage cross-border cooperation.

Overall assessment

Albania is one of the smaller countries in Europe, both in terms of population and surface area. It is comparable to many of NUTS II regions.

Albania has two levels of governance: national, and a two tier local governance to include municipalities at the first tier, and regions/qark councils at the second tier. Directly elected bodies exist at central and local levels. Qark councils consist of delegated representatives directly elected at the level of communes and municipalities.

When the new constitution (1998) and the subsequent new law on local self-government (139/2015) were designed and implemented, the main purpose was to establish the first tier of local government on the basis of the "subsidiarity" principles of the European Charter of Local Self-Government and develop the decentralization reform, which would lead towards self-sufficient municipalities and communes. Still, little thought was given to detailing the role, functions and resources of the second tier, the regions, which were created more as a response to EU regionalization principles. The immediate purpose was to define administrative divisions, taking into account some former form of organization, with ambiguous legislation for self-regulation of the role and functions of the region/qark.

Albania's territory is organized into 12 regions and 61 municipalities. There are neither administrative nor self-governing regions in Albania corresponding to NUTS 2 level classification. Regions/Qarks are equivalent of NUTS 3 level.

Nevertheless, the remodelling of the region is being discussed with regard to consolidating its position as the administrative and territorial unit in relation to regional development, organization, functions, powers, election of regional council members and the chairman, the transfer of public properties and the autonomy of financial resources. This is part of an effort to match EU regional structures in the medium term.

NUTS 2 delineation for Albania could lead to a situation when development issues will become also relevant at the macro level – practically the number of NUTS 2 regions in Albania could vary between 2 and 3 unless the country is allowed to stay as a single region;

Territorial and administrative reforms has led to a much smaller number of LGUs, namely municipality and the qark level, especially since from a general perspective some of the qarks represent very small units, both in terms of population and size of the regional economy. Albania is one of the smaller countries in Europe, both in terms of population and surface area. It is comparable to many European Union of NUTS 2 regions.

In terms of financial autonomy and fiscal potential, regions/qarks in Albania only relay earmarked central government transfers. With only 3.4 % of unconditional transfers to cover (2016), most of which are designated to cover administrative costs, little autonomy and discretion remains for regional administration to devote to regional planning and development work. Although fiscal autonomy is legally granted, the potential does not really exist, therefore the generation of own revenues has been non-existent.

Communication and interchange of information between first and second (qark) levels of local governments is weak and ineffective. The law on local self- government remains vague with regard to defining functions and competences of the regional/qark council. The same is evident when defining the relationship between the two tiers. Lacking data and resources, regional councils remain weak in carrying out their main function, namely of designing and implementing harmonized regional development planning.

In order to build an effective second tier of local government, that is one guided by the EU regionalization principles, it will be necessary to revise the size of the region as an administrative unit in Albania. The level of

population, approximate to the minimum of NUTS 2 European regions, could be the guiding principle in a potential revision of region size in Albania.

The government of Albania is currently engaged in efforts to implement an effective administrative and territorial reform, that has been supported from most of the donor community. A trust fund has been established and a group of experts created to support this reform. As it has been presented to date, the reform has dramatically reduced the number of units to 61 municipalities, with a view to enhancing functional and financial efficiency. Although the reform has already become a fact, no statement has been made yet to date of a potential remodelling of regions/qarks, nor of reviewing the allocation of functions, vis-a-vis the development of the said reform. It seems that the main concern has been reduce as much as possible the number of local government units, with no thought given to the need for a regionalization process in parallel with the consolidation of the administrative divisions of local government at the first level.

AUSTRIA

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General situation in terms of territorial organisation

When the Austrian Federal Constitutional Act (Bundes-Verfassungsgesetz; hence, B-VG) came into force in 1920, it established Austria as a federal state, consisting of the nine constituent regions (Länder) Burgenland, Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Upper Austria, Vienna, Vorarlberg. This constitutional programme was spelt out by many detailed constitutional provisions many of which are still valid today. Federalism has thus always been one of the leading principles of the Austrian Federal Constitution. Its substantial amendment or abolition would mean a “total revision” of the Federal Constitution that would entail an obligatory referendum. With one exception, namely when Austria joined the EU in 1995, no such referendum has ever taken place. This does not mean, however, that Austrian federalism has not undergone any changes. One of the largest reforms impacting federalism has just entered into force: Since 1 January 2014, the Länder have had a share in the Austrian judicial system, since new Land Administrative Courts now decide on a major part of administrative appeals.

Austria consists of three territorial tiers, namely the federation, the nine Länder and 2,100 municipalities (Gemeinden). Naturally in a federal system, the Länder form a “genuinely” regional level, while there is no second-tier local government between them and the municipalities. Even though these structures are simple, a few exceptions apply: the first of these relates to Vienna, which is both a Land, a municipality and the federal capital. This requires some specification, which is mainly determined by Art 108 to 112 B-VG. The second exception concerns the symmetrical status of the Länder and municipalities respectively: Austria is a symmetrical federal state insofar as the Länder enjoy a basically equal status, irrespective of their size, number of citizens or historical genesis. Nevertheless, they are represented in the federal second chamber (Bundesrat) unequally, depending on their respective numbers of citizens. Neither does the Austrian system of financial equalization treat the Länder equally, but takes into account different numbers of citizens and other specific parameters.

The same goes for the municipalities, which are, for the most part, treated equally by the Federal Constitution, even though their financial resources differ. Moreover, 15 municipalities are “statutory towns”, whose statutes, which either exist for historical reasons or are enacted on the application of municipalities with more than 20,000 inhabitants, are Land laws. Statutory towns not only perform municipal tasks but also tasks that are elsewhere performed by district administrative authorities, which, constituting no territorial tier of their own, are the basic administrative authorities of first instance. Lastly, Art 120 B-VG programmatically provides for so-called “regional municipalities” (Gebietsgemeinden), which would indeed constitute a second-tier local government, if a specific federal constitutional law established them. As such a law has never been passed, no regional municipalities exist as yet; despite the constitutional deferral, the idea would have been to transform district administrative authorities, whose operative sphere regularly covers the territories of several municipalities, into genuine territorial bodies with democratically elected authorities.

It is inherent in federal systems that the differences regarding status between the federation and constituent states are less significant than those between the federation or the constituent states on the one hand and local government on the other. Sharing this characteristic, the Austrian Länder clearly belong to the “constitutional regions” of Europe, which are not only formally entrenched in constitutional law, but have primary legislative powers and even constitutional autonomy of their own, which allows them to regulate their internal organization within the federal constitutional framework. They are represented in the federal second chamber, which, apart from other functions, participates in the federal law-making process, and in many other formal or informal intergovernmental bodies; the character of Austrian federalism has therefore been often described as centralistic, but strongly cooperative. The Länder are not only responsible for various administrative subject-matters of their own, but they also perform a vast majority of federal administrative subject-matters on behalf of the federation (system of indirect federal administration). As mentioned above, the Länder now also participate in the Austrian judicial system, which had formerly been an exclusive federal power.

³ As this is not an academic paper, references are omitted. A selective bibliography is listed at the end of the paper.

The municipalities, instead, have only administrative, but neither legislative nor judicial powers. They do not share their powers with the federation and the Länder, but derive them only after a federal or Land law – depending on the federal distribution of competences – has assigned an administrative task to them. The Federal Constitution provides that laws must, in accordance with the subsidiarity principle, assign certain tasks into the autonomous sphere of the municipalities, where they may act without being bound to instructions given to them by federal or Land authorities, though they remain subject to various supervisory measures. Where laws omit this assignment, they will be unconstitutional and can be repealed by the Constitutional Court, but still legislative empowerment will be necessary for municipalities to act autonomously. Whether federal or Land laws assign other, non-autonomous tasks to the “delegated” sphere of municipalities, where they are bound to federal or Land instructions, is basically up to the federation or Länder. Neither are municipalities represented in the second chamber of the Federal Parliament, which reflects their subordinate position vis-à-vis the federation and the Länder. Still, however, they are regarded as a “third partner” in the arena of fiscal federalism, particularly when it comes to financial equalization, consultation on draft legal instruments with financial impact and budgetary stability. It is striking that the position of the municipalities is regulated by the Federal Constitution to an uncommonly high degree, though the Länder are mainly competent to enact implementing legislation on local government.

Constitutional Autonomy and Institutions

Under Art 99 B-VG, the Länder are empowered to enact their own constitutions which may complement the Federal Constitution as far as they do not violate it. The Länder constitutions may also repeat federal constitutional provisions and spell out the details. While, until the 1960s, the Länder constitutions were very similar to each other, rather repeating and implementing the Federal Constitution than creating innovative new law, this has changed over the last few decades. In some areas, we find a distinctive constitutional design, e.g. with regard to state symbols, state objectives, direct democracy or even fundamental rights that are granted in addition to those already granted at federal constitutional level. As regards the main institutions, namely the Land parliaments and the Land governments, key requirements are already entrenched in the Federal Constitution, e.g. that Land parliaments must be unicameral, elected by the Land citizens and that the Land parliaments elect the Land governments. The Federal Constitution also provides that the Land Governor, who presides the Land Government, is responsible for indirect federal administration, as far as this does not concern decisions on appeals against administrative rulings which fall into the competence of the new administrative courts. Both the administrative courts and, at first instance, the district administrative authorities are already regulated by the Federal Constitution; however, the Länder have relatively wide scope to determine the organisation of their administrative courts within the federal constitutional framework. The Land constitutions may also determine whether the Land governments are elected by the Land parliaments according to the majority or proportionality principle, which indeed differs from Land to Land. The Länder are, moreover, competent to establish auxiliary parliamentary bodies such as courts of auditors or ombudsmen at Land level: Land courts of auditors have been established in every Land. The Länder Tyrol and Vorarlberg both established a Land ombudsman, while the other seven Länder empowered the Federal Ombudsman to examine their own administrations.

Moreover, the Länder may also enact provisions on direct democracy at Land and municipal level, though they are required to safeguard the predominance of representative democracy. The Constitutional Court (VfSlg 16.241/2001) held that a provision of the Constitution of the Land Vorarlberg which had provided for “popular legislation” violated the federal constitutional principle of parliamentary democracy. Even though the Court’s reasoning was duly criticized on several points, the decision is a landmark case on the relationship between differing democratic concepts in a federal system. In the aftermath of the recent special parliamentary commission on direct democracy, the Länder and municipalities might, however, be allowed greater autonomy regarding this issue in the future.

Although the Federal Constitution predetermines institutional arrangements at Land level to comparatively large extent, Land constitutional autonomy has, on the whole, become rather more creative – and varied - in recent years.

Competences

In order for a system to be classified as federal, regions need to have not only executive, but also (primary) legislative powers. It is necessary that the Federal Constitution determines the distribution of competences at least with regard to basic structures, and that regions are not limited to the exercise of shared powers.

Accordingly, Länder competences under the Austrian Federal Constitution include both (primary) legislative and executive, exclusive and shared powers. As usual in most federal systems, exclusive federal competences are enumerated while exclusive Länder competences fall under a residuary clause. Moreover, the Länder share several enumerated powers with the federation, e.g. in cases where they have competence to enact implementing legislation (with regard to federal framework laws) and/or execute federal laws in a list of enumerated subject-matters. Several specific rules provide for extra regimes, such as power delegation, joined exercise of powers or concurrent powers, and thus deviate also from the general principle of "exclusiveness of competences" that underlies the Federal Constitution. Due to the symmetric structure of Austrian federalism, all Länder have the same competences, although it is up to them whether and how they exercise them.

On the whole, however, the Länder have fewer and less significant powers than the federation, even though they hold the residuary competence. Major exclusive Land competences refer to general aspects of spatial planning, buildings, transfer of real estates, event management, local government, sport and tourism, nature protection law, hunting and fishing, while their shared competences include, e.g., health and social issues. The distribution system, however, is highly intricate and fragmented so that it is often not easy to discern whether the federation or the Länder are competent for specific issues, a problem which increases with regard to those issues that are regulated by EU law as corporate issues, for which the implementation and execution in Austria involves both levels, each of which holds a part-competence for the relevant issue. A reform of the distribution of competences thus has been debated for many years. As a highly centralistic draft amendment presented in 2008 was broadly refused by the Länder, however, the reform still remains on the political agenda, while a recent federal constitutional amendment has entailed an at least temporary, severe infringement of Land and municipal powers: Due to coordination problems arising from the massively increasing number of asylum seekers coming to Austria, the federation was entitled to directly regulate their accommodation and distribution irrespective of the prevailing Land and municipal law in this field.

In political practice, some of the problems produced by the complex and fragmented distribution system are avoided through the frequently used option of concluding formal and binding agreements between the Länder themselves and between them and the federation (Art 15a B-VG). Without amending the distribution of powers, it is thus possible for them to agree on a harmonized exercise of their respective competences even in "divided" issues. Moreover, the Constitutional Court has developed several methods of interpreting the distribution of competences, the most important of which is a historical method based on the original intention of the federal constitutional law-maker. The Court has also stressed that a "principle of mutual consideration" applies to both the federation and the Länder, which means that each level has to consider the legislative interests of the other level, so that disharmony between their jurisdictions, based on excessively negligent consideration of one level by the other, would be unconstitutional. Although, in empirical terms, the prevailing case law has a slightly more centralistic tendency, the Court's interpretive concepts per se are consistent with the doctrines of mutual solidarity and loyalty common to multi-level systems.

Financial Autonomy

According to § 3 of the Financial Constitutional Act, financial equalisation is a federal competence. It is thus the federation that enacts the ordinary Financial Equalisation Act, usually every four years in order to allow for periodical adaptations. From a legal perspective, the federation does not need to involve the other tiers in the drafting of this Act, but it has nevertheless become a political custom to negotiate it with the Länder as well as municipal representatives before enactment. Usually, negotiations lead to an informal agreement between all parties which serves as the basis for the Financial Equalisation Act. Although the agreement, as such, has no legally binding character, the Constitutional Court presumes that a Financial Equalisation Act, when it is challenged as unconstitutional after its enactment, is reasonably justified, provided that all parties agreed to it in the preceding negotiations.

The Financial Constitutional Act also establishes a typology of charges (mainly, taxes and fees), that is exclusive and shared charges, the most important of which are those joint taxes that are levied by the federation, though they are distributed among all three territorial levels. The concrete apportionment of these types is, however, left to the Financial Equalisation Act that regulates precisely which charges are levied by which level as well as the exact extent of resources given to each level. The federation, the Länder and the municipalities thus receive their financial resources either from charges that are exclusively their own or which they share with each other in accordance with various keys based on criteria such as population number, so that their individual financial positions may alter considerably. Apart from this "primary" apportionment, the

Financial Equalisation Act also provides for allotments and subsidies, which are given by one entity to another depending on specific conditions such as extraordinary needs. This is also due to the constitutional principle that the allocation of financial resources must reflect the administrative tasks of territorial entities and that their capacities must not be overcharged. Additionally, the Länder are empowered to “invent” charges of their own as far as they are not already part of financial equalisation. Since most lucrative charges are already regulated by the Financial Equalisation Act, however, there is little left for the Länder, especially as it might be unpopular for them to create “innovative” charges. Other financial resources derive from their private-law activities that yield earnings, e.g. through privatized enterprises, since both the Länder and the municipalities are constitutionally empowered to act as persons under private law in all fields, without needing to observe the distribution of competences.

The federation, the Länder and, on express constitutional empowerment, the municipalities concluded two important agreements in the fiscal arena. The so-called consultation mechanism provides that a tier that wants to enact a law or decree which would be a financial burden on the other tiers, will be financially responsible unless the “consultation committee”, which consists of representatives of all tiers, resolves the issue. The second agreement is the “Austrian Stability Pact 2012” which establishes the internal standards for meeting the EU convergence criteria. It particularly provides for territorial debt limits and sanctions if these limits are not heeded.

The economic and financial crisis has clearly had an impact on the financial resources of the Länder as well as their budgetary autonomy, though it is a token of the typically Austrian co-operative federalism that these restrictions from part of an agreement between the tiers and not just prescribed by the federation single-handedly.

Controls

It is inherent in the Austrian federal system that, in principle, the federation and the constituent states are on an equal footing. As a consequence, Land (constitutional and ordinary) legislation is not subject to ordinary federal legislation, even though both Land legislation and ordinary federal legislation are certainly subject to the Federal Constitution. Neither are supreme Land authorities bound by instructions given by federal authorities, except in matters pertaining to indirect federal administration, while the Federal Government may exercise certain supervisory instruments over a Land Government in a few issues falling under shared power. While the Länder exercise some control over federal legislation via the Bundesrat and, in some few fields, through direct and absolute veto rights in the federal legislative process, the federal government may veto Land parliamentary bills if the execution of the intended law would rely on assistance by federal authorities.

Nevertheless, the Länder are subject to several controls by other bodies. Judicial control is exercised by courts, in particular the Constitutional Court and Administrative High Court, which ultimately decide on the legality of diverse types of legal acts, such as laws, regulations, decisions on appeals against administrative rulings originating from Land authorities. These courts, however, functionally work as “joint bodies” of the federation and the Länder, as they examine federal legal acts as well, even though their composition hardly has a federalist imprint. The Länder are also subject to financial control, performed both by the Federal Court of Auditors – which is an auxiliary body of the Federal Parliament’s first chamber (Nationalrat) – and the Land Courts of Auditors, which are auxiliary bodies of the Land parliaments. Auditing standards ensure the legality, numeric accuracy and efficiency of Land budgetary management. Reports given by the Courts of Auditors have no immediate legal effect, but they may instigate parliaments to use further instruments of parliamentary control vis-à-vis the executive; in a political sense, moreover, they contribute to transparency and public accountability. Finally, the Land administration is subject to ombudsman control, exercised either by a Land ombudsman who works on behalf of the Land parliament or by the Federal Ombudsman depending on specific authorization by Land constitutional law. The effect of this kind of control, which includes investigative measures, recommendations and monitoring reports, does not include immediate sanctions, though these could follow through parliamentary decision.

Other forms of control are exercised by Land Parliaments vis-à-vis Land Governments and, in a wider political sense, by the Land citizens at elections or when direct democratic instruments are (rather rarely) exercised. The establishment of independent Land administrative courts has reduced democratic control to some extent, since their judgments are subject to no scrutiny except that of superior courts.

Relations with other levels of government

Austrian federalism has a strongly cooperative character which countervails part of its deficits in other regards, though it is only to some extent provided by law. Intergovernmental relations between all three tiers – those between the Länder and the municipalities having a less co-operative and more hierarchical character – and particularly between the federation and the Länder thus play an important role. The main body representing Länder interests at federal level is the Bundesrat, which is the Federal Parliament's second chamber. Each Land Parliament, after having itself been re-elected, elects the members of its delegation to the Bundesrat, the number of which differs in accordance with the number of citizens of each Land (between 3 and 12 members per Land). Apart from some non-legislative powers, the Bundesrat has a suspensive veto right in most legislative procedures at federal level, though its veto may be overruled if the first chamber repeats its decision with a qualified quorum, while absolute veto rights apply only in exceptional cases (and are not exercised in practice). This system of imperfect bicameralism is aggravated by the Bundesrat's political inefficiency, since it represents political party interests much more than Länder interests and since its members are usually little-known regional or local politicians who rarely engage in proactive law-making. The Bundesrat has thus been criticized for a very long time: reform proposals range from its abolition (which would require a referendum, apart from the Bundesrat's own approval) to sundry organizational and functional rearrangements. In practice, however, its malfunction is somehow compensated by the conference of Land Governors, which is an informal, though politically strong body that represents Länder interests vis-à-vis the federation. Similar conferences exist at various levels, e.g. bringing together members of Land governments, presiding officers of Land parliaments or senior Land civil servants. The Länder have also established their own liaison office and further co-operate with the federation in many formal or informal bodies. Particular fields of co-operation concern fiscal federalism and EU matters where the Länder enjoy far-reaching participatory powers, most of which are determined at federal constitutional level; this is facilitated by their aforementioned power to conclude formal agreements between them and between them and the federation.

Conclusions

From a comparative perspective, Austria is a fully-fledged federal system, but the position of the Länder with regard to their competences and representation in the Bundesrat is rather weak. Even though the federal system as such is not at stake, federalism is nonetheless the most contested amongst the leading principles on which the Austrian Federal Constitution builds. This is not only due to the many amendments modifying the federal system, most of which had a centralizing impact, but also to political failure, both when it comes to explaining the advantages of a federal system and to agree on a reasonable reform that maintains the federal structure, but makes it more efficient and beneficial to the citizens. In the public debate, federalism is often equated with rather trivial political issues, such as the question why young people are subject to different youth protection restrictions, with regard to time limits when they have a night out, depending on the respective Land in which they live, or why costs arising from the members of the Bundesrat should be borne by tax-payers. In times of need caused by the present crisis, such questions can obviously generate more tension than at other times. Moreover, economic and financial miscalculations by several Austrian Länder have led to increased political pressure from the federal government and have contributed to a further tightening of regional budgets and financial autonomy.

On the other hand, however, the Länder have also profited in recent years, and particularly so in the ambit of European integration and cross-border cooperation, considering also that the Austrian Länder belong to the core "constitutional regions" of Europe. This concerns their post-Lisbon rights, which stand out among the rights of other regions, but also their new possibilities to cooperate with neighboring regions across national borders (e.g. the newly-established European Grouping of Territorial Cooperation "Tyrol-South Tyrol/Alto Adige-Trentino"). Finally, the recent establishment of genuine Land administrative courts has closed a gap, as the Länder now partake in all fields of state power, which is usual in most federal systems. Long-expected and almost abandoned, this has been a major institutional reform step, and it is not out of the question that it will be followed by others that still remain on the agenda.

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AZERBAIJAN

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General situation in terms of territorial organisation

Azerbaijan is a unitary state. According to Article 11 of the Constitution "The territory of the Azerbaijan Republic is sole, inviolable and indivisible". As mentioned in Article 134 (I and II) of the Constitution, "(the) Nakhchivan Autonomous Republic is an autonomous state within the Azerbaijan Republic and ... an integral part of the Azerbaijan Republic".

The Nakhchivan Autonomous Republic has a parliamentary system. The regional parliament is the Ali Majlis, a 45-member legislative assembly with a five-year-term. The constitutional or legal status of the Nakhchivan Autonomous Republic is also determined by the Constitution of the Nakhchivan Autonomous Republic and by two international treaties (Moscow and Kars, respectively signed on 16 March and 13 October 1921 and still in force). The status of the Nakhchivan Autonomous Republic is accordingly defined by both national legislation and international treaties.

The territory of the Nakhchivan Autonomous Republic, with a population of 438,800 is divided into seven administrative divisions called districts or rayons (Sharur, Babek, Ordubad, Julfa, Shahbuz, Kangarli and Sadarak) and the city of Nakhchivan, the capital of the autonomous republic. The status of these administrative rayons is determined by legal instruments of the Republic of Azerbaijan and Nakhchivan Autonomous Republic. The administrative supervision of these cities is exercised by government bodies of the Nakhchivan Autonomous Republic. According to the present legislation, the chief executives of the administrative rayons are appointed and dismissed by the President of the Republic of Azerbaijan on the recommendation by the Supreme official of the Nakhchivan Autonomous Republic (namely, the Chairman of the Ali Majlis).

In the Nakhchivan Autonomous Republic there are 171 municipalities, which also constitute part of the local self-government system of Azerbaijan.

Local administrative divisions (rayons) are not a regional level of government. However, national legislation recognizes the Nakhchivan Autonomous Republic as a regional level to establish its budget and determine relevant fiscal and revenue sources independently. At the same time, national legislation provides municipal budgets for self-governing rights at the local level.

There is no other regional governance in Azerbaijan. However, there are ten economic regions in the territorial structure of the country, which include several territories of administrative rayons (districts). These economic regions are an important component of the sustainable socio-economic development of the country and the subject of state programs adopted and carried out in the field of regional development by the central government over the last several years.

It should be mentioned that the territory of the Nagorno-Karabakh (Dağlıq Qarabağ) region of the Republic of Azerbaijan, including seven administrative rayons adjacent to Nagorno-Karabakh, is occupied by the military Forces of the Republic of Armenia. As a result, around one million Azerbaijanis have been expelled from their places of permanent residence and are unable to return home and enjoy their right to implement local self-government.

As the Congress rapporteurs have observed: "there are no regional governments in Azerbaijan. All regional public authority is exercised at the central level, and/or by the district authorities of the state administration. In such a highly centralized system, the mere existence of administrative districts might appear to be an obstacle to any democratic regionalization process. Nevertheless, the traditional centralism of the country and the weakness of the existing local government system are probably the most significant obstacles to the establishment of an effective territorial tier of government based on democratic elections. In the absence of territorial government, the fulfilment of regional tasks and functions suffer from a democratic deficit, since no effective control can be exercised by the citizens over these processes".⁴

⁴ Local and regional democracy in Azerbaijan (2012), Section 4.2, para 41;42

Discussion on administrative territorial reforms

According to the State Statistical Committee the territorial units of Azerbaijan comprise 66 districts (rayons), 14 city districts (şəhər rayonları), 78 towns, (şəhər) 261 settlements (qəsəbə), and 4,249 rural settlements (kənd yaşayış məntəqələri). Altogether there are 1,607 municipalities in the entire territory of Azerbaijan.

Amendments have been made to the law on "Territorial structure and administrative territorial divisions" (2012), according to which new local administered divisions have been introduced, as a subdivision of the territorial-administrative system. These divisions were created in territories with more than 20,000 inhabitants. The main aim of these amendments, as it was officially stated, was to bring state (central) government institutions closer to the citizens, to improve governance and to increase governance efficiency.

However, the new local territorial-administrative divisions, as mentioned above, do not constitute a regional level of government and will not be governed by a democratically elected municipal government accountable to its population. The reform is intended to make the system stronger and more centralized and it will more than likely serve as an obstacle, "to any democratic regionalization process".

The conclusion is therefore that the regionalization of the country and the establishment of a sub-national level of government are not on the political agenda.

Baku City Government

It should be added that, among Council of Europe member states, Azerbaijan is the only one with a large capital city governed by an unelected managing body and not by an elected city council. A proposal for the creation of a Great Baku Municipality as a tier of regional (city) government and the election of the Mayor of Baku still is in the political agenda and awaiting a solution. Given the substantial role of capital cities in their member states economies, it is clear that the non-existence of a Baku city council is inconsistent with the European Charter of Local –Self-government. Recommendation 126 of 21 May 2003 on "Local and Regional Democracy in Azerbaijan (article 8.2.6), and Recommendation 326 (2012) (section 5(o)) as well as the monitoring report on Local and regional democracy in Azerbaijan (2012) (section 11, para, 130-138) invite the Azerbaijan authorities to take robust measures to set up a municipal organ for Baku city. Unfortunately Recommendations 126 (2003) and 326 (2012)¹¹ of the Congress have not been implemented, despite the importance of these Recommendations being repeatedly underlined by local and international experts. "Having regard to the size and traditions of the government of Baku, a two-tier system of municipal government with a rational division of city districts, where directly elected councils would operate at both levels, could be more effective."⁵

Local self-governance (municipalities)

Local governance in Azerbaijan is carried out by both local executive authorities (state bodies) and municipal authorities in parallel. There are currently 1,607 municipalities in the entire territory of Azerbaijan. The number of municipalities was recently reduced from 1,718 to 1,607. Each municipality has a directly elected council, and there are over 20,000 elected local councillors in Azerbaijan. The largest cities, such as Baku (2,181,800 citizens), Ganja, (324,700 citizens), Sumgayit (329,300 citizens), Mingachevir (100,600 citizens) and Shirvan (81,800 citizens), include several municipalities in their territories.

According to art. 142 (II) of the Constitution, all municipalities have an elected council, in accordance with number of local population. The legislative and deliberative body of a municipality is the municipal assembly or the council, which consists of elected local councillors. Municipal councils are elected in general, direct, free, equal, and secret elections. The term of office of local councillors is five years. Municipal councillors are elected in multi-mandate constituencies by a relative majority voting system. The chairs are elected by the municipal councillors. The municipal board is composed of heads of several structural units, presents in each local authority meeting, and implements decisions taken by the municipal council. The board executive officers are appointed by the municipal council for a period of five years.

⁵The 2012 monitoring report, para. 135.

[https://wcd.coe.int/ViewDoc.jsp?Ref=CG\(23\)12&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C](https://wcd.coe.int/ViewDoc.jsp?Ref=CG(23)12&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C)

In the Nakhchivan Autonomous Republic there are 171 municipalities, which also constitute part of the local self-government system of Azerbaijan. However, the principle of regional self-government has not been foreseen in domestic legislation (the Constitution of the Nakhchivan Autonomous Republic).

BELGIUM

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General situation in terms of territorial organisation

Belgium is a federal state. Article 1 of its Constitution specifies that 'Belgium is a federal state composed of communities and regions'. This structure is the result of a long and difficult process, as Belgium moved from a unitary and highly centralised system (1831 Constitution) to a federal system in the course of five state reforms (1970, 1980, 1988-89, 1993 and 2001). These have recently been followed by a sixth state reform (approved in late 2013) that increases the autonomy and degree of responsibility of the federated entities (see below).

Belgium is a constitutional monarchy. The (limited) powers of the head of state are laid down in the Constitution, and the monarch cannot accede to the throne until he has sworn an oath of allegiance to that Constitution. The king reigns but does not govern. He cannot act on his own. All his acts must be countersigned by a minister, who must answer for them before the federal Parliament.

Belgian democracy is representative and parliamentary. Power is derived from the nation, which exercises it indirectly through free election of its representatives by universal suffrage using party-list proportional representation. The ballot is secret, and voting is compulsory.

Belgium has developed a type of federalism based on cooperation and federal loyalty. The most recent state reform emphasises the need for coordination between the federal state and the federated entities whilst substantially altering the distribution of powers between them to ensure that matters are dealt with more smoothly and, above all, more coherently.

Powers and institutions

State power reflects the traditional division into three separate powers, namely legislative, executive and judicial.

Federal state

Legislative power at the federal level is exercised by the Parliament (which passes laws) and the King (who approves and promulgates them).

It is based on a two-chamber system. The Chamber of Representatives (150 members), democratically elected by all Belgians aged 18 or over, enables a government to be formed. The Senate, which was recently reformed in depth (to become an 'Assembly of the Regions'), will no longer be directly elected but will consist of 50 senators drawn from the regional and community parliaments. 29 senators will come from the Flemish Parliament, 10 from the Parliament of the French Community, 8 from the Walloon Parliament, 2 from the Brussels Parliament (French-speaking group) and 1 from the Parliament of the German-speaking Community, while 10 senators will be co-opted (6 Dutch-speaking, 4 French-speaking) on the basis of parties' election results in the Chamber of Representatives.

The new Senate is therefore going to break with the formerly symmetrical nature of the federal parliamentary assemblies. It will no longer be permanent, and its sphere of competence will be limited to revision of the Constitution, institutional matters, settlement of conflicts of interest and, where appropriate, consent to some mixed federal and Community/Region treaties.

It should be noted that election of members of the Chamber of Representatives for a five-year term will now take place at the same time as elections to the European Parliament, which were already held on the same date as elections to the regional parliaments. A region may nevertheless decide by a two-thirds majority to choose a different date for the election of its assembly.

The powers of the federal state include (with a number of exceptions) justice, foreign policy, national defence, public order, rules governing nationality and immigration, social security, economic and monetary union, financial and monetary policy, telecommunications, development aid, relations with the European Union, tax law, transport (rail (SNCB) and air, but not buses and metro), energy, pensions, work and unemployment benefit, federal taxes, prices and incomes policy, and commercial and company law.

Communities and regions

1. Communities

The first state reform led to the establishment of three linguistic communities (Dutch-, French- and German-speaking). The concept of a 'community' denotes the people who constitute it and the bonds between them, namely language, education and culture. It should be noted that Belgium has three official languages: Dutch, French and German.

The Flemish Community exercises its powers in Brussels and the Flemish provinces, the French Community in Brussels and the Walloon provinces, and the German-speaking Community in the German-speaking communes (all situated in the Walloon province of Liège).

Brussels is therefore (administratively) a bilingual region (French/Dutch), although the majority of its Belgian inhabitants (over 85%) are French-speaking.

2. Regions

The concept of a 'region' is bound up with the concept of territory. Belgium has three regions: the Flemish Region, the Walloon Region and the Brussels-Capital Region. The Flemish Region covers the Flemish provinces (north of the country) and the Walloon Region the Walloon provinces (south of the country). The Brussels-Capital Region comprises the nineteen communes of the Brussels conurbation.

The communities and regions each have a legislature, an executive and an administration. Each of these federated entities also has a single-chamber parliament, its legislative acts take the form of decrees, and the government is formed after regional elections.

It should be noted that, unlike what has happened in the French-speaking area, the Flemish Region and the Flemish Community have merged their institutions (parliament and government) to create a single institution exercising the powers devolved to the community and region: the *Vlaamse Gemeenschap*.

3. Provinces

There are ten provinces: five Dutch-speaking ones (West Flanders, East Flanders, Antwerp, Limburg and Flemish Brabant) and five French-speaking ones (Hainaut, Namur, Liège, Luxembourg and Walloon Brabant). The Brussels-Capital Region does not contain any provinces.

A province is run by a provincial council, elected for a six-year term by the province's inhabitants. Its executive consists of members of the council. In general, provinces spend their budgets on education (mostly technical), although they also deal with the environment, social issues, tourism, recreation, emergency planning, the provincial highway network and refuse disposal.

The provinces are autonomous institutions supervised by the regions or communities, depending on the field. Each province is headed by a governor, who represents the regional government in it.

Communes

Belgium boasts 589 communes in all. Their powers cover everything relating to the 'commune's interests', in other words, to the collective needs of the inhabitants. More specifically, they pursue policy in the fields of housing, cultural and sports activities and facilities, social assistance, education, registration of births, deaths and marriages, economic development, public works and commune policing.

Each commune has a deliberative assembly (communal council) and an executive (college of mayor and aldermen). They set the amount of the commune's charges and taxes, pass budgets and vote on borrowing.

They are under the supervision of the regions, which determine their remit and oversee their work.

Institutional and administrative organisation

The regions (like the communities) have clearly defined powers and each has its own parliament and government, supported by an administration.

Under the principle whereby federated entities have the freedom to determine certain aspects of their own organisation, each entity can have its parliament decide the rules for its own composition (number of members, status, disqualification, electoral districts, voting method) and the composition of its government.

Regions

In the Flemish Region the parliament has 118 members, while the government has a maximum of ten ministers plus a prime minister.

In the Walloon Region, the parliament comprises 75 members, and the government has a maximum of eight ministers plus a prime minister.

In the Brussels-Capital Region, the parliament consists of 89 members (17 from the Flemish Community Commission and 72 from the French Community Commission).

The government consists of a prime minister (Dutch- or French-speaking), two French-speaking ministers, two Dutch-speaking ministers plus another minister (Dutch- or French-speaking). There may also be secretaries of state (Dutch- and French-speaking).

Communities

The Flemish Community has a parliament with 124 members (118 from the Flemish Region and six from the Brussels-Capital Region) and a government with ten ministers, including one from the Brussels-Capital Region.

The French Community (renamed the 'Wallonia-Brussels Federation'), whose parliament comprises 94 members (75 members from the Walloon Parliament and 19 from the Parliament of the Brussels-Capital Region), has a government of four ministers.

The German-speaking Community has a parliament of 24 members and a government of four ministers.

The regional or community administrative service comes under the authority of the relevant federated entity as regards its organisation (staff recruitment, status and careers). For example, in the Walloon Region the regional administration is organised around a key ministry (SPW – Wallonia Public Service) and a number of public bodies of either Type A (under the direct authority of the regional minister responsible for them and in whom management authority is vested) or the more independent Type B (supervised by the regional minister responsible for them through their board or management body).

Walloon Region employees have been estimated to number 17,000 (in 2010), split between regular and contract staff and between blue-collar and white-collar (85%).

Powers

The Belgian Constitution considers the federal state, the communities and the regions to be equivalent tiers. This lack of hierarchy between (federal) laws and (regional or community) decrees makes Belgian federalism almost unique with its equivalence of legislation.

The Belgian system has kept the principle of exclusive jurisdiction, which means that a specific power, or one aspect of that power, can be exercised at only one level. As for the residual powers, they are currently vested in the federal authority until Parliament determines, through a special-majority law (a majority in each linguistic group in the federal parliament, and a two-thirds composite vote), the powers belonging exclusively to the federal level. At present, residual powers are vested in the communities and the regions.

The communities are responsible for education, cultural matters such as the arts, cultural heritage, museums, broadcasting, print media subsidies and arts education. They also look after matters relating to individuals, such as family policy and child protection, policy relating to senior citizens and people with disabilities, preventive health care policy, home care and hospitals.

In addition, they deal with work-related issues in local government, education, relations between employers and staff, and official and statutory documents governing business activity.

The regions' powers usually cover 'territory-related' matters: regional economic policy, employment, local government, town and country planning, environment, urban and rural renewal, nature conservation, regional public transport, agriculture, housing policy, water and regional energy, the road network, sport, public works and international relations associated with regional powers.

The sixth state reform provided for further transfers of powers to the regions and communities. These transfers are currently taking place, but this will take time, since staff and budgets have to be transferred from the federal state to the federated entities.

The new transfers of powers to the communities cover health care and support for the elderly (nursing and care homes) and people with disabilities (mobility support), hospitals (accreditation standards, construction, renovation) and psychiatric care.

As for the regions, they have received new powers in the fields of employment (checks on jobseekers, including enforcement of sanctions; study and training for jobseekers; target groups; service vouchers; minimum income; local employment agencies; study leave; etc.), mobility (speed limits other than on motorways, vehicle roadworthiness testing, regulations on carriage of dangerous goods, etc.), energy, agriculture, local government (urban policy) and tax expenditure (energy, housing, service vouchers).

Financial autonomy

The principle of financial autonomy and financial responsibility for federated entities is enshrined in Belgian federalism. This financial autonomy entails the power to draw up the authority's own budget freely and the power to execute it. It also presupposes that the federated entity will have sufficient own resources to exercise its powers fully. Lastly, it implies being able to borrow for interim financing, to cover investment, and, within set limits, to finance deficits. At the same time, financial responsibility means that the federated entity must take sole responsibility for the financial consequences of its policy, with no federal state intervention to underwrite its liabilities or offset them.

To meet the cost of this autonomy, the special law of 16 January 1989 granted various sources of finance to the regions and communities.

The main resources of the federated entities come from a share of personal income tax allocated according to a tax formula and from a share of VAT revenue (intended to fund education powers and allocated according to number of pupils) as well as from their own taxes and from grants (for mortmain, foreign students and getting the unemployed back to work). Provision has also been made for an explicit solidarity mechanism for the poorest region(s).

The Belgian Constitution enshrines the regions' own fiscal authority, giving them a general and unlimited power of taxation; they can thus introduce taxes in any fields not yet taxed by the federal parliament. The main regional taxes are betting and gaming tax, gaming-machine tax, tax on opening of premises for sale of alcohol, inheritance tax for residents and non-residents, withholding tax on investment income, registration duties on property transfer and deeds of gift, tax on vehicle first use, green taxes and the radio and television licence.

For personal income tax, the regions can set general surcharges or reductions, either flat-rate or proportional, and introduce general tax relief in connection with their powers, within the limits set by a federal law.

The sixth state reform was accompanied by an overhaul of the law on financing the federated entities. The regions will have greater fiscal autonomy without the fiscal prerogatives of the federal state being reduced. The system will be based on increased responsibility in connection with the tax revenue generated locally and a vertical solidarity mechanism without adverse effects.

For the communities, financing will rest on neutral allocation methods based on population criteria (rather than pupil numbers).

As regards the Brussels-Capital Region, responsibility based on the region's tax capacity would not be neutral, since the income of a large number of people working there (commuters and employees of international institutions) are not taken into account. Special grants have therefore been provided to ensure that it is properly funded. The mechanism for solidarity between the regions has been kept, based on the difference between the population formula and the tax formula, but now compensates for only 80% of the gap.

In an effort to help reduce the Belgian state's budget deficit in terms of EU rules (mainly concerning the federal level), two mechanisms for increasing the financial responsibility of federated entities have been devised. The first concerns pensions of regional and community employees payable by the federal state, with the federated entities having to pay a contribution to the cost of these pensions based on the size of their payroll. The second is climate-related, based on each region's reductions in greenhouse gas emissions.

Supervision

Belgian federalism is based on equality between the federal tier and that of the regions and communities. This means that federal rules (laws) and the rules adopted by the federated entities (decrees) have the same statutory force.

In other words, each entity (federal state, region or community) is sovereign within its own field of concern laid down by the Belgian Constitution, without being able to exercise any authority over the other entities. This 'equivalence of legislation' means that both the federated entities and the federal state have exclusive powers. Belgium's federated entities have full sovereignty under domestic law to exercise these exclusive powers.

Mechanisms have been introduced to settle conflicts of competence and conflict of interest between different tiers of government both in order to prevent them and to decide on their merits.

Conflicts of competence

Preventing disputes over jurisdiction is mainly a matter for the legislative division of the Council of State. During the mandatory consultation on preliminary Bills and preliminary draft decrees, if the Council of State believes that the proposed legislation exceeds the powers of the entity that has drafted it, it will refer it to the Consultation Committee, consisting in equal measure of federal ministers and prime ministers from the regional and community governments and chaired by the federal prime minister.

The Committee must provide a unanimous opinion within forty days on whether the entity has exceeded its powers. If there is a consensus to this effect, the Committee asks the federal, regional or community government to revise the draft. Otherwise, the legislative procedure can be continued.

Settlement of conflicts of competence between different legislative authorities is the task of the Constitutional Court. This court (formerly the Court of Arbitration), with its equal representation in terms of language and professional background (legal profession and former members of parliament), verifies that laws and decrees comply with the constitutional and legislative provisions dividing powers between the federal state, communities and regions.

An application to set legislation aside may be brought before the Court by the federal government or a regional or community government, by the Speaker of a legislative assembly (at the request of two thirds of its members) or by any other person (natural or legal) having an interest in the application.

Conflicts of interest

Unlike conflicts of competence, conflicts of interest are essentially political. They do not concern legislation but may arise out of a proposed decision, an actual decision or the lack of a decision. Conflicts of interest are prevented by consultation in various forums for consultation between the different tiers of government (see section VI below).

Settlement of such conflicts is entrusted mainly to the Consultation Committee, to which cases can be referred in two ways. In the first, known as the 'alarm-bell procedure', a legislative assembly which considers that its interests are seriously harmed by a Bill or decree tabled in another parliament may, through a motion to be passed by a reinforced majority (three quarters of votes cast), request suspension of the legislative procedure initiated in this other assembly. The second method concerns cases in which a government holds that there is a conflict of interest with another government over a proposed decision, an actual decision or the lack of a decision.

In such cases the matter is referred to the Senate, which provides a reasoned opinion within thirty days, on which the Consultation Committee comes to a unanimous opinion within another thirty days. If a consensus cannot be reached, the expiry of the two thirty-day periods puts an end to the suspension of the contested policy, and the assembly or government concerned is again free to act according to its own discretion.

Federal loyalty is generally understood to be the legal rule requiring the various entities of the federal state to refrain from any improper use of their own powers that would affect the balance of the state structure as a whole. The most recent state reform has made provision for this federal loyalty principle, already enshrined in the Constitution, to be supervised by the Constitutional Court.

Relations with other tiers of government

The federal model is viable only if the autonomy granted to the different entities is combined with a readiness to cooperate, since many issues (water, transport, pollution, international cooperation, etc.) call for collaboration between the various tiers of government.

The Consultation Committee is the 'focal point for consultation, cooperation and generation of coordinated strategies to meet European objectives in particular, with due regard for individual powers'. Its procedures have been laid down in writing, and its agendas and decisions are available to Parliament.

Interministerial conferences offer an opportunity for representatives of federal, regional and community governments to come to informal agreement on policies to be pursued in specific fields. These conferences do not usually have decision-making authority but pave the way for decisions by the respective authorities. Thus the interministerial conference on foreign policy is a consultation forum in which the federal authority can keep the governments of the federated entities informed about its foreign policy.

Cooperation agreements allow federal and community authorities to agree on joint exercise of powers and management of shared services.

The reform of the two-chamber system to create an 'Assembly of the Regions' (established after the elections of 25 May 2014) will certainly have a key part to play in collaboration, cooperation and dialogue between the country's various entities.

Final evaluation

Although Belgian federalism (known as dissociative federalism) has been in a permanent state of flux, with successive transfers of powers from the central authority to the federated entities (three regions and three communities), achieved through political compromise, the fact nevertheless remains that today Belgium meets all the criteria for an authentic federal state.

All the more so in that the latest state reform (2013-2014) has corrected a few weaknesses of the previous system by converting the federal senate into an Assembly of the Regions, giving the Brussels-Capital Region the same status as the other regions (allowing it to adopt decrees rather than ordinances with lesser legal force) and broadening the regions' freedom to determine certain aspects of their own organisation.

As mentioned above, the recent state reform has again fundamentally changed the Belgian institutional landscape by transferring not inconsiderable powers (in terms of budget and resources) to the federated entities. The new transfers of authority amount to 17 billion euros, a 40% increase in the resources of the Communities and Regions. The Regions' fiscal autonomy has also been widened.

In addition, the situation of the Brussels-Halle-Vilvoorde district, which had been problematic since the introduction of the language boundary fifty years ago, has been settled. The electoral district has been split in two, and arrangements have been made to protect French-speakers.

In the words of the former Belgian Prime Minister (2011-2014), Elio Di Rupo, 'Tomorrow's Belgium will be very different from the Belgium of today [...]. The centre of gravity will move from the federal state to the regions and communities. The federal state is going to become more compact and efficient. Flanders, Wallonia and Brussels will have much greater autonomy and responsibility. The federated entities will be able to pursue more effective policies better reflecting their actual situation and, above all, citizens' needs.'

Belgian federalism, being both bipartite (two linguistic groups in the Chamber of Representatives) and multipolar (three regions and three communities), has a certain complexity owing to Belgium's history and complex sociological character. Nobody would dare to assert that Belgian institutions will not change further in the future.

BOSNIA AND HERZEGOVINA

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General situation in terms of territorial organisation

Bosnia and Herzegovina (BiH) currently takes the form of a federal State made up of (i) the Federation of Bosnia and Herzegovina (FBH), (ii) Republika Srpska (RS), and (iii) the Brčko district. It should be remembered that Bosnia and Herzegovina is shaped by the weight of history and its highly complex situation. Democracy in the country is founded on the ethnic representation solely of previously warring communities (Bosniaks, Serbs and Croats), to the exclusion of all other ethnic groups or communities living on the territory. Moreover, when analysing the constitutional texts applicable in Bosnia and Herzegovina, it must be remembered that the constitutions of BiH and the FBH were initially political compromises intended to put an end to armed conflict, negotiated in foreign languages and foreign countries and may in no way be considered as expressing any democratic process that took place within the country itself. The Constitution of the RS began life as a constitution drafted during a state of war, which did not take account of the fact that the RS formed part of BiH, and was intended to protect the interests of a single people against all others. Given the historical background, regionalisation has never been a priority objective in Bosnia and Herzegovina.

Bosnia and Herzegovina was created from the rubble of the former Yugoslavia at the beginning of the 1990s, in the form of a heavily decentralised State. In reality, BiH comprises two entities that are very different in terms of territorial organisation: a federal State and a unitary State. A district with special status was added to those entities, as a result of the only successful revision of BiH Constitution in 2009.

BiH's special situation does not make it possible, even for an informed observer, to state with any certainty the degree to which regional democracy is exercised. If we consider that Bosnia and Herzegovina is the central State, then the Federation of Bosnia and Herzegovina and the Republika Srpska, and possibly the Brčko district, could be seen as the regional level, but this approach is not borne out by the situation on the ground. On the other hand, an approach regarding the two entities as constituting the central level, as a framework in which the regional level must find its place, has the conceptual drawback of ignoring the central State of Bosnia and Herzegovina. It does, however, have the advantage of taking account of the unitary structure of the Republika Srpska. It is this latter approach that appears to have been adopted in practice. Both the country's authorities and international organisations seem to agree that the regional level in BiH exists only within the framework of the Federation of Bosnia and Herzegovina.

The Brčko district has all the prerogatives and institutions specific to a State (legislative, executive and judicial powers), although it is not considered as such and its territory is small but has undeniable strategic importance (it splits the territory of the RS in two and facilitates the FBH's access to the tiny pockets of its territory lying between the RS and Croatia and Serbia). Under the revised 'Constitution' of BiH, Brčko is a single "unit of local self-government ... which exists under the sovereignty of Bosnia and Herzegovina", while its powers of local self-government are derived from the delegation made by each of the entities to the *opština* (municipality) that existed before the war.

Republika Srpska has no intermediate level between the national entity and the local level; it remains a unitary state, even if it is currently undergoing decentralisation and offers fairly solid protection for local self-government.

It is only in the Federation of Bosnia and Herzegovina that we can see an intermediate regional level (cantons) between the entity and local level (municipalities and cities/towns). However, the allocation of prerogatives between these two levels is not clear, from a legal or practical viewpoint. Numerous assessments by international organisations, first and foremost by Council of Europe bodies, of the situation of local self-government in the FBH have pointed – among areas for criticism – to the fact that there is no clear demarcation between the prerogatives of the FBH and those of the cantons, or between the prerogatives of the cantons and those of the local authorities, and to the difficulty experienced by all levels of authority in ascertaining and exercising the prerogatives that should be theirs.

This raises a more general issue, which applies to Bosnia and Herzegovina as a whole and is often also emphasised in internal and international reports and assessments. The considerable differences in size, structure, institutional fabric and patterns of functioning that exist between the units assigned powers of local self-government in BiH, combined with the complexity of geographical structures and convoluted by the

criterion of ethnicity on which the very State of BiH is founded, result in an excessive fragmentation of the territory and public administration and confusion between the different decision-making levels and their configuration and, ultimately, put a question mark over the durability of the State of Bosnia and Herzegovina. At present, the central state level is unable to truly guarantee compliance with the country's commitments in respect of the Council of Europe, and that also applies to guarantees of local self-government as well as regional democracy.

Here, we will consider only the cantons within the Federation of Bosnia and Herzegovina as the regional level, as this approach appears to be favoured by a general consensus internally and internationally.

Institutional organisation

Under Section V of the Constitution of the FBH, the cantons have their own constitution, a council (policy body) made up of members elected directly by the canton's voters, a president elected by the council and a government led by a prime minister. Each canton has its own judicial system. The cantons are made up of municipalities, constituting local self-government bodies, and also have a council, an executive with a mayor and their own judicial system. Some municipalities may be made up of communes, which have only a council and an executive with a mayor. This supports the idea that cantons form a regional level, between the Federation of Bosnia and Herzegovina and the local level, whereas the municipalities exercise local self-government (the communes do not appear to have these prerogatives).

In addition, cantons with a majority of Croats or cantons with a majority of Bosniaks may cooperate through joint cantonal councils, enabling them to coordinate the activities of their representatives in the lower chamber of the FBH or attain goals of common interest to their citizens.

In practice, ethnic uniformity tends to promote efficiency at cantonal level, whereas pluralism of any kind seems more likely to have a destabilising effect. Again on the practical level, the configuration and nesting of so many public institutions on such a small territory does not appear to go down well with the public, with their functioning constantly muddled by peer institutions or by the other public authorities at the level of the entity.

Powers

Both the Constitution of the FBH and the 2006 law establishing the principles of local self-government give the impression of protecting local self-government but pay little heed to regional democracy. Furthermore, the allocation of powers between the cantons and the municipalities is unclear. In Sarajevo, for example, the aspects relating to education form part of the prerogatives shared between the canton, the city and the communes. A decision of the Constitutional Court of the FBH has confirmed this principle but has still not clarified the allocation of powers.

In practice, the cantons tend to exercise prerogatives relating to both local and regional levels, sometimes undermining the principle of subsidiarity provided for in the Charter of Local Self-government. De facto, notwithstanding the long list of powers that should fall within the competence of municipalities under the law of 2006⁶, it is surprising to see how few prerogatives are really exercised by the municipalities (according to

⁶ The unofficial English translation of Article 8 of the law on the principles of local self-government lists them as follows: "The competencies of a local unit of self-government shall include specifically: ensuring and protecting human rights and basic freedoms in accordance with the Constitution; adoption of the budget of the local unit of self-government; adoption of programs and plans for the development of the local unit of self-government and providing conditions for its economic growth and job creation; establishing and implementation of spatial planning and environmental protection policies; adoption of regional, urban and implementation plans, including zoning; establishing and implementation of a housing policy and adoption of programs for housing development and other types of property development; establishing a policy and setting the level of reimbursement for the use of public goods; establishing and implementation of a policy for control, management and use of construction land; establishing a policy for control and management of property of the local unit of self-government; establishing a policy for managing natural resources of the local unit of self-government and distribution of revenue collected as compensation for the use of those resources; management, financing and improvement of the operations and facilities of the local public infrastructure: · Water supply, wastewater disposal and treatment, · Solid waste collection and disposal · Public sanitation · City cemeteries · Local roads and bridges · Street lights · Public car parks · Parks; organization and improvement of local public transport; establishing a preschool education policy, improvement of the preschool institutional network and management and funding of public institutions for preschool education; establishment, management, funding and improvement of institutions for primary education; establishment, management, funding and improvement of institutions and building facilities to satisfy the needs of citizens in the areas of culture and sport; assessing the work of institutions and quality of services in the areas of health care,

the report of the monitoring visit by a delegation of the Congress of Local and Regional Authorities in 2011, the cities of Mostar and Sarajevo were in charge solely of water supplies).

Moreover, in practice, the cantons take centre stage with regard to powers, administrative and financial resources and, more often than would be necessary, political affairs. It is not rare for the cantons to exercise more decision-making powers of a legislative nature than the FBH entity.

In the view of many of the individuals and authorities concerned, the cantons may be regarded as a problem more than anything else, both for local self-government and for regional democracy, and fairly far away from the role played by regions in other European countries. The assessments made by the previous Congress monitoring missions or the Venice Commission and also those carried out by local stakeholders (central or local public authorities and civil society) arrived at the same conclusion. All the talking partners mentioned this aspect in one form or another. Their arguments could be summed up as follows: the cantons exist only in the FBH; they are not a uniform territorial structure, but highly diversified, following variable criteria; of the ten existing cantons, three do not meet the criteria laid down by the law to be recognised as cantons; the way in which they are defined in the Constitution of the FBH makes it possible in practice to reduce local self-government; (and above all) the allocation of decision-making powers in the area of local self-government between the entity and the cantons is so vague that it grants great powers of discretion to the cantons, leaving the municipalities and cities deprived of any means of action or reaction.

There has been a multitude of political statements on the need to reform the cantons and their prerogatives or even reduce the number of them in recent years without any concrete results.

Financial autonomy

Directly related to the delicate question of the allocation of powers, financial resources remain a problem that is difficult to grasp. De facto, the cantons enjoy an enviable situation with regard to funding resources for territorial authorities operating within the framework of an entity such as the FBH and in the current global economic situation. In reality, all territorial authorities at the level of BiH are far from having "adequate financial resources of their own", let alone being able to "dispose freely" of them.

Local taxes, which may be set by territorial authorities (either by the cantons or by the municipalities even though, in practice, it is the cantons which benefit from them) and from which they might benefit are few and far between (land tax is the main one) or meagre. The proportions of these resources remaining available to territorial authorities clearly favour the entities or the central State – 60% of tax on concessions in the FBH is made available to the cantons for example.

In the FBH only expenditure is audited, and not revenue. However, budget planning was found by FBH auditors to be "dysfunctional" in that it fails to take account of real resources or the difficulties encountered in recovering taxes, especially at local level.

In the FBH the territorial authorities can borrow on international financial markets up to a ceiling of 10% of the local budget. Furthermore, equalisation is better performed by the entity between the cantons than by the cantons between local authorities, but it often forms the main source of funding for the local level.

Supervision

Under Article 10 of the Constitution of the FBH, conflicts between cantons, between cantons and the entity or between cantons and municipalities or communes fall within the competence of the Constitutional Court of

social welfare, education, culture and sport, and ensuring funds required for the improvement of their work and quality of services in accordance with the needs of citizens and capabilities of the local unit of self-government; analyses of public order and peace and level of safety of people and property, and making recommendations to relevant authorities; organizing, implementation and responsibilities for measures of protection and rescue of people and material goods from elements and natural disasters; establishment and conduct of compliance inspections with regard to the regulations from within the competencies of the local unit of self-governance; rendering regulations on taxes, reimbursements, contributions and fees within the competencies of the local unit of self-governance; holding referendums in the territory of a local unit of self-governance; flotation of bonds and decisions on debt incurrence by local units of self-governance; conduct of activities for ensuring proper sanitation and health conditions; ensuring proper work conditions for local radio and TV stations in accordance with the law; ensuring and maintaining records of personal status of citizens and electoral rolls; activities from the domain of land survey and land cadastre, and property records; organization of efficient local government in accordance with local needs; establishment of the organization of local self-government; animal protection."

the FBH. That means that both the legal acts adopted by the cantons and other actions that are inconsistent with local autonomy or unconstitutional may be referred to the Constitutional Court of the FBH for review.

Owing to the profusion of local structures specific to the FBH and the confusion over the allocation of powers, issues concerning relations between territorial authorities are often settled in court. The Constitutional Court of the FBH has observed that mayors and associations of mayors are very active in defending their rights; they tend to base their arguments on the Charter of Local Self-Government, which is directly applicable in the FBH, rather than other reference texts. The cases dealt with by the Constitutional Court have focused inter alia on the obligation of the legislator to consult local authorities before taking decisions or the need for resources made available to local authorities to be commensurate with the new powers assigned to them.

However, while the Charter continues to be an important reference instrument in the FBH, a problem subsists, seemingly without any solution: the cantons have not yet adopted laws on local self-government, which makes effective legal protection for it very difficult indeed in the absence of any legal framework specifying the allocation of powers between the different levels of local administration. This also explains why the notion of administrative supervision is little-known and little used in the FBH: more often than not, powers of supervision lie within the remit of the very cantons that commit abuses in the first place.

Relations with other levels of government

In the FBH the cantons are not represented as such at the level of the entity. They can harmonise their positions within the framework of joint cantonal councils if they are of the same ethnic composition. Given the diversity of the cantons themselves, few relationships based on institutionalised cooperation have been forged whereas ad hoc collaboration remains possible (for example to counteract various initiatives aimed at reducing the number of them or their decision-making powers).

Outlook

The great diversity of administrative structures, the fragmentation of the territory, the excessive number of public authorities and the abundance of intermediate levels between the central level and true local authorities are all aspects that present difficulties, both for the FBH and BiH. The multiplication of criteria that divide rather than unite and the superimposing and overlapping of decision-making levels engender problems that are often insurmountable in political and institutional terms, and generate considerable costs for a relatively small authority with somewhat limited capacity to generate its own revenues, particularly in the context of a prolonged global economic crisis.

This excess of "frilly layers" is all the more true of the FBH. Maintaining the cantons as the regional level of authority is increasingly called into question in words, both by the Bosniak authorities and - sometimes - by the Bosnian authorities, without anything concrete happening. Since the Constitution of the FBH was a political compromise negotiated abroad and implemented in order to put an end to a war rather than a real domestic legal act, any revision seems a very difficult proposition, in view of the major ramifications that it might have for the other aspects of the compromise that was struck. As in the case of BiH, the weakening of the central entity and the strengthening of what was originally seen as the regional level remains a fundamental condition for the survival of the authorities. However, as time has passed and the compromise has been implemented, its failings have become increasingly obvious.

Given the confusion which appears to surround the very concept of the regional level in BiH and the apparent difficulties in grasping the role of cantons as a vehicle for regional democracy in the FBH, the deadlock gripping the country as a whole and the entity concerned seems set to continue for the foreseeable future.

CROATIA

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General situation in terms of territorial organisation

Problems of regions and regionalization in Croatia have long been in the forefront in debates about the reform of territorial organization. All Croatia's governments have hinted in their programs at the necessity of decentralization, including regionalization. However, none have demonstrated sufficient political will, courage and knowledge to carry it through.

The Constitution (the consolidated version published in the Official Gazette No. 85/2010) describes Croatia as a "unitary and indivisible democratic and social state." Although the state is unitary, and the Constitution declares (Art. 4) that "government shall be organised on the principle of separation of powers into the legislative, executive and judicial branches, but limited by the right to local and regional self-government" and then (Art 133) that "citizens shall be guaranteed the right to local and regional self-government".

The municipalities and towns are the units of local self-government (municipalities; cities) and the counties (županije) are units of regional self-government (Art 134). The responsibilities of both tiers of self-government are also stipulated, with a helpful breadth of provision and in some detail. Counties are responsible for "affairs of regional significance, and in particular affairs related to education, health service, area and urban planning, economic development, traffic and traffic infrastructure and the development of networks of educational, health, social and cultural institutions"(Art. 135). It is also stated that "affairs of local and regional jurisdictions shall be regulated by law". In the allocation of affairs, priority shall be given to the bodies which are closest to the citizen, and "in the determination of the local and regional self-government jurisdiction, the scope and nature of affairs and the requirements of efficiency and economy shall be taken into account".

Other constitutional provisions protect the right of units of local and regional self-government to regulate their internal organisation autonomously by their statutes (Art 136) and declare that, in performing their functions, units are autonomous and are subject to review by governmental bodies only in respect of constitutionality and legality (Art 137).

As to finance, the Constitution guarantees the right of units to their own revenues and the right to dispose freely of them (Art 138). Revenues must be proportional and the state is obliged to assist the financially weaker units.

According to its legal status therefore, a county is a regional self-government unit. The self-government affairs are administered by the County Assembly, Prefect and administrative bodies of the county, whereas the state administration affairs are conducted by State office. As the symbols of its status, counties have a coat of arms and a flag of their own and can confer public honours.

Croatia ratified the European Charter of Local Self-Government in two stages. Firstly, when Croatia originally ratified the Charter, with effect from 1997, it used the facility offered by Art. 12 to accept only a minimum range of substantive articles and therefore omitted to accept a number of important obligations, and secondly, in 2008, it declared itself bound by all remaining provisions of the Charter.

At the regional level, there are 20 counties, to which may be added the City of Zagreb, which operates as a combination of a municipality and a county. Among these counties, there are significant differences and disparities in population (inhabitants), of a ratio of 1: 8,6 in space, 1:7,3 in population density and 1:16 in the number of villages, economic activities etc.

The Croatian counties were established by applying nodal regionalization principles which identify the gravitational force of an urban centre. The implementation of this principle has led to a politically pragmatic creation of administrative grouping and the merging of contiguous municipalities into a single administrative-territorial unit (a "top down" approach).

Analysis of the regulatory system of counties leads to an interesting observation: as an entity of a mixed nature, the county has a strongly emphasized co-ordinating function, but, because of imposed regulations, it has a weak regional government structure. These regulations are based on the premise that the counties are independent in deciding the affairs of their governmental scope in accordance with the Croatian Constitution and the law. The county is a broader unit, but not higher in a hierarchical sense. However, the county has retained the right to be in charge of files of a programming and planning character, in cases where explicitly

provided by law. By this function the county can coordinate activities in the preparation and adoption of similar dossiers by municipalities and cities and establish a network of institutions in social affairs.

The financial function of the county, which includes the activities of financing public needs, has regulatory, guiding and organizational features. By integrating those features, the financial function of the county provides the material basis for the county's achievement.

The monitoring function of the county is usually expressed by monitoring and reviewing the jurisdiction of the authority of municipalities and towns. A county achieves its mission by identifying public needs' programs of common interest for cities and municipalities on its territory and the county as a whole, by providing funding for programs of interest to the county and encouraging their implementation, suggesting the establishment of a network of institutions and other organizations whose activities are realized.

In order to achieve its goals of territorial government, the county establishes various governing bodies, institutions and other public services, companies and other legal entities. The county ensures the execution of all of its rights and obligations through its organizational functions, by using following instruments:

- a) establishing networks of institutions in education sector (elementary schools and secondary schools);
- b) establishing public services' providers (kindergartens, museums, general and special hospitals, health centers, facilities for emergency medical care and public health institutes, clinics, and pharmacies, social care centres, theatres);
- c) identification of public needs and the potential of financing them (health, social welfare, sports, culture);
- d) determining relationships in financing pre-school education and the cultural activities of individual municipalities and cities.

The developmental functions of counties, particularly in the area of the economy, are only partly formed and heavily constrained by the limited financial capacity of the county.

The county is also responsible for the spatial planning and development strategy adopted by the county, of the aims and priorities of the development of regional self-government units. In this line of its responsibility, the county adopts its budget and a variety of programs and plans (in health care, social welfare, environmental protection, etc.).

In Croatia, the counties are too small and too weak in terms of political and fiscal power to create and implement an independent regional policy. But the county, as a regional unit, is suitable to face the challenges of taking an important role in decentralized territorial organization of Croatia.

Croatia is a fairly centralized country with uneven economic and social development. Centralisation is being followed by metropolization. In other words, Croatia has failed to implement a true decentralization with devolution, which has resulted in the uneven development of regions, inappropriate formation of self-government and insufficient capacity of local and regional self-government units for efficient performance of essential public affairs.

With local and regional authorities responsible for less than 11 % of public finances, Croatia is near the bottom of the table of the European countries. The fiscal capacity of local and regional government is very uneven in terms of available money, but also with regard to the structure of incomes and expenditures in the budgets. This is most evident in the under-capacity of local/regional self-government to provide public services at the required level of quality. Thus, the principles of good governance are neither applied nor is good practice being affirmed.

Institutional and administrative organisation

The County assembly is a representative body of citizens that pass by-laws in the line of the responsibility of the unit of regional self-government and perform other tasks in accordance with the law and statute of the unit of regional self-government.

The Constitution of the Republic of Croatia ensures universal and equal suffrage to all Croatian citizens who have reached the age of eighteen. Suffrage is exercised in direct elections by secret ballot. A person being nominated and elected as a member of a regional self-government unit's representative body shall be a Croatian citizen, over 18 years of age, with permanent residence in the area of the unit and enrolled in the

voter's list, for the representative body of which the elections are conducted. The Republic of Croatia guarantees national minorities, under prescribed conditions, the right to representation in the Croatian Parliament and in the representative and executive bodies of local and regional self-government units. Citizens of other EU member states, with a permanent or temporary residence in the local and territorial (regional) self-government units, have the right to elect members of the representative body of the unit and be elected as members of the representative body of the unit.

The number of members of county's assembly depends of the number of inhabitants of the unit. So, units up to 60 000 inhabitants, have 31 members; units up to 100 000 inhabitants have 35 members; units up to 200 000 inhabitants have 41 members, units up to 300 000 inhabitants have 45 members; units more of 300 000 have 51 members.

The county's assembly:

- a) adopts the statute of the unit of regional self-government;
- b) makes decisions and other general by-laws by which it addresses the issues from the self-governmental scope of the local or regional self-government units;
- c) appoints and dismisses the members of authorities, except when otherwise specified by a law;
- d) sets up and elects members of the working bodies of the assembly and appoints and dismisses other persons determined by law, other regulation or statute,
- e) regulates the organization and scope of administrative bodies of the unit of local, or regional self-government;
- f) establishes public institutions and other legal entities needed to perform economic, social, utility and other activities of interest to the unit of local, or regional self-government;
- g) performs other tasks, which by law or other regulations are placed in the scope of the representative body.

The representative body makes decisions by the majority vote if the majority of the members of the representative body are present at the session.

The statute of the unit of regional self-government, the budget and annual balance sheet are adopted by the majority vote of all the members of the representative body. The standing rules of the assembly can determine other issues about which the decision is made by the majority vote of all the members of the representative body. At the sessions of the representative body the voting is public, unless the representative body decides to vote on an issue by secret ballot.

The Assembly sets up permanent or provisional committees and other working bodies for the purpose of preparing the decisions from its scope. The composition, number of members, scope and way of work of the body is established by the standing rules or by a special decision on setting up the working body. The mandate of a member of the assembly is four years. The members of the assembly do not have a binding mandate and they cannot be recalled. They hold the function in an honorary capacity and are not paid for it.

Regular elections of county prefects and their deputies (the executive leaders), who are elected in direct elections, take place simultaneously with the elections of the representative bodies of the local and regional self-government units, in accordance with the special law. The election is based on a majority voting system.

The county prefect is an executive authority incumbent within the county's rights and duties. The county prefect represents the county. The prefect can be removed from office by means of a referendum in accordance with the provisions of special law. The prefect is expected to perform his duty professionally, assisted by two or three deputies. The deputies assist the county prefect in the discharge of affairs from his/her scope of activities entrusted to them, deputize him/her in case of his/her absence or incapacitation, and execute other affairs pursuant to the regulations and the county's general acts.

Competences

Normative powers are exclusively subject to the regulation of the constitution and the law. The county has its own statute as an autonomous act. So, counties shall have the right, within the limits provided by law, to

regulate autonomously and in accordance with their statutes the internal organization and jurisdiction of their bodies and to accommodate them to local needs.

Regional legislative competence depends on the importance of following key county's sectors: education, health social welfare, economic development, environment, infrastructure/transport and legal system of local authorities.

There are some doubts about the constitutionality of some of the new allocations of powers, because of the legislative manner of their allocation. These doubts derive from the failure in all instances to use the "organic law" procedure, as prescribed by the constitution and because many special (sectoral) laws regulate the same fields.

There are apparently many overlapping areas in the lists of powers. For example, "education" can be a subject of regulation by large towns and counties at the same time. But, "education" could include "elementary education" and then municipalities and towns are in charge.

The county pays special attention to environmental protection and conservation of nature. In the exercise of its competences, counties establish a series of contacts and temporary or more durable cooperative relations with other organizations or institutions.

A range of competences in the same field may be distributed across authorities at different levels. For instance, physical and urban planning may quite naturally be divided between tiers of government, with each tier responsible for its own level in the process.

Financial autonomy

The local government financing system is characterized by a strong role of central government in the distribution of authorities as well as sources of financing, which can be seen in an increase in the resources that the central government transfers to local government units for the financing of decentralized functions and capital projects. Unfortunately, the fiscal equalization system that relies on the distribution of revenue between the state and local government units and on grants from the central to the local level is far from effective. This problem is manifested in the failure of the mechanism of fiscal equalization, which should be based on an accurate assessment of fiscal inequalities or any properly defined fiscal position of the local government units, taking into account well founded calculations of fiscal capacities. Because of the poorly regulated mechanism of intergovernmental budget transfers, and particularly because of the lack of quality criteria for the transfer of grants, the implementation is inefficient.

Counties in Croatia are characterized by a strong dependence on public funding of needs which can not be independently influenced – out of 55 % of income tax revenues collected by the central government only 9 % of total revenue goes to the local and regional budgets. This amount is shared by local and regional units as follows: 429 municipalities get 16 %; 40 % goes to 127 cities, the City of Zagreb gets 29 % and 20 counties get 15 % of total revenues of local budgets in Croatia.

There are important regional inequalities in Croatia. Fiscal capacity varies between counties. 13 counties have below average total income (without central government subsidy). This leads to an inability to perform public functions at the same level of quality in all regions, due to varying degrees of development, fiscal capacity and size. Lack of money limits the effective provision of public services and results in deficiencies in the organization, administrative and competency of the county.

Counties have restricted autonomy in determining the use of their financial resources. This is shown by the structure of budgetary expenditure of units in which material and labour costs are dominant, what provides only survival level, nothing for development. Local and regional units in Croatia are not autonomous in the determination of base and rates for tax revenue. The rates of joint taxes (which are divided between municipality, city, county and central government) and of county taxes are completely determined by the central government.

Controls

In order to uphold the constitution and the law, as well as protect the rights of citizens, the state shall supervise the legality of the work and acts of the bodies of local and regional self-government units. Supervision of the legality of the work and acts of units of local and regional self-government is carried out in the manner and according to the procedure established by the law regulating state administration.

The county prefect and his or her deputies are responsible for the performance of state administration activities in the government offices on the county level, to relevant ministers, in accordance with regulations concerning local self-government and administration.

Since the law on local self-government is based on the constitution, any disputes about the division of rights and responsibilities between central and local government bodies take the form of a dispute about the constitutionality, with the possibility of constitutional protection, for violation of constitutionally guaranteed rights and freedoms.

Relations with other levels of government

Regional participation at the national level is almost non-existent. In the process of adopting laws and regulations, the planned consultations with the public, which include the counties, are not adequately executed. In practice the consultations tend to be very formal (very often with too short a timeline) with untimely and inappropriate form of participation. A significant portion of the laws is processed through an emergency procedure, so there is no time for quality advice.

A number of actors contribute to designing and implementing local and regional policies. Among other bodies, the Croatian Parliament has a Committee on Regional Development and European Union Funds and a Local and Regional Self-government Committee.

Policies related to local and regional governments belong to the Ministry of Administration and to the Ministry of Regional Development and EU Funds. Although the latter ministry is in charge of regional development, its activity is primarily focused on the use of EU funds. Many other ministries have a specific and direct impact on local government development capacity (e.g. agriculture, tourism, ...) but there are no visible provisions in their activities related to strengthening local and regional self-government units. All ministries are not sufficiently independent, and do not have the capacity for creative actions. The centralised nature of government, and the particularly strong position of the Prime Minister prevent any efficient decentralization process.

The counties are also engaged in inter-regional cooperation and cross-border cooperation, which is particularly evident in the use of European funds.

As a national county association, the Croatian County Association is an organization set up to promote the regional self-government and foster and support the economic and social development of regional self-governmental units in the Republic of Croatia. The Association members are united therein as to facilitate joint activities in the pursuit of the objectives of its foundation, especially in the promotion of the idea and practice of regional self-government in the Republic of Croatia.

Within the Association, its members support the development of cooperation between the counties and local self-governmental units; exchange experience concerning the activity of regional self-governmental units in the Republic of Croatia; harmonize their viewpoints and members' activities regarding the national authorities and administrative bodies pertaining to the issues important for the development of local and regional self-government, especially on the proposals regulating these issues and initiate surveying and monitoring of the development of regional self-government in the Republic of Croatia and in the world.

Overall assessment

The relevant changes since 2007 in Croatia are the following: in 2008 the European Charter of Local Self-Government was ratified, without any reservations; constitutional changes from 2010 facilitate the accession to the EU and the adaptation of the legal system for future membership in the EU; on 1 July 2013 Croatia became a full member of the European Union.

In Croatia, especially in times of economic crisis, the theme of rationalization of territorial organization is of utmost importance. The need for rationalization is supported by numbers: the country with a population of 4.3 million has too many local units: 429 municipalities, 126 cities and 20 counties, as well as the capital city of Zagreb, without real power. For Croatia, it is high time to recognize the importance of localization, which is necessary for the preservation of identity in a world of globalization and centralization. In other words, localization should be based on the recognized needs of the people, raising citizens' motivation and knowledge to actively participate in decision-making, which will be economically effective, democratically designed and environmentally conscious.

The *conditio sine qua non* of serious regionalization is true decentralization with devolution, and that means designing not only "top down", but also "bottom up" processes, through the application the principle of subsidiarity, which should result in a consolidation of local and regional self-governments. Regions are optimal communities, a balance between a "frog's perspective" and a "bird's eye" perspective, seeking to achieve an equilibrium between local self-interest and central domination.

The prevailing view today is that it would be desirable to form five regions (North-West based in Varaždin, North-East based in Osijek, South-East based in Split, South-West based in Rijeka and central headquartered in Zagreb). Such territorial structure of Croatia should be based on strong political will and consensus, and supported by relevant scientific and professional analysis.

In conclusion, the county requires serious reform, through the valorisation of its mission, in a European perspective, with a view to becoming an optimal community.

DENMARK

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General situation in terms of territorial organisation

Since the latest important national reform of local and regional authorities, which was decided in 2005, to be in force and fully operational by 1 January 2007, there are three levels of administrative authorities in Denmark: state, regions and local authorities. The reform reduced the number of sub-national public institutions significantly to five regions and 98 local authorities, from 14 counties ("amter" in Danish) and 275 local authorities.

Basic statistic facts of the regions

When the five new regions were created in 2005, they were all created with new geographic boundaries. These boundaries did not fully correspond with former administrative boundaries. The main concern was to create regions with geography and corresponding number of inhabitants to match one big hospital in each region. The Danish regions are sometimes called "health-regions".

The number of inhabitants in the regions varies from 580,272 in Region Nordjylland (the region situated in and named after the north of Jylland) and 1,731,976 in Region Hovedstaden (this region includes and is named after the capital - Hovedstaden means "capital city"). Denmark has 5,627,235 inhabitants.

Region Hovedstaden has the smallest area with 2,533 km² and Region Midtjylland (the region situated and named after the central part of Jylland) the largest with 13,005 km². The area of Denmark is approximately 43,000 km². The size of the Danish regions in relation to the country as a whole is significant.

The regional institution

The regions were politically and administratively new institutions, each governed by 41 democratic elected council members. The regulations and laws on the proper elections of these members were not changed however by the reform creating the five regions. The regulations of these elections are thus the same as those that apply to the elections to the local authorities and to the former Danish regional authorities, the 14 regions (amter).

Elections to the regions takes place every fourth year alongside with the elections to the local authorities. At the last election in November 2013 the turnout was 72%, six points higher than in the previous elections in 2009. The next elections will take place on 21 November 2017.

The existence of the regions and the legal framework of the political and administrative arrangements of the regions are entirely dependent on legislation adapted by the Danish Parliament, Folketinget. The regulations on the institutions of the regions and of the elections to the governing regional bodies are ensured by law, and as concerning elections partly by the Danish Constitution.

The regional councils are so to speak masters of their own houses as regards their internal organization, with the exception of the geographical location of the five regions domiciles. But the geographical locations of the five big hospitals have been decided by each regional council.

The Danish regions do not benefit of any kind of constitutional autonomy, and the statutory autonomy as regards competences is restricted to very few sectors and the regions have no possibilities of self-financing via taxes.

The funding of the regions

The regions have no competences to provide for the financial funding to perform the tasks the regions are responsible for. In Denmark the situation since 2007 is therefore, that only the state and the local authorities have the rights to levy taxes. (The former regions, amterne, had rights to levy taxes).

In terms of autonomy, the Danish regions do not have the benefit of powers of self-financing via tax levying. Neither do the regions play a significant part in setting taxes at national level. When the annual national budget is negotiated in Folketinget, matters of interest for the regions and especially health matters are debated, and the Danish Regions, represented by the association of Danish regions, Danske Regioner, lobby

to obtain sufficient funding for the regions tasks ahead, but the result is entirely within the powers of the majority of the Folketing.

The regions' competences and funding

The main task of the regions is to govern and administrate the Danish health system. In addition the regions have comparatively minor tasks concerning regional development, and specialized social care. Within the limits set up by European and national legislation, the regions can exercise normative powers in their decision-making.

The three sectors have separate finances according to law. The funds of each sector are linked to the tasks in that particular sector. The councils of the regions have no possibilities to make political choices which necessitate transferring funds between the three different sectors.

The health sector is funded by grants from the state (plus for the first time last year (2015), to a small degree, so-called activity funds from local authorities) and so is the regional development sector, but with some contributions from the local authorities. Specialized social care is entirely funded by the local authorities.

Within the health sector, the regions have powers to determine independently public policies and regulations concerning the sector. The powers of councils shall be exercised within the legal framework applying to Danish administration including naturally EU-legislation and principles, and also for instance legislation on patient rights and the principles of good governance etc. These basic legal regulations and principles have to be respected by all public institutions in Denmark.

As regards the regions' competences concerning regional development (public transport, education and culture amongst others), there are a number of matters which have to be negotiated and debated with the local authorities concerned. As the local authorities are partly co-financing these tasks, such as regional transport, decisions of the regional councils in these matters can only be made after close consultations with the local authorities after procedures set in the legislations for regions and for the specific sectors. The aim is to ensure that the co-financing to be paid by taxes collected by the local authorities cannot be imposed on the local taxpayers following decisions made by the region.

As for tasks in the sector of specialized social care, the regions are operators, taking care of institutions for people with various forms of handicaps and other forms of invalidating conditions. The costs of these institutions are covered by payments from the local authorities from which the users or inhabitants of the institutions administratively belong.

Other relations between regions and local authorities

In Denmark the regions have no powers in relation to the local authorities within their territory other than in the above-mentioned sectors. In these cases legal frameworks are set up for the necessarily cooperation within the two tiers of public institutions.

The Danish regions have no powers in relation to set rules for the organization or for the competences of the local authorities. Neither do the regions have any functions concerning supervision or substitution vis-a-vis the local authorities.

Institutional organization

Deliberative bodies and electoral system

The regions are governed by councils composed of 41 members each. The number of members is fixed in the law on regions and can only be changed by the Danish parliament, Folketinget. The members of the councils are elected every fourth year in November, the third Tuesday, by direct universal elections with secret ballots according to the law on elections to regions and local authorities. The system is proportional, and there are no regulations securing gender representation amongst politicians, nor is membership of political parties regulated by law. The members are elected for a period of four years running from 1 January to 31 December, four years later.

All Danish citizens can participate in elections from the age of 18, as can EU-citizens and citizens from Iceland and Norway, on condition of three years previous domicile in Denmark. The conditions for being elected are

identical, with an additional condition of being worthy of the election. In practice this condition excludes persons having received final convictions for important criminal acts.

Turnout

The turnout at elections to the regions greatly improved at the latest election. In 2005 the turnout was 70%, in 2009, 66% and in 2013 the score had increased to 72%. Before the elections the Minister and the two organizations, Danish Regions and Local Government Denmark, (the two associations of regional and local authorities in Denmark) had joined forces in a campaign to increase the participation. The elections for the councils of regions and of local authorities take place the same day, at the same physical polling stations. The turnout of the elections for the regions was slightly lower than the turnout for the local authorities. This difference corresponds with the greater distance between the voters and the regions compared to the situation between the voters and the local authorities. If the two different elections were not practically interlinked, the difference of the turnout would possibly be more important.

Elections of chairman and of members of committees

The chairman of each regional council is elected amongst and by the 41 members of the council for the whole term of four years. The election of the chairman is a simple majority vote.

The election of the chairman for the new electoral term and other elections to constitute the governing bodies, e.g. members of the committees holding responsibility of the immediate management of certain matters, are held in the newly elected council, right after the general election. These elections shall be finished by the 15th of December, the year before the new term, which starts the first of January.

The elections in the council concerning membership of various committees for the duration of the coming term are conducted after the D'Hondt method to ensure party-list proportional representation.

The Regional Council Chairman is submitted to the council, which has the supreme authority in all matters within the competences of the region. The chairman is although the only elected person to be remunerated for a full time occupation – environs 110.260 euro annually - and he is political leader of the regions council as well as executive leader of the administration including the all the staff. The other 40 member of the councils of the regions receives remuneration of much more modest magnitude – environs 16.000 euro annually - designed for citizens who are working a in various professional occupations alongside with their politically mandate.

The elected members of both regional and local councils are obliged to make public the fees received for duties performed by decision of the council, namely duties other than ordinary duties. Ordinary duties include attending council and committee meetings, which council members are obliged to perform by law, and which are covered by the ordinary fees, in accordance with the national regulations on the fees to the elected members.

The council assembles once a month in public to decide upon matters put before the council by the chairman or by a single member via the chairman. The annual budget has to be treated twice by the council.

There are specific and general regulations on the councils dealing with possible conflicts of interest concerning the members (including the chairman).

The chairman is responsible for carrying out the decisions of the council, even in cases where a vote is against the proposal of the chairman.

Dismissal and suspension

Elected members of councils can only be dismissed during the term following a decision of the Eligibility Board, an independent board of five members appointed by the Minister of the Interior.

In case of other criminal acts committed and judged at court regardless of nature, the Eligibility Board can declare the ineligibility of an already elected member. In such a case the member must step down from office.

A new law on dismissal and suspension of chairmen in local authorities and regional councils, decided by the Folketinget in December 2013, entered into force on 1 January 2014.

In cases of severe negligence by the chairman towards his obligations as chairman, he can be dismissed, primarily by simple majority in the council with subsequent approval from the Eligibility Board. If a chairman is charged with an important criminal offence, he can be suspended after the same procedure. If the charges eventually are waived, he can be reinstated in his functions.

A chairman can also be dismissed on a vote of no confidence in the council, due to lack of dignity in or outside office. The conditions for dismissal in these cases are two deliberations in council, at a minimum of 12 days interval, and with a qualified majority of 90% in favour of the dismissal. The chairman can appeal the decision of the council to the Eligibility Board.

To date there have been no cases where these new regulations have been used in practice. But the background for these new measures was a number of cases where mayors had lost the confidence of the council (and that of his party), but continued as mayor nevertheless.

Administrative organization of the region

The regions are autonomous as regards the organization of the administration. The general principles for public administration shall however be respected.

The status and the remuneration of the staff are based on collective agreements between Danish Regions, to which the regions have delegated the powers of negotiating, and the different unions of workers. There is a close political and economic cooperation between the state, the Minister of Finance, and Danish Regions on these negotiations, due to the austere economic situation in Denmark and to the system of government grants to the health sector managed by the regions. The staff are employed either as officials or as contract staff. The number of officials is rapidly declining.

There is no organized mobility between national, regional and local public service, but on a de facto basis there is a quite important mobility between the staff of the three different public levels of government.

Powers of the regions

The powers of the regions are concentrated on managing hospitals and other institutions connected to the health sector. The powers shall be exercised in accordance with national legislation, e.g. on patients' rights to receive treatment within certain delays etc.

Regulation made by the regions can only deal with matters explicitly conferred to the regions by the law on the creation of the regions.

Contrary to the situation in local government (and in the former amter), the regions have no general power of attorney or mandate to engage in matters of the councils own initiative.

The existence and the competences of the regions are entirely dependent on the will of the Folketinget, as no constitutional guarantees exists either preventing the Folketing from abolishing the regions as such or imposing on the Folketing an obligation to confer powers to the regions.

The competences of the regions cover the following key sectors: a) health services in hospitals including psychiatric treatment; b) specialised social institutions; c) regional development (tourism and culture, business development, contaminated sites, public transport etc.).

The regions have no competences vis-à-vis the local authorities, but there is a legal framework for consultation and in some cases for co-financing or financing the institutions and services managed by the regions.

The criteria for allocating powers to the regions are based on the principle of subsidiarity. In this context subsidiarity means that the powers will be entrusted to the level of government nearest to the citizens, capable of providing the service (administrative and practical) in a sustainable manner with sufficiently educated and trained staff within the most advantageous economic frame.

The trend in Denmark at present is to nationalize public tasks or to open public services to outsourcing and at the same time introduce even more restrictive national regulations in various sectors on how the regional and local government shall ensure their performances.

Another way that the state guides or even interferes with the regions exercising of powers is to undertake benchmarking of the five regions performances on selected points of task execution, and to expose the results to public scrutiny and consideration.

There is complete symmetry in the distribution of powers to the five Danish regions, and there are no changes foreseen in that respect.

Financial autonomy

The Danish regions have no powers of levying taxes. The regions activities are financed in different ways depending on the sectors. The income of the regions is composed of state grants and contributions from local authorities and contributions from users of public transport. The grants from the state are either general or dependant on special activities. The contributions from local authorities are fully dependant on the activity in question. Contributions are paid for services performed e.g. by institutions in the so called specialized social sector. These services concern persons with rare conditions and diseases or occasionally inabilities of different kinds.

The regions are in charge of the Danish health care and they are owners of all the public hospitals. Furthermore the regions carry out tasks concerning regional development and specialized social and health services. The three sectors have separate budgets.

Regional public spending currently stands at 13,3 billion €, of which 90% is allocated to health care. Regional spending accounts for 22% of total public spending. Local government covers 48% and the state 30%. Regional spending corresponds to 99% of the total public spending in the health sector.

The investment of the regions consists of building new hospitals. The resources for that purpose are entirely provided by the state and regulated in an annual agreement between Danish Regions and the Minister of Finance.

The level of public investment in Denmark in recent years has been the highest for 30 years. Apart from five new big hospitals, a new bridge to Germany, several new highways, a new public transport system, including extensions of the metro in Copenhagen and new rapid railway connections between the major cities in Denmark, have been politically decided and are in progress.

The system of allocating funds to the regions is an annual political agreement between Danish Regions and Minister of Finance. The state grants to the different regions are calculated on the bases of socio-economic indicators and the state's auditing of the regional budgets and accounts during the year. This very strict control is partly due to the economically difficult situation in Denmark, partly to the fact that such control has been made quite possible and easy because of the development of electronic systems.

The government has therefore during the year full oversight of the state of the finances of the regions and can if need be block grants or take other measures to ensure a balanced budget. The regions are under the obligation to report to the government on the current status of their finances, not only on an annual basis.

The regions have to a very, very small degree their own revenues in form of certain fees, e.g. for extra photos of foetuses.

The Danish regions are used to applying for EU-funding for various projects, but the possibility for Danish authorities to obtain European funding has been reduced in recent years, due to the relatively good economic standing of Denmark compared to other states members of the European Union.

Staff of regions

The basic rules governing regional staff is no different than the rules applying to the staff of the state and the staff of local government. The state has not introduced new measures for managing the staff of the regions. As part of the national reform on local and regional government it was decided to organize transfers of staff from one level of government to another in accordance with the company transfer act.

According to the Danish statistic agency, Statistics Denmark, there are currently (third quarter 2015) just under 121,000 persons employed full-time by the five regions.

At the end of third quarter 2015 the total number of public staff in full time occupation was just over 718.000. Just over 173.000, are employed by the state, just under 121,000 by the regions and just over 422,000 by local government. (About 1,900 persons are employed by social security funds.)

Supervision

The general supervision by the state of the regions and local authorities is based on the Constitution, where § 82 states that the autonomous activities of local government shall be subject to supervision from the state.

The nature of the sub-national tiers of government is not described further in the Constitution, and neither is the supervision. At present the general supervision by the state is organized in one agency under the Ministry of the Interior, in Danish, Tilsynet. Tilsynet is independent of the ministry in its legal functions towards the regional and local councils. The supervision is limited to a legal control.

The general supervision, Tilsynet, can state whether a decision made by the council of a region is lawful or unlawful. The supervision is posterior and deals only with decisions made by the councils. Disputes with staff are not included in the general supervisions competences.

Tilsynet can annul or suspend an unlawful act. With the use of penalties, addressed to the elected members of the council, the supervision can force the council to take obligatory actions, which have been neglected.

The general supervision has the means of opening a case before the courts in order to obtain economic damages from the responsible elected members of council. Those members who voted for an unlawful decision, that caused the region an economic loss, can be sentenced to repay the loss. If repayment is not possible because of the size, the law opens the possibility of deciding on a smaller amount of economic compensation.

The legislation on regions (and local authorities) also includes proper penal provisions. A member of the council of a region can be judged guilty and fined in case of gross negligence towards the duties that membership of the council implies according to the law. Simple negligence is not criminalised.

The general aim of the general supervision of the state, as it is understood today, is to ensure public trust in lawful public administration at regional and local level. Supervision is undertaken on a posterior basis, to take appropriate actions to ensure lawful administration, and in some cases via counselling to prevent, or afterwards redress, unlawful decisions.

The general supervision has no competences as regards the appropriateness of the decisions made by the councils. In cases where a discretionary decision is possible and in accordance with the law in question, the general supervision has no power to intervene.

The general supervision has two administrative levels. The first instance is carried out by the above mentioned agency under the ministry and the second level is carried out by the Minister of the Interior.

Critics have been expressing the view that the general supervision, especially in the ministry, is not performing sufficiently quickly. This important problem is currently being given serious consideration by the former and the present minister.

The financial supervision is under the same regime as the ordinary legal supervision. But the regulations concerning the administration of the regions' budgets and accounts are far more specific and increasingly more comprehensive than in other sectors, which means that the state supervision as regards the finances is very efficient because of the tight regulations.

All members of the councils are personally responsible for the supervision of the legality of any positions adopted by voting in the council.

The general supervision of the regions is not applied to publically owned companies which are under a private legal regime. These companies have to follow the regulations concerning private companies. Only publicly owned companies under the public legal regime are subject to the special supervision of regions. Regions and local authorities have the capacity to take a dispute with the state on legality to the courts. Rare cases have been seen, and the state has in some cases lost the case.

Unilateral intervention from the central government towards regional and local governments is only possible where such intervention in rare cases is foreseen in the specific law.

The institution of substitution is rarely used in Denmark, but in the sector of physical planning the state can oblige a regional authority to speed up its decision-making process. The most recent example of this concerned a site designed for testing windmills. In most cases the general supervision is able to handle problems with a council that is unwilling to take unpopular decisions.

Supervision by the public is an integral element of the comprehensive efforts of supervising public administration at regional and local levels, as all council meetings are open to the public and the administrations are under the Law on Public Administration. The supervisory authority often opens cases following a complaint by a private person or following attention in the media.

Relations with other Levels of Government

Relations with other administrative levels

The regions take an active part in any decision-making regarding the regions and are by law guaranteed the right to be consulted regarding territorial changes.

The regions and their organization, Danske Regioner, are in close cooperation with government and with members of the Folketinget in preparing new laws and regulations. The relations are both formal, as consultations on a draft law, and on a more informal basis, in the form of lobbying for more powers and better conditions for the regions.

There are no legal guarantees for the regions to be consulted over draft legislation, but it is commonly expected to do so and the Presidency of the Folketinget recommends that projects of law be submitted to the Folketinget by the government, accompanied by information on the views and wishes of those who will be affected by the legislation.

The budget and grants to the regions are the subject of close negotiations annually between the government and Danske Regioner. This procedure is often subject to critics from small political parties in the Folketinget, but both the regions and the government find the procedures satisfying and practical.

Danish Regions and Local Government also nominate candidates to various boards, councils and committees set up and appointed by the government. Danish Region is e.g. nominating one member and one substitute of the members of the Eligibility Board set up by the Minister of Economy and Interior.

Relations with the EU

Danish Regions nominate three of the nine Danish members of the Committee of Regions, and provide secretarial support to these members.

Danish Regions do not officially take part in EU-decision-making, but the Danish Government often consults the regions when preparing new EU-regulations. The government monitors the regions compliance with EU-regulations in the same way as other national regulations.

Relations with the Council of Europe

Danish Regions and Local Government Denmark are included by domestic procedures in Denmark's work relating to the Council of Europe when items on the agenda concern them.

Both regional and local governments are represented in the Congress of Local and Regional Authorities of the Council of Europe. Denmark has nominated five members and five substitutes, three members and two substitutes representing the Danish local government and two members and three substitutes representing the Danish regions.

Overall assessment

The question on whether the Danish regions can and should be considered "real" regions depends on the importance attributed to the fact that the Danish regions have no powers of decision in order to provide directly for a revenue to correspond with their tasks, and also the fact that the regions' responsibilities are (almost) exclusively limited to managing the health sector.

On all other questions there is no doubt that the Danish regions are to be considered “real” regions, understood in the context of the criteria in the European Charter on Local Self-Government and in the Council of Europe Reference Framework for Regional Democracy, as regards the Danish provisions on the regions concerning boundaries, elections, composition and autonomy of the deliberative and executive bodies, normative and administrative competences, general supervision and so on.

Following the national reform of local and regional authorities, the Danish Government made a declaration, limiting Denmark’s application of the European Charter of Local Self-Government to local authorities, with effect from 1 January 2007.

This decision followed a very difficult political decision on the economic funding of the new regions and on the number of public tasks to be entrusted to the new regions. The final decision was, as known, to establish so called semi-autonomous regions, where the regional political level is responsible to the public for the management of the health sector and some other minor tasks, and of the use of the resources entrusted to the regions for these purposes.

It could be argued that the fact that the revenues of the regions are provided indirectly via negotiations with the government is not fundamentally different from the situation applying to the local authorities, where the government is regulating the level of local taxes and in many other ways closely monitors the finances of local governments.

In theory the difference may seem very important, but in practice and taking the size of the country into consideration, it could be argued that the regions, as spokespersons of the health sector towards the government, can be a very powerful democratic force on behalf of the regional voters, and therefore be in a good position to provide for funding, even if this is indirect.

At the same time it could be argued, that especially the health sector has no big potential in developing regional democratic characteristics, other than the location of hospitals and clinics. The development of the health sector could be seen as a matter of more national, European and international interest than regional.

The regions’ almost exclusive task of managing the Danish health sector cannot be ignored as an important factor in the assessment of the status of the Danish regions. When the regions were created in 2005/2007, simultaneously with the abolition of the former counties, the new regions suffered a significant reduction of competences and powers in comparison with the counties.

At present the existence of regions is closely interlinked with the management of the health sector. If the health sector were to be privatized or nationalized or transferred to another public body, there is no doubt that the regions remaining tasks could not justify five regions with 41 council members each.

These two factors taken together, the lack of financial autonomy and the very small number of competences must be decisive in concluding that the Danish regions at present could not qualify as “real” regions as understood in the sense of the Council of Europe Reference Framework for Regional Democracy.

FINLAND

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General situation in terms of territorial organisation

In Finland, regional administration consists of two parts: state authorities and regional councils, which are in some degree self-governmental regional authorities.

Regional State Administrative Authorities are responsible for the implementation of law and have steering and supervision functions in the regions. The main functional areas are basic rights and legal protection, access to public services, environmental protection and sustainability, public safety and working environment. Centres for Economic Development, Transport and Environment are also state authorities on the regional level and promote entrepreneurship, labour market and cultural activities, ensure the functioning of the transport system and traffic safety, a healthy environment and sustainable use of natural resources. These centres are also in charge of immigration, integration of immigrants and employment.

The main objects of this study are the regional councils. These councils are formally statutory joint municipal authorities. Every local municipality has to be a member of a statutory regional council. The councils' two main functions are regional development and the regional planning of building and land use according to the special legislation. The regional councils do not have general competence in regional matters.

The country is divided into the regions by an Act of Parliament. There are currently 18 regional councils and the autonomous region of the Åland Islands.

According to the Constitution, section 121, subsection 4 §, "provisions on self-government in administrative areas larger than a municipality are laid down by an Act", but the Parliament has not passed such Act. Because of this the regions are organised in the forms of municipal cooperation according to the Local Government Act and to the special legislation.

The constitutional protection of the municipal self-government is guaranteed in the Constitution, section 121, subsections 1-3 §:

"Finland is divided into municipalities, whose administration shall be based on the self-government of their residents.

Provisions on the general principles governing municipal administration and the duties of the municipalities are laid down by an Act.

The municipalities have the right to levy municipal tax. Provisions on the general principles governing tax liability and the grounds for the tax as well as on the legal remedies available to the persons or entities liable to taxation are laid down by an Act."

The constitutional protection of local self-government covers in principle the joint municipal authorities and also the regional councils, although the protection of these is weaker than the protection of municipalities. The parliament can for example to some degree regulate the internal administration of the joint municipal authorities by special legislation, although the basic structure of the organisation is protected constitutionally. The regional councils do not have power to levy regional taxes.

Constitutional protection covers especially the following aspects:

- A regional council as a joint municipal authority shall be established by an agreement (charter) between member municipalities, although it possible to regulate by an ordinary parliamentary act about an obligatory membership of municipalities and about the mandatory area of administrative activities;
- The mentioned agreement contains basic rules concerning decision-making organs and procedure;
- The majority of the members of the highest decision-making body (general assembly) are elected by the councils of the member municipalities.
- A joint municipal authority is a legal person, which can acquire rights and make commitments and can exercise the right to be heard in courts of law and by other public authorities.

The regulatory power of the regional council is based especially on the Local Government Act (410/2015), on the Act on Regional Development (1651/2009) and on the Land Use and Building Act (132/1999).

The autonomous region of Åland Islands has a special status according to the national and international law. The autonomy is established on the basis of the autonomy granted to it by the international treaties and the Finnish Constitution. In the framework of its autonomy, the Åland Islands have their own political and administrative organs responsible for decision-making.

The Parliament of Åland (lagtinget) exercises legislative power within the framework permitted by its autonomous position, for example concerning commerce, fishing, agriculture and the tourist industry. Otherwise the legislative power belongs to the Finnish Parliament, for example mainly in the area of criminal law, taxation, family law and international relations. The Government of Åland (landskapsregeringen) is responsible for regional administration.

Institutional and administrative organisation

The highest decision-making body of the regional council is the regional assembly. The members of the assembly are elected indirectly by the executives or other decision-making bodies of the member municipalities as decided by the municipal councils in question. The mandate is normally four years. Members of an assembly must be members of the municipal councils of the member municipalities, and the proportion of votes available to the groups represented on the decision-making body when elections are performed must correspond to the proportion of votes received in local elections by the different groups represented on the local councils of the member municipalities within the region, in accordance with the proportionality principle. Each member municipality must have no less than one representative on the regional assembly.

The mode of election is indirect, and electoral system is proportional. There is no apportionment by gender. It is difficult to estimate turnout at elections, because the system is indirect.

The municipal council may remove the elected officials it has elected to a body of a regional council before the end of their term if all or some of them do not enjoy the confidence of the council. A removal decision shall apply to all the elected officials of the decision-making body.

The regional assemblies function according to the rules concerning the general assemblies of the joint municipal authorities, mentioned in the Local Government Act. Oral and written questions are possible, as are votes of confidence.

Persons who are qualified for elections to a municipal elective office are qualified for election to a regional assembly. A member of an assembly should also be a member of a council of some member municipality. Each member authority (municipality) must have at least one representative on the supreme decision making organ (assembly) of the regional council. The status of the elected representatives is mainly the same than the status of the members of a municipal council, according to the Local Government Act.

State civil servants performing supervisory functions, which are directly connected with municipal administration, and the persons who are employed by a regional council, are not qualified.

Elected officials of a regional council are paid for attendance at meetings, compensation for loss of earnings and for costs incurred in engaging a substitute, arranging child care or for other similar reasons arising from the position of trust; and compensation for travel costs and a per diem allowance. Elected officials may also be paid a fee for a fixed period and other separate fees.

If there is cause to suspect that an elected official is, in a position of trust, guilty of malfeasance or has otherwise acted contrary to his or her obligations, the municipal board must demand an explanation from the party concerned and, if necessary, notify the municipal council of the matter. If an offence in office has manifestly been committed, a report of an offence shall be completed without delay. The council may suspend an elected official for the duration of the investigation or legal proceedings. Before the council meets, the council's chairperson may make an interim decision concerning suspension. A suspension decision may be put into effect immediately.

If an elected official is charged with a crime where the nature of the crime or the way in which it was perpetrated suggest that the official cannot attend to his or her position of trust in the required manner, the local council may suspend the elected official for the duration of legal proceedings. The suspension decision may be put into effect immediately. If an elected official is sentenced to at least six months in prison under a

legally valid judgment after being elected, the council may remove him or her from the position of trust. The decision shall take effect immediately.

The most important executive body of the regional council is the regional board. Its members are elected indirect by the regional assembly. Other elected officials and salaried whole-time officials are elected or appointed by a regional assembly or a regional board or by the Head of the executive.

The head of the executive is elected by the regional assembly. The head of the executive is a municipal public official, according to the legislation concerning such officials (Act 304/2003). The head of the executive normally has powers to appoint lower salaried officials.

Each region has a regional management committee for the coordination of measures with an effect on the development of the region and the implementation of Structural Fund Programs. The management committee is appointed by the Board of the Regional Council. The management committee should represent the following equally:

1) the Regional Council and its member municipalities and, in the case of the Lapland Region, the Sami Parliament; 2) the State authorities and other State administration organizations financing the program; 3) parties key to the development of the region, such as labour market and trade organizations, and other organizations representing civic society or environmental organizations, and organizations promoting gender equality.

Competences

The Parliament has the legislative power and the regions do not normally have this. The Parliament can still delegate by an Act its legislative power to administrative authorities in matters, which are of minor importance. The Åland Islands autonomous region has wide legislative power in regional matters.

The powers of the regional councils are strongly enumerated in the legislation. The main sectors are regional development and regional planning. The regional councils prepare and approve regional development plans, propose goals and improve economic structure. Planning for a region includes a strategic regional plan, a regional plan and a regional development programme and its implementation plan. The councils are also responsible for drawing up programme proposals for the region regarding regional structural fund programmes (Act on regional development, 7/2014).

The Regional Council draws up a fixed-term regional strategic program. This includes development objectives based on the region's potential, needs and special characteristics, the most important projects in terms of regional development, and other measures essential to achieving the set objectives and financing the planned program and, if necessary, a specification of municipal cooperation areas. In the Lapland Region, the regional strategic program should include a section on the Sami culture.

On 15 December 2011, the Government made a decision on national regional development targets for the period 2011-2015. This decision concerns regional policy guidelines and focus areas for development measures falling under the Government's remit, to be observed during this term of government. The decision is based on both the Act on Regional Development and Government Degree on Regional Development. The regional development targets are summarised in the form of three general policy guidelines: 1) Strengthening the competitiveness and vitality of the regions, 2) Promoting the welfare of the population, 3) Securing a good living environment and a sustainable regional structure.

According to the above-mentioned decision of Government, regional development is complemented and supported by the EU's regional and structural policy and rural development policy. These policies will be integrated into an efficient and effective entity by the time programme work for the new Structural Fond period is finalised.

In the area of land use, the competence of regional councils is wider (Land Use and Building Act, 132/1999). The regions decide the regional plan, which sets out principles of land use and community structure. More detailed planning belongs to the municipalities. The regional plan is approved by the regional council's highest decision-making body. Following approval, the regional plan is submitted to the competent ministry for ratification. The competent ministry must obtain opinions regarding the regional plan from such other ministries as the matter concerns. If the plan does not meet the content requirements, or if the decision is otherwise unlawful, the competent ministry shall not ratify the plan or will ratify it only in part. Otherwise, the

plan shall be ratified. If the various ministries' opinions are essentially divergent, the competent ministry must refer the matter to a Council of State plenary session for a decision.

The councils promote regional and other cooperation by the municipalities and cooperation between regions and with bodies under public and private law. The councils also manage international matters and contacts related to their functions.

Courts supervision is concentrated in the administrative courts (in the regional administrative courts and the Supreme Administrative Court).

Financial autonomy

The regional councils are formally joint municipal authorities and principally funded by their local authorities. The councils have not power to levy taxes. In 2010 the annual membership fees in all regions were about 48.4 million euros (9.25 euros per resident).

The regions receive annually over 30 million euros of unallocated development funds, which are mainly tied to the implementation of programmes agreed by the Government.

Regional staff comprises both public officials and employees. The status of officials is regulated in the Local Government Act and in the Act concerning municipal public officials (304/2003) and the status of employees in the Labour Contract Act (55/2001). Of the entire staff in public administration the regional staff was in 2007 0.12 %.

Controls

The regional councils are formally parts of the municipal administration (joint municipal authorities). So the forms of supervision are mainly typical of municipal administration. In principle this supervision covers all activities.

Supervision is based mainly on the control of the member municipalities. Concerning the state aids the ministries and the state auditors are competent to control. Supervision on is of its nature a posteriori control. The judicial control is concentrated in the administrative courts.

The council of a member municipality may remove the elected officials it has elected to a decision-making body of a joint municipal authority before the end of their term if all or some of them do not enjoy the confidence of the council. A removal decision shall apply to all the elected officials of the decision-making body (Local Government Act, section 21).

Legal conflicts can occur mainly between the regional authorities and the member municipalities. The legal forum would be the administrative court. Agreement on cooperation concerning a regional council can specify that any dispute belonging to such agreement shall be resolved in the procedure laid down in Arbitration Act.

The state authorities do not have powers of substitution. The most influential organ is the assembly of the region, elected by the member municipalities of regional council. The member municipalities have to supervise that the representatives elected by them fill the legal requirements.

The most important form of supervision exercised by citizens is a complaint to the Ombudsman or to a competent State authority, especially to a Provincial State office. Natural and legal persons resident in a member municipality can make a claim for rectification or an appeal to an administrative court about a decision of a regional council. The natural and legal persons in question can also make a claim for rectification or an appeal.

Relations with other levels of government

The Ministry of Employment and the Economy is responsible for the preparation of national objectives for regional development and for coordinating, monitoring and evaluating the preparation and implementation of regional strategic and other programs, in cooperation with ministries, Regional Councils and other parties key to regional development. The Ministry of Employment and the Economy may issue instructions to the Regional Councils on the preparation, implementation, monitoring and evaluation of the regional strategic program and other programs (Act on Regional Development, Chapter 2).

The Regional and Structural Policy Advisory Council works under the Ministry of Employment and the Economy for the purpose of regional development and the coordination, foresight, monitoring and evaluation of the preparation and implementation of related plans and programs. The Advisory Council has the following specific duties: 1) to coordinate the implementation of objectives and programs concerning the development of national regions, and the implementation of programs relating to structural funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF); 2) to monitor the profitability of both national regional development programs and structural fund programs, and to assess their effectiveness and report on their progress to the Ministry of Employment and the Economy. Moreover, the Regional and Structural Policy Advisory Council can submit proposals, for the purpose of enhancing coordination and impressiveness, to the Ministry of Employment and the Economy and competent administrative authorities, and monitoring committees.

Committees may be appointed for the purpose of coordinating the preparation and implementation of special programs, Government resolutions and other entities significant in terms of regional policy, and for the purpose of foresight, monitoring and evaluation (Act on Regional Development, 9 §). Ministries and legal persons of major significance in regional development shall be represented on said committees. The Government sets up the committees and appoints their chairs. The Ministry of Employment and the Economy decides on changes to the membership of each committee.

The Regional Council draws up a fixed-term regional strategic program. This program shall be drawn up jointly by State authorities, municipalities, bodies and organizations involved in regional development, and other similar parties.

The country is divided into Regional Council cooperation areas for collaboration between Regional Councils. Each Regional Council can only belong to one cooperation area. The cooperation area of Regional Councils must form an entity functionally and economically suitable for the management of the tasks subject to cooperation. The sphere of Regional Councils' cooperation covers tasks that: 1) are significant in terms of the long-term development of the region; 2) are included in regional strategic programs and the plans for their implementation, or other plans of considerable impact in terms of regional development; and 3) concern the entire cooperation area. Member municipalities of Regional Councils belonging to a cooperation area can, through concordant decisions, or through a basic agreement, delegate other tasks related to regional development or regional planning, for joint consideration and handling.

Member municipalities of Regional Councils belonging to a cooperation area must agree on the handling of and decision-making on matters falling within the scope of cooperation, either so that the Regional Councils' common organ exercises decision-making power, or so that Regional Councils exercise decision-making power through concordant decisions.

Regional Councils belonging to a cooperation area must agree on the preparation of matters jointly handled and considered, and the related responsibilities. Regional assemblies of Regional Councils belonging to the cooperation area appoint a common organ and elect members thereto, if so provided in the cooperation agreement. Otherwise, the Regional Council member municipalities belonging to the cooperation area appoint a common organ and elect members thereto in the same context and using the same procedure as when electing their representatives for the regional assembly of Regional Councils.

Cooperation agreements can be drawn up for implementing the regional development targets and programs or plans referred to in this Act. The implementation of measures and projects included in the program or plan can be agreed in said agreements. Cooperation agreements are drawn up in cooperation with municipalities involved in the financing of measures, state authorities and legal persons contributing to the region's development. Cooperation agreements are drawn up for a fixed period. Cooperation agreements can also be concluded on cooperation between Regional Councils.

The Regional Councils are responsible for drawing up proposals for regional Structural Fund Programs concerning their areas, to be financed from European Community Structural Funds. These program proposals cover the matters laid down under European Community law concerning Structural Funds. Proposals are prepared jointly by State authorities, municipalities and other bodies involved in program implementation under public and private law. Jointly with other ministries, Regional Councils, and other bodies and organizations involved in implementing the programs, the Ministry of Employment and the Economy will prepare program proposals for consideration by the Government based on the proposals.

The Government will decide on forwarding any program proposals for approval by the Commission of the European Communities. In other respects, that which is provided under European Community law applies to program proposals. As concerns changes to programs, the provisions on the drafting and approval of proposals for programs shall be complied with. Upon the approval thereof by the Monitoring Committee, the managing authority of the program can submit proposals to the European Commission on changes to the program that are not of considerable significance and which do not alter the aggregate amount of Finland's national public funds allocated to the program.

Regional participation in EU matters is concentrated in the Committee of the Regions. There are currently nine Finnish Members in the Committee. The autonomy region of Åland Islands has in many respects a special status in EU, and the region also has some specially regulated forms of participation of its own.

Regional councils also participate in the activities of the Council of Europe, notably the Congress of Local and Regional Authorities. Several regional councils are also members of the European regional organizations. The most important of these are: the Assembly of European Regions (AER), the Conference of Peripheral Maritime Regions (CPMR) and the Association European Border Regions (AEBR), which promotes cross-border cooperation.

The division of powers between the State of Finland and the autonomy region of Åland Islands is based on international treaties, the Constitution and the legislation concerning the self-government. The inhabitants of this autonomous region have the right to elect one member to the National Parliament.

Overall assessment

The regional councils are statutory joint municipal authorities according to the Local Government Act and special legislation. Every local municipality has to be a member of a statutory regional council. The country is divided into regions by an Act of Parliament. The regional councils' two main functions are regional development and regional planning of building and land use according to the special legislation. The regional councils do not have general competence in regional matters.

The constitutional protection of the municipal self-government covers in principle the joint municipal authorities and also the regional councils, although the protection is weaker than the protection of local municipalities. The parliament can for example in some degree regulate the internal administration of the joint municipal authorities by special legislation, although the basic structure of the organisation is protected constitutionally. The regional councils have not power to levy regional taxes. Because of that councils are financially dependent on member municipalities and state subsidies.

The autonomous region of Åland Islands has a special status according to the national and international law. The autonomy is established on the basis of the autonomy granted to it by the international treaties and the Finnish Constitution. In the framework of its autonomy, the Åland Islands autonomous region has its own political and administrative organs responsible for decision-making.

The highest decision-making body of a regional council is a regional assembly. The members of the assembly are elected indirectly by the executives or other decision-making bodies of the member municipalities as decided by the municipal councils in question. The mandate is normally four years. Members of an assembly must be members of the municipal councils of the member municipalities.

The regional council draws up a fixed-term regional strategic program. This program shall be drawn up jointly by State authorities, municipalities, bodies and organizations involved in regional development, and other similar parties.

The regional councils decide the regional plan, which sets out principles of land use and community structure. More detailed planning belongs to the municipalities. The regional plan is approved by the regional council's highest decision-making body.

There are many forms of statutory cooperation between the regional councils, the state authorities and the municipalities.

The new guidelines of the reform on healthcare, social welfare and autonomous regions

On 9 November 2015 the Finnish Government published more information about its policies on the reform package on healthcare, social welfare and autonomous regions, and on how they will be divided.⁷ Public administration in Finland will be organized on a three-tier level as follows: central government, autonomous regions, local government. With these functions being transferred from nearly 190 different designated authorities to 18 autonomous regions, the number of joint statutory organizations, namely various local authorities and healthcare and social welfare service providers, will be markedly reduced.

In future there will be 18 autonomous regions in the country, 15 of which will be responsible for organising healthcare and social services in their territories. Under new legislation, the remaining three regions will provide the services to support one of the other autonomous regions. Besides healthcare and social services, other duties will also be brought together under the autonomous regions. The existing division into regions will be used as a basis for dividing the country into autonomous regions. Responsibility for the organisation of healthcare and social services will be transferred from joint municipal authorities and local authorities to the autonomous regions on 1 January 2019.

In each autonomous region a council elected by direct vote will exercise the highest decision-making power. In addition to the duties in healthcare and social welfare services, the autonomous regions will be responsible for the following functions: rescue services, the duties of the regional councils, the duties of the Centres for Economic Development, Transport and the Environment within the scope of regional development, and possibly also environmental healthcare. In January 2016, the Government will in decide on the preparation of the regional government reform package and on the duties to be transferred to the autonomous regions. Decisions will also be made concerning the transfer of certain regional duties to local authorities.

⁷ The text is based on the Press release 591/2015 9.11.2015 of the Government Communications Department.

FRANCE

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General situation in terms of territorial organisation

France is a unitary state of long standing that came into being very gradually. It is described as an 'indivisible Republic' in the first article of the 1958 French Constitution, echoing a declaration first made during the French Revolution. The revolution left a lasting mark on France's governmental structures and territorial divisions: the country has over 36,000 communes (local government districts), and there are now 101 departments (the equivalent of counties) covering the whole of French territory, including overseas. However, since 1982 France has seen a broad trend towards decentralisation, which has given local bodies both more autonomy and greater powers.

Legislation in 1982 also created the regions as territorial authorities deliberately given the same legal status as communes, with the departments constituting the third layer of an administrative structure that was meant to be uniform and rational but which did not really allow for the diversity of the regions or enable them to govern themselves. After a number of rejections by public authorities and the failure of a referendum in 1969, the third, regional, tier of local government was thus established simply by law in 1982. However, these developments cannot be treated as a regionalisation process of the type pursued in some other European countries.

In fact, the constitutional amendment of 28 March 2003 reasserts that the Republic is to be organised on a decentralised basis (Article 1). Political authority therefore remains unitary and national, as does legislative authority, apart from a few very limited provisions.

The regions are territorial authorities in the same way as communes and departments (see first paragraph of Article 72 of the French Constitution, which lists the types of territorial authority that are constitutionally enshrined).

In each tier of French local government, a territorial authority comprises a number of authorities in the tier below. In metropolitan France (but not overseas) a region must cover more than one department.

The legislation applicable to the regions is consolidated in the Local Government Code (CGCT), which has existed since 1996. It takes up Part Four of the code, while the provisions applying to communes and departments occupy Part Two and Part Three respectively. However, the code is essentially a set of statutes and regulations on the organisation and operation of various institutions at the regional level. The rules relating to powers are laid down in specific codes (Town Planning Code, Education Code, Public Health Code, etc.). As for the provisions relating to regional elections, these are consolidated in the Electoral Code (Article L.335 et seq.).

For a long time there were 21 regions in metropolitan France (the part of France in Europe), and in April 2014 there were four overseas regions (see below for the latter). Corsica, the first region to be created in France since 1982, has been defined as a 'territorial authority' of the Republic since 1991, without any further description, in order to dissociate it from the legislation governing the regions. It actually has its own institutions (the Corsican Assembly and the Executive Council of Corsica (each with a president), etc.) and more powers than the regions. However, the legislation governing the regions also applies to Corsica if no specific rules exist. By 1 January 2018, under the French Local Government Reorganisation Act of 7 August 2015, Corsica will become a unitary authority absorbing the two departments of which it consists together with the existing territorial authority.

With the Regional Boundaries Act of 16 January 2015, the regions were reduced to twelve, not including Corsica. While five regions have kept their former boundaries (Ile-de-France, Brittany, Pays de la Loire, Provence-Alpes-Côte d'Azur and Centre-Val de Loire) the other regions have been amalgamated in twos (Nord-Pas-de-Calais and Picardy, Burgundy and Franche-Comté, Auvergne and Rhône-Alpes, Languedoc and Midi-Pyrénées, and Upper Normandy and Lower Normandy) and threes (Alsace, Lorraine and Champagne-Ardenne; Aquitaine, Limousin and Poitou-Charentes).

The constitutional amendment of 2003 enshrined the regional tier in the Constitution by adding regions to the list of territorial authorities to provide protection for a level that had hitherto existed only because of the 1982 legislation. Regions now had the same status as communes and departments, the two historical tiers

recognised as territorial authorities since the 1946 Constitution and the 1958 Constitution (the latter taking over many provisions from the former). Prior to the 2003 amendment of the Constitution, because the regions had been created by a law, they could be abolished by a law. Enshrining them in the Constitution thus lent them a degree of permanence. But, whether for communes, departments or regions, it is only the category that has been safeguarded rather than their actual existence or the number of authorities coming under each.

France's overseas territory is significant in both size and population and for its growing range of legal statuses, a distinction being drawn between overseas authorities (*collectivités d'outre-mer*), which have a greater degree of autonomy and their own individual rules (Article 74 of the Constitution), and overseas departments and regions (Article 73 of the Constitution). The overseas authorities (French Polynesia, Saint Pierre and Miquelon, Saint Barthélemy, Saint Martin, and Wallis and Futuna) cannot be considered regions and are not covered in this reply.

Since 1982 there have been four overseas regions covering exactly the same territory as the four overseas departments: Guadeloupe and Martinique (islands in the Caribbean), French Guiana (South America) and Réunion (an island in the south-western Indian Ocean). This means that two legally separate (and therefore sometimes also politically separate) territorial authorities co-exist within the same geographical area.

It was to remedy this complex situation that the 2003 amendment to the Constitution introduced a procedure allowing a change in status, particularly in order to create 'unitary authorities' to take the place of overseas departments and regions on the same territory (Article 73, seventh paragraph). Prior voter consent is nevertheless required before the relevant legislation can be passed (that is, a law with enhanced status in relation to existing law and subject to mandatory review by the Constitutional Council prior to promulgation). The local assemblies concerned never make the final decision, even though, in practice, it is they that set in motion the procedure for establishing a unitary authority. Since 2007, the baseline date for the questionnaire, French Guiana and Martinique have acquired this status through the law of 27 July 2011 on the territorial authorities of French Guiana and Martinique. This law entered into force on 1 January 2016 after local elections had been held for these two authorities at the same time as the regional elections in December 2015. The overseas departments of Martinique and French Guiana have thus ceased to exist.

Furthermore, after a local referendum on 31 March 2011, Mayotte (an island in the Indian Ocean) became an overseas department (thus becoming France's fifth department overseas and its hundred and first overall), vested with regional powers. This basically makes it an overseas region with a single deliberative assembly, but it is called a department for symbolic reasons having to do with the Mahorans' attachment to this name.

Institutional and administrative organisation

The French regions, like the other ordinary territorial authorities (communes and departments), are each run by an assembly elected by direct universal suffrage. Regional elections are held every six years, with all council seats up for election. The size of regional councils, fixed by law, varies from 41 members in Guadeloupe to 209 members in Ile-de-France. The territorial assemblies of Martinique and French Guiana have 51 members each. Although the total tends to increase with population, the number of regional councillors is not proportional to the number of a region's inhabitants.

Regional elections have no distinctive local features; their date, details and voting system are laid down by law. At present, the law of 19 January 1999 provides for a mixed voting system, combining a first-past-the-post list system – in which the list polling highest automatically receives a quarter of the available seats – with proportional representation to divide the remaining three quarters among all the lists having obtained at least 5% of votes cast, including the list that polled highest. The law was meant to facilitate a working majority whilst ensuring representation of the various bodies of opinion in the region concerned. A list system with male and female candidates figuring alternately on each list guarantees parity, that is, equal access for men and women to electoral mandates and elected office, a constitutional requirement since 1999.

Lastly, in order to maintain a relatively close link between voters and their elected representatives, the law of 11 April 2003 requires electoral lists to be split into 'department divisions', with electors thus voting only for candidates in 'their' department within 'their' region. The Regional Boundaries Act of 16 January 2015 has not changed this voting system.

Since 1972, although initially they only had public institution status, the regions have had an original form of bicameralism by comparison with the other tiers of local government, as each region possesses not only a

regional council, considered to be a policy-making assembly because elected by universal suffrage, but also a regional economic, social and environmental council (RESEC) comprising representatives of the region's union, business and voluntary-sector interests, together with representatives of associations working in the field of environmental protection. The RESEC has no decision-making authority and simply provides social, economic and environmental advice. Its members are appointed.

The regional council elects a president to act as the regional executive for a six-year term. Drawn from the majority in the assembly, he or she is assisted by a group of vice-presidents whose number is decided by the regional council but which must be between four and fifteen.

The rules governing relations between the deliberative assembly and the executive are more akin to a parliamentary system than a presidential one, except that the president is not accountable to the regional assembly. However, in Corsica, the executive function is vested in the Executive Council, consisting of a president assisted by eight executive councillors and distinct from the president of the Corsican Assembly. Furthermore, the Corsican Assembly can hold the Executive Council accountable through a motion of no confidence under a procedure similar to that of a parliamentary system.

The Local Government Reform Act of 16 December 2010 was intended to bring the regional and departmental tiers closer together by creating a type of elected representative common to both, known as 'territorial councillors'. The latter were to be elected at the departmental level, and all the departmental assemblies in the same region were to come together to constitute the regional council. The idea behind the law was that these joint representatives would be able to consider the interests of these different-sized territorial authorities more effectively and avoid duplication or rivalry between them. The Constitutional Council saw nothing unconstitutional in this provision provided that both categories of authority, enshrined in the Constitution, were preserved. Nor did it consider this a form of control by the region over the departments. However, the election of a new parliamentary majority in June 2012 led to the passing of the law of 17 May 2013 abolishing territorial councillors. Regional elections and departmental elections have thus remained separate, with the latter taking place in March 2015 and the former in December 2015.

Powers

Since the 1982 law the regions, like the other tiers of local government, have had what is known as 'general competence': they possess not only powers that are spelt out in law but also powers that relate to matters of local interest on principle. The 1982 law puts it thus: 'The regional council shall debate and decide on matters relating to the region.' This delegation of powers raises the question of the respective powers of each tier; any disputes are settled by the administrative courts, which have substantial experience in this field.

General competence has been debated extensively and has undergone various changes. The above-mentioned Local Government Reform Act of 16 December 2010 was meant to abolish general competence for the departments and regions in order to clarify the division of powers between the two tiers and prevent competitive management of the same power by two different levels of local government. But after having established the principle of abolishing this general competence, the same law made a number of exceptions that largely negated this principle. Its provisions were due to come into force on 1 January 2015. The new parliamentary majority after the June 2012 election rejected this part of the 2010 law, while the law of 27 January 2014 on local government modernisation and the establishment of metropolitan areas restored general competence for departments and regions. The French Local Government Reorganisation Act of 7 August 2015 again abolished general competence for departments and regions, thus proving that the issue transcends political divisions between Right and Left. Such legislative dithering is not calculated to clarify the awkward problem of division of powers in France, which has always suffered from a large degree of indecision. At the same time, this law strengthened the regions' powers in the field of non-urban transport in particular but no doubt less extensively than what had been planned in the initial bill, on account of the departments' resistance to transfer of powers to their detriment (see final conclusions).

Financial autonomy

The principles of financial autonomy are laid down in Article 72-2 of the 1958 French Constitution. They cover all territorial authorities, including the regions. Territorial authorities' own resources must constitute a 'decisive share' of their overall revenue, any transfer of power must be accompanied by transfer of the corresponding funding, and, to satisfy the principle of equality, there is equalisation among authorities in order to ensure a degree of financial autonomy for the less wealthy ones.

Section 3 of the institutional law of 29 July 2004, which was intended to establish a financial autonomy ration based on a minimum limit for own resources below which authorities' administrative freedom would be threatened, provides that the share of own resources cannot therefore be less than the 'level recorded for 2003', that is, before compensation for decentralisation. The financial autonomy ratio for the regions (including French Polynesia) rose from 41.7% in 2003 to 53.2% in 2007.

Like the other territorial authorities, the regions are suffering the impact of the financial crisis, with an anticipated drop in their self-financing capacity for investment expenditure. In its most recent survey of regions' initial budgets (budget estimates for revenue and expenditure drawn up by the regions at the start of the financial year) for 2009, the General Directorate for Local Authorities (DGCL) notes that the regions' budgets had increased by 2.6% from 2008.

The regions' expenditure in 2009 (27.7 billion euros) was split between operating costs (61%, up 4.5% on 2008) and investment expenditure (39%, down 0.2% on 2008).

Lower operating costs in 2009 (+4.5%, as against +8.2% in 2008) were attributable mainly to lower staff costs, with completion of the transfer to the regions of technical, manual and service staff in upper secondary schools.

Support expenditure (personal grants, grants and subsidies other than investment) accounted for 68% of regional councils' operating costs and rose 1% in 2009. Two thirds of budgets went on transport (of which 51% was for rail transport), education (of which 78% was for state upper secondary schools) and training and apprenticeships.

The change in total operating surplus (35% for capital spending in 2009 as against 39% in 2008) indicates a squeeze on regions' funding of investment and a drop in their self-financing capacity. The DGCL notes that the change in investment expenditure 'varies greatly' between regions in metropolitan France (from -12.3% to +10.3%) and is down 12.5% in the overseas regions.

Tax revenue rose by 4.2% (+11.3% in 2008; +25% in 2007). The growth in revenue from indirect taxation (up 4.8%) was attributable to the significant rise in revenue from domestic duty on oil products (accounting for over half of indirect taxation revenue), since the majority of regions decided to increase their fraction of the duty up to the authorised maximum. The vehicle registration tax was raised in seven regions. Four regions in metropolitan France and three overseas kept the tax on driving licences. The 5.4% growth in revenue from direct taxation shows that the regions by and large voted small tax rises, as they had done in 2007 and 2008. In 2009, 19 regions out of 26 passed direct tax rates that were the same as 2008.

Of the main grants and subsidies received, the block operating grant accounted for half of all transfers and 19.3% of the regions' total revenue. Overall transfers received by the regions totalled 9 billion euros, showing 1.9% growth in constant terms.

Borrowing, down 2.3% from 2008, was used to fund 70% of the regions' investment. However, the DGCL notes considerable differences between the regions, with per capita borrowing varying in the regions of metropolitan France (excluding Corsica) from 69.40 euros to over 339.80 euros per inhabitant. According to Dexia Crédit Local, the regions' estimated debt by the end of 2009 was 15 billion euros.

The Finance Act for 2010 made provision for index-linking of central government lending to local authorities (excluding the VAT compensation fund), limited to half the forecast rate of inflation (+0.6%). Above all, it began the first stage of reform of the business tax (taxe professionnelle, TP), abolishing the part of this tax levied on businesses' investment expenditure. This abolition resulted in a tax reduction of some 8 billion euros out of the 26 billion paid in business tax by French businesses but deprived territorial authorities of almost half their revenue.

The business tax was replaced by a local economic contribution (contribution économique territoriale, CET), consisting of a business rate (cotisation locale d'activité, CLA) based on a business's property value and set by the recipient authorities, and a contribution based on a business's value added (cotisation sur la valeur ajoutée des entreprises, CVAE), set by Parliament. The loss of revenue was to be fully offset by a new tax (a flat-rate tax on network industries - imposition forfaitaire sur les entreprises de réseau, IFRER), transfer of additional resources (balance of transfer duty, special tax on insurance contracts, supermarket tax, etc.) and additional budget appropriations.

Ultimately, local authorities would be compensated in tax revenue for 65% of the 28.4 billion euros of business tax. The reduction in fiscal autonomy and the issue of maintaining a direct tax link between local areas and smaller businesses are key concerns for local elected representatives.

Supervision

The regions are subject to the same supervisory rules as the other tiers of local government: central government reviews the legality of decisions taken by regional assemblies and enacted by the executive authority (the president of the regional assembly for the regions and the Executive Council in Corsica). The rules governing supervision were laid down by the law of 2 March 1982 and have undergone only minor changes since. No regions have special status in this respect.

These rules provide that the most important decisions adopted at the regional level, which are spelt out in law, must be forwarded to the regional prefect, the central-government representative at this level. If there is any doubt about the legality of a decision, the prefect may, after having if necessary asked the regional authority to reconsider its decision, refer the case to the region's administrative court. On appeal, the case may be taken to an administrative court of appeal.

Financial and budgetary control is carried out by regional audit offices and the Auditor-General's Department: these auditing bodies are responsible for ensuring good public management and proper use of public funds. Thus with regard to the regions, like the other two tiers of local government, and their public institutions, the regional audit offices exercise three main powers: judicial review of the accounts of public accounting officers, management auditing and budgetary control. The regional audit offices also have the task of evaluating public policy and the conditions in which it is implemented locally through their contributions to the thematic surveys of the Auditor-General's Department. They may thus investigate how a region's staff is managed or the criteria for award of a region's grants.

In exceptional cases, a regional council can be dissolved by a decree signed by the French President if it proves impossible to run (Local Government Code, Article L.4132-3), although this provision has never been applied since it came into force in 1982. Such a decision is open to challenge before the Conseil d'État, the highest administrative court. A dissolution of this kind was intended by the law simply to allow organisation of a new regional election. Until it has been held (within two months), the region's day-to-day business is managed by the president of the regional council. In Corsica, dissolution of the Corsican Assembly would have the same consequences, with the president of the Executive Council conducting day-to-day business.

Relations with other tiers of government or governance

As regards relations between the regional and central-government levels, the regions are not represented as such in a national public body, other than the Association of French Regions, a private-law body acting as a pressure group on the public authorities and which may take part in discussions unofficially.

The French regions are not federated states and, unlike the latter, are not involved in central-government management. While Article 24 of the French Constitution states that 'The Senate shall ensure the representation of the territorial communities', this certainly does not mean that every territorial authority must be represented as such in the Senate. The statement applies to all the authorities, including the regions. However, through all the regional councillors, the regions are part of the electoral college charged with electing the senators, who are national elected representatives and members of an assembly responsible for ensuring representation of the French people. The Constitution provides, as construed by the Constitutional Council in particular, that representatives of all the territorial authorities must be in the electoral college charged with electing the senators. Regional elected representatives are very much in the minority here: 1830 regional councillors out of roughly 160,000 electors, i.e. in June 2013, 577 members of the National Assembly (0.4% of the total), 1,880 regional councillors (1.2%), 4,052 departmental councillors (2.6%) and 151,458 municipal councillors (95.8%).

Similarly, regional elected representatives, like other local elected representatives (mainly mayors and departmental councillors) can endorse a candidate for the presidential election to support that person's candidacy. But here again regional elected representatives, numbering some 1830, are very much a minority among potential sponsors, who are mostly mayors of communes. In the 2012 presidential election they accounted for barely 4% of the 47,000 endorsements available to the candidates, actually corresponding to over 42,000 elected representatives (owing to accumulation of political offices).

The main issue is no doubt the relations between regions and departments. The regions have the disadvantage of having been 'added' to the departments in the past. On top of this, they have not had long to assert their legitimacy and develop an identity. Initially, in the 1960s, the regions were devolved authorities; they then became public institutions by a law of 1972 before being recognised as territorial authorities in 1982. Not all the regions have a historical tradition or incontestable boundaries. The example of the Centre region is typical in this respect. Similarly, some departments were attached to a region for reasons of population balance without their presence within the region always being justified. The case of the department containing the city of Nantes, which was removed from the Brittany region, has generated much debate and frequent demands.

To make relations between the regional and departmental levels easier, the law of 16 December 2010, in addition to creating territorial councillors (see above), was intended to facilitate amalgamation of adjacent regions and readjustment of regional boundaries by procedures requiring voter approval. In a new departure, to reflect an option in the revised French Constitution of 2003 (first paragraph of Article 72), the same law of 2010 provides for a procedure to amalgamate departments and the region to which they belong into a unitary authority exercising the powers of region and departments (Local Government Code, Article L.4124-1), a provision introduced with the Alsace region particularly in mind. After a referendum in the two departments of Alsace, the process failed in April 2013 given the procedural requirements (absolute majority of votes cast, representing at least a quarter of registered voters in each department). This failure does not mean that further attempts may not be made. The above-mentioned law of 16 January 2015 abolished the referendum requirement, since voters were seen as an obstacle to the changes deemed necessary by elected representatives.

Prospects

There have been no general legal or institutional developments in the status of the regions since 2007, apart from the question of their number. On the other hand, fresh approaches have been taken, some of which were then reconsidered (creation and subsequent abolition of territorial councillors; abolition, restoration and renewed abolition of general competence (see above)). These developments, which have depended on changes in the political majority in France, reflect enduring concerns. This suggests that various obstacles, particularly economic ones and those concerned with savings to the public purse, carry more weight than political divisions.

The economic and financial crisis affecting France will perhaps help to trigger a comprehensive reform of local government, which, in that country, appears possible only at times of revolution or major crisis or with a change of political system. The money issue – the pursuit of savings to the public purse – was already present in the uncompleted reform of 2010, when Mr Sarkozy was president. The political majority elected in 2012 found itself more or less obliged to undertake radical adjustments and cuts. It is therefore planned, in future legislation whose details have not yet been revealed, to strengthen the role of the regions in relation to other tiers of government by giving them the power to direct some aspects of public policy – something which, hitherto, it has never been possible to implement. With this in mind, the regions are apparently the first to be calling, in an irony of history, for both abolition of general competence and a clear and exact definition of the powers vested in the regions and departments.

Abolition and amalgamation of regions is intended to give France regions that are fewer in number but greater in size and economic power, with the argument that they should be equivalent to their European counterparts. This justification is nevertheless open to criticism, since there is no European standard for regions and it disregards the fact that it is a region's powers, rather than its size, that provides a useful standard of comparison.

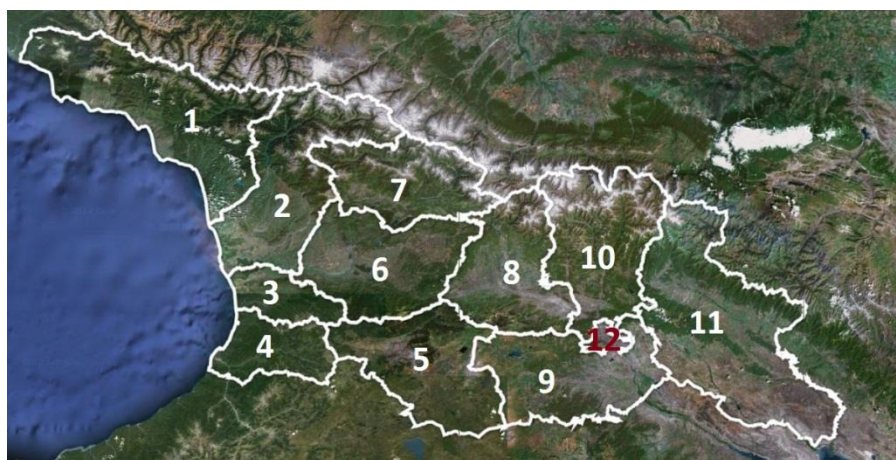
This answer to the problems of local government organisation, often favoured as a means of simplifying France's accumulation of local government tiers, its famous 'multilayered' structure, is perhaps neither the most effective nor even a necessary way of resolving the difficulties that France is experiencing. It does, however, have symbolic value and the virtue of apparent simplicity.

GEORGIA

David Melua, Executive director of the national Association of Local authorities of Georgia

Located in the South Caucasus, Georgia is a small, mountainous country. In the north, on the border with Russia, Georgia is dominated by the Greater Caucasus, with an altitude of up to 5,068 meters. In the South, on the border with Turkey and Armenia, Georgia is dominated by the Lesser Caucasus and the Javakheti plateau. In the East, Georgia borders on Azerbaijan, while in the West Georgia is bounded by the Black Sea. Eastern and Western Georgia are divided by various mountain ranges, notably the Likhi range between Imereti and Shida Kartli, and the Gombori range between Kakheti and the capital city of Tbilisi. Georgia is a unitary state divided into regions. The form of Government is Parliamentary republic headed by the directly elected president. The Parliament of Georgia is the supreme decision making body, executive power is exercised by the cabinet of minister led by Prime Minister. The constitution of Georgia gives autonomous status to Adjara and Abkhazia, in addition to which Georgian Abkhaz has the status of a state language.

Figure 1: Administrative Divisions of Georgia



1	Autonomous Republic of Abkhazia	7	Racha-Lechkhumi and Kvemo Svaneti
2	Samegrelo-Zemo Svaneti	8	Shida Kartli
3	Guria	9	Kvemo Kartli
4	Autonomous Republic of Adjara	10	Mtskheta-Mtianeti
5	Samtskhe-Javakheti	11	Kakheti
6	Imereti	12	Tbilisi

Georgia is divided into nine regions, two autonomous republics, Adjara and Abkhazia, and the capital city Tbilisi. The autonomous republic of Abkhazia is not under the control of the Georgian government, as is South Ossetia, which mainly occupies the northern parts of Shida Kartli, and some parts of neighbouring regions.

Georgia is further divided into 72 local government units, of which 60 are municipalities and 12 are self-governed cities (Tbilisi, Rustavi, Telavi, Gori, Akhaltsikhe, Kutaisi, Batumi, Ozurgeti, Poti, Zugdidi, Akhaltsikhe and Ambrolauri). Local government units in Abkhazia and South Ossetia are not under the control of the Georgian government.

Legal Status, Competences and administrative structure of Georgian regions

Regional Administrations

The regional administrations were first established in 1995 by the president of Georgia as a tool for management and coordination of state authorities in the territories of Georgia. The governors have always

been an integral part of the central government of Georgia rather than an autonomous level of sub-national administration.

In addition since 2009 the Ministry of Regional Development and Infrastructure set up a government commission (made up of deputy ministers) on regional development policy to elaborate a State Strategy for Regional Development of Georgia and “to create a favourable environment for the socio-economic development of the regions and improve the living standards and conditions of the population”. Subsidiarity and effective governance are part of the basic principles of the strategy. Establishing regional statistics, spatial planning, encouragement of inter-municipal as well as transfrontier cooperation, setting up a unified system of assessment and remuneration of public servants and the introduction of e-governance and support for technological innovation are also among the goals of the strategy.

Since 2010, within the framework of the strategy, Regional Development Councils have been established under the regional governors with the participation of the representatives of local self-governments, heads of the regional subdivisions of the central authorities, and representatives of local business and the public who assist the governor in performance of his/her duties. A Regional Development Fund has been established to provide financial support to the strategy.

Competences of the Governor

Initially the functions, responsibilities and rights of Governors were defined in Presidential Decree 406 (27 June 2007), “On approval of the Regulation of the State Trustee/Governor”. In line with the Decree, the Strategy on Regional Development defines the competences of the Governor as the elaboration of a development strategy of a region, coordination of its implementation, ensuring effective regional governance and periodically reporting on the progress of the implementation to the Government and the Ministry of Regional Development and Infrastructure. Governors acted as both the representative of the central government in the region and at the same time the de facto representative of the self-government units at central level. In this respect the governor represented a form of a certain degree of de-concentration.

The objectives and functions of the Governor (Article 5 of the Presidential Decree #406 On the Approval of the Regulation of the State Trustee/Governor) were, inter alia, supervision over the activities of local self-governance organs (for lawfulness of local authority activities), coordination of public order, supervision and control of military recording and compulsory military service of the citizens in administrative territorial units, participation in implementation of defence capacity raising and civil defence activities, elaboration and implementation of social-economic development programs and ecological stabilisation, participation in the attraction of investments and regional development activities, support to protection of historic monuments and human rights protection. Governors (by government assignment) implemented regional social-economic development programs in the administrative-territorial units, submitted to the President of Georgia proposals for the suspension or dismissal of the council, if the activity thereof poses a threat the sovereignty, territorial integrity of the nation and the implementation of the constitutional rights of national government authorities.

The institute of Governor underwent changes after the entry into force of the new version of the constitution of Georgia. Governors (state trustee in Municipalities) were moved from being subordinate to the President to become a structural part of the Government of Georgia. The parliament introduced a specific chapter (VIII1) in the law of Georgia “On Structure, Competencies and procedures of the Government of Georgia” (#3277) that regulates procedures for the appointment, operation and subordination of state envoys – Governors - in the administrative territorial units of Georgia. According to these new provisions in the constitution and the law of Georgia (#3277) the Governor is now appointed by the decree of the Government of Georgia and boundaries of their constituencies are also defined by decree of the Government of Georgia.

The powers of Governors have been substantially reduced and now they are responsible for:

- Coordination of activities by various agencies of the central government on territory of his/her constituency
- Coordinating specific actions of Local government reform according to the mandate given by the Government of Georgia.
- Participating in the sessions of the Government of Georgia in a consultative capacity.

The new Article 89 (1) of the Georgian Constitution provides for the possibility for the representatives of local self-government to apply to the Constitutional Court. Although the acts of the governors are not explicitly mentioned in the text of the Constitution Law on the Constitutional Court, as all other state and local bodies can apply to the Constitutional Court, if an act is not in compliance with the higher act, by analogy so can the governor, if an act of a state body violates the status and functioning of the regional governors. For any other sort of dispute the competent courts are the courts of general jurisprudence.

The Governor has a First Deputy and Deputies and operates through his/her administration, the composition and statute of which is endorsed by the government of Georgia. The staff of the regional administration are appointed and dismissed by a decision of the Governor. The administration of the Governor has its own seal with the coat of arms of Georgia and its own accounts in the State treasury. The structural units of the Administration are the administrative service, the Service for coordination with local government bodies, the State supervision service, the Regional Development Service and the Financial Service. The governor has the mandate to issue normative acts of Georgia.

Whereas the power of state envoys/governors in territorial administrative units has been substantially reduced by the 2012-13 reform, due to the old mentality and administrative momentum governors still possess de facto substantial powers over municipalities and in certain cases are implementing direct administrative measures in the affairs of local self-government units.

Regional Development Councils

Since 2011, within the framework of the Regional Development Strategy of Georgia, Regional Development Councils have been established under the regional governors with the participation of the representatives of local self-government, heads of the regional subdivisions of the central authorities, and representatives of local business and public. The goal of these representatives is to familiarise the governor with the situation in the local government units; they serve as consultative bodies. They develop and submit to the governor the social and economic development strategy for the region.

Following the 2014 Local government Reform, the mandate of Regional Development Councils (RDC) are now defined by the Organic law of Georgia on Local Self-Government. These councils are consultative bodies to the governor and are composed of mayors and heads of local councils. The mandate of the RDC is to discuss regional projects and regional development strategies and to provide recommendations to the governors.

Recently the Ministry of Regional Development and Infrastructure of Georgia elaborated new legislation, a draft law "on Regional policy and development planning", which extends the powers of Regional Development Councils and converts them from consultative bodies into collegial administrative organs. The draft law envisages the establishment of Regional Development Agencies for the implementation of specific development projects. This new legal initiative is being widely promoted by the Ministry of Regional Development and Infrastructure. However it has not yet become law as it requires endorsement by the session of the Government of Georgia and adoption in the Parliament of Georgia with three readings.

Finances

The activities of the Governor and of the Administration are financed from the state budget. The region receives funds from delegated transfers, the Regional Development Fund and the Reserve Fund. Regional authorities are composed of employees who are paid from the central budget and have funds for the development for municipalities. The regions are included in the system of financial equalisation and can use other funds and bank loans.

The Autonomous Republic of Adjara

The Autonomous Republic of Adjara (Adjara A.R.) has representative bodies, which are elected by the citizens, with their own competencies and also include representatives of membership to professional associations, etc. It must be underlined, however, that they are not totally independent of the central authorities since they can be dissolved by the latter.

Competences and government structure of the regional administration

The status of Adjara has been defined in the Constitutional Law of Georgia on the Status of the Autonomous Republic of Adjara and the Constitution of the Autonomous Republic of Adjara, giving the region the following competences:

- a. Adopting and amending the Constitution and other normative acts of the Autonomous Republic of Adjara;
- b. Election of the Supreme Council of the Autonomous Republic of Adjara;
- c. Determining of structure, authorization and the rule of conduct of the Government of the Autonomous Republic of Adjara;
- d. Providing support to education and science, the establishment and governance of cultural and scientific institutions; maintenance of cultural monuments of local significance;
- e. Libraries and museums of local significance;
- f. Tourism, culture and sport;
- g. Construction and urban development of local significance;
- h. Roads and other utilities of local significance;
- i. Participation in resolving sanitation, health care and social insurance issues;
- j. Agriculture and hunting;
- k. Quality control of groceries and food products;
- l. Trade fairs, markets and exhibitions;
- m. According to the rules prescribed by the legislative acts of Georgia, determining and implementation of budgetary policies within the revenues of the Autonomous Republic of Adjara; elaboration, approval and control over the execution of the draft budget of the Autonomous Republic of Adjara;
- n. Introduction and abolition of local taxes as prescribed by Georgian law;
- o. Management and administration of property of the Autonomous Republic of Adjara;
- p. Managing the archives of the Autonomous Republic of Adjara;
- q. Forestry management;
- r. Fire protection.

If the Adjara A.R. does not regulate any of the domains listed above, these may be regulated by the central government within its statutory competence limits, and according to the normative act of Georgia. The present functions show that the autonomous Republic of Adjara has the competences to support and coordinate the development of the municipalities in many social spheres. From this it is clear that the regional policy and actions are to be concentrated and co-ordinated at regional level. While the President of Adjara is not explicitly mentioned in the text of the Organic Law of Georgia on the Constitutional Court, since the Constitutional Court protects the constitutionality and legality of the acts passed, it is bound to protect the regional self-government if an act of the state bodies violates the status and functioning of the regional authorities. For any other sort of dispute the suit will be pursued in the courts of general jurisprudence.

Governing bodies of the Adjara A.R.

The Supreme Council of Adjara constitutes the supreme representative authority of Adjara, which within its competences carries out the legislative activities and exercises control over its government. The Supreme Council of Adjara consists of 15 members elected under the proportional voting system and an additional six through majoritarian vote, all elected for a four-year term, on the basis of universal, equal suffrage, direct and secret ballot by the citizens of Georgia residing on the territory of the Autonomous Republic of Adjara. Elections of the Supreme Council of Adjara are convened by the President of Georgia according to the rule prescribed by the Organic Law of Georgia.

Subject to the consent of the Parliament of Georgia, the President of Georgia is entitled to dismiss the Supreme Council of Adjara if its activity endangers the sovereignty and/or if it fails to exercise the powers prescribed by the Law and Constitution of the Autonomous Republic of Adjara and if the latter twice fails to approve the nominated Chairperson of Government of Adjara.

The Chairperson of the Government signs and promulgates the laws. He/she is authorised to return the law with remarks to the Supreme Council which votes thereon (if three fifths of the entire composition of the Supreme Council vote in favour). Other issues related to the law-making process and approval of the budget of Adjara are regulated by the Constitution and laws of the Autonomous Republic of Adjara, subject to observance of the requirements established by legislative acts of Georgia.

The Government of Adjara constitutes the executive body of the region. It is composed of the Chairperson of the Government and Ministers. The structure, authorities and rule of conduct of the Government is determined by the Law of the Autonomous Republic of Adjara. According to the constitutional law, the Chairperson of the Government of Adjara nominates ministers in consultation with the heads of respective central governmental authorities of Georgia and submits agreed candidatures for approval to the Supreme Council of Adjara. The Chairperson of the Government is deemed as approved if supported by more than a half of the total composition of the Supreme Council. The ministries of Adjara may be established only in the following fields: economy, finance and tourism, health care and social welfare, education, culture and sport, and agriculture.

The Government of Adjara is accountable to the President of Georgia and to the Supreme Council of Adjara. The President of Georgia is authorised to suspend or annul an act of the Government Adjara if it contradicts with the Constitution of Georgia, the Constitutional Law, international agreements and treaties of Georgia and/or legislative acts of the Presidents of Georgia.

Financial Resources of Adjara A. R.

Adjara enjoys financial autonomy, subject to limitations prescribed by Georgian legislation. It is allowed to take part of tax and non-tax revenues in accordance with the laws of Georgia and may receive the special financing from the state budget. For the purpose of ensuring implementation of the delegated powers, Adjara administers the revenues received through the collection of taxes and charges. Adjara has its own property, which is regulated by Georgian legislation.

The Capital city of Tbilisi

Tbilisi, the capital of Georgia has a special status, which is regulated by the Law of Georgia on the Capital of Georgia – the City of Tbilisi. The city constitutes a single self-governing unit, where self-governance is implemented through the elected council (the representative authority) and the elected mayor. It is divided into five administrative units. The competences, organisation of ruling bodies and organs and the electoral system of Tbilisi have a lot in common with the other local government units in Georgia, but also certain specificities.

Competences

The own competences that the city exercises, such as the approval of programs to support the employment, establishment, reorganisation and liquidation of legal entities, the management and disposal of land resources under its ownership, land use planning, division of self-government unit territories by zones (planting, recreational, industrial, commercial and other special zones), etc. are similar to those exercised by other self-government units in the country. But, Tbilisi has, according to the Article 9 of the Law on the Capital, common jurisdiction with the State on some issues, such as:

- a. coordination of law and order;
- b. natural resources, environmental protection and securing the ecological security;
- c. implementation of the programs related to protected territories and protection of historical and cultural monuments;
- d. development and revision of strategic programs for urban, building and utility industries;
- e. coordination of issues in regards to education, science, culture, health care, sport and tourism;

- f. coordination of the population's social security and employment;
- g. liquidation of the effects of catastrophes, natural disasters and epidemics;
- h. financing city development of extraordinary importance;
- i. other issues provided for in the Georgian legislation.

Governing bodies

Tbilisi, due to its size in territory and population, has five urban districts that are administrative or executive/administrative units, unlike the other self-governing units, which only have one each. This means that while other self-governing units have one representative and one executive body that organise and coordinate the work of several administrative units or departments, Tbilisi has one representative body (Sakrebulo) making decisions at the level of the whole city, but they are implemented in territorially divided districts that are organised entirely as special administrative/executive units. According to Article 29 of the Statute of the City of Tbilisi, the Tbilisi district consists of the Governor, deputy Governor and heads of particular services. The existence of these five administrative districts changes to some extent the composition of the executive body in order for it to encompass the district executive representatives. Thus, at the city level, city government consists of the premier, deputy premiers and the heads of the special Tbilisi services. The governors of Tbilisi districts are part of the Tbilisi government. The executive authority of the city of Tbilisi is headed by the Mayor and head of the city government.

The city government guarantees the implementation of the decisions taken by the Tbilisi city council and the Mayor, elaborates the projects of the city budget and programs for social and economic development, guarantees the implementation of the budget and the programs for social and economic development approved by the council. The Sakrebulo of Tbilisi consists of 50 members (unlike the other self-governing units which consist of 25 members), 25 of whom are elected in the single-mandate majoritarian constituencies, and other 25 through the proportional system in 10 electoral constituencies of Tbilisi. And finally, the Mayor of the City of Tbilisi is elected by direct ballot unlike all other mayors, who are elected by their Sakrebulos. Since the 2010 elections, the Sakrebulo of Tbilisi has more opposition members than before: out of 50 members, 10 belong to opposition parties and one member is non-party. At present, out of 50 members of Tbilisi Sakrebulo, twelve are women. Two of them have leading positions (one of them is a chairperson of a committee, and the other of a political group).

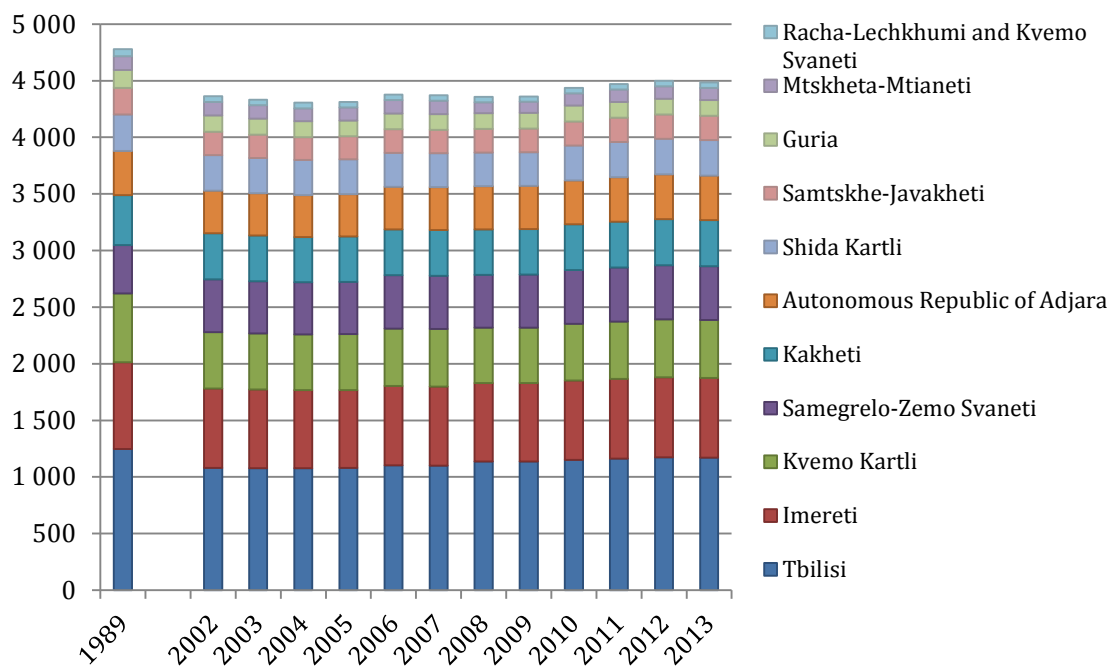
Finances

The own competences granted to the local self-governing unit of Tbilisi by the Law on the Capital of Georgia – Tbilisi, allow it to function as an independent authority according to the powers and responsibilities defined in the law. In addition, Tbilisi has the authority to take decisions on issues that, according to legislation, do not belong to the competences of any other state authority and is not inadmissible for the local self-governing unit by law. Tbilisi draws up its own documents for priorities and drafts a budget which is adopted by the Sakrebulo. It independently defines its revenues and payments. When delegating tasks, the State allocates resources commensurate to the functions delegated to the local self-governing body. For example, the Tbilisi City Hall is exercising an epidemiological supervision programme, for which it receives annual funding. Also, within the scope of delegated authorities, the financial commitments to public transport drivers undertaken as part of the state debt in past years have also been financed from the central government. As to tax revenues, the financial crisis has not had a serious impact on the tax revenues to Tbilisi budget and the amount of financial transfers from the central government. Neither has it resulted in any recentralisation of powers and competences. There has been a significant rise in tax revenues, especially with regard to property tax.

The socio-economic profile of Georgian regions

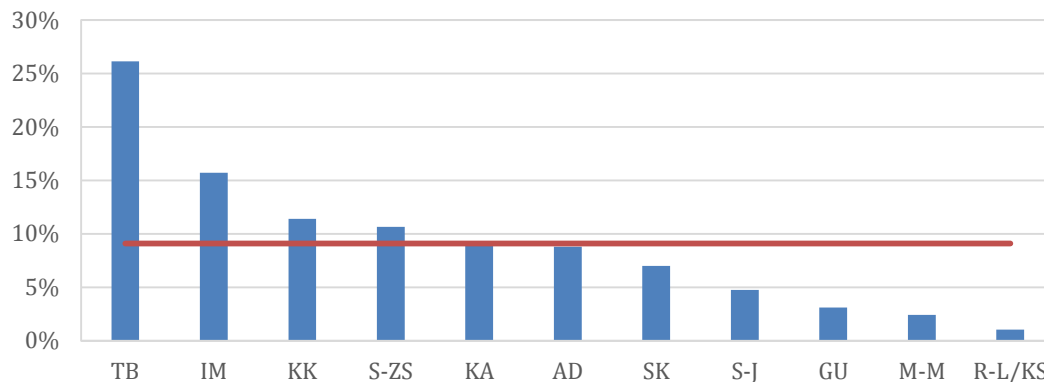
The last census of the Georgian population, carried out in 2002, is the only census since independence. Before independence various Soviet censuses are available, in particular the census of 1989, the last census including the disputed territories of Abkhazia and South Ossetia. The next census was planned for 2014. Until it is complete, only estimates of the population and other demographic statistics are available, with all the resulting reliability issues.

Figure 2.1. Population of eleven Georgian regions (in thousands)



The population of Georgia declined from 4.8 million in 1989 to 4.4 million in 2002. According to the estimates of GeoStat the population of Georgia has increased since 2002 and reached roughly 4.5 million by January 2013. Figure 1.1 shows the dynamics of the regional distribution of the Georgian population. Two things are worth mentioning. First, the population of Georgia, as well as the population of almost all Georgian regions has shrunk in absolute terms since independence. The only exceptions are Samegrelo-Zemo Svaneti and Adjara. Second, in terms of the regional shares of total population the overall picture is very similar to what it was before independence.

Figure 2.2. Regional as a share of Georgian population (in percent)



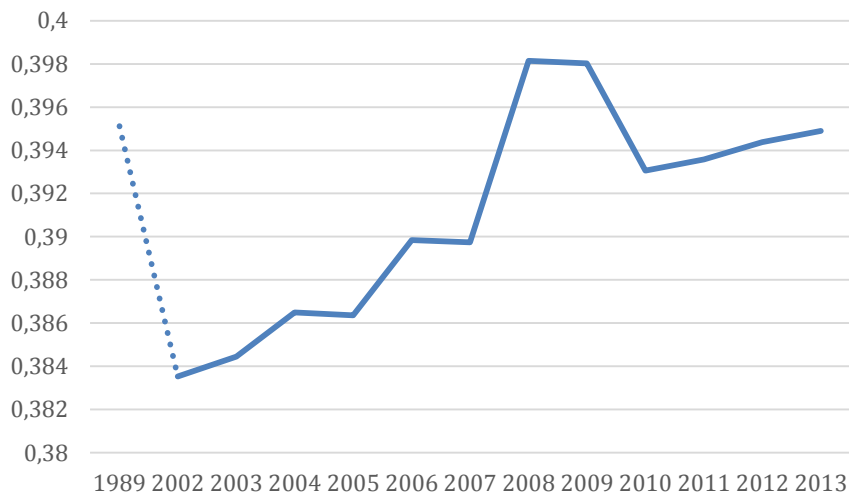
Source: Geostat webpage (2013)

In 2013 the distribution of the population by regions was characterized by a high unevenness. While the capital, Tbilisi, is home to more than a quarter of the Georgian population, the smallest region Racha-Lechkhumi and Kvemo Svaneti account for only slightly more than 1% of the Georgian population. When arranged in an ascending order, regions above the median (Adjara) constitute 73% of the population of Georgia, while the same number for the group below the median is just 18%.

However, an uneven distribution of the Georgian population across regions is neither a new phenomenon nor unique to Georgia. Regional shares in the Georgian population have stayed roughly constant since independence. Between 1989 and 2013 the largest change does not exceed two percentage points. The most significant changes have happened in Kvemo Kartli and Samegrelo-Zemo Svaneti. Kvemo Kartli population

shrank from 13% to 11% of the Georgian population. As for Samegrelo-Zemo Svaneti, its share has increased from 9% to 11% mostly due to a large influx of Internally Displaced Persons (IDPs) from Abkhazia. Consequently, there has been only minor change in the ranking of the regions by population. In 1989, Kakheti was larger than Samegrelo-Zemo Svaneti, while in the 2002 census and later estimations the two regions switched their respective places in the ranking.

Figure 2.3. Gross inequality index (GINI) of regional distribution of population



Source: Geostat webpage (2013)

Population inequality fell between 1989 and 2002, as people residing in cities left for their regions, presumably to escape the various problems that Georgia was facing in the 1990s. From 2002 the Gini coefficient started to rise, and returned to its pre-independence level by 2008. It seems that the August 2008 war and the recession following the global financial crisis slightly reduced the concentration of the population for 2009 and 2010, possibly similar to what happened in the 1990s. All this suggests that the population geographically concentrates in good times, but disperses in times of recession or war.

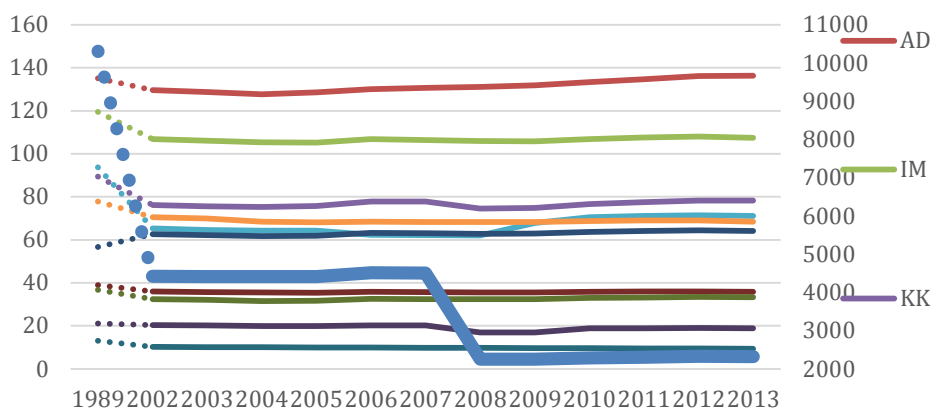
Population densities are related to geography, but also the relative economic development of regions. In order to calculate population densities we combined the population size from the 1989 and 2002 census with the areas of the regions respectively municipalities.⁸

Comparing the population densities of Georgian regions gives a different picture of regional disparities than comparing absolute population sizes across regions. Firstly, all regions, except for Samegrelo-Zemo Svaneti experienced a decline in population density from 1989 to 2002. Secondly, only Adjara and Samegrelo-Zemo Svaneti have been more densely populated in 2013 than in 1989. Thirdly, Tbilisi is as to be expected the most densely populated region, with 2324 inhabitants per km². The decline in density is mostly due to the changes in the administrative boundaries of Tbilisi. Fourthly, the smallest regions in terms of population – Mtskheta-Mtianeti and Racha-Lechkhumi and Kvemo Svaneti – are also the most sparsely populated areas. Lastly, population densities have roughly stayed constant over time, with the exception of Tbilisi.

The ranking in terms of absolute population sizes differs from that in terms of densities. While Adjara is an average region in terms of population size, it is the most densely populated region outside Tbilisi. At the same time Guria, the third smallest region in terms of absolute population is the median region in terms of population density. It is evident that mountainous regions tend to be more sparsely populated than lowland regions.

⁸ Note that in some cases, in particular the case of Tbilisi and the city of Batumi, areas have changed over time.

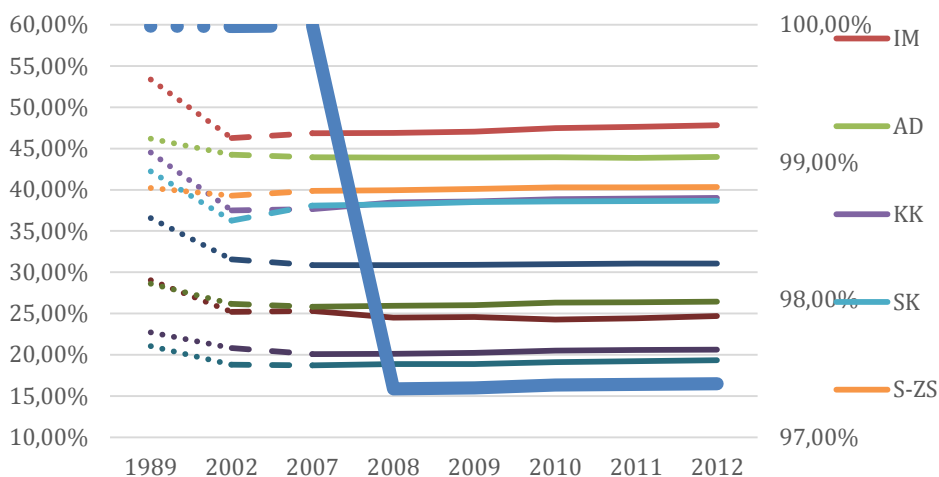
Figure 2.4. Population Density of Eleven Georgian Regions (Population per Square Kilometre)



Source: Geostat webpage (2013)

Not surprisingly Tbilisi stands out as the most urbanized region. While the enlargement of Tbilisi by several villages in 2008 somewhat reduced the urbanization rate, Tbilisi is still overwhelmingly urban. Other regions with high urbanization rates include Imereti and Adjara, while the least densely populated regions tend to be mountainous. Urbanization rates are stable over time, with the largest drop occurring between 1989 and 2002. All regions except Samegrelo-Zemo Svaneti are less urbanized in 2012 than in 1989.

Figure 2.5. Urbanization of Eleven Georgian Regions (in percent)



Source: Geostat webpage (2012)

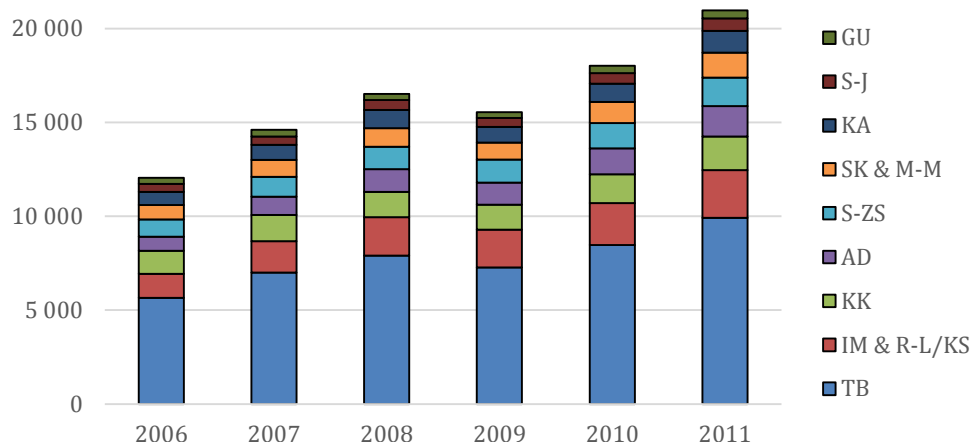
According to estimates, most of the Georgian regions are homogeneous in terms of more than 90% of adult population being ethnically Georgian. The main ethnic minorities are Armenians and Azeris, which tend to be concentrated in particular regions. While Samtskhe-Javakheti has the largest share of Armenians, Azeris mainly reside in Kvemo Kartli and Kakheti. Ossetians account for 4% of the adult population of Shida Kartli and Russians only 2% of the Tbilisi population. The figures for other minorities are statistically negligible.

Geostat provides data on gross-valued added (GVA) at the regional level, based on the national accounts and as a reasonable proxy for regional gross domestic product. Several regions are combined by Geostat into larger regions, that is, Mtskheta-Mtianeti is combined with Shida Kartli, and Racha-Lechkhumi and Kvemo Svaneti with Imereti. There are several reasons why GVA figures should be interpreted with caution. First, the exact location of economic activity is often ambiguous, in particular if regions are relatively small and economically well integrated. Second, GVA is not identical to GDP, as it excludes all taxes and subsidies. Third, with price level differences across regions it overstates real economic activity in regions with higher price levels.

Clearly, Tbilisi is the economic centre of Georgia, with a disproportionate share of economic activity being located in the capital. No other region comes close, even those regions with large urban centres. At the same time given the potential issues with calculating GVA, Tbilisi's share is likely to be overstated, given that

businesses active in the regions are often registered in the capital, and given the presumably higher price level. Over the period 2006 to 2011 the relative share of regional wealth remained unchanged.

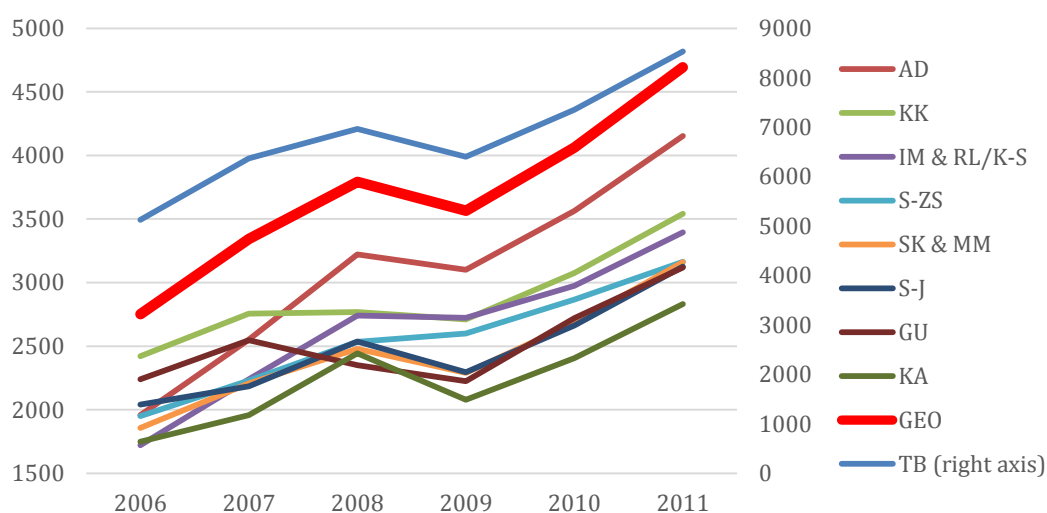
Figure 3.6. Regional Gross Value Added (in million. GEL)



The only exception to this is Adjara, which in 2006 was responsible for six percent of total GVA, while in 2011 it was responsible for eight percent, moving ahead of the Samegrelo and Zemo Svaneti regions.

Every region except Tbilisi is below the national average, once again underlining the dominance of Tbilisi. The more heavily urbanized regions tend to have a higher, while more rural regions tend to have lower per capita GVA. Overall, urbanization rates explain more than 93 percent of the variation in per capita GVA, suggesting that there are little to no regional disparities, but rather, disparities between urban and rural areas. Over the year there have been few changes, with most regions growing on average at the same rate. Notable exceptions are Imereti/Racha Lekhumi and Kvemo Svaneti and Adjara, with above average growth rates of per capita GVA. In particular Adjara had high sustained growth rates, with per capita GVA growing from one of the lowest in Georgia to one of the highest in just five years. In fact, these high growth rates have one important implication for regional disparities. While in 2011 disparities between regions seem to reflect disparities between urban and rural areas the same was not true in 2006, suggesting that over this five year period regional disparities have narrowed.

Figure 3.2. Per Capita GVA by Regions (in GEL)



Source: Geostat webpage (2012)

The regions of Georgia differ in their economic structure. One can distinguish between three broad sectors, the primary sector (agriculture, hunting and forestry, and fishing), the secondary sector (industry, processing of products by households, and construction) or the tertiary sector (trade and repairs, transport and

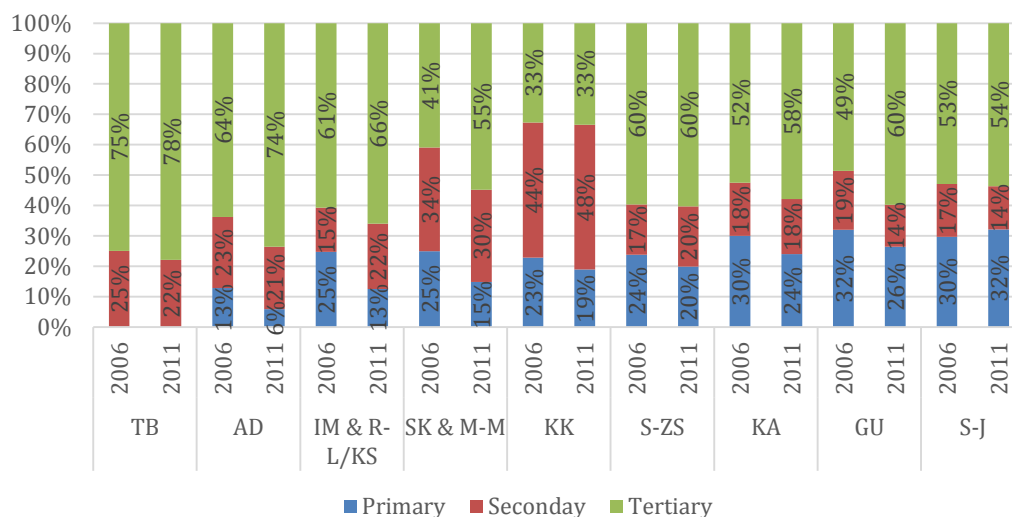
communication, public administration, education, health and social work, other types of services). The GVA of these sectors does not necessarily correspond to sectoral employment, as GVA crucially depends on the price of final output. This in particular holds for the primary sector, with agriculture in Georgia absorbing a disproportionate share of employment, but having a relatively small share in GVA.

Tbilisi as the most urbanized region has no primary sector, a modest secondary sector share, and the largest tertiary sector share among all regions. Kvemo Kartli and Shida Kartli have a high share of the secondary sector, suggesting that while industries avoid Tbilisi itself, proximity to Tbilisi is valued. Other regions with significant shares of the secondary sector are Imereti/Racha-Lekhumi and Kvemo Svaneti, Adjara, and Samegrelo and Zemo Svaneti, emphasizing the close relation between urbanization and the location of industries. Vice versa, more urbanized regions are also those with relatively small shares of the primary sector.

The primary sector has decreased in importance in most regions, sometimes dramatically so. At the same time, the share of secondary industries remained relatively constant over time, with the tertiary sector being the one that has expanded in almost all regions. Thus, while regions differ in their economic structure, there have been no fundamental shifts over the period 2006 to 2011. Comparing sector contributions to regional GVA growth between 2006 and 2011 shows that Samtskhe-Javakheti and Kvemo Kartli are seemingly exceptions. While in Samtskhe-Javakheti a large of GVA growth was driven by the growth of the primary sector, in Kvemo Kartli the main growth driver was the secondary sector.

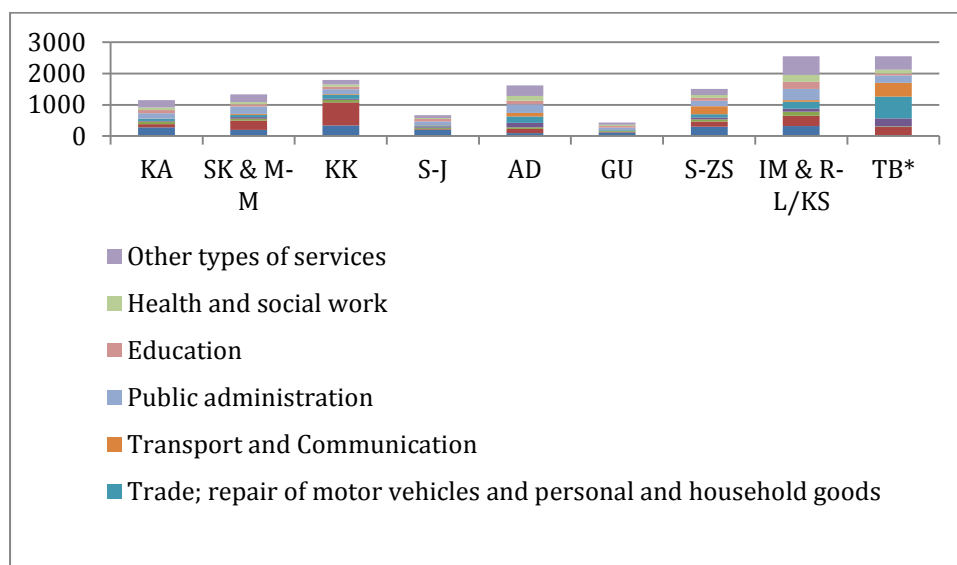
A finer partition of sectors, in particular the tertiary sector reveals specific regional patterns. Tbilisi has far larger tertiary sectors, and is more diversified than any other region of Georgia. Adjara has a strong presence of the construction sector, and to a lesser extent transport and communication, and public administration. Samegrelo and Zemo Svaneti have a strong presence of the transport and communication sector, which is likely to be related of the port of Poti. Imereti has a strong presence of public administration, education, and health services. Although none of these three major urban regions are well diversified individually, they are if taken together.

Figure 3.3. Sectoral Shares of GVA in Georgian Regions



Source: GeoStat webpage (2011)

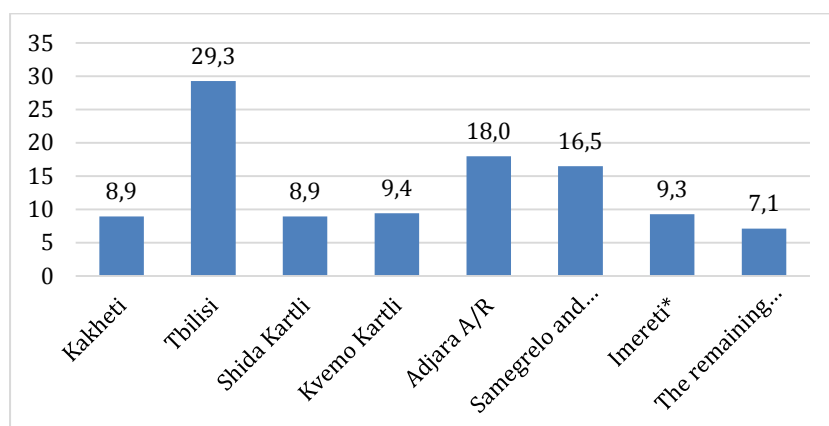
Figure 3.5. Sectoral Contribution to GVA by Region (in million. GEL)



Source: Geostat webpage (2011)

Unemployment figures show clear regional disparities, with unemployment being highest in Tbilisi, and to a lesser extent in Adjara and Samegrelo and Zemo Svaneti. A potential explanation for the observed regional disparities is the urban or rural character of different regions. Unemployment is much lower in rural than in urban areas, with a difference of almost 20 percentage points. Arguably this is a statistical artefact. A large share of the rural employed are self-employed subsistence farmers who could more accurately be described as underemployed. There is no such option in urban areas, and with formal employment opportunities being rare, the consequence is a high unemployment rate in urban areas. All this has an important consequence for interregional and urban-rural labour mobility. The high unemployment in urban areas reduces their attractiveness, and thus migration to the cities.

Figure 4.1. Unemployment rate (in percent)



Source: Geostat webpage (2011)

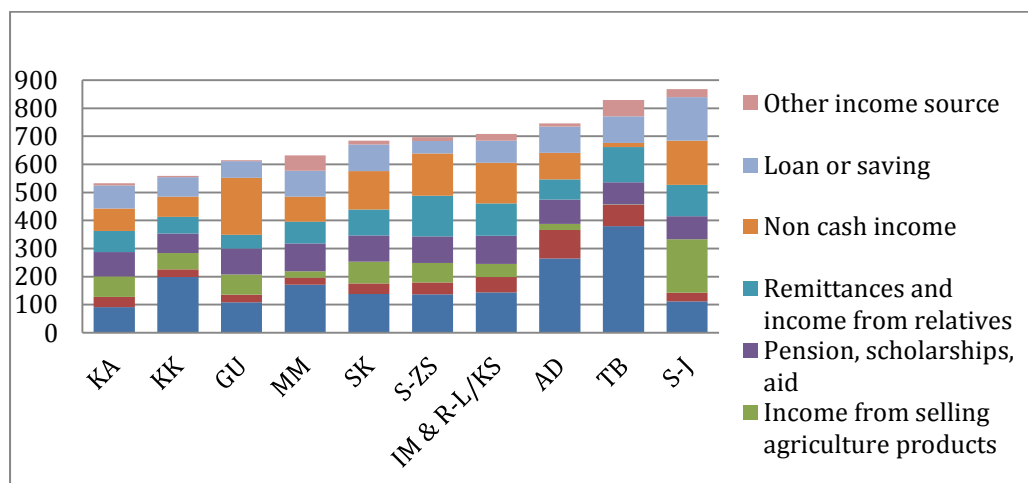
Regional average capita incomes are within a 20 percent band around the average national per capita income. It should be noted that within regions, per capita income variances across households far exceed cross regional variances. This has the implication that while the differences appear to be large, few are statistically significant.⁹ In particular, assuming a 95 percent significance level average per capita income in Kakheti, Kvemo Kartli, Mtskheta-Mtianeti, and Guria is lower than in the remaining regions. Vice versa, average per capita income in Tbilisi appears to be significantly above the average per capita income in every region except

⁹ Only a rough, rule of thumb based calculation of the standard deviation of the sample averages were done. A more accurate and robust calculation would be possible, but is beyond the scope of this report.

Adjara, Imereti, and Samtskhe-Javakheti. This seems to suggest that more urbanized regions have higher per capita incomes. The two exceptions are Kvemo Kartli and Samtskhe-Javakheti, curiously the two only regions with large shares of ethnic minorities.

According to Geostat, in 2011 the total length of roads in Georgia was 18,854 km. Of these roads only 8% are international and 28% secondary roads, implying that the vast majority of roads are roads connecting villages to other villages or regional centres. These are crude measures for regional disparities in the provision of roads, as the length of the road network is largely determined by geography. Indeed regions with higher population density tend to have more roads per square kilometre, while regions with low population densities tend to have more roads per 1000 persons.

Figure 5.2. Income Categories by Region (in GEL, per household)



Source: Integrated Household Survey (2011)

At least for villages the Village Infrastructure Survey offers some evidence on the accessibility of roads. The lack of transportation and poor roads are seen as among the three most important problems in a significant share of all villages. Regions with large shares of mountainous areas tend to be overrepresented with regard to transportation problems. While strictly speaking on a high plateau and not mountainous per se, Samtskhe-Javakheti is an exception, possibly related to the new MCC funded highway.

Georgian Railway is the only railway provider in Georgia. The total length of the Georgian railway network is 2,344 km, of which only 1,326 km is operational (Georgian Railway, 2013). The railway network is unevenly distributed, with the network mainly connecting the main urban centres. It is also insignificant for passenger transportation, relative to road transportation, as reflected in that fact that less than 1 percent of passengers choose the railway. The railway network is of far more importance for cargo, with more than 41 percent of cargo transported by rail (Geostat, 2012).

Figure 6.3. Use of railway stations by Georgian villages (in percent)

	Does not need/Has not heard	Cannot use	Uses
TB	14.3%	0.0%	85.7%
AD	2.6%	0.9%	96.5%
GU	1.6%	5.3%	93.2%
IM	9.6%	3.9%	86.5%
KA	52.8%	31.4%	15.9%
M-M	71.8%	3.9%	24.4%

R-L/KS	46.6%	37.2%	16.2%
S-ZS	3.4%	1.3%	95.4%
S-J	8.4%	8.0%	83.7%
KK	56.0%	19.7%	24.3%
SK	25.0%	4.8%	70.2%

Source: Village Infrastructure Census (2011)

The Village Infrastructure Survey provides some evidence on the accessibility and the use of railway infrastructure. There appear to be large regional disparities, with some regions reporting an almost universal – though undoubtedly only occasional – usage of railway service. Other regions – predominantly mountainous - report the opposite. Around 80 percent of villages not having access to the railway network report that distance to the railway network is the main reason for inaccessibility. Of note is Kakheti, which in principle should have good access to the railway network given the relative lack of geographic barriers.

In 2011 almost all household had access to electricity, with virtually no differences between regions.

Figure 6.5. Share of the households provided with electricity (in percent)

	2010	2011
Kakheti	99.9%	99.7%
Tbilisi	100.0%	99.9%
Shida Kartli	99.9%	100.0%
Kvemo Kartli	99.9%	100.0%
Samtskhe-Javakheti	100.0%	100.0%
Adjara	99.5%	99.9%
Guria	100.0%	100.0%
Samegrelo	99.9%	99.9%
Imereti	99.9%	100.0%
Mtskheta-Mtianeti	99.7%	100.0%
Georgia	99.9%	99.9%

Source: Geostat webpage (2011)

While access to electricity is almost universal, these statistics say little about the quality of the electricity supplied. The quality of the electricity supply can be measured by the System Average Interruption Frequency Index (SAIFI), which is the average number of interruptions that a customer would experience, and the System Average Interruption Duration Index (SAIDI), which is the average duration (in hours) of outages for each customer. Evidently regional disparities exist, in particular between urban and rural areas, and Tbilisi and the rest of Georgia.

Figure 6.7. Distribution of the households by the basic supply sources of the drinking water (in percent)

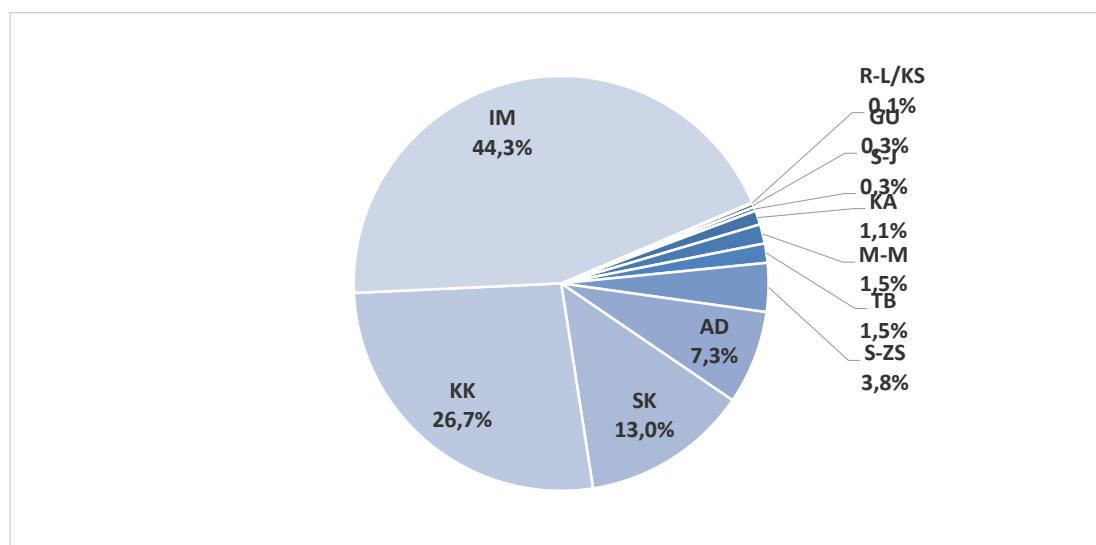
	The water supply system installed in the dwelling	The water system tap in the yard or in the vicinity	The well in the yard or in the vicinity	Natural spring in the yard or in the vicinity	Other sources
KA	16.6	66.6	6.5	9.7	0.5
TB	95.9	3.3	0.1	0.4	0.3
SK	25.7	35.1	28.1	11.2	0.0
KK	37.1	42.9	14.1	4.5	1.4
S-J	31.7	60.6	7.6	0.0	0.0
S-ZS	21.8	9.0	66.7	2.5	0.0
IM	31.8	19.8	34.6	13.7	0.0
Other*	60.6	22.5	8.2	7.6	1.1
GEO	50.6	24.4	18.4	6.1	0.4

Source: Geostat webpage (2011)

Only about 50% of Georgian households have access to drinking water in their dwelling, with the remainder relying on water taps or well in the yard or in close proximity to the dwelling. As to be expected Tbilisi and other more urbanized regions tend to have better access to drinking water. A notable exception is Samegrelo and Zveno Svaneti. While this region is relatively urbanized, most households have neither water taps within the dwelling or in the yard, but rather rely on wells.

In general, the main contributors to air pollution are heavy industries, transportation, and energy. These activities tend to be geographically concentrated, in particular heavy industries, implying significant regional disparities not only between urban and rural areas, but even among urban areas of a country. And indeed there exist large regional disparities in air pollution from stationary sources in Georgia. The bulk of air pollution affects Imereti and Kvemo Kartli, and to a lesser extent Shida Kartli and Adjara. In turn, most of the air pollution in these regions is driven by single plants in specific cities, implying an even more uneven distribution of air pollution across different locations in Georgia. Two thirds of total air pollution in Georgia is concentrated in just three cities, in Zestafoni, Rustavi, and Kaspi. In turn, according to the Ministry of Environment Protection (2010), the main sources of emission are the Zestafoni Ferro Alloy Plant, aluminium and fertilizer factories and the Gardabani power plant in Rustavi, and the cement factory in Kaspi.

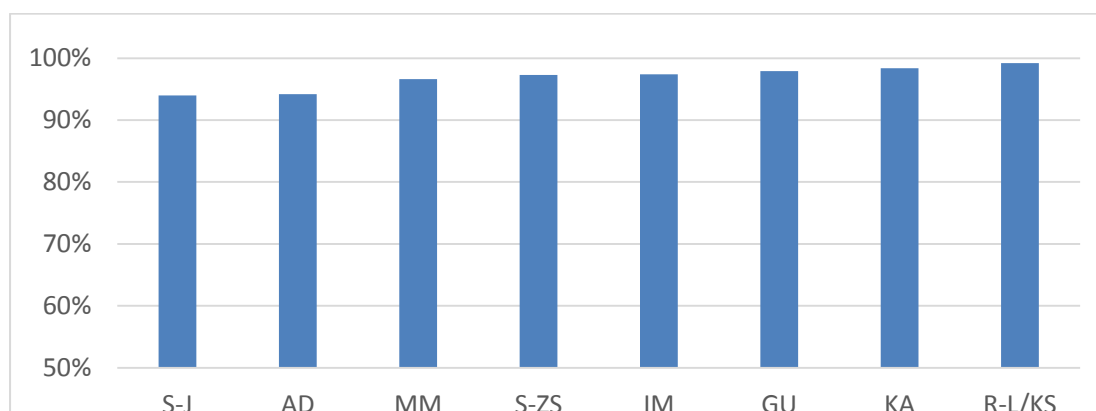
Figure 7.7. Share of Georgian regions in total air pollution from stationary sources (in percent)



Source: Geostat webpage (2011)

In 2009 about two-thirds of the Georgian population in 45 cities were served by sewage system. Most of these sewage systems were reportedly in poor condition, resulting in significant pollution of downstream water resources (UNICEF, 2012). The situation is even worse outside the large cities, with the more recent Village Infrastructure Survey reporting that the vast majority of Georgian villages have no access to sewerage systems. This is true for all Georgian regions, with little variation across regions.

Figure 7.8. Share of Villages having no access to sewage system (in percent)



Source: Village Infrastructure Census (2011)

In 2003 only Tbilisi and Khashuri had sewage systems that treated collected wastewater (OECD, 2004). Since then the situation has improved, as in 2009 sewage systems in Tbilisi, Rustavi, Kutaisi, Tkibuli, Gori and Batumi included at least one stage of mechanical treatment (UNICEF, 2012). No readily available data exists on developments since 2009, but a cursory look at the webpages of the United Water Supply Company of Georgia, Georgian Water & Power, and Batumi Water suggests that considerable investments are being made into the modernization and rehabilitation of existing sewage systems across Georgia. That is, sewage systems in urban areas, suggesting that these investments will both decrease disparities between urban areas and increase disparities between urban and rural areas.

Cultural and recreational resources and their accessibility can also serve as an indicator of the quality of life in different regions. However, out of general considerations, and given the lack of data for cultural and recreational resources in Georgia, this is a poor indicator for the quality of life in this country. The reasons are manifold. There are a large number of different cultural or recreational resources, from opera houses to playgrounds. While counting cultural and recreational resources and possibly even evaluating their quality and accessibility would give a large number of measures, these measures would be hard to summarize without making broad assumptions on households preferences. Household preferences are also crucial because the

availability of cultural and recreational resources is driven by not just supply but also demand. These general problems are compounded in the case of Georgia, because little data on the multitude of possible cultural or recreational resources is available.

Current trends

The Constitution of Georgia does not mention the status of Georgian regions, except when linking issues of the territorial administration of Georgia with the restoration of Georgia's territorial integrity. Currently Georgia has asymmetrical territorial divisions, nine regions of Georgia have the status of de-concentrated level of the central government, two regions (Adjara and Abkhazia) enjoy the status of autonomous republics and the capital city of Tbilisi has special status guaranteed by the Georgian legislation. Anjara A.R. has its own deliberative body elected by universal and direct suffrage and its own government.

In 2013 the new government that came to power after the parliamentary election began a process of constitutional change. The special constitutional commission established by the parliament of Georgia announced the definition of the legal status of Georgian regions as a priority. Later on the new government postponed the decision on constitutional changes, due to opposition from Georgian conservative circles, notably from the Georgian Orthodox Church.

In general, Georgian public opinion is negative with regard to regionalization in Georgia, seeing a risk of the country's disintegration in regionalization plans and in the granting of political status to the regions of Georgia. The prospects for regionalization in Georgia are therefore poor and there is no national consensus on this topic. Nevertheless, it is obvious that the existence of secessionist regions requires decisions with regard to the territorial administration of Georgia.

Avoiding disputes inside Georgian society, the new government of Georgia has taken an interim decision, announcing that the Georgian regions are administrative territories for socio-economic development and that their political status will be introduced in the Constitution of Georgia after the restoration of Georgian Territorial integrity and the de-occupation of two Georgian regions.

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GERMANY

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This text describes recent trends in Germany's federal system on the basis of the questionnaire sent out in 2013, the Council of Europe Congress Monitoring Report on Local and Regional Democracy in Germany (2012) as well as the CDLR Report "European practice and recent developments in the field of regional self-government" (2007).

General Framework, Recent Developments and Current Challenges

Germany is a Federal Republic composed of 16 constituent States, the Länder: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, Mecklenburg-Western Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia. Three of them, Berlin, Bremen and Hamburg are so-called city-states (Stadtstaaten), while the others have larger territories (Flächenländer).

Their formal entrenchment in constitutional law as well as the history of federalism in Germany, in particular in the Bismarck era, leads to considering them as (constituent) "States"; in the German legal tradition the Länder can certainly be classified as "constitutional regions": all are in an equal legal position, and enjoy the same constitutional status providing wide-ranging (constitutional) autonomy as well as legislative powers and administrative functions vis-à-vis the Federation. Each Land has its own Constitution and separate institutional structures which include, at constitutional level, a government, a Parliament (Landtag) as well as a court system including a Constitutional Court. The Länder are autonomous in determining how they govern themselves; the federal Constitution, the Basic Law (Grundgesetz – GG), only stipulates a minimum of democratic standards to be respected. According to Article 28 of the GG (known as the "homogeneity clause"), each Land must "conform to the principles of Republican, democratic, and social government, based on the rule of law". In all Länder, there are unicameral legislative bodies (Landtage);¹⁰ due to their dimension, the city-states have a double status as Länder and municipalities and are governed differently, with a fusion of Land and local self-government structures.

The allocation of powers and duties is determined by the federal Constitution which states that the Länder are responsible for all public functions and tasks that are not assigned expressly to the federal government. This means that the federal level has only those powers and functions that are listed in provisions of the Basic Law, while the responsibility for policy implementation in most fields is and remains vested in the Länder, especially in the administrative sphere. The underlying rationale of German federalism is that while the Federation exerts wide-ranging legislative powers in areas of interstate matters, the Länder do not only implement their own legislation, but are also responsible for implementing federal legislation in their own right (article 83 GG).

Thus, German 'executive federalism' differs considerably from federal systems with dual executive (and judicial) structures serving each level of government; the aim of the peculiar construction is to avoid the duplication of institutional structures, in particular the establishment of a costly parallel federal administrative structure. As an example, the judiciary is organized under the responsibility of the Länder, only the highest Courts are federal in order to guarantee the unity of the judiciary as well as the uniformity of the jurisprudence throughout the federal territory. The deeply rooted polycentric structure has created an inherent and structural interdependence of federal and Länder bureaucracies and contributed to the intensive vertical and horizontal co-operation and co-ordination. The resulting 'Politikverflechtung' (interlocking policies)¹¹ has proved to be nearly immune to all attempts of reform for decades.

In the evolution of the German federal system, the gradual loss of the Länders' legislative powers has been compensated by an evolution towards 'participatory federalism', i.e. more frequent and more efficient participation of the Länder in the federal legislative process. Institutionally, the participation of the Länder in

¹⁰ From 1946 to 1999, Bavaria had a bicameral system: the Bavarian Senate, an Upper House with mainly consultative functions, was abolished by means of a constitutional referendum (8 February 1998).

¹¹ See FW Scharpf, No Exit from the Joint Decision Trap? Can German Federalism Reform Itself? (MPIfG Working Paper 05/8, September 2005).

the legislative process is guaranteed by the Federal Council, the Bundesrat, which consists of the representatives of the Länder governments (articles 50-53 GG).¹² This peculiar institutional feature explains, together with the absence of a confidence-relationship with the federal government, why the Federal Council is not considered a chamber of Parliament, although it functionally fulfils an equivalent role, as it is consulted on all federal bills: as a rule, the Bundesrat has a suspensive veto which, after a limited period of time, can be overruled by the Bundestag.¹³ Some bills require the explicit consent of the Bundesrat, with a majority of its votes; in case of the latter's opposition, the only way to pass the bill is a compromise in the so-called mediation committee ('Vermittlungsausschuss', Art. 77.2 GG) equally composed of members of the federal Parliament and the Federal Council. If such a compromise cannot be found or is not accepted by Parliament or the Federal Council, the law cannot enter into force. With these far reaching rights of approval or even veto, the Bundesrat has become the pivotal institution of the whole federal system. The peculiar composition of the Bundesrat (its members representing the Länder governments) facilitates the representation of territorial interests. It also reflects the specific institutional logic of German federalism, with a preponderance of government bureaucracies and intergovernmental relationships.¹⁴ However, the divergence of political majorities in the two chambers creates a strong temptation for opposition leaders to use the Bundesrat's veto powers in order to block any significant move of the federal government;¹⁵ coalition governments at Länder level complicate things further as each Land-delegation has to express a uniform vote.

The federal system is part of the fundamental and structural principles of Germany's federal Constitution which are expressly protected against any amendment by the 'eternity clause' (article 79 al.3 GG). It is generally agreed that this protection against amendments only refers to the very essence of the federal system, including the participation of the Länder in federal legislation, but not to its current form or the number and concrete shape of the Länder.¹⁶ But all constitutional amendments need the approval of both Bundestag and Bundesrat, each with a two-thirds majority (article 79 GG), which means that agreement on change has to pass three possible lines of conflict: between Parliamentary majority and opposition, between the federal Government and the Länder, and between different groups of Länder with a veto minority in the Bundesrat.

After re-unification in 1990, only minor constitutional amendments were adopted (1994), which can be explained by the desire for stability through continuity. Various proposals to reform the so-called financial constitution were not realised; the amendments concerned above all concurrent legislative powers (see below). In the late 1990s the federal system (and the Bundesrat in particular) was accused of being responsible for the perceived crisis of the system and in particular for the consequent 'reform logjam' (Reformstau), i.e. the slow decision-making processes with unclear political responsibilities and a general incapacity to reform.

In October 2003, an ad hoc Joint Commission for the Modernisation of the Federal System was established to draw up a reform proposal that would be submitted to the formal amendment procedure. Its composition reflected the balance between the democratic and federal principles; it also had a 'hybrid' character with inclusion of 'observers', so that it was closer to a convention rather than a normal committee. The Commission worked for one year, and came very close to a compromise, but the negotiations remained without agreement in the end (December 2004). After the federal elections in September 2005, constitutional amendments were adopted based on its work by the Grand Coalition of Christian Democrats (CDU/CSU) and Social Democrats (SPD) in summer 2006 entering into force on 1 September of the same year.

The first part of the reform, which changed more than 20 articles of the Basic Law, aimed at a disentanglement of legislative powers (for example, through the abolition of framework legislation) and at

¹² The Federal Council has 69 votes which, according to the size of their population, range from a maximum of 6 to a minimum of 3 votes per *Land*. This disproportionately favours the small *Länder* (e.g. 3 votes for Bremen and Saarland with less than 1 million inhabitants and 6 votes for North-Rhine Westfalia with slightly less than 18 million).

¹³ With an absolute majority (or two-thirds majority if two-thirds of the Bundesrat votes have been cast against).

¹⁴ These features have their origins in the formative period of German federalism, especially in the Bismarck period, and are a direct result of the fact that in Germany the process of state-building was based not on the national, but on the territorial level. The Bismarck-Empire was a Federation of 25 states of which Prussia was the dominant entity. The States continued to possess considerable territorial autonomy and formed the federal council as the supreme sovereign institution corresponding to the principle that territorial interests are represented by the sovereign in negotiation with other sovereigns.

¹⁵ Since the 1970s, the *Bundesrat* has often been controlled by a majority of *Länder* governments belonging to the opposition parties. A certain degree of cooperation in law making is necessary in order to avoid the paralysis of the system. According to Oeter, a large dose of (hidden) consociationalism thus characterizes the German system, p.5.

¹⁶ This is also the consequence of article 29 GG which allows for territorial change and merger between the *Länder*. However, the very existence of (at least a minimum of three) *Länder* as well as their participation is considered the absolute minimum for a federal system.

reducing the veto powers of the Bundesrat in the legislative process (the requirement of Bundesrat approval of federal legislation is estimated to have been reduced to 35–40 per cent, of measures from more than 60 per cent before the reform). As a compensation for the loss of their participatory powers, the Länder received the right to derogate in some specific areas from federal regulation.

A second part of the reform should have introduced a new system for financial relations between Federation and Länder, but only limited agreement was reached in 2009, mainly to give effect to a constitutional obligation to balance budgets on the part of both the Federation and the Länder.

Institutional and Administrative Organisation

The Länder as constituent units of the Federal Republic of Germany have the quality of States, with their own institutions. Each Land has a parliamentary system of government, with a directly elected Parliament (with a four or five year legislative term) and a government accountable to it. Being completely independent of the Federation, their basic structure is regulated in the Land Constitution, and the electoral system is provided for in Land legislation. There are differences between the Länder Constitutions with regard to special aspects of the governmental system, such as government formation procedures, provisions on motions of non-confidence or votes of confidence, individual accountability of ministers, referendums, etc. Other differences concern fundamental rights, such as new and social rights (including those regarding employment, environment, housing, education, etc.) in the Constitutions of the five Eastern Länder. However, the fundamental rights guaranteed in the Basic Law remain the federally established (minimum) standard.

As a general trend, in recent decades the Parliaments of the Länder have suffered from the continuous loss of importance in their legislative activity: the scope of Land legislation is limited, focusing on schooling and education, public order and police, cultural affairs, and administrative organization and procedure. Although they adopt annual budgets, Länder Parliaments have hardly any decision-making power in relation to revenues, since all important taxes are federal, with their revenues distributed in accordance with fixed quotas. The situation is worsened by the growing dominance of EU legislation in most policy fields; thus, public interest in the work of Länder Parliaments is limited.

Another trend is that direct democracy has developed very dynamically in the last ten years at Länder level,¹⁷ where the Constitutions and Land legislation provide for different forms of direct participation and decision-making for citizens, at Land level as well as at local level. By 1994, all 16 “old” and “new” Länder had introduced instruments of direct legislation, in three stages: petitions, initiatives and referendum.

Administrative organization and procedure are regulated by Land legislation. All responsibilities not expressly assigned to the federal government in the Basic Law are automatically tasks of the Länder.¹⁸

The judiciary is largely organized by the Länder: Courts of first and (usually) second instance are always Land courts.¹⁹ Only the supreme courts of the various branches of the judiciary are federal institutions and only the basic guidelines of court organization are regulated in federal legislation. The details of court organization and personnel policy (recruitment and payment) are exclusive matters reserved to the Land.

A specific procedure established by article 29 GG regulates territorial change, which also results in change within the federal structures. Despite continuous debate on the size of the Länder and the re-organisation of federal territory, in particular about resolving demographic and economic discrepancies, this general procedure for territorial redesign has never been applied in practice. In fact, article 29 GG has not been used so far, as all major territorial changes have been based on special provisions: the creation of the ‘Southwestern State’ of Baden-Württemberg in 1952 (article 118 GG), the accession of Saarland to the Federal Republic on 1 January 1957,²⁰ and even reunification in 1990, which took the form of accession of the five re-constituted Länder in Eastern Germany.²¹ In May 1996, however, the fusion of Berlin with the surrounding Brandenburg, envisaged in the Treaty of Unification and regulated in a new provision (article 118a GG), failed

¹⁷ The most recent referendums opened debates beyond the single *Land* in which they were held and were related to: a smoking ban in restaurants, Bavaria 2010, the enlargement of Stuttgart’s main station (“Stuttgart 21”), Baden-Württemberg 2011, public water administration, Berlin 2011, and energy issues, Berlin 2013.

¹⁸ Article 30 GG: “Except as otherwise provided or permitted by this Basic Law, the exercise of state powers and the discharge of state functions is a matter for the *Länder*.”

¹⁹ This means that all proceedings, even those against federal authorities, start in a *Land* court.

²⁰ The accession of the Saar territory and the consequent extension of the application of the Basic Law were democratically legitimated by the referendum held on 23 October 1955.

²¹ According to the procedure established by art 23 GG (prior to reunification).

as it failed to achieve the necessary popular support in the referendum. This seems to be proof of the collective and—to some extent—historical identities of the Länder, which after decades of existence cannot be easily replaced by new entities created exclusively according to economic criteria. Periodically, however, the debate about a “more rational” territorial design of the Länder, taking into account economic and efficiency criteria resurfaces, either in general terms, with reference to the entire federal territory, or related to specific parts of it, such as the debate on a potential merger of Schleswig-Holstein, Hamburg, Bremen and Lower Saxony into a ‘Northern State’ or ‘North-Western State’, around 2005.

Competences

Four types of legislative powers can be distinguished under the Basic Law: (a) exclusive powers of the Federation (listed in article 73); (b) framework legislation, permitting the federal legislator to set a frame of principles which the Länder could fill in with their legislation on details (article 75 – abolished in 2006); (c) concurrent powers (articles 72 and 74); and (d) exclusive legislative powers of the Länder; all residual powers, such as in particular cultural and educational matters, the organization of their administration and of local government as well as police and public order, are vested with the Länder (article 70 GG).

As is well-known, the Federation has expanded its legislative powers by the extensive use of the so-called ‘concurrent powers’ (Art. 72 GG), in the name of unitary requirements, thus emptying the sphere of differentiated Länder legislation. The concurrent powers are exercised either by the Länder or by the Federation; the latter has to justify their exercise, in particular on the basis of the need for a regulation covering the whole federal territory. This was not too difficult in the past although the Länder participated in the legislative process via the Bundesrat. The Federal Constitutional Court (BVerfG) had declined its competence to judge, considering such controversies to be political issues. Thus, the Federation could, in practice, bind a major part of the Länder legislation very efficiently, by means of adopting a federal law, which takes precedence over the law of the Länder, and it has increasingly done so. The evolution towards a federal system with strong unitary tendencies reflected a general expectation of German citizens corresponding to the logic of the welfare-state (in line with the constitutional principle of the ‘social state’ in article 20 GG) and creating an overriding imperative of homogeneity of living conditions throughout the entire federal territory.

Considering the increased disparities in economic and social terms after re-unification, the Länder had used the minimal constitutional amendments of 1994 in an attempt to contain this centralising mechanism, mainly by imposing different preconditions for federal legislation and by obliging the BVerfG to deal with disputes arising from the use of these powers: article 93.1 no 2a GG now expressly comprises the obligation of the BVerfG to monitor the exercise of the concurrent powers in case of claims stating the non-existence of the preconditions for federal legislation. This amendment represents a tendency to underline the importance of (more) competition in the future development of German federalism. In the following years, limits to the exercise of concurrent and framework legislative powers by the Federation were confirmed in a series of judgments in favour of the Länder in which, according to the new formula in article 72.2 GG, federal intervention has been declared unconstitutional.²²

In addition to the ‘concurrent’ legislative power, the federal framework legislation – abolished with the federalism reform 2006 – influenced the administrative sphere of the Länder and the judicial system (which is organized by the Länder with the exception of supreme federal courts and federal legislation on procedure). There are also strong federal influences in the financial and fiscal sphere.

The reform of the federal system in 2006, on one hand, strengthened the Federation’s legislative power in areas of supra-regional matters and increased the competence of the Länder in the field of regional affairs, reducing the matters of their necessary approval of federal legislation through the Federal Council.²³ On the other hand, the Länder gained the right to regulate their personnel in the public administration, which has led to a variation of salary and pension schemes favouring the richer Länder in the recruitment of qualified civil servants. In the educational sector, traditionally part of the exclusive Länder powers, the federalism reform has brought a prohibition of cooperation between the Federation and the Länder (article 92b GG – 2006). Also, a right to derogate (Abweichungsrecht) in some fields from federal legislative intervention exercised on

²² The first and most well-known judgments were: BVerfGE 106, 62 (*Altenpflege*), 24 October 2002; BVerfGE 110, 141 (*Kampfhunde*), 16 March 2004; BVerfGE, 111, 10 (*Ladenschluß*), 9 June 2004; BVerfGE 111, 226 (*Juniorprofessoren*) 27 July 2004; BVerfGE 112, 226 (*Studiengebühren*), 26 January 2005.

²³ The reform has actually reduced the cases of necessary approval by the Federal Council from 59% to 39% in the first three years (2006-2009) and the intervention of the conciliation committee could be reduced from 22,9% (XV legislation) to 3,3% of all promulgated laws.

the basis of concurrent powers has been introduced. The latter is seen as a symbolic turn away from a strictly symmetrical design in the exercise of the legislative powers, allowing for experimentation and a certain degree of competition between the Länder; however, the areas in question are few and not very important, e.g. legislation on restaurants and on shop closing hours (article 72.3 GG as amended in 2006).

In sum, the federalism reform of 2006 has strengthened the (potential) diversity between the Länder as well as introducing elements of (greater) competition.

Financial autonomy

Financial autonomy and the consequent separation between the spheres of Federation and Länder in covering the costs of their relative functions are the basic principles established in the Basic Law (articles 104a and 104b GG). But in practice, the Länder regularly implement federal legislation; thus they also have to cover the relevant costs, and can only defend themselves (and their budgets) via their approval through the Federal Council, as a majority of them have the right of veto.

Legislative powers on taxation are concentrated with the Federation through ample use of concurrent powers, in order to guarantee a high degree of fiscal unity throughout the federal territory (art. 105.2 GG). The Länder retain some legislative powers on local taxation of consumption and luxury goods, but only insofar as these are not equivalent to federal taxes.

In terms of financial resources, the federal and Länder levels are interconnected, as revenue from the main taxes is shared.²⁴ Regional discrepancies and differences in financial and economic capacity of the various Länder and local authorities are balanced by the financial equalisation system, which has several different dimensions (articles 106 and 107 GG). At the beginning, a system of appropriation of the entire tax revenue applies between the different levels of government, mainly between the Federation and the Länder. After this, the total of the Länder portion of tax revenue has to be distributed among them, equalising their different financial capacities.²⁵ For the same purpose, the financially weaker Länder receive funds from the Federation as supplementary grants.²⁶ Then, financial equalisation operates within the various Länder in order to equalise the considerable differences which exist between the financial situations of the individual local authorities.²⁷

(More) competition in the federal system has been advocated for some time, above all, in the field of financial relations, especially with regard to horizontal equalisation payments among the Länder: in 1999, the BVerfG opened up to more competition in financial relations as an expression of the political responsibility of the respective Länder governments; this was confirmed in 2006 by a judgment on the precarious financial situation of Berlin, in which the constitutional judges stated that Berlin had not exhausted all means for addressing its difficult budgetary situation, but had the obligation to do so before asking others for help.²⁸ However, in March 2013, Bavaria and Hesse filed another complaint against the current fiscal equalisation regulation to the Federal Constitutional Court; instead of negotiation and compromise, again a judicial solution seems likely for a political problem.

After the first reform of the federal system in 2006, a second part should have addressed and reshaped the financial relations between Federation and Länder. However, there were few incentives for change, due to the long duration of the Agreement between the Federation and the Länder on the equalisation system, which will only expire in 2019. Since 2009, however, significant changes have taken place in the context of reactions to the economic and financial crisis. Various measures have been adopted against the public deficit at all levels. Thus, the reform introduced a constitutional obligation to balance budgets on the part of both the Federation and the Länder (known as “debt brake”).²⁹ In particular, regional expenditure is now bound by a

²⁴ 70% of the total revenue comes from three “shared” taxes: income tax, corporation tax and Value Added Tax. While the first two are shared by halves between Federation and Länder, the shares in the VAT are established by a federal law subject to the approval of the Federal Council and thus variable.

²⁵ On the basis of a law establishing the concrete parameters in general terms (*Maßstäbengesetz*) which are further spelt out in concrete details in the Law on Financial Equalisation (*Finanzausgleichsgesetz*). This differentiation and the establishment of general parameters has been imposed by a decision of the Federal Constitutional Court, BVerfGE 101, 158.

²⁶ Local authority revenues are taken into account in assessing the financial capacity of the *Länder* since the *latter* are responsible for providing their municipalities with appropriate and adequate financial resources.

²⁷ See CoE, Local and regional Democracy in Germany (2012), paragraphs 102 et seq..

²⁸ BVerfGE 101, 158 (*Finanzausgleich II*); confirmed in 2006 by BVerfGE 116, 327 (*Berliner Haushalt*).

²⁹ *Gesetz zur Änderung des Grundgesetzes* (arts 91c, 91d, 104b, 109, 109a, 115, 143d GG) Act of 29 July 2009; *BGBI I S. 2248* (no 48), in force since 1 August 2009.

new constitutional structural deficit rule resulting from the Fiscal Compact and introduced in article 109.3 GG, and the Federation will have to limit its revenue from credits which, from 2016 onwards, may not exceed 0.35% in relation to the nominal gross domestic product.³⁰ The constitutional amendment binds all governmental authorities, including Länder and municipalities. All Länder must endeavour to approve balanced budgets, with the smallest possible deficit. For the Länder no revenue from credits will be admitted from 2020. In order to make the fulfilment of this obligation possible, Bremen, Saarland, Berlin, Sachsen-Anhalt as well as Schleswig-Holstein will receive € 800 million annual consolidation grants for infrastructure, financial support for local authorities and support for their economic recovery, half of which will be financed by the Federation (so-called Solidarpakt II – a total of € 7.2 billion for the whole period from 2011 until 2019).

While some cast doubts on its constitutional legitimacy, some Länder have already introduced the obligation in their own Constitutions.³¹ In 2010, the Parliament of Land Schleswig-Holstein questioned this provision in front of the Federal Constitutional Court, claiming a violation of its budgetary sovereignty, but this interesting question was held inadmissible as a Land Parliament does not have standing in front of the Federal Constitutional Court.³²

In addition to the new constitutional rules on budgetary discipline, a so-called cooperative early warning-system has been introduced. In January 2010, a Stability Council was established for the supervision and annual examination of the budgetary management and the situation of the Federation and the Länder, and in particular for measuring the progress of the five Länder receiving consolidation grants. In order to avoid budgetary emergency situations, the Stability Council should agree recovery programmes with the concerned Länder (article 109a GG).

Supervision and Controls

In principle, there is no hierarchy between the Federation and the Länder: in consequence, neither constitutional matters nor the ordinary legislation of any Land are subject to any specific control or supervision by the Federation. The Federal Constitutional Court decides, of course, in case of controversies regarding alleged violations of the respective competence sphere, upon appeal by one of the disputing parties. The Court consists of 16 members elected (2/3 majority) by an electoral body composed jointly of members of the Bundestag and Bundesrat, thus representing the democratic as well as the federal principles.

As stated above, the Länder also implement federal legislation autonomously, "in their own right" (article 83 GG), i.e. without interference by the Federation. While federal supervision regarding the mere legality of Länder implementation of federal legislation (Rechtsaufsicht) is possible in theory (art. 84.3 GG), it does not play a major role in practice; interference with the merits and the adequacy of decision regarding the implementation of federal legislation is anyway excluded. Thus, administrative supervision or even guidelines by federal Ministries are permitted only in those areas where Länder authorities are acting upon the delegation of the Federation (article 85.4 GG).

The Länder and their authorities are subject to judicial control exercised by (administrative) courts and their own Constitutional Court regarding the legality of different categories of legal acts of the Land, such as ordinary laws, regulations, as well as decisions on complaints against administrative provisions by Land authorities.

Financial control is exercised by the Federal Court of Auditors and the Land Courts of Auditors, respectively, which are independent institutions and not are subject to instructions by governments. Auditing standards ensure the legality and efficiency of budgetary management.

Relations with other levels of government

The German federal system is characterized by interdependence and constant mutual influence between the Federation and the Länder. Thus, intergovernmental relations as well as a deep-rooted culture of cooperation characterize the German federal system. The centrepiece of formal cooperation is the Bundesrat, but intensive horizontal and vertical co-operation and co-ordination (i.e. between the Länder and between the Federation and the Länder) takes place, even in sectors which are by tradition considered a domain of the

³⁰ A transitional provision in article 143d GG determines that articles 109 and 115 GG are to be applied from fiscal year 2011.

³¹ Schleswig-Holstein, Rheinland-Pfalz, Hesse (after a referendum), Mecklenburg-Vorpommern and Hamburg.

³² BVerfG of 19 August 2011 – 2 BvG 1/10.

Länder, in particular complex matters which cannot be limited to the territory of one single Land, such as protection of the environment, regional planning and education.

A considerable number of intergovernmental conferences, working groups and joint bodies exist (e.g. the Conferences of the Ministers for Culture and Education or the Ministers for Internal Affairs). However, the resulting co-ordination and co-operation by means of informal mechanisms, co-decisions, accords and treaties always depend on the weakest link in the chain (i.e. negotiations must continue until all participants are satisfied in order to prevent vetoes), thus often being (or perceived as) an obstacle in the way of necessary innovation.

As part of the organisation of their public administration, local government issues fall within the scope of the authority of the Länder. Thus, the two basic layers of local government, counties (Kreise) and municipalities (Städte, Gemeinden), are an integral part of the Länder administration. Local (self-) government is guaranteed, both in the federal Constitution (article 28.2 GG provides, again, for democratic minimum standards) and in the respective Land Constitution. The institutional arrangements, the allocation of competences and the system of finance of local authorities are regulated by the Länder with great autonomy. As a consequence, no less than 16 local government systems exist in Germany, the differences among which essentially reside not in the system adopted, but in its implementation. Under these circumstances, the Land is to be regarded as the counterpart of the central government in unitary states.³³ While the Länder must respect the right of local authorities (municipalities and county governments) to determine their own administrative structure, adjusting their organisation to the local needs and financial capacities, federal and Land legislation can determine local responsibilities for local authorities. The federal government may influence Land-level local government policy mainly through federal legislation (granting new tasks and functions) and the system of taxes. However, since an amendment made to the Basic Law in 2006, the federal government has no power to confer mandatory functions directly to local authorities (articles 84.7 and 85 GG).³⁴ Although, since 2006, direct transfers of tasks from the Federation to local authorities are no longer possible, the Federation has launched a federal programme to promote local investments in recent years under the provisions of the Basic Law.³⁵

At the time of ratification of the Maastricht Treaty, a specific legal basis was created for Germany's membership in the EU: the new Article 23 GG. In its first paragraph, this 'European clause' declares European integration to be an objective of the German State and explicitly permits the transfer of sovereignty rights to the EU; but it also contains a so-called 'structural guarantee' by listing the structural principles of the Basic Law which the EU has to comply with.³⁶ This purpose of the 'structural guarantee' clause, setting constitutional limits to integration, was confirmed by much disputed decisions of the BVerfG.³⁷

Much emphasis has been placed on the protection of the federal principle. Participation of the Länder is constitutionally guaranteed by paragraphs 2, 4, 5 and 6 of the 'European clause'—compensation for the loss of Länder competences in legislation as well as for the loss of competences of the Federal Council by strengthening their participation in the exercise of rights by the federal government at EU level. The different degrees of participation, ranging from information and consultation to binding opinions and rights of direct representation at EU level, correspond to the domestic distribution of competences. The article 'constitutionalises' institutional participation of the Länder in EU affairs through the Bundesrat. The possibility of direct representation of the Federal Republic in the Council of Ministers by a Länder Minister is

³³ In Germany, the "central-local relationship", a crucial sphere of the local democracy, refers to the relations between the Land government and the local governments. See CoE, *Local and regional Democracy in Germany* (2012), paragraphs 35 et seq..

³⁴ Joint working groups for the management of social subsidies ("Hartz IV"; article 44 SGB-II) have been declared "joint administration" and therefore a violation of the constitutional principles of separation of administrative structures and separate responsibility of federal and municipal or county structures (*Land*); BVerfG, judgment from 20.12.2007 – 2 BvR 2433/04 und 2434/04, DVBl. 2008, 173 = NVwZ 2008, 183.

³⁵ The so-called *Konjunkturpaket I* in 2008 for supporting infrastructure investments in structurally weak communities (*Maßnahmenpaket „Beschäftigungssicherung durch Wachstumsstärkung"*) and the *Konjunkturpaket II* to promote other special investments in municipalities (*Pakt für Beschäftigung und Stabilität in Deutschland zur Sicherung der Arbeitsplätze, Stärkung der Wachstumskräfte und Modernisierung*, 2009).

³⁶ Using a similar formulation to the one on fundamental structural principles listed in articles 20, 28 and 79.3 GG (which include the federal principle) and adding the principle of subsidiarity, the intention is clear: Germany continues to participate actively in the European integration process, but—at least at this stage—cannot be merged into a fully-fledged European State.

³⁷ In its judgments on the ratification of the Maastricht Treaty, BVerfGE, 155 ff., and of the Lisbon Treaty 2 BvE 2/08. In these (and other) decisions, the BVerfG explicitly reserved for itself the competence to decide whether Community/Union acts were *ultra vires* or within the domain of Community/Union competence.

foreseen, but has been reduced by the federalism reform in 2006 to Council meetings regarding the subject matters of instruction, culture and media (i.e. typically directly concerning exclusive Länder competencies).

In order to safeguard the participation of the Länder further, a distinction has also been drawn between a simple transfer of sovereign rights and Treaty revisions: while in the former case an ordinary legislative act is sufficient, in the latter, the procedural and substantive limits of constitutional amendment have to be respected (article 79.2 and 79.3 GG).³⁸ In consequence, ratification of the Lisbon Treaty required a constitutional amendment, due to the new subsidiarity complaint which national Parliaments (and thus the Bundestag and Bundesrat) can file in the European Court of Justice.³⁹ All Länder have established and developed autonomous EU activities (e.g., setting up representation offices in Brussels and lobbying directly).

Overall assessment

After World War II, Germany's federal structure was primarily (re-)established as a reaction to the experience of the totalitarian regime: federalism should above all provide for a system of checks and balances by means of a vertical separation of powers and thus strengthen democracy. This was deemed to be much more important than the guarantee of diversity between the Länder (given that in most cases these were new creations); on the contrary: economic reconstruction and recovery together with the build-up of the welfare state further shifted the balance in favour of unitary elements.

More recently, after re-unification, reforms have introduced elements with some potential for more diversity and even competition between the Länder. On one hand, this tendency seems to be confirmed by the reaction to the economic and financial crisis. In fact, the disentanglement of some functions and the reduction of the veto powers of the Federal Council, together with some new powers for the Länder, appear to be in line with the request for further decentralisation and differentiation in order to make decision-making more transparent and to highlight political accountability. On the other hand, the crisis has further emphasised the dominant position of the federal government, which is exemplified by the constitutional amendment requiring the introduction of balanced budget obligations at all levels, rather than agreeing upon a new framework for the financial relations between Federation and Länder. However, while some consequences of reunification are still important, the increase in diversity and competition is supposed to favour the financially and economically thriving Länder over their weaker counterparts, thus adding to the divergence between the few "net payers" and the many "net receivers" among the Länder which will make agreement on a new financial framework more difficult.

Currently, the dominant role of federal government seems reinforced by the crisis. However, a further shift from the "Unitarian Federal State" (K. Hesse, 1962), with its emphasis of centrally coordinated policies and cooperation, towards more diversity (and, consequently, a different interpretation of the equality principle in regional, rather than in federal terms), seems the trend for the future. But several factors, such as the high degree of mobility within the German population, the process of European integration, the tradition of a cooperative culture, as well as constitutional principles such as federal comity (Bundestreue), will help to ensure that any shifting and adapting of these delicate balances proceeds cautiously.

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³⁸ A textual amendment is not necessary as art 79 al.1 GG is not included by art 23 al.1 GG.

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GREECE

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The second tier of local government: from Prefectures to Regions

In 2007, territorial structure of local government and administration in Greece included 1,034 municipalities, 50 'prefectural' local governments (second tier, former state prefectures that have been "municipalized" as a whole in 1994), 13 Regions as units of decentralized state administration, as well as several special districts (i.e. districts of the National Health System, Educational districts etc.).

At the second tier of local government (the 50 'prefectural' local governments), the Prefect and the prefectural assembly were directly elected by universal and secret suffrage. Only local prefectural lists and candidates were allowed (official party candidatures were not allowed) but political parties tended to announce the names of the candidates who they supported.

'Prefectural' local governments used to be responsible for most of the tasks previously devolved to state prefectures. The main responsibilities of the prefectures included infrastructure and community amenities, economic development, environmental protection, education, social protection and public health. Prefectures had taken on the very important task of social welfare subsidies for the poor and disabled. Furthermore, responsibilities of the prefectures included irrigation, farming, fishing and tourism. Prefectures exercised some of their responsibilities jointly with the municipalities including environmental affairs, school buildings and supervision of small enterprises. However, the division of responsibilities between the first and second tiers was not clearly defined, which can lead to overlaps and disputes. Prefectures were totally dependent on state aid (97% of total revenue), since they lacked the kind of services that could be financed by fees and charges (e.g. waste collection, water supply etc.).

By the beginning of 2010, a newly elected government with an ambitious reform program had to face an unprecedented financial crisis. Radical local government reform was engaged as one of the remedies that would face the crisis. A thoroughly prepared reform plan named 'Kallikratis', was exposed to public consultation (January 2010) and a new law, radically changing structure and operation of local governance was adopted (May 2010). The 'Kallikratis' Plan promoted compulsory merging of local government units, leading to the reduction the number of municipalities ("Demos") from 1,034 to 325, while the second tier was 'moved' up to the regional level (13 regional local authorities – "Peripheria" instead of the former 50 Prefectural Local Governments). At the same time, deconcentrated state administration was re-structured at an even higher level, including seven units ("Apokentromeni Diikesi"). The Kallikratis reform was the first one to include both tiers of local government and deconcentrated state authorities. Furthermore, territorial consolidation was combined to extensive decentralization of responsibilities and resources.

In the Regions, the main organs are the Head of the Region (Peripheriarch), the deputy peripheriarchs, the regional council (41-101 members, depending on population size), the executive board and the financial committee (Art 113 Kallikratis Law-KL). The head of the region (Peripheriarch), the deputy peripheriarchs in former prefectures and the regional council (the assembly) are directly elected, for a five-year term. Candidate lists must include candidates for the position of the Peripheriarch, a number of deputy peripheriarchs (corresponding to the former prefectures) and all council seats. Legally speaking, national parties are not allowed to field candidates in regional elections but, in fact, parties do announce their support and nominees, while regional elections are party politicized and perceived as an important arena of party competition. According to the electoral arrangements, an absolute majority is required for victory, even at a second run-off, between the two foremost candidates. The winning list gain three fifths of the council seats, all deputy peripheriarchs and, last but not least, the post of the Peripheriarch.

Greek Regions are not strong Regions and they definitely cannot be classified as institutions of "regionalization" that could be compared, for instance, to the Italian or even less to the Spanish experience. Greece remains a strictly unitary state and Greek Constitution simply recognises "two tiers of local government" (Art. 102 par. 1). The Constitution defines that the allocation of competences (both for local and delegated national affairs) among different local government tiers will be regulated by national law. Special status is not foreseen for specific local governments (e.g. Regions with special status), legal acts should, however, take into account the specific circumstances of "island or mountain areas" (Art. 101).

Table: Deconcentrated Administrations, Regions and Municipalities (2011)

DECONCENTRATED ADMINISTRATIONS	REGIONS "Peripheria"	MUNICIPALITIES "Demos"
Macedonia-Thrace	East.Macedonia- Thrace	22
	Central Macedonia	38
West. Macedonia - Epirus	West. Macedonia	12
	Epirus	19
Thessaly- Central Greece	Thessaly	25
	Central Greece	25
Peloponnese-West.Greece-Ionian Islands	Ionian Islands	7
	West. Greece	19
	Peloponnese	26
Attica	Attica	66
Aegean	North Aegean	8
	South Aegean	34
Crete	Crete	24
SUMS	13	325

Source: Ministry of Interior (2008)

After the Kallikratis reform in 2010, municipalities received a lot of tasks (especially concerning permitting of enterprises and economic activities, but also welfare subsidies) previously assigned to prefectures. New Regions, on their part, overtook important responsibilities concerning economic and regional development, the so-called "provincial" roads and "life-long learning" (s. below). Regions do not have autonomous or special legislative powers in Greece. The national parliament is exclusively competent on some matters (e.g. concerning taxation), a parliamentary law precisely describing the subject and the limits of a legislative authorization, can delegate legislation power to the President of the Republic (Art. 43 of the Constitution) or to "other organs of the executive power" (including Ministers, Regions, Municipalities etc.) and entitle them for "specialized matters" or "technical or detailed topics" or "matters of local interest" (Art. 43 par. 2).

Regions can, therefore, determine their own organizational chart and define internal rules for their own administration, but within the framework that is set by national laws, which tend to be quite extensive and standardize even secondary matters of details of administrative actions. In fact, however, strong dominance of regional political leadership over "standardized" professional administration often leads to regional peculiarities in terms of administrative practices. But this dominance of strong regional leaders mostly remains within the walls of regional administration. Regions have no legal authority to regulate, control or simply exercise influence over the first tier of local government, the municipalities. In fact, Regions often cooperate with municipalities and often offer resources and assistance to municipalities, although the law explicitly states that there is no subordination or any form of "hierarchical relation" between municipalities and regions.

Taxation remains, in principle, a monopoly of the National Parliament. According to Art.78 of the Constitution, taxation subjects, rates and exemptions can only be regulated by law approved by the Plenum of the Parliament. However, following the amendment of 2001, Constitution foresees (Art. 102 par. 5), that local authorities would be, henceforth, able to impose "local revenues", while the state will have to transfer the necessary funds whenever local authorities are obliged by law to overtake a new responsibility. A verbal emphasis on local "fiscal autonomy" has been made (par. 5), while the principle of transparency has explicitly been introduced for local fiscal management. According to some scholars, this new notion of "local revenues" could put an end to the taxation monopoly of the state, since local governments would be, hereafter, able to impose "local revenues" (e.g. on real estate and businesses taking advantage from local services and infrastructure or on activities affecting the environment) without needing state law regulations that would precise subject and percentages of this "revenues". Up to now, however, no such "revenues" have been introduced. Attempts of some municipalities to introduce local "environmental revenues" or "compensation fees" that would burden some local businesses have been frustrated through court decisions.

Since they lack legislative and taxation autonomy, Greek Regions are short of the instruments necessary for independently determining their own public policies. Regions must act within a tight financial and normative framework that is determined by the state. Influence on state public policies can rather be exercised through informal channels within political parties and personal networks. Consultation with National Association of Regions prior to state policy decision is, however, often practiced and in, some cases, provided by the law. There are even some policy fields (e.g. waste management planning, development planning etc.) where the influence of single Regions on state policy decisions is very important.

Legal status and operation of Greek Regions – Institutional, Political and administrative organisation

For regional elections, universal suffrage and secret ballot are foreseen. Electoral arrangements are uniform for the whole country. Turnout in local government elections is usually a bit lower than turnout in national elections. Regional elections took place, for the first time, in November 2010 and turnout (46%) was extremely low, compared to previous parliamentary election in October 2009 (turnout of 69.8%) or even compared to the "post-crisis" parliamentary election of May 2012 (62,5%). It is obvious, that the extremely low turnout in the regional elections of 2010 was an unusual phenomenon (turnout in municipal elections is usually higher than 60%). It seems that this "abstinence of the electorate" in November 2010 was an impulsive expression of public rage against politicians and the political system as a whole after the outbreak of the acute economic crisis in the beginning of 2010 and the unprecedented austerity measures (elections took place in November).

All adult Greek citizens (18 years and over) are eligible to stand for election to the Regional Assembly. Candidates for the post of the Head of the Region have to be at least 21 years old. The main incompatibilities concern judges, officers of the armed forces, police officers, priests and public servants who have been leading general directorates or directorates during the last 18 months previous to the Election Day. The mandate is permanent for the Peripheriarch (full-time employment) and the members of the assembly (part-time employment). Remuneration of a Peripheriarch reaches 4,750 Euros before taxes and social contributions, Vice-Peripheriarchs receive 75% of this sum, while the Chairman of the Regional Assembly receives 50% of the sum. The members of the assembly only receive a remuneration of 40 Euros for each session they participate in. However, in island regions, members of the assembly coming from islands which are not the seat of the Region or a former Prefecture receive 30% of the sum foreseen for the remuneration of the Peripheriarch.

For elected persons in Regions (but also elsewhere), there is an obligation to publish offices held as well as of assets and income (personal obligation). A conflict of interest exists if the deciding or voting person or a close relative or friend of him/her has an interest on the outcome of the decision/vote. Heads of Region (Peripheriarchs) and regional councillors (members of the regional assembly) cannot hold a mandate in municipalities. However, regional councillors can hold a mandate in the Parliament, although cases of this are rare. Concerning dismissal, it should be noted that there is no procedure for internal dismissal (concerning state supervision, see below) of elected persons in Regions (Peripheriarchs and Regional Councillors).

The Head of the regional executive is the Peripheriarch and he/she can lean upon a strong democratic legitimation, since he/she is directly elected for a five-year term. He/She is the legal representative of the

Region, the Head of Personnel and Administration and he/she implements ('executes') the decisions of the Regional Assembly (regional "Council").

There is an "Executive Committee" comprising the Peripheriarch and the Vice-Peripheriarch. A number of the Vice-Peripheriarchs is directly elected (as members of the list headed by the candidate Peripheriarch, each one at a former prefecture) and 3 more Vice-Peripheriarchs are being appointed by the Peripheriarch and selected by him among the regional councillors. The Executive Committee is the Cabinet of the Peripheriarch, mainly responsible for coordination of policies.

Another Executive Body is the "Economic Committee", comprising by the Peripheriarch as Chairman (or a Vice-Peripheriarch appointed by the Peripheriarch) and 6-10 (depending on the population size of the Region) regional councillors as members. The Economic Committee is responsible mainly for economic affairs, budgeting, public procurements and tendering procedures. Regions can also create a regional "development enterprise" (private law entity) in order to promote development projects, as well as, in some cases, non-profit companies. In each Region a "Regional Development Fund" (private law entity) exists (foreseen by Art. 190 of Act 3852/2010) dealing with development issues.

The status of regional public servants follows the model of state public servants. The status and remuneration of staff is centrally and thoroughly regulated by national legislation. Mobility of personnel has been legally possible for several decades and is often practiced, although it could not be characterized as an "organized" mobility (it tends to happen on an ad hoc basis, often following clientelistic criteria). Recently, however, a legal framework has gradually developed in order to expand, organize and systematize mobility of personnel across Regions, Municipalities and state authorities. This is mainly due to the fact, that hiring new personnel is impossible, because of rigid austerity policies. In total, regional employees make up less than 3% of public sector employees.

Competences

Regional administrative competence mainly exists in the following key sectors, including the following main subjects:

- a. education: vocational training, adult education and life-long learning;
- b. health: permits and control of health/medical institutions, laboratories and professions;
- c. social welfare : application of social programmes, establishment of centres for social services, licensing and control of social workers;
- d. economic development : regional development planning and policies implementation of development programmes, regional enterprises and development agencies, evaluation and subvention of private investment projects, support and monitoring of economic activities in the primary, secondary and tertiary sector;
- e. environment : environmental impact assessment, waste management planning, environmental controls and fines ;
- f. infrastructure/transport: construction, maintenance and management of provincial roads, implementation of public works programs, and planning, licensing and control of transportation (buses, tracks) .

The distribution of powers to the regions is symmetric and unitary in the whole country. However, the so-called Metropolitan and the Island Regions could, according to the law, obtain additional competences, although this has not been realized yet, with respect to the metropolitan regions.

Financial autonomy

Local Government revenues and expenditures are very low in Greece, as a percentage of GDP. The taxation autonomy of both tiers remains limited. Their total share of public expenditure is one of the lowest in Europe . More specifically, the two tiers of local government expenditure amounted to 2.8% of GDP in 2011 and 5.6% of total public expenditure. Local government revenue reached 2.6% of GDP and 5.6% of total public sector revenue in 2011 (DEXIA 2012).

Since local government does not enjoy self-sufficiency in terms of taxation (Art. 78 of the Constitution) the Constitution (Article 102 par. 5) imposes on the State the duty to ensure the necessary resources for task fulfilment by the local government authorities. The legal framework on local government finances focuses mainly on municipal revenue, providing several local fees and duties, even some local taxes. Municipalities, have, therefore their own revenues (approx. 35% of total revenue) including local discretion power, within the limits of law. Since second tier local governments were introduced in 1994 (and removed to the regional level in 2011), revenue of upper level local authorities is nearly exclusively depending on state grants, without any worth mentioning own revenue. Furthermore, Regions are subject to special restrictions as to their expenditure, which is controlled by state treasury services and by the Court of Audit (Article 98 of the Constitution), which also controls public contracting.

For the great majority of Local Government Authorities revenues that cover ordinary expenditure came mainly from the Central Autonomous Funds (CAF), that is, the share of local government in revenues of the state budget (collected by state services). The Central Autonomous Funds (CAF) were, in the case of Regions, more specifically, derived from 4% of VAT and 2,4% of income tax.

The CAF grants (662 million Euros for Regions in 2012) are first assigned to major spending areas and then distributed to individual local governments on the basis of population size, road network and level of social services. CAF grants are divided into the 'Regular Grant' (RG) for operating expenditure and the 'Public Investment Specific Programme Grant' (PISPG) which finances specific projects (DEXIA 2008: 357).

The fact that regions depend almost completely on state grants (97% of total revenue) constrains the discretion of elected officials with regard to budget distribution, since about one third of CAF and an important proportion of other state grants are reserved for investment expenditure.

Since January 2011, regions have been transformed into the second tier of local government in Greece. For this reason, regions have lost some responsibilities that moved up to the seven newly established Deconcentrated Administration which are state entities (e.g. in the fields of city planning, forestry administration, legal supervision over local government authorities etc.). On the other hand, they received new responsibilities both from the state level (e.g. development planning) and from the abolished prefectures (that used to be the second tier of local government from 1994/5 till 2010). The transfer of resources to the new Regions in 2011 was mainly based on former transfers to their predecessors, the state Regions and it has been heavily influenced by the economic crisis and extremely strict austerity measures.

Current expenditure of regions is centrally monitored, furthermore Regions are obliged, according to Art. 266 of Act 3852/2010 ("Kallikratis Law") to elaborate and implement a five-year operational programme, where annual operational programmes and annual budgets are integrated. However, in fact, budgeting is currently made on an annual basis and is highly dependent on further changes due to fiscal pressure and additional austerity measures (cut backs, also concerning transfers and grants to regions and municipalities) decided by the central government and the national parliament. Regions facing financial problems and especially problems of over-debt (more than 20% of their revenues needed in order to cover interest rates payments, inability to cover overdue payments etc.) can furthermore become the subject of special "stabilization programmes" (Art. 202 of Act 3852/2010) which are centrally designed and monitored and include severe restrictions of fiscal disposition for local governments. However, no Region has been affected, up to now, by such a "stabilization programme", since the Regions managed to adjust very quickly to the new financial constraints.

Controls

The systems of monitoring public administration also, as a rule, cover local government. Thus, both the judicial and the public finance control of the administration and the various newer institutions (auditors of public administration, General inspector of public administration, the national 'Ombudsman' and the newly established municipal and regional Ombudsmen etc.) function in the case of Local (and Regional) Self-Government. This complex of controls is completed by state supervision, which is provided in the Constitution itself (Art. 102 par. 4). Nowadays, in each one of the seven "deconcentrated administrations" the Secretary General is responsible for state supervision of the 13 Regions.

Several acts (especially concerning tendering, local rules, loans, expropriation, imposing of taxes and fees etc.) of the Regions are forwarded to the Secretary General, who checks them and cancels illegal acts and decisions (225 Kallikratis Law). The Secretary General can also cancel on his own initiative any other illegal act

of any regional organ or entity (including enterprises). Moreover, any person having a legal interest may appeal to the Secretary General against any act of a collegial or single-member organ of a regional entity (under the exception of private law enterprises).

State supervision is, of course, also exercised over persons who make up the organs of the local government corporations (so called "disciplinary" supervision). Thus, the Secretary General of the deconcentrated administration, by a reasoned decision on his part and with the consent of a five-member special council, imposes certain penalties on them. These are, more specifically, the penalty of suspension for up to six months for a serious dereliction of their duties or the exceeding of their competence by deliberate action or heavy negligence, and the penalty of forfeiture (or downfall: "ekptosi") of office in certain more particular cases which are stipulated by law (e.g., arbitrary absence or abstention from their duties). The legislation also continues to provide for the penalty of dismissal "for grave reasons of public interest"; this is imposed, with the consent of a special council, by a decision of the minister (Art. 237 of Act 3852/2010). It should be noted that all these special disciplinary councils meet in public, and consist in the majority (three of the five members) of regular judges, while a representative of the Association of Local Government Corporations serves as a member. The relevant procedure involves a defence, representation by a lawyer, and the examination of witnesses. Recourse against a disciplinary decision is only possible to the Council of State (which also judges the case as to its substance).

Relations with other levels of government

There are no constitutional provisions for the participation of Regions in the procedure for adopting constitutional amendments or in the procedures leading to changes regarding their territorial and/or institutional structures. As already stated elsewhere, the Greek constitution does not include special provisions for Regions that are different from the ones for first tier local governments (municipalities). There is however a law providing for consultation in parliamentary committees regarding laws affecting regional competence and action, as well as participation of representatives of the National Association of Regions in several bodies and procedures.

Overall assessment

Regions were created in Greece in 1987 in order to respond to organizational and functional requirements of the EU structural policies. Greek Regions were not the expression of historically rooted regional identities. Such identities are not particularly strong in Greece (with the exception of Crete), while all over the country local identities obviously overshadow the regional ones. Out of these Greek "Regions Programmes", only a few coincided with historical regions (in Crete, the Ionian Islands, Thessaly and Epirus). After the establishment of second tier local governments at the level of the former prefectures (in 1994), deconcentrated state administration has been re-structured at the level of the regions (in 1998) which gradually built up their own administrative machinery. The re-scaling of second tier local government at the regional level in 2010-2011 was due to the fact that the prefectures proved to be too small to function as second tier local governments and, above all, too small to elaborate and implement development policies and programmes. Although it is too early to predict the future dynamics of a very young (three year old) institution, such as regional self-government in Greece, it is obvious that, under the restrictive constitutional framework that is oriented towards a strictly unitary state structure, no one can speak of "regionalization" in Greece, but simply refer to a second tier of local government in an extremely centralised country.

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HUNGARY

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General situation in terms of territorial organisation

The Hungarian public administration is a dual system, consisting of a hierarchical state administration and the system of local government. The former is divided into three tiers: central, county and district level. The central government has a complex organisational scheme constituted by ministries, 'central offices', 'independent regulatory agencies', 'autonomous state administration units' and a network of various decision-making or consultative bodies all have different legal or administrative status.

The centrepiece of the middle-level state administration is the county. Both the territorial bodies of the central government with general competence ('capital and county government offices') and the sector-oriented deconcentrated units of the ministries are usually located in the counties. Although most territorial bodies of state administration were integrated into the county government offices in the last few years, the counties are not regarded as 'administrative regions', because, on the one hand, there are some county-level organisations of state administration under the direct subordination of their own central authorities, and on the other, the administrative territory of some special organs of state administration (like environment protection, water management) cross the county borders.

In 2012, new legislation established 175 district administrative offices in the country, and 23 in the capital city. Almost half of the previously delegated powers were taken over from the municipalities by these administrative units.

Hungary has a two-tier local government system, consisting of the municipal and county self-governments. The country is divided into 19 counties,⁴⁰ which represent the middle-level of public administration. All counties have a representative body elected by universal and equal suffrage in a direct and secret ballot.

In the Hungarian context, the counties are regarded as middle-level administrative units between the central and local governments. In Hungarian terminology the county is below the regional level, as 'regions' should have a larger territory. In the 1990s, during the period of the preparation of Hungary for EU membership, counties were classified as NUTS III units, but it was widely held that they are too small for regional planning and absorbing the expected EU funds. Therefore Act No XXI on regional development and regional planning of 1996 allowed the counties to create, on a voluntary basis, so-called regional development councils. As a next step, Act XCII 1999, for planning, programming, financing and supervising of EU funded regional development policies, established larger units, setting up seven so-called 'planning-statistical regions'. These were:

- West Trans-Danubia (Győr-Moson Sopron, Vas, Zala counties),
- Central Trans-Danubia (Veszprém, Fejér, Komárom-Esztergom counties),
- South Trans-Danubia (Baranya, Somogy, Tolna counties),
- Central Hungary (Budapest Capital and Pest county),
- North-Hungary (Heves, Nógrád, Borsod-Abaúj-Zemplén counties),
- North Great-Plain (Jász-Nagykún, Hajdú-Bihar, Szabolcs-Szatmár-Bereg counties),
- South Great-Plain (Bács-Kiskun, Békés, Csongrád counties).

Between 2002 and 2010 the government developed a regionalisation policy in order to replace county governments with newly established regional governments (also concentrating state administration on regional centres in parallel), but this reform failed (see the Overall Assessment below), and the regionalisation process was removed from the political agenda.

Thus the counties provide the territorial framework for the middle-level administration in Hungary, and in the absence of any other intermediary administrative level, they are classified as 'regional' units.

⁴⁰ In addition, according to the law, the municipality of the capital city of Budapest is simultaneously a municipal and a territorial self-government. But this report does not discuss this municipality.

Number of municipalities in the counties (2013.01.01.)

	Capital	Towns with county rights	Towns	Large villages	Villages	Total
Budapest	1	-	-	-	-	1
Pest	-	1	47	22	117	187
Fejér	-	2	13	12	81	108
Komárom-Esztergom	-	1	10	3	62	76
Veszprém	-	1	14	2	199	216
Győr-Moson-Sopron	-	2	9	5	167	183
Vas	-	1	11	1	203	216
Zala	-	2	8	2	246	258
Baranya	-	1	13	3	284	301
Somogy	-	1	15	2	228	246
Tolna	-	1	10	5	93	109
Borsod-Abaúj-Zemplén	-	1	27	9	321	358
Heves	-	1	8	4	008	120
Nógrád	-	1	5	-	125	131
Hajdú-Bihar	-	1	20	10	51	82
Jász-Nagykun-Szolnok	-	1	19	5	53	78
Szabolcs-Szatmár-Bereg	-	1	16	16	186	229
Bács-Kiskun	-	1	21	7	90	119
Békés	-	1	20	9	45	75
Csongrád	-	2	8	4	46	60
Total	1	23	304	121	2706	3154

Constitutional and legislative bases of regional government

The existence of county governments is indirectly recognised by the Fundamental Law of 2011 (the constitution); the constitution contains provisions only on the timing of local elections, and determines the method of electing the president of the county representative body. Thus, the general elections of local government representatives, including the members of the county representative body, must be held in the month of October of the fifth year following the previous local elections. Moreover, the president of a county representative body is elected by the county representative body from among its members for the term of its

mandate, that is, for five years. It is to be noted that the population of the so-called 'towns with county-rights' (usually the largest city in each county) are not represented in the county assembly, as they vote only for their own municipal government.

While the constitution does not define the county self-governments, specific rules are provided by the cardinal law⁴¹ on local authorities, the Act on Local Governments of Hungary No. CLXXXIX of 2011 (hereinafter: LGA). According to this law, the county government (similarly to the municipal governments) is the 'right of the community of voters' in the respective county. The counties are regarded as territorial (regional) self-governments. All of them are in an equal position and have the same responsibilities.

Autonomy

Apart from the constitutional and legislative recognition of the county governments, there is no legal guarantee of their autonomy. By analogy, they enjoy the same 'rights' as the municipalities, but even if this is the case, this has not too much relevance, since they do not have significant income or property and by and large perform only formal functions. They simply do not have sufficient financial resources and administrative capacities to determine public policy or to play a significant role in determining national public policies.

They have no powers over the municipalities within their territory, do not provide any services for them and do not contribute to their revenues.

Figure 1: The borders of the existing counties



County governments do not have any taxation power. Thus, they do not meet the requirement of Article 9, Section 3 of the European Charter of Local Self-Government requiring that 'part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate'.

Nevertheless, counties are able to enjoy some 'rights', as they have the power to cooperate with local governments or other counties. They may establish or join associations for promoting their own interests. At the moment, they are represented by the National Association of County Governments, one of the seven national associations of local authorities.

⁴¹ In Hungary, 'cardinal laws' must be approved by Parliament by a qualified majority (two-thirds majority of all elected MPs).

Framework of county government

Institutional and administrative organisation

As to the internal organisation of the county governments, the LGA provides that the representative body is the major decision-making organ of the counties, while the president of the county assembly chairs the body.

County governments have an office led by the chief administrator who, after submitting an application, is appointed by the president of the representative body. On average, 20-25 civil servants work for these executive offices, in accordance with the insignificant responsibilities of the county governments. The offices have usually three to four departments for legal affairs, regional development or for other so-called 'functional' tasks.

Whereas until 2012 counties maintained a whole range of public service institutions, they have no such institutions anymore, apart from one or two small units in conjunction with their planning and development functions.

Competences

With regard to the tasks and functions of the county governments, the LGA declares only that, within the limits of law, they have regional development, rural development, land management and coordination tasks. However, neither the constitution, nor the LGA defines the county governments, since neither of them provide guarantees for the counties.

Although neither the LGA nor the Act on Law-Making No. CXXX of 2010 explicitly empowers county governments to issue county decrees, they traditionally have this power. However, they do not have any significant regulatory powers; usually they issue decrees on their regional development plans, the awards and symbols of the county and their own budgets and internal organisation.

At the moment, the LGA lists the responsibilities of the county governments as follows:

- territorial and rural development;
- spatial planning; and,
- territorial coordination.

The Regional Development and Planning Act No. XXI of 1996 also highlights their function of regional development and planning 'at county level'. In 2012 the counties took over the functions of the regional development councils, just after these councils had been abolished.

In practice, county governments approve the long-term regional development policy as well as the regional plans of the county, and express their opinion on the plans concerning their area of jurisdiction. They prepare also the financial plans for the implementation of the development programmes and conclude agreements with the ministries concerned on the financing of the individual county development programmes. The county governments decide on the use of funds allocated to their competence and on the implementation of development policies within the framework of a competitive system, taking into account the regional development policy of the county.

Financial autonomy

When the central government took over all public institutions from the county governments, the latter also lost the greater part of their former resources. At the moment, almost all revenues of the counties come from the state budget. As mentioned above, they have no taxation powers, and they no longer have any revenue from duties and fees paid for public services. Furthermore they no longer receive any income from shared taxes. They just receive grants for their current expenditure, and subsidies for any specific development programmes that they manage.

Under these circumstances, their financial autonomy is very limited; they may approve and manage their own annual budgets, for example. Notwithstanding, they have no real possibilities for raising their own revenues.

Relations with other levels of government

As the major tasks and functions of the counties have shifted towards regional planning and development, their links with the various line ministries and sectoral authorities have been strengthened. Although in theory, there is no any hierarchical relationship between the central government and the county governments, the extent and participation of the counties in the regional development depends on the finance they receive from the central budget.

As to the central supervision of the counties, it is limited to legal control in the same way as the municipalities are overseen by the county (capital) government offices. Legal control means only an ex post facto examination of the lawfulness of the decisions without the power to annul or suspend them. The counties must send their decrees and individual resolutions to the competent office to control their compliance with the law. If the government office finds an act or provision illegal, it could call upon the respective county government to terminate the violation of the law, otherwise the office may turn to the court to annul the unlawful act.

As mentioned above, there is a national association of county governments. Nevertheless, there is no credible information available concerning the effectiveness of its consultations with the central government, or about the existence of such consultations at all. It is widely believed that the takeover of the public institutions of the county governments by the state was the consequence of a political agreement between the prime minister and the presidents of the county assemblies in the autumn of 2011 (with all but one county chairmen belonging to the governing parties).

Overall Assessment

In the transition period of 1989/1990, when the fundamentals of the new constitutional democracy were laid down, the county boundaries were not changed, but the range of powers of the counties was significantly reduced compared to the situation before 1990. A municipality-centred local government system was established in which the counties had only supplementary functions, maintaining several public service institutions. They managed most of the secondary schools and hospitals and provided other health services. They also provided social care and other welfare services, ran cultural institutions (public libraries, museums, archives and cultural centres), and organised sports and leisure services.

Between 2002 and 2006, the program of the Socialist-Liberal Government sought to establish regional governments instead of the elected counties, and launched a process of strengthening the regional structures in general. In accordance with the presumed European mainstream, this regionalist approach was a centrepiece of the administrative reforms, including the regionalisation of the organisation of the state administration. Thus, it was an important policy objective of the Socialist-Liberal coalition that a new regional level should be established and strengthened based on the regrouping of counties in larger territorial units which will have to be further developed in order to replace the existing counties. The strategic aim was to establish regional self-governments with democratically elected bodies, instead of the county assemblies.

When the first monitoring report on the local and regional democracy in Hungary was prepared by the Congress of Local and Regional Authorities of Europe in 2002, this was the major policy direction of the Hungarian government, and this conception was supported also by the Council of Europe report, saying that:

‘The need for a democratic revitalisation of regional government in Hungary should be considered seriously in the light of the evaluations and conclusions in this report. It should be fundamental principles in this regard that a substantial part of public regional tasks are governed by elected assemblies, which are directly politically responsible to the voters in the respective areas, that their tasks moreover are clearly defined, and that they can dispose of sufficient (preferably own) resources concerning the performance of their tasks.’ [Report on Regional Democracy in Hungary CPR(9 2 Part II.)]

This regionalisation policy was encouraged also by the Recommendation 116 (2002) on Regional Democracy in Hungary and the Resolution 142 (2002) on regional democracy in Hungary of the Congress.

However, the regional reforms were poorly designed and progressed only slowly. This structural reform would have needed the support of the opposition parties, since any transformation of the existing local government system (with the counties) requires a two-thirds majority in Parliament. In the absence of such political support, the reform failed, and immediately after the fall of this government, the whole issue was taken off the agenda.

Interestingly, the new Conservative government has not only opposed the regionalisation process of the middle-level local government, but has radically weakened the traditional county governments as well. The counties were deprived of the functions that they had performed since 1990. They lost their institutions, as well as the greater part of their former revenues and ceased to be public service providers. The total budget of the county governments was reduced by more than four-fifths, leaving them with just 18-20 per cent of the rate prior to 2012. The loss of financial resources was a result of losing most of their responsibilities mentioned above.

Although the county governments did not receive any compensation for their public service institutions, when they were transferred to the central government, the latter assumed the debts of the counties in 2013. Nevertheless, whereas the total debt of the county government was about 400 billion HUF, the estimated value of the public service institutions taken over by central government from the counties amounted to 1,200 billion HUF.

The county governments have yet to find their proper role since losing their major functions, most of their revenues and institutional capacities. The recent developments of the administrative structure, as a result of a heavy centralisation, seem to be heading towards a quasi-one-tier local government system, in which the winner of the weakening and emptying of the counties will be the central government, rather than the municipalities.

IRELAND

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General situation in terms of territorial organisation

The effect of regionalisation has been limited in the Republic of Ireland⁴². In comparative terms, and when set against indicators of regionalisation, regional institutions in Ireland can only be considered as weak. For example, regional structures in Ireland are not directly elected, do not enjoy legislative or fiscal powers, and only have limited responsibilities and competences.

Since 2014, the subnational tiers in Ireland have been the following:

- Local level – 31 county and city councils;
- Regional level – 3 regional assemblies.

Local government in Ireland (the county and city councils) are elected every five years. They have a number of responsibilities, including social housing, roads, land use planning, environmental protection, economic development, fire services, public libraries and recreational facilities. Unlike their counterparts in many other parts of Europe however, local authorities in Ireland have only minor responsibilities in areas such as education, health, policing, and public transport.

There is no directly-elected level of regional government in Ireland. Rather, Ireland has regional assemblies, which are made up of nominees from each constituent county and city council, and which have largely administrative responsibilities, particularly in areas of regional planning (see section 3 below).

A major re-organisation of Irish territorial structures took place in 2014, based on a government reform programme published in 2012 (Government of Ireland, 2012). Before 2014, Ireland had both a lower and upper tier of local government (both of which were directly elected), as well as two different regional tiers (both of which were not directly elected). The situation that pertained before 2014 was as follows:

- Lower local level – 80 town and borough councils;
- Upper local level – 34 county and city councils;
- Lower regional level – 8 regional authorities;
- Upper regional level – 2 regional assemblies.

The town and borough councils constituting the lower local level were abolished in 2014, and a number of county and city councils were also merged. This involved a reduction in the total number of local authorities from 114 to 31, now constituted as a single local tier. Equally, the two regional levels were replaced with a single regional tier composed of three regional assemblies.

It should be emphasised that the county and city councils, although large in population terms compared to municipalities in other European countries, are considered under Irish law as the units of local government. The county and city councils constituting part of the local government level is also reflected in academic research into local government in Ireland (see for example Scannell, 2012; Loughlin, 2011; Callanan and MacCarthaigh, 2008). Equally, an analytical approach which treats the regional assemblies and (before 2014) the regional authorities as constituting the regional level is also reflected in academic research into regionalisation and regional policy in Ireland (see for example Moylan, 2011; Hayward, 2010; Quinn, 2009). Furthermore, this classification of the regional assemblies and regional authorities as constituting the regional level institutions is reflected in the most recent Congress of Local and Regional Authorities in Europe monitoring mission to Ireland (CLRAE, 2013).

Thus county and city councils would not normally be seen as constituting regional government. As noted above, research into regionalisation in Ireland has focussed on the structures established since the 1990s, known as regional authorities and regional assemblies. International comparative research into regionalisation has also taken the regional authorities and regional assemblies as constituting the regional tier

⁴² This chapter covers regionalisation in the Republic of Ireland. For information on the situation in Northern Ireland and the Northern Ireland Assembly, please refer to the chapter on the United Kingdom.

in Ireland (see for example Hooghe et al., 2008; Biela et al., 2013). Therefore, this chapter focuses on the regional assemblies as the structures of regionalisation in Ireland.

While local government is recognised in the national constitution (article 28A), regional government is accorded no such status. The responsibilities of the regional level are prescribed in law and in practice are limited – they have little autonomous powers. The regional structures in Ireland have no powers to determine taxes at regional, local or national level. While regional assemblies are consulted during the preparation of specified national policy frameworks, for example around capital investment and spatial planning, these policy frameworks are ultimately determined at national level. It is currently proposed to extend the powers of regional assemblies in the area of financial supervision and audit of local authorities in their area. Further details are provided in section 3 below.

Institutional and administrative organisation

At the time of writing, the regional institutions were undergoing a transition to a new territorial configuration, whereby three new regional assemblies formally started operating from January 2015 under a Ministerial order under section 62 of the Local Government Reform Act 2014 (see right map in Figure 1). These three regional assemblies are:

- The Southern Regional Assembly
- The Eastern and Midland Regional Assembly
- The Northern and Western Regional Assembly (originally to be titled the Connaught-Ulster Regional Assembly)

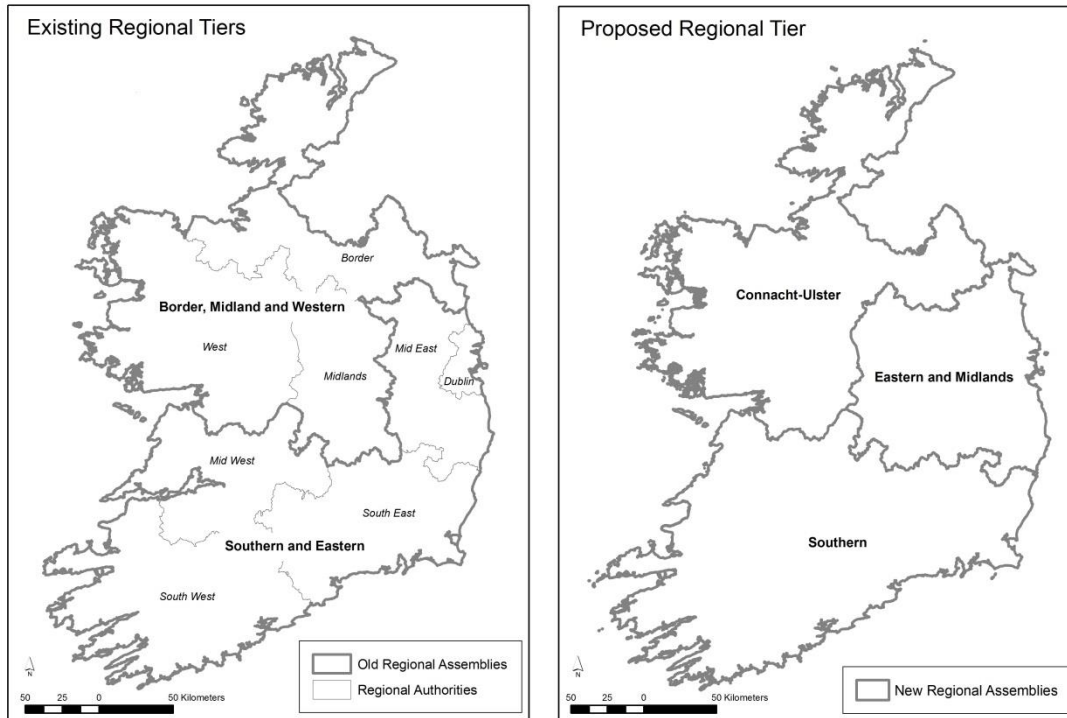
As noted above, the post-2014 regional assemblies replaced two regional tiers that existed before 2014 (see left map in Figure 1). The lower regional tier consisted of eight regional authorities, which were established in 1994 through a Ministerial order under the Local Government Act 1991. These were established at NUTS III level for EU purposes. The upper regional tier, which were also known as regional assemblies, were established in 1999, again under the Local Government Act, 1991. These were established at NUTS II level for EU purposes.

These earlier structures largely owed their origins to EU requirements for drawing down structural funds in the past, and their role has been largely limited to a number of administrative responsibilities (see section 3).

The primary territorial affinity of Irish citizens is to the county structure (Callanan and MacCarthaigh, 2008, p. 106). By contrast, regional identity is not especially developed in Ireland (Callanan, 2003, p. 430; Hayward, 2010, p. 108). While there is some citizen consciousness and perhaps even affinity to historical provinces within Ireland, this is not reflected in the current system of regional institutions, which by and large have not been designed on the basis of regional identities or affiliations (Quinn, 2009, p. 112).

Also, while different regional tiers of government have been established for some years, this has not acted as a template for the organisation of government services generally. Different public bodies have adopted different regional boundaries for the provision of services rather than aligning services according to standard regional boundaries. Thus statutory bodies responsible for areas as diverse as healthcare, enterprise support, tourism, vocational education and training, policing, and the courts system, have all adopted distinct and overlapping regional boundaries, making for a confusing patchwork of regional structures, and also making it difficult for any regional consciousness to evolve (Government of Ireland, 2012, pp. 93 and 188-189; Callanan, 2003, p. 442; O'Leary, 2003, p. 27).

Figure 1: Old and New Regional Structures in Ireland



Source: O’Riordáin and van Egeraat, 2013

Loughlin (2011, p. 53) characterises the regional structures in Ireland as administrative regions rather than regional government. The members of the regional assemblies are not directly elected, but rather made up of nominees from each county and city council in their area. The members nominated to the regional assembly must themselves be elected members of the county/ city council. The number of nominees that each county / city council makes to the regional assembly is specified by statute.

Meetings of the regional assembly are chaired by a chairperson (typically the title in the Irish language, Cathaoirleach, is used), who is elected by the members of the assembly each year. The chairperson convenes and chairs meetings of the assembly but has no substantive executive responsibilities.

The director of each regional assembly is head of administration, and is appointed through an open recruitment process, independently of the political system. The director attends meetings of the regional assembly.

The number of staff employed by the regional tier in Ireland is very small. For example, in 2010 the eight regional authorities employed (between them) only 39 staff, while the two regional assemblies employed a further 37 staff (Government of Ireland, 2012, pp. 91-92). This compared with over 30,000 staff working in local authorities in 2010, 36,000 in central government Ministries, over 100,000 staff in healthcare, and over 90,000 staff in education. This illustrates the very limited nature of the powers of the regional level in Ireland (see section 3).

Many of the small number of regional assembly staff are career officials who have worked in the wider local government system, and have been seconded to work for the regional assembly. However some staff have also been appointed to work for regional assemblies on a contractual basis.

Competences

Regional assemblies do not have legislative powers. Responsibilities are conferred on regional assemblies by national government.

The regional level has the three broad areas of responsibility. The first area is regional planning, and in particular the adoption of land use frameworks for the region (known as ‘regional spatial and economic

strategies' and previously known as 'regional planning guidelines'), which act as a framework for land use plans adopted at local level. The second area is the management and monitoring of EU co-financed expenditure. This includes the management of EU co-financed regional operational programmes, which entails administrative duties with respect to reporting obligations, evaluation, financial control and monitoring responsibilities (Callanan, 2004, p. 65). The third and most recent responsibility is that of oversight and performance audit of local government, and scrutinising the efficiency of local government activities (Government of Ireland, 2012, p. 102).

Several of the regional bodies also participate in EU-funded transnational projects with regions and other partners in other European states. The regions are also required to make proposals and recommendations to national government during the preparation of plans and programmes that are developed in the context of EU structural fund support (Callanan, 2003, p. 434 and 437).

Aside from these responsibilities, regional authorities and regional assemblies also have had a general mandate to promote the coordination of public service provision in their areas. However, this role was seen as largely aspirational as the actual powers granted to the regions to enforce coordination and carry this out this mandate were limited (Scannell, 2012, p. 311; Breathnach, 2013, p. 63; Morgenroth, 2000, p. 91).

It should be noted that the regional assemblies do not have any executive responsibilities that involve interaction with citizens, which along with the fact that the regions are not directly elected makes them largely 'invisible' from the point of view of public perception. The limited functions of the regional institutions are also reflected in their tiny staff complements (see section 2 above).

The question of the competences of regions was considered by an expert advisory group that produced a major report on local government reform in 1991 and had originally proposed the creation of regional authorities, which were then subsequently established in 1994. The recommendations of this report, often referred to as the Barrington report, suggested that while regional authorities would initially be made up of nominees from county and city councils, after a transitional period consideration should be given as to whether regional authorities should be directly elected and whether their role in service provision should be expanded (Advisory Expert Committee, 1991, p. 28).

This proposal to subsequently review the competences and election of regions was never implemented. Nevertheless different studies have suggested the possibility of the regional level taking on a greater role in certain aspects of healthcare, environmental protection, waste management, water supply, economic development, and roads and transport infrastructure (Morgenroth, 2000, pp. 93-96; Callanan, 2003, pp. 430-431). Thus far however, rather than the regional level being given powers in these services, the tendency in Irish public policy has been to establish national agencies to address coordination issues that arise in these fields.

Financial autonomy

Expenditure incurred by the regional level is small as they have no executive service provision responsibilities to the public. Annual reports and financial statements show that operating expenditure incurred by the two regional assemblies in 2011 amounted to €16.47 million. Total expenditure incurred by the eight regional authorities in 2010 was €5.16 million (Government of Ireland, 2012, p. 91). Regional assemblies have no powers of taxation, but rather are financed through transfers from national, EU and local levels (Hooghe et al., 2008, p. 216).

A significant proportion of funding for the operation of regional assemblies comes from their constituent county and city councils. A contribution towards the EU-related responsibilities of the regional structures is also made by the Department (Ministry) of Public Expenditure and Reform. Regional assemblies have also acted as information points for certain EU transnational programmes and receive a subsidy from the European Union for this work.

Controls

Financial and administrative controls are exercised by national government through legal powers of supervision. For example, a maximum staffing complement for each regional assembly is set by national government. National government also provides a proportion of revenue to regional assemblies.

Supervision is also exercised to ensure conformity with state policy, and audit supervision to ensure lawfulness of expenditure and value for money.

Relations with other levels of government

An association (the Association of Irish Regions) exists to reflect the collective views of regional bodies vis-à-vis national government and other stakeholders. Ad hoc meetings are held as required between regional directors and national government officials (principally national officials from the Department of the Environment, Community and Local Government and the Department of Public Expenditure and Reform).

A number of the responsibilities of regional assemblies bring them into regular interaction with local authorities in their area. As indicated in section 3, regional spatial and economic strategies (formerly known as regional planning guidelines) act as a framework for the adoption of local land use development plans by county and city councils within the region. However, aside from this area, regional institutions may only encourage cooperation between local authorities and lack any real powers of control (Scannell, 2012, p. 333).

The current reform programme for local government (Government of Ireland, 2012, p. 98) proposes that the regional assemblies be given greater oversight and performance audit functions over the activities of county and city councils in their area – however at the time of writing it was not yet clear precisely what this will entail. Local authorities also make a financial contribution to the regional assembly that they are a constituent part of.

As a managing authority for EU co-financed regional operational programmes in Ireland, regional assemblies negotiate directly with the European Commission on EU structural fund issues (Hayward, 2010, pp. 102-103). A support office in Brussels (known as the Irish Regions Office) also exists to support the work of the Irish members of the EU Committee of the Regions – however Irish members of the Committee of the Regions are nominated by the Minister for the Environment, Community and Local Government rather than directly by regions, local authorities or their associations (Hayward, 2010, p. 104). Regions in Ireland are not represented in the Council of Ministers of the EU, and generally do not take part in Council working parties or Commission committees.

Overall assessment

It could not be said that the principle of subsidiarity is a primary concern in the allocation of public responsibilities in Ireland, taking into account the powers of both local and regional levels of government in a wider European context. This reflects a strongly-imbued tradition of organising governance, public services, and investment programmes on a functional rather than territorial basis (Moylean, 2011, pp. 76-80, 99-100 and 111-113). The limited nature of regional governance in particular in Ireland has been acknowledged by national government (Government of Ireland, 2008, p. 95).

That said, it should be noted that there has been growing interest in regionalisation in Ireland in recent decades. The initial impetus for regionalisation came from EU pressures in the late 1980s and early 1990s that obliged Ireland to create regional structures to be consulted on and to monitor EU structural fund expenditure in their area. More recent domestic pressures arose in the late 1990s from the persistent level of inter-regional economic disparities within Ireland (O'Leary, 2003, pp. 17-20). The regional assemblies established in 1999 in part arose from a mobilisation of actors campaigning for policy responses to address territorial disadvantage. Successive governments have recognised the principle of the need for balanced regional development, and the establishment of regional structures in the 1990s (albeit limited) could be interpreted as a response and a political signal from national government that regional considerations should be accorded a higher priority (Morgenroth, 2000, p. 82; Callanan, 2003, p. 439). This political concern was also reflected in the adoption of a national spatial strategy in 2002 (Government of Ireland, 2002) to act as a framework for the polycentric development of different regional urban centres or 'gateway' cities and their regional hinterland. These 'gateways' are to act as engines of growth and enterprise clusters for their region, and entail city levels of service and infrastructure in areas such as education, transport, communications, health, environment, and recreation and cultural facilities (O'Leary, 2003, p. 23).

This strategy has been described as "the first major regional policy statement by an Irish government in decades" (O'Leary, 2007, p. 254). Influential advisory bodies to national government on economic policy have increasingly drawn attention to the importance of 'city regions' as motors of economic growth, innovation and competitiveness (NESC, 2008, pp. 177-181; NCC, 2009, pp. 14-16). These considerations of balanced

regional development, agglomeration economies, and regional 'gateway' cities reflect a growing domestic framing of the debate on regional policy in Ireland. Nonetheless, this mix of EU and domestic pressures has thus far not translated into the creation of strong regional institutions or the devolution of significant new responsibilities to the regional level (Moylan, 2011, p. 91).

On balance therefore, one would have to conclude that the policy response to regionalisation pressures has been based on a minimalist approach. The original impetus for establishing regional structures in Ireland was largely external rather than domestic, and this perhaps reflects the pragmatic, even cosmetic approach to territorial reform at regional level (Hayward, 2010, p. 93; Moylan, 2011, pp. 66-68; Callanan, 2003, pp 442-444). The regional structures largely owe their origins to EU requirements which necessitated regional monitoring of EU structural fund expenditure.

Apart from overseeing the implementation of EU funding in their area, and adopting regional land use strategies for their area, their role has been limited. Regional structures are not directly elected, but rather are composed of nominees from their respective county and city councils. They have no fiscal autonomy, and their responsibilities are largely restricted to administrative tasks, and do not involve service provision to the public, making them somewhat invisible as far as citizens are concerned. This is illustrated by their tiny staffing complements. The regions in Ireland are regarded as marginal actors, playing very little role in influencing national decision-making, even in those areas where they are formally consulted during the process of formulating national policy frameworks, such as national investment plans or the national spatial strategy (Biela et al., 2013, p. 59).

Taking all of these factors into consideration, one can only conclude that the degree of regionalisation in Ireland has been very limited.

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ITALY

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General situation in terms of territorial organisation

The Italian republican Constitution of 1948 set out a conceptual frame of regionalism, which constituted an innovative institutional experiment, as a “third way” between a federal and a unitary state. From the very beginning, this model was characterized by its asymmetrical design, both as a matter of constitutional law and in terms of effective use of powers transferred to the regions.

At first, only five special regions were established out of a total of twenty: the two main islands (Sicily and Sardinia) and three alpine regions in the North, with consistent minority groups (Aosta Valley, Friuli-Venezia Giulia, Trentino-South Tyrol). The last one, however, is divided into the two autonomous Provinces of Trento and Bolzano, which are comparable to a special region with regard to their range of powers and responsibilities. While the special regions have been in place since 1948 (Friuli Venezia Giulia as of 1963), the establishment of the other fifteen ordinary regions was only fully developed in the 1970s.

Later on, thanks to a series of reforms of the public administration adopted between the late 1980s and the late 1990s, an incremental decentralization of powers to ordinary regions took place, narrowing the gap between ordinary and special regions. The potential of self-government was further boosted by means of two constitutional amendments, respectively approved in 1999 and 2001 (constitutional laws no. 1/1999 and no. 3/2001). These considerably increased the powers and political autonomy of regions, while confirming the constitutional foundation of asymmetrical regionalism.

First of all, the amended article 114.1 asserts the equality of all territorial entities (State, Regions, Provinces, Municipalities, Metropolitan cities), thus referring more to the concept of (functional) “spheres” rather than (hierarchical) levels of government (Pizzetti, 2001, 1153-96). Furthermore, it states that regions (as well as all the other components units) are autonomous entities having their own statutes, powers and functions in accordance with the principles laid down in the Constitution (art. 114.2). If compared to the previous prescription, the new provision adds an explicit reference to “own statutes”, therefore fully developing the conception of regions as political autonomies.

Accordingly, the Constitution provides that ordinary regions’ statutes are adopted and amended by a regional law approved by the regional assembly with an absolute majority of its members, with two subsequent deliberations, at an interval of not less than two months (art. 123 Const.). Ordinary regions’ statutes are therefore laws *sui generis*, having a higher status in the hierarchy of legal sources compared to the other regional (ordinary) laws, due to the reinforced procedure for their approval. Regional statutes are, however, subordinated to the national Constitution. The statute of a special region, on the other hand, is formally a constitutional law adopted by the national parliament, according to the special procedure provided by its respective statute (with one exception: the financial provisions, which may be amended by an ordinary State act, after an agreement between the State and the concerned region). This makes it more difficult to change them, with a twofold consequence: on the one hand, special autonomy is more firmly guaranteed and enjoys a high-ranking legal status; on the other hand, such a strong safeguard can become a ‘golden cage’, making it too difficult to update the statutes (Palermo, 2008, 33-49).

To give additional evidence of such enhancement of regional autonomy, the reform has vested both ordinary and special regions with the power to define their system of government as well as the electoral system of their governing bodies. At the same time, the administrative organization of the region falls within the exclusive regional competence (see section II).

Most importantly, the changing approach towards regions as political units is embedded in the constitutional recognition of a fully-fledged legislative power. In fact, the constitutional reform remarkably changes the allocation of legislative and administrative powers between State and regions. Now the Constitution lists the exclusive legislative power of the State as well as the subject-matters of concurrent legislation (art. 117.2 and .3), vesting the regions with a comprehensive legislative power over all not-mentioned competences (residual legislative power).

⁴³ Section I by Sara Parolari and Alice Valdesalici; sections II and IV by Alice Valdesalici; sections III, V and VI by Sara Parolari; section VII by Francesco Palermo.

In so doing, the reform 'elevated' the ordinary regions to the same level as the special regions, at least in terms of legislative powers. Nonetheless, the scope of autonomy may differ significantly between ordinary and special regions, as they have been assigned different legislative, regulatory and administrative competences *ratione materiae* (see section III). On the other side, significant differences exist even within each group of regions: each ordinary region might call for a transfer of additional powers by the State (art. 116.3 Const.), even if this possibility has not been exploited insofar; each special region has a different system of powers that finds its *raison d'être* in the procedural guarantees for the adoption of their fundamental laws, based on the principle of bilateral negotiation. In fact, all special regions negotiate with the State the concrete developments of their autonomy, bilaterally and on an equal footing.

For the time being, the reformed constitutional settings are far from being fully implemented. The new criteria for power distribution between State and regions (art. 117 and art. 118 Const.) gave rise to an enormous increase of controversies (Bin, 2006, 889-902; Onida, 2007, 11-26; Groppi, 2007, 421-32). As a consequence, the Constitutional Court had (and still has) to cope with the fundamental task of re-defining the competences, frequently adopting a rather centralistic approach.

At present (January 2016), the Parliament is examining a far-reaching constitutional reform bill, which, if approved by referendum in fall 2016, will severely curtail the legislative autonomy of the ordinary regions, including, *inter alia*, the abolition of the concurrent legislative powers, the attribution of almost all relevant legislation to the State and expressly allowing the State to seize regional powers in the name of the national interest.

Even though both ordinary and special regions enjoy, on paper, a rather extensive degree of autonomy in determining public policies, the effective functioning of the overall system and the limitations put in place severely interfere with their constitutionally recognized powers. This is the case not only in matters covered by concurrent State-regions legislation (where regional laws are subordinated to national legislation establishing the fundamental principles - see section III); it also happens in case of cross-cutting matters (*ex plurimis*, C.C. 150/2011; C.C. 291/2012; C.C. 18/2012; C.C. 2/2014), even though, in theory, the areas of exclusive competence of the State and of the regions are not supposed to overlap: for example, art. 117.2 lit. m) Const. establishes that the State has exclusive legislative power as of "the determination of the basic level of benefits relating to civil or welfare rights to be guaranteed throughout the national territory". As a consequence, irrespective of the matter at hand, whenever a regional law provides for benefits related to civil and welfare rights, it must be subordinated to the national law establishing the standards to be matched (*inter alia*, C.C. 207/2012; C.C. 111/2014). Furthermore, the State intervention has gone sometimes even beyond: either introducing limitations to the exercise of Regions' legislative power, or legislating instead of the regions, despite the regional competence on the matter. Emblematic is the example of those interventions, which pursue the achievement of goals established within the system of financial coordination. Furthermore, the stringent EU obligations imposed on national public finances exert an indirect but strong impact on the discretion of regions in adopting public choices (see section IV).

As a matter of fact, the austerity measures approved by the central Government impose drastic cuts on the decentralized spending capacity. The framework could further deteriorate if one considers the lack of an effective involvement of territorial entities in the decision-making process at central level. So far, in Italy the Senate is not a territorial chamber and the intergovernmental coordination relies only on a system of conferences that plays a mere consultative role and can easily be over-ridden.

Finally, a milestone of the 2001 new constitutional pattern is the revision of the intergovernmental financial relations. Accordingly, all component units shall have financial autonomy over both the revenue and the expenditure side; at the same time, a balance within the country by means of solidarity, cohesion and coordination of public finance has to be ensured (art. 119).

However, the new provision remained unimplemented until 2009, when framework law 42/2009 was adopted setting the main trajectories of the new system. After five years, the new financial settings are still far from being in force, since implementing decrees and bylaws are either not adopted or not implemented, due to the financial constraints of the country. Special regions represent an exception to this pattern. The new financial rules do not apply to them, but they have been asked to reform their systems according to the same basic principles. The specific regulations have to be agreed between each special region and the State in a bilateral negotiation. In sum, special regions enjoy a higher degree of financial autonomy, but they differ one from the other to a great extent.

Having specific regard to financial autonomy on the revenue side, regional taxes can be classified in three categories: 1. "derived" own-taxes, set by a State law but "devolved" to the regions as far as both the revenue and a (certain) tax-varying power are concerned; 2. regional surtaxes on State taxes, where the regions can regulate the surtax within the limits set forth by the State; 3. "autonomous" own-taxes, set by a regional law on a tax base not pre-empted by the State.

All in all, the tax system remains strongly centralized, as autonomous own-taxes of the regions are in practice very few. The most significant one is probably the regional tax on cars (and other vehicles). This is due to the stringent limits put in place. Besides the prevention of double taxation on the same tax base, it is worth mentioning the constitutional arrangement of the taxing powers.

The Italian Constitution does not list the own-taxes of each level, but assigns to the State the exclusive legislative competence over the State tax system (art. 117.2 lit. e) Const.), and to the regions the exclusive legislative competence over the regional tax system ("residual clause", art. 117.4). Furthermore, regions may exert their competence only in compliance with the principles of financial coordination set forth by the State. Actually, the coordination of public finance and of the tax system is a concurrent competence (art. 117.3). In this regard, however, the Constitutional Court has deemed such an extensive interpretation of the principles of financial and fiscal coordination that de facto nullifies the regional role (ex plurimis, C.C. 207/2010; C.C. 128/2010; C.C. 182/2011; C.C. 236/2013; C.C. 44/2014; C.C. 85/2014).

Notwithstanding all these constraints, regional financial autonomy on the revenue side has been somehow consolidated and tax flexibility has been somehow enhanced. A certain tax-varying power has been recognized to the regions within well-determined limitations set forth by the State.

The same pattern applies more or less to special regions: "autonomous" own taxes are residual, even though the Constitutional Court has adjudicated them a more extensive taxing power (C.C. 102/2008). Furthermore, some special regions have been accorded a rather extensive tax-varying power, reinforcing fiscal flexibility. As a matter of fact, Friuli-Venezia Giulia, the autonomous provinces of Trento and Bolzano and, to a certain extent, Aosta Valley have been vested with the power to increase or decrease the rate over several State taxes (i.e. "derived" own taxes and surtaxes). Within the maximum tax-rate set by the State, they can introduce exemptions, deductions, tax reliefs or other changes. Contrary to what happened for ordinary regions, the constitutional jurisprudence has accepted an extensive interpretation of their tax varying power, opening the way to differentiated fiscal policies on a regional basis (C.C. 357/2010; C.C. 323/2011; C.C. 12/2012). However, the extension to special regions of the principles of financial coordination set forth by the State severely challenges the financial autonomy that they are vested with (ex plurimis, C.C. 39/2014; C.C. 175/2014; C.C. 238/2015; C.C. 239/2015; C.C. 263/2015).

Institutional and administrative organization

Italian regions are empowered to define both their system of government and the electoral system of the governing bodies.

In the ordinary regions, the system of government falls within the subject matters reserved to the regional statute (art. 123.1), respecting the limits set forth in the national Constitution. For instance, it is up to the regional statutes to define the number of members of the regional assemblies (who are directly elected by universal suffrage and secret ballot) and of the executives. Notwithstanding the regional competence, limitations with regard to the number of seats have been introduced by the national Government against the background of the economic crisis and this intervention by the State has been upheld by the Constitutional Court (inter alia, C.C. 198/2012; C.C. 23/2014).

On the other hand, the electoral system belongs to the concurrent State-regions competence (art. 122.1 Cost). Hence, regions set the detailed regulation, within the fundamental principles set forth by the State (among others, by State law 165/2004). Up to now, all ordinary regions have adopted new statutes and most of them (13 out of 15) also an electoral law. If regions have not adopted their own electoral law, the previous State legislation on regional elections applies (law 165/2004 and law 43/1995). With regard to the electoral laws adopted, the pattern is rather homogeneous, with all ordinary regions opting for the popular election of the Governor and, for the Assembly, a proportional system with majoritarian elements, such as thresholds and majority bonuses (these last ones varying to a certain extent from one region to another).

As to special regions, according to constitutional law no. 2/2001 both the system of government and the electoral system have to be regulated by means of a statutory law (so called "leggi statutarie"), i.e. regional

laws adopted following a peculiar entrenched procedure, having, for this reason, a binding force superior to the ordinary regional law. This is an exclusive legislative competence, introduced within the limits of the Constitution, as well as the principles of the legal system. All electoral systems in special regions are based on a proportional formula, with variations in the majoritarian elements that they foresee.

Finally, the administrative organization of the region is a matter that falls within the exclusive regional competence (according to art. 117.4 Const. for ordinary regions and the respective statutes for special regions). This results from the combination of the statute, which ex art. 123 Const. can define the principles, and the regional legislation. It means that both ordinary and special regions can legislate on the topic without the need to respect the principles set forth by State law (except for the constitutional principle of impartial and efficient public administration, ex art. 97 Const.). As a matter of fact, however, the State austerity measures, which set limitations to decentralized spending on personnel and structures, severely challenge this exclusive regional legislative competence. Nonetheless, the interference has been legitimized to a certain extent by the Constitutional Court, considering these measures as principles of financial coordination (inter alia, C.C. 19/2014; C.C. 54/2014; C.C. 61/2014; C.C. 127/2014).

Competences

In analysing the regional legislative and administrative competences, we must distinguish between ordinary and special regions.

As to the legislative competence of ordinary regions, the Constitution outlines the criteria for allocating the legislative power. In particular, as a result of the 2001 reform, the Constitution reserves exclusively to the State the power to legislate on a range of specifically enumerated subjects (art. 117.2 Const.). These include the State's foreign policy and international relations, State-EU relations, immigration, defence, currency, public order, citizenship, jurisdiction, determination of the basic levels of civil and social benefits to be guaranteed throughout the national territory, protection of the environment and the ecosystem, and the safeguarding of cultural heritage. There is then another list of subjects, where the State and the regions are given concurrent legislative competence (art. 117.3 Const.). In these issues, the legislative power of the State is restricted to the determination of basic principles, while the regions have legislative powers within the framework determined by the State. Residual legislative competence is vested exclusively in the regions (art. 117.4 Const.), having as its object all areas not included in the lists of the preceding paragraphs.

As mentioned above, notwithstanding the constitutional provisions, interference by national legislation in the exercise of regional legislative power is quite likely to occur (see above section I).

The legislative power of special regions is not regulated according to these criteria, but by the ones settled in their respective autonomy statutes. However, where the 2001 constitutional reform has provided ordinary regions with a greater degree of autonomy, this has to be extended to special regions, as long as their statutes are not updated (so called "preferential clause", according to art. 10, Const. law 3/2001).

With regard to the administrative competence of ordinary regions, the constitutional reform of 2001 introduced a profound innovation with regard to the criteria for allocating administrative functions. The new article 118 Const. abolishes the principle of parallelism (which characterised the previous pattern), according to which administrative functions are vested with the same level in charge of the corresponding legislative functions. According to the new constitutional provision, administrative functions are given in first place to municipalities, as the territorial governing bodies closest to the citizens. However, if deemed necessary to ensure uniform implementation, these functions can also be vested with Provinces, regions or the State (in this order), pursuant to the constitutional principles of subsidiarity, differentiation and proportionality. Therefore, administrative functions can be assigned to bodies other than those enjoying legislative powers over the related subject matters. Consequently, the exercise of administrative powers can be limited by the exercise of legislative/regulatory powers of a different level of government.

Moreover, a fundamental decision of the Constitutional Court (C.C. 303/2003) stated that when the State takes over administrative competences in the name of the principle of subsidiarity, it can likewise assume the corresponding legislative competence, in accordance with the principle of legality.

With regard to special regions, the rules which determine administrative competence differ partially from the principles introduced by the constitutional reform in 2001 for ordinary regions. The former are still built on the principle of parallelism, based on the respective statutes that reflect the previous constitutional design. This means that special regions hold administrative competence in the subjects for which they are attributed

legislative power; in practice, they either (and more frequently) delegate this to municipalities (and other local entities) or implement it directly through their offices.

Financial autonomy

According to the Constitution (art. 119), regions shall have financial autonomy both over their revenue and their expenditure.

Spending autonomy results (implicitly) from the combined scope of legislative and administrative competences: the more competences a region has, the more spending autonomy it enjoys. In addition, regions can mainly decide freely how to spend the available resources: only a minor part of the regional budget is earmarked. The same rule applies to special regions. This implies that the spending autonomy of special regions is broader than the one enjoyed by ordinary regions, as they are generally vested with more competences. Further, a differentiation takes place even within special entities, as the system of bilateral relations with the State has allowed each special region to develop the scope of its self-government in a different way.

Notwithstanding a fully-fledged spending autonomy, the State has adopted a set of measures, which call for a review of decentralized spending. Even though they interfere with regional competences, the Constitutional Court has adjudicated them as a legitimate attempt to cope with the demanding European obligations (among others, C.C. 430/2007; 341/2009; 11/2010). Such measures do not apply directly to special regions (according to – among others – C.C. 82/2007; C.C. 133/2010; C.C. 193/2012): their obligations are negotiated bilaterally with the State.

The reform under way serves, inter alia, the purpose of eliminating the current “State-transfer-based” scheme in favour of a “tax-revenue-based” model. The Constitution defines subnational autonomy on the revenue side by setting the principle of self-sufficiency. Accordingly, all State transfers to the regions shall be abolished (with the exceptions envisaged in art. 117.5 Const.) and regions have to base their financing on “autonomous resources”, that is mainly through tax revenue linked to the territorial fiscal capacity. According to art. 119 Const. and law 42/2009, these include autonomous own taxes, derived own taxes, regional surtaxes on State taxes and shared taxes, plus not-earmarked equalization transfers. Overall autonomous own tax sources represent a minor part of the regional budget, which mainly grounds on the other financing pillars.

Additionally, law 42/2009 provides for the gradual reform of the current equalizing system, which calculated the transfers on the basis of the resources spent in the previous financial period (so-called historic spending). A new equalization concept shall replace the previous one, by defining a set of criteria linked to pre-defined benchmarks, as well as generally applied and neutral indicators that should enable the standardizing of territorial costs and needs (so-called standard costs and needs). While the new system should enter into force in 2016, from 2013 a transitional phase should have started to ensure a gradual transition to the standard costs and needs. However, the implementing measures have not yet been adopted and the “State-transfer-based” system of regional financing is still, to a certain extent, in force. This is due, in first place, to the delay in the implementation of the constitutional provisions, and secondly, to a lack in discipline in applying the new system.

On the other hand, the financing systems of special regions are based mainly on a share of State taxes referable to the territory. The main differences concern the type of taxes that are apportioned (including “a selection of” or “all taxes”) and the sharing percentage (from 25% to 90%). State grants tend to be generally less consistent than in ordinary regions, although this varies from region to region.

Controls

The control on regional legislation as well as on regional administrative acts is mainly attributed to the Constitutional Court. With regard to regional statutes, the State Government can challenge their constitutional legitimacy in front of the Constitutional Court within thirty days of their publication (which was the case for several statutes adopted between 2003 and 2012). Statutes can be also be submitted to a confirmatory popular referendum if one-fiftieth of the electors of the region or one-fifth of the members of the regional assembly so request within three months of its publication (art. 123.3 Const.).

As to the control on regional laws, if it deems that the law exceeds regional jurisdiction (art. 127.1 Const.), the State Government may ask the Constitutional Court for a ruling on the constitutionality of a regional law within sixty days of its publication. The same power is attributed to single regions in respect to legislation of

other regions, when other regions' law or measure is deemed to infringe upon their competence. The consequence of the final judgement of the Court can be the annulment of the law when it has been adopted *ultra vires*.

Regional administrative acts (as well as regulations) may be challenged (*ex post*) by the State before the Constitutional Court in the case of so called "conflitto di attribuzione" as regulated in art. 134 Const., i.e. conflicts arising from the use of State powers, the division of powers between the State and the regions, or between regions. If an act is found to be in breach of the division of powers, it is declared null and void. There is also an auditing (*a priori* and *a posteriori*) internal to the public administration on administrative acts, aiming at verifying both the administrative and the accounting regularity of the act. In order to organize its auditing system, each region chooses the procedure to follow, in accordance with the national legislation on the topic. In general, the legal consequence of *a priori* supervision is the approval/disapproval of the act; while the legal consequence of a *a posteriori* supervision is the annulment of the illegal act.

A form of judicial supervision of regions' administrative acts is provided by article 113 of the Constitution, which states that: "The judicial safeguarding of rights and legitimate interests before the bodies of ordinary or administrative justice is always permitted against acts of the public administration. Such judicial protection may not be excluded or limited to particular kinds of appeal or for particular categories of acts. The law determines which judicial bodies are empowered to annul acts of the public administration in the cases and with the consequences provided for by the law itself". Hence, this kind of supervision might lead to the annulment of the act.

Relations with other levels of government

Italian regions are directly involved in EU matters by means of formal (i.e. regional representatives are part of the national delegation to the Committee of the Regions; regional representatives participate, within the delegations of the national Government, in the activities of the EU Council and of the working groups/committees of the European Commission) and informal mechanisms of participation (most regions have opened representation offices in Brussels; involvement in interregional networks; representation in the Assembly of European Regions; membership in the Council of European Municipalities and Regions). A quite recent law (law no. 234/2012) established a new model of regional participation in the EU which moves, on the one hand, from the perspective of an overall strengthening of the mechanisms and methods of involving the regions in the ascending phase of the formation of the European legislation; on the other hand, it determines a sounder articulation of the descending phase, in order to ensure an effective transposition of EU law.

With regard to the relations with the central level of government, as mentioned, in Italy there is no direct participation of regions in national law-making through institutional representation. So far, the Senate does not perform any role in representing regional interests, since the Constitution (art. 57) simply states that the Senate is elected on a regional base.

As to intergovernmental relations, they take place between executives of different levels. There is a system of inter-institutional relations based on the principle of loyal cooperation, which is considered, however, rather weak. It relies on conferences composed of members of the executives responsible for the issues to be treated. No formal role of the assemblies is ensured. These conferences are: 1) the Standing Conference for the relations between State, regions and autonomous provinces; 2) the State, towns and local authorities Conference; 3) the Unified Conference. These bodies have mainly a coordinating and consultative role.

As to relations of regions with local authorities, only special regions have exclusive legislative power with regard to the "legal system of local entities", while in the case of ordinary regions the State is vested with exclusive legislative power on "principles of electoral legislation, governing bodies and fundamental functions of Municipalities, Provinces (which will be abolished by the ongoing constitutional reform) and Metropolitan Cities" (art. 117.2, p.). Each regional Statute regulates the Council of Local Authorities (CAL), a regional organ (composed by all local authorities plus, in some regions, other organisations, such as Chambers of Commerce) with no decision-making power but ensuring consultation between regions and local authorities.

Although a cooperative inter-regional culture is traditionally lacking in Italy, certain (minimum) progress has been noted in recent years. Regions are setting up forms of cooperation among them, some of them even of a permanent nature, which mainly address the joint promotion of economic interests or the coordination of industrial and economic policies. The Constitution itself provides regional laws with the competence to

establish inter-regional agreements, as well as joint bodies with the aim to improve the performance of regional functions (117.9 Const.).

Concluding remarks

Since the end of the 1990s, Italy has been championing the movement towards regionalization, by introducing one of the most significant constitutional reforms that the western world has seen in decades. Notwithstanding the far-reaching and innovative features envisaged within the new framework, the implementation process missed the opportunity to vest regions with effective autonomy. Evidence of the feebleness of the system can be, first, traced back to the distribution of legislative and administrative powers set forth in the Constitution. In fact, the competence arrangement has been revealed to be incomplete and incoherent, containing many overlaps. Against this background, the Constitutional Court has had to face the fundamental task of re-defining the distribution of competences. More frequently, this led to the justification of the expanding role of the State in the name of the “national interest”. In other words, although the constitutional provisions would provide for equal standing between the State and the regions, in the practice this works differently and prompts a relation (mostly) of a hierarchical nature.

Such a key role of the constitutional jurisprudence is played in the absence of an effective institutional representation of regional interests in national decision-making through a truly territorial chamber. Beyond this, the system of intergovernmental coordination does not provide any support, since it has proven to be rather weak and ineffective in its functioning.

Rather than completing and making intergovernmental relations more coherent, the implementing phase lagged behind for years, making a step forward only in 2009, with an attempt to reorganize the financial design. At that time, the Parliament finally adopted law 42/2009 with the declared purpose to ensure an accountable and efficient management of public finance. However, the law has not proven to be effective in regulating the new fiscal and financial settings, which still are a work in progress.

For the time being, the economic crisis that severely hit the country further contributes to the constraint of the whole regionalizing process, bringing about a counter-wave of centralization.

Along with the crisis, the constitutionalization of the “debt brake clause” in 2012, the strict budget stability objectives and the spending review imposed by the State on the subnational entities represent serious threats to territorial autonomy, confining the regional legislator to a mere implementing role. Indeed, the Court has gone along with the centralizing trend legitimizing State interferences in the scope of regional autonomy, which translated not only in severe cuts in decentralized spending but also in measures of structural relevance. In 2011, for instance, the national Government adopted a decree, which sets limitations to the regional governing bodies with regard to the number of seats within the legislative assembly as well as the remuneration of its members, although these issues should indeed belong to the regional competence. The Constitutional Court has adjudicated that regional autonomy has been preserved, since the State has only set overall criteria with a view to controlling public spending and to guaranteeing by these means equal rights to all citizens within the Italian territory (C.C. 198/2012).

All in all, the pendulum is swinging in favour of a re-centralization process, fostered partially by the need to comply with the stringent EU restraints, and partially by the lack of a common and clear idea on the pattern of intergovernmental relations and their future perspectives. In this regard, the ongoing political debate on a constitutional revision further challenges the functioning of regionalism, focusing mainly on the need to re-define the allocation of powers and to re-design the Senate on the pattern of territorial second chambers.

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NETHERLANDS

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Introduction

This paper describes the main political and administrative developments in the regional authorities, called provinces, in the last six years in the Netherlands. Previously I published an analysis on the long term developments of Dutch provinces (De Vries, 2004, 2008)⁴⁴. This paper describes developments since 2008 in terms of the administrative system, the turnout at political elections at the local and regional levels, financial autonomy, and intergovernmental relations, including decentralization. Specific questions to be answered about this second tier in the Netherlands are the following:

1. Whether they are recognised in the national constitution, and to what extent;
2. Whether they have statutory or constitutional autonomy, and to what extent;
3. Whether they have standard-setting autonomy, and of what type (legislative or only regulatory);
4. Whether they have statutory or legislative autonomy which enables them to adopt specific rules on the internal organisation of the region;
5. Whether they have the power to set taxes (regional or local) or to play a significant part in setting taxes at national level;
6. Whether they have the power to determine – independently – public policies or to play a significant part in determining national public policies;
7. Whether they have powers in relation to the local authorities within their territory (to legislate on the organisation and competences of local authorities; to determine local authorities' financial resources; supervision; substitution).

The first section will give a brief description of the current intergovernmental structure and relations in the Netherlands. This is followed by four sections on the five themes in the questionnaire, i.e.: Institutional and administrative organisation, Competences, Financial autonomy, and Controls.

General overview of trends in the Dutch governmental system

The Netherlands is a so-called decentralized unitary state, having two tiers at the subnational level. As of 1 January 2016, there are 390 municipalities and 12 provinces at the regional level. This is a formal and simplified picture of Dutch administrative arrangements, but not a complete picture of the Dutch administrative structure. Next to the provinces and municipalities, there are the water boards, responsible for local water management. These water boards are the oldest administrative structures in the Netherlands.

Furthermore, several types of inter-municipal collaboration entities have emerged in order to take care of policies that are too complex or costly to be taken care of by each of the municipalities separately. Besides, function-specific regional collaborations have emerged, such as city-regions, involved with mobility and transport planning, housing, industrial areas, and green spaces; regional collaboration for sheltered employment, safety regions, involved with the police and fire departments; justice regions; youth care regions, regional collaboration regarding social benefits, work and unemployment, mobility regions; and inter-municipal regions in the social domain, involved with, for instance, social care for the elderly, the handicapped, people with mental problems and victims of domestic violence.

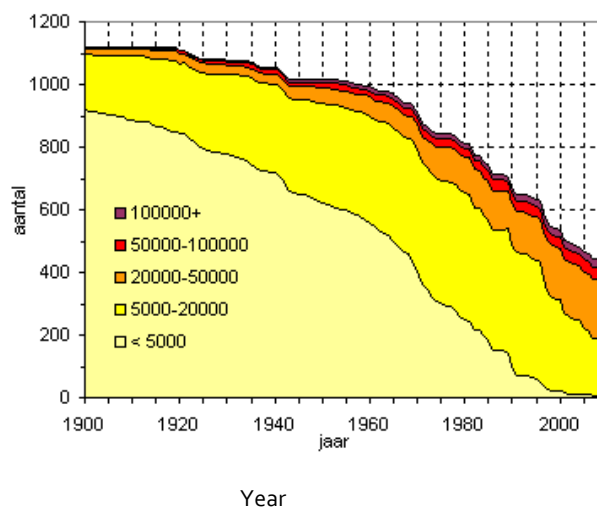
Such regional collaboration between municipalities can take different forms and differs to the extent that it involves the creation of a formal organization with a general board and executive, or is just a loose management agreement, or a transfer of responsibilities of smaller municipalities to a central municipality.

⁴⁴ Michiel S de Vries (2008). *Falling between two cracks: The indeterminate position of midlevel government*, in *Public Organization Review*, 2008, 8(1), 69-87. ; Michiel S de Vries (2004). *Institutional Fleecing: The slow death of Dutch provinces*. *Public Organization Review*, 4(4), 295-315.

A second, more recent kind of collaboration between municipalities is the emerging model of having a shared administration. Two, three or more municipalities, all having their own political representation, share the administrative system, which can get instructions from all municipalities involved in this collaboration.

Whereas the above are examples of more or less informal consolidation at the local level, at this level an incremental process of formal consolidation is also visible. Over the years, the number of municipalities has slowly but gradually decreased as a result of amalgamations. In 1950, there were still 1,015 municipalities, in 1990, this had diminished to 672 and currently (2014) there are 403. Whereas in 1900 the average number of inhabitants per municipality was still below 5,000 and approximately 10,000 just after WWII, it grew to an average 30,000 at the turn of the millennium and now approaches 40,000 inhabitants per municipality. The distribution of small and large municipalities has significantly changed since 1900 (See figure 1). Municipalities with less than 5,000 inhabitants have almost completely disappeared and nowadays municipalities with less than 20,000 inhabitants are slowly being induced to amalgamate.

Figure 9. Development in the number of municipalities in the Netherlands by size



These developments, inter-municipal collaboration in many fields and the amalgamation of smaller municipalities, as well as the increased size of all municipalities, pose threats to the second (provincial) tier of sub-national government. These threats are seen in developments towards collaboration at the provincial level, plans to consolidate also at this level, decentralization of power and authority in the social domain from provinces to municipalities and a reduction of finances transferred from national government to provinces. The next sections elaborate on the specifics of these changes.

The institutional and administrative organisation of the regional level

The provinces are the smallest of the three tiers in the Netherlands. This is reflected in the size of their personnel. In 2010 there were 11,098 persons working for the 12 provinces, compared to 148,933 people working at the municipal level and 116,280 at the national level. The employment at the provincial level is decreasing, from a peak of 12,400 employees in 2003 to just above 11,000 in 2011 (IPO, 2012). Although the organizational structure varies, most provinces have – in addition to the internally oriented departments, such as ICT, administration, and strategy – policy-oriented departments. The latter concentrate, although under different names, on spatial planning; physical environment - land policies, cities and villages; physical infrastructure – water, roads, transport, and mobility; societal affairs – culture, cultural heritage, art, archaeology and society; nature and environment enforcement. Every province also has its own miscellaneous departments covering such fields as innovation, regional languages, property, subsidies, permits and recreation. This administrative structure reflects the main tasks and responsibilities of the provinces and the priorities set by its executive.

On top of the provinces there is a political layer, the provincial assembly, called "Provinciale Staten". The size of provincial assemblies ranges from 41 members in provinces with less than 400,000 inhabitants to 55 members for provinces with more than two million inhabitants, with six gradations in between. Its main

functions are the control of the executive, representation of the population and establishing the scope and boundaries for new provincial policies.

The members of the provincial assembly are elected every four years by general and direct elections. All inhabitants of the province, aged 18 or above, who are citizens of the Netherlands, are eligible to vote, unless they have committed a serious crime posing a threat against the state or the constitution, of which a judge has decided that (s)he should be excluded from voting rights. Everyone aged 18 or above, living within the province, who is not excluded from the right to vote is eligible to be elected in the provincial assembly. The membership the provincial assembly cannot be combined with certain other functions such as minister or secretary of state at the national level, member of high advisory councils, ombudsman, national or provincial audit-office, member of the executive board of the province, or with being a public administrator within or on behalf of the province.

Because of the fragmentation in which no political party has a majority of seats in the provincial assembly, a coalition is usually formed after the elections, which appoints the executive ("gedeputeerden") that has the authority to develop plans and policies, which have to be approved by the provincial assembly. A majority of the provincial assembly can put a motion of no-confidence forward against any member of the executive, who - in case a majority of the provincial assembly supports this motion - has to resign.

The head of the executive is the "commissioner of the king" or governor. (S)he is not elected, but appointed for a six-year period by the national government. He represents the provincial administration, chairs the meetings of the executive and provincial assembly and represents national government in the province. The provincial assembly cannot force the governor/commissioner of the King to resign. Only national government can take such action in case of serious neglect or misconduct.

Financial autonomy at the provincial level

The total expenditures by Provinces in 2013 amounted to 6.3 billion euro, approximately 2% of total government expenditures. Of the total of approximately 300 billion government expenditures, 173 billion is spent by central government and around 50 billion euro by municipalities (exclusive of an almost similar amount for expenditures by municipal collaborative arrangements). Although on the expenditure side the role of subnational government is substantial, this is not the case regarding the collection of revenues by them. Subnational governments in the Netherlands have a limited capacity to collect own revenues and are for the most part dependent on allocation of funds by national government.

<i>Période</i>	<i>Mln euros</i>
2000	940
2005	1 004
2006	1 090
2007	1 128
2008	1 205
2009	1 329
2010	1 483
2011	1 268
2012	1 686

There are two kinds of funds, general funds and specific funds. In the case of general funds, the provinces can decide themselves what to spend this money on and they are not accountable for their expenses to central government. The trend in the total amount of general funds is given in table 1.

The allocation of these funds is done through a complicated formula based on population, land and water area, road-length and the competences of the provinces. A peculiar feature of this system is that approximately the same amount as provinces can collect themselves in fees on the surtax of vehicle tax is

subtracted from the general funds allocated to them by general government. Table 2 gives the exact criteria for allocating general funds for 2011.

Table 2. Distribution criteria for general transfers to provinces in 2011

	In €
vehicle tax per €100 main tax	-55,52
Inhabitants	19,92
inhabitants above 640.000	11,84
Inhabitants urban areas	12,89
Inhabitants rural areas	18,25
Land (hectares)	45,49
Water (hectares)	32,52
Green space (hectares)	16,72
Weighted road length (km provincial roads)	21001,57
Cogeneration (gigawatt hours)	0,66
Basic amount	7.488.076,96
Fixed amount for province of Fryslan	8.441.076,96

Although it seems that the formula for allocation of funds to the provinces is complex, it is less complex than the formulation of allocation of general funds to municipalities, which is based on 60 criteria. The formula changes every year. This is because of the administrative agreement that the total amount of general funding allocated by national government depends on the financial position of general government. If cuts are necessary at the national level, the same cuts are expected at the regional and local level. In the Netherlands this practice is known as walking up and downstairs together. This principle is reflected in figure 1, which gives the development of the allocation of general funds to provinces per capita. It can be seen that after the financial crisis, which also hit the Netherlands, the total amount per capita allocated to provinces diminished.

The amount of finances transferred to provinces is very small compared to the general funds allocated to municipalities. The trends therein are given in figure 2. It can be seen that the general funds per capita transferred to local government are more than 16 times higher. This is indicative of the minor role of provinces in the Dutch administrative system.

General funds can be spent by the provinces without having to account for them to national government. Until recently, they were free to use them as they deemed necessary. However some provinces built up huge assets as a result of selling shares in their electricity companies, worth approximately 18 billion euro, becoming wealthy in the process, whereas other provinces lack this source of revenue. This changed the composition of general funds, which are now divided in general funds, integration and decentralization funds. The latter two are not bound by the distribution yardsticks and these take care of a redistribution of funds, in which more money is allocated to poorer provinces than to the wealthier ones. Those decentralization and integration funds are officially meant to cover a transition period, in case of a decentralization of tasks, which can have temporary implementation effects, which in terms of allocation of funds can have grave effects that have to be temporarily compensated. For the integration-funds, the term is fixed, but for the decentralization-funds, the term is not fixed. The latter two funds allow national government greater control over provincial spending.

Figure 1. Allocation of general funds to provinces in € per capita

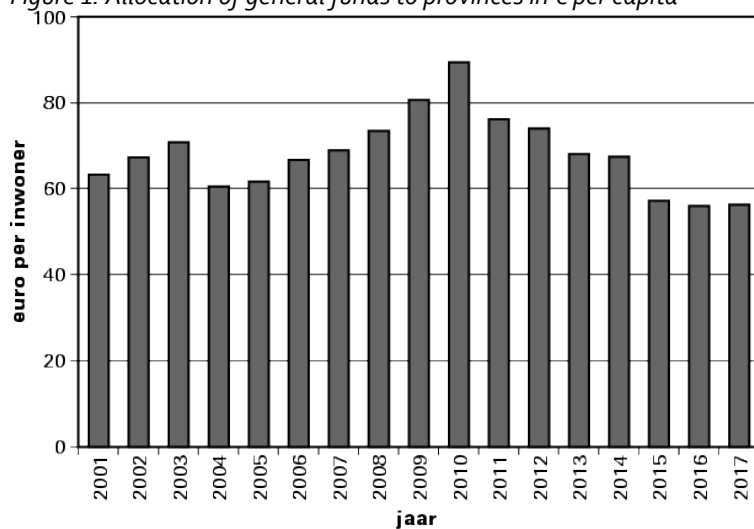
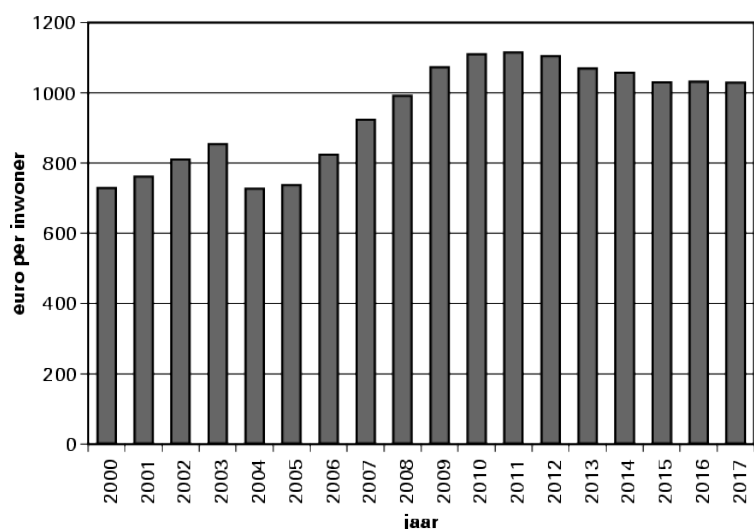


Figure 2. Allocation of general funds to municipalities in € per capita



In addition to the allocation of general funds, there are specific funds allocated by national government to provinces. These amounted to 2.3 billion euros in 2011, that is, almost double the general funds. Such specific funds are only to be spent for the purpose for which they are allocated. Hence, in 2011, 750 million euros was allocated to provinces for traffic and public transport, 705 million for investments in rural areas and 864 million for youth care. Above that, about 500 million was allocated for the coordination and implementation of policies regarding juvenile delinquency. These latter finances on youth care of approximately 1.5 billion euro will be lost as the responsibility for this policy area is decentralized to the municipalities as of 1 January 2015. (cf. Onderhoudsrapport Specifieke Uitkeringen, 2011).

As said above the possibilities for collecting one's own revenues are very limited for provinces. Provinces are nowadays expected to raise about 5% of their revenues themselves through fees, interest and a surtax on motor vehicle taxes. Previously, provinces were expected to finance 11% of their expenses out of their own revenues. Table 3 gives the division of fees collected by provinces themselves in 2013.

Revenue from provincial fees has more than doubled since 2000, from 730 million euro to 1.5 billion euro in 2014. This development is shown in table 4.

Hence, one can conclude that the financial position of Dutch provinces includes hardly any autonomy to set taxes or to play a significant part in setting taxes at the national level. This situation is similar to the position of Dutch municipalities, which can only collect 8% to 16% of their revenues by taxes and fees and are also completely dependent on the allocation of general and specific funds from national government. The

financial resources of provinces also are mainly received through the allocation of general and specific funds from the national level. On a more positive note, there is a clear trend to reduce the proportion of earmarked funds.

Table 3. Fees collected by provinces

2013	Netherlands	Total provincial fees	Mln euros	1 479,8
		Surtax vehicle tax		1 450,7
		Groundwater tax		14,7
		Fees on landfills		3,0
		Fees environment		9,5
		Miscellaneous		2,0

Source: Central Bureau for Statistics, Den Haag/Heerlen 3-2-2014

Table 4. Development of Provincial fees

Period	Mln euros
2000	730,5
2001	759,2
2002	817,3
2003	885,0
2004	986,8
2005	1 068,5
2006	1 136,0
2007	1 214,9
2008	1 317,6
2009	1 399,1
2010	1 441,3
2011	1 472,6
2012	1 486,4
2013	1 479,8
2014*	1 550,2

Provincial competences

Both municipalities and provinces are recognised in the constitution as having a dual function. First, they have the autonomy to develop and implement policies on behalf of the welfare within their territory, by passing independent bylaws, with the only restriction that such bylaws do not contradict national legislation. Secondly, they are required to collaborate in implementing national policies, based on national laws and regulations. Hence, they have statutory or constitutional autonomy as long as their policies do not contradict national policies.

Although both have autonomy and are allowed to develop policies in every area deemed necessary, the official tasks of Provinces stipulated by law are more limited than those of municipalities, in that legally they are only required to take care of the following areas:

- approval of the expansion of cities and villages;
- layout and construction of roads, railway, shipping links, industrial and agrarian areas and recreational facilities;
- responsibility for regional structure plans, to be taken into account by municipalities who make local zoning plans;
- construction and maintenance of provincial roads, bicycle paths, bridges, and nature areas;
- implementation of national legislation regarding the environment and pollution, and ambulances; and,
- supervision of the water boards and the finances of municipalities.

The current government (since 2012) has made several proposals regarding the position and functions of the 12 provinces.

The first one, stipulated in the coalition-agreement, was to limit provinces so that they will only undertake the official tasks mentioned above and to forbid them to initiate policies in other areas. According to the coalition agreement, in every policy-area there should be only two of the three (national, provincial, local) tiers involved. This is reflected in the administrative agreement 2011-2015, stipulating that the provinces are expected to focus on spatial development, nature and landscape, traffic and transport and economic development.

The second proposal made by the current Dutch government was to start a consolidation process at the provincial level, beginning with the three provinces surrounding the capital city Amsterdam. Although Provinces are recognised in the constitution, they can be created or abolished by law, and by law the borders of provinces can be changed (Dutch Constitution, ch. 7 art. 123). A process towards the amalgamation of the provinces of Noord-Holland, Utrecht and Flevoland has been initiated with the expectation that once these three are merged, the other provinces will follow, resulting in the end in four or five so-called country-parts 'landsdelen'. Unsurprisingly the provincial executives (deputies and commissioner of the queen) opposed these plans, with the result that the minister of interior affairs had to withdraw these plans.

The third proposal was to decentralize all aspects in the social domain to municipalities, a process that was finalized on 1 January 2015. Partly, this goes at the expense of the tasks and authority at the provincial level, which until now received 1.5 billion Euro for youth care, which as of 2015 will be transferred to municipalities instead of to the provinces. For the provinces, this trajectory involves approximately 25% of their income. The emergence of safety regions in 2010 ended the tasks and responsibilities of the provinces in this regard. Previously the head of the provinces 'commissioner of the king' was responsible if there was a disaster crossing municipal borders, now this is the responsibility of one of the mayors of the constituting municipalities.

Hence, one can conclude that provinces in the Netherlands have autonomy for standard-setting in a limited number of policy areas, notably spatial planning, nature and landscape, traffic and transport, and economic development for their territory. Officially, they can develop policies in every area they deem necessary, but the national government seems to be curtailing their ambitions in this regard. Provinces play hardly any role in determining national public policies.

Supervision on and by provinces

The main supervision within the provinces is the responsibility of the elected provincial assembly. It is their function to control the policies of the executive to ensure good governance, efficiency and effectiveness, and to approve or disapprove new policies. One more function of the provincial assemblies deserves to be mentioned. They elect the members of the national senate ("Eerste Kamer" in Dutch). Within three months of the election of the members of the provincial assembly, these members elect the members in the senate, i.e. every four years. The votes of members of assemblies in different provinces for the election of the senate vary in their weight. This weight is determined by the number of inhabitants in a province and the number of seats in the provincial assembly.

The Dutch provinces have a supervisory role with respect to the water boards and municipalities. This applies firstly to their budgets and finances. Provinces check, control and advise on municipal budgeting, finances and deficits, and play an important role when debts become too high for municipalities to carry by themselves. In recent years, a number of municipalities found themselves in difficulty, having purchased substantial tracts of land for construction of housing, in the expectation that the housing boom would continue, whereas in fact it halted because of the financial crisis. Also, in case of political crises within the executive or assemblies or between assemblies and executive in water boards and/or municipalities, or conflicts between municipalities and/or between water boards, the provinces have a supervisory role in mediating in such conflicts.

Provinces also play an important role with regard to supervision of the zoning by municipalities and control whether such zoning is in conformity with their own regional structure plan. A second supervisory role concerns the implementation of national water policies in the region. Recently the provinces were designated as supervisors on environmental matters and spatial planning by municipalities and water boards. This applies to the control of storage and disposal of hazardous substances, the removal of asbestos, fire prevention measures, detection and control on risky devices, and safety.

Central government supervises the finances, policies and legislative tasks of Provinces themselves with regard to their lawfulness and conformity with state policies. Recently central government stipulated that provinces have to deposit their assets at the central bank and are not allowed to speculate with that money. This measure was introduced after several provinces lost millions of euros, when the bank they had put their assets on went bankrupt. Another reason is that the obligation to put the capital at the central bank diminishes the size of debt of the government within the EMU regulations.

This supervision by central government is carried out in part by the commissioner of the king/governor. (S)he is appointed by central government and part of the job is to act on behalf of central government. If a decision made by the executive or assembly is, according to the commissioner of the king/governor eligible for annihilation, (s)he informs the minister at the central level. The minister at the central level can then make a proposal for suspension of the decision made at the provincial level. As to the finances, the agreement in the EMU of the EU in which the total debt (3% of the budget) and deficit (60% of GDP) of all governmental levels is regulated, means that central government is allowed to limit the deficit and debt of subnational government. The degree to which local and provincial governments can have debt and deficits are limited according to the debt and budget deficit of national government.

There is therefore a clear hierarchy between the three tiers. There is no intergovernmental supervision with regard to efficiency and corruption, nor on the content of policies developed. These are primarily internal matters. Provinces are completely free to spend the general funds as they deem necessary and useful. Accountability mechanisms function only with regard to the spending of specific funds. These funds are to be accounted for to the respective departments of national government, in order to show that they are indeed spent for the purposes specified.

Provinces squeezed between local and central government

At present, the Dutch provinces are still the most stable tier in Dutch government. For decades, their number and their position within the Dutch administrative system have hardly changed. However, their position is continuously under discussion. One of their traditional functions, to support small municipalities in performing tasks for which they are too small, has disappeared with the amalgamation of such small municipalities and the emergence of inter-municipal collaborative arrangements. Another traditional function, of acting as intermediary between national and local government, is also diminishing, as the size of local government administrations far exceeds those of the provinces. The third function, of mediating in inter-municipal conflicts, promoting regional economic development and promoting regional identity, is something that the provinces are desperately clinging to. Their only other function is to serve as a technical authority, for the development of rural areas, taking care of spatial planning and logistics regarding roads, waterways and public transport. Increasingly the trend is for them to focus on these policy areas and not develop policies in other areas.

With regard to the questions posed at the beginning of this paper, we can say that the Dutch provinces are recognised in the national constitution and owe their autonomy to the constitution. However, hardly anything is said in the constitution about their actual tasks and they can be abolished and amalgamated by law. They do have standard-setting autonomy, especially in some technical policy domains, such as spatial planning, the

development of rural areas, infrastructure regarding mobility and public transport, environmental issues and regional economic development. However, they do not have the power to set taxes or to play a significant part in setting taxes at national level. Neither do they have a significant part in determining national public policies. They do have some supervisory role in relation to the local authorities within their territory, but mainly when these local authorities get into trouble, financially or political conflicts or inter-municipal conflicts. Only then the provinces can interfere and mediate.

In the Netherlands, the position of the three tiers seems to be like a zero-sum game, in which authority and responsibility over policy areas, is to be share out, but with the impossibility of all tiers being allocated powers and authority. At present, mid-level government is squeezed between the other two. This has been illustrated above, based on the development in their tasks and responsibilities, which are increasingly concentrated around technical policy-areas, and the diminishing financial means, which were cut further by a quarter as of 2015.

NORWAY⁴⁵

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The main features of present-day local government in Norway, including the county councils, the second tier local authorities, date back to 1837, when a system of modern local government was first established. With a Constitution dating from 1814, the two-tier system of local government has over the years become an inherent part of the Norwegian state tradition. The second tier is regarded as the level of regional governance in Norway. As a decentralised welfare state, Norway belongs to the Scandinavian state tradition, with distinctly co-operative central-local relations (cf. Fimreite and Tranvik 2010). Few of the functions that are performed by local government can be considered as being of exclusively local purview. Thus, whereas legally local government is free to engage in tasks that are not explicitly granted to other public bodies or prohibited by law, in practice most important local functions are seen as joint responsibilities shared by central and local government. Central government passes enabling legislation and also provides some of the funding for many local functions, most typically in the fields of primary and secondary education, health care, care for the elderly and kindergartens. As a consequence, local government service provision is the subject of sometimes quite detailed supervision and regulation by national agencies, which is mostly carried out through the institution of county prefects. The latter indicates the presence of Napoleonic features in the Norwegian state tradition.

Institutional framework

As mentioned, Norway has a two-tier system of subnational government, consisting of 428 municipalities and 19 county councils or regions as of 2014. The national capital, Oslo, occupies a dual status, being both a municipality and a county. In 2014 the average number of inhabitants in municipalities was roughly 11,800, but this average is a bit misleading. Many of the municipalities are quite small, the smallest having just over 200 inhabitants, and over half of all municipalities (53 per cent) have less than 5,000 inhabitants, while the three largest (Oslo, Bergen and Trondheim) accounted for over one-fifth (21 per cent) of the total population at the end of 2014.

The 19 counties similarly vary in population size, ranging from roughly 75,000 inhabitants in Finnmark to 650,000 in Oslo, the average being just under 272,000. The counties also vary substantially in terms of land area and the number of municipalities found in each. Oslo, the capital, is the smallest in terms of land area (427 km²) but has the largest population size. The other counties range in size from roughly 2,000 to 46,000 km² in area, the largest being Finnmark with an area somewhat larger than that of Denmark, and encompass anywhere from 14 to 44 municipalities.

The territorial structure of governance has been a long-standing source of debate (cf. Rose 1995:168-172; Baldersheim and Rose 2010a). In the years since World War II there has been a steady concentration of the population in urban areas, especially around the Oslo Fjord. In 1956, following a protracted process of inquiry and public debate, Parliament finally passed legislation that led to a reduction in municipalities from 744 to 443 during the 1960s and early 1970s. A new attempt to consolidate the territorial structure further was made in 1995, but this failed. Against this backdrop, the red-green coalition government that came to power after the 2005 election pledged to reform regional government, intending to replace the counties with larger and more robust regions. However, in the face of powerful forces of opposition and conflicts over the distribution of functional responsibilities, this initiative also stranded, resulting in only a minor adjustment of the tasks assigned to county governments. Following the parliamentary elections of 2013 a right-wing coalition government came to power and introduced a new structural reform initiative seeking to reduce the number of municipalities through amalgamations, but the outcome of this initiative is not as yet clear (Prop. 95 S 2015). Reform of regional governance is also on the agenda, including amalgamation of county councils, but how this initiative will affect the present-day county councils is also an unsettled issue as of January 2016.

The political structure of municipalities and counties is prescribed by national legislation. The stipulations of the Local Government Act of 1993 apply equally to county councils (or counties for short) and municipalities. All municipalities and counties have a basically similar institutional structure, which consists of an elected council, an executive board composed proportionally by councillors from the parties represented in the

⁴⁵ Parts of this text are an update and revision of Baldersheim and Rose 2010b.

council, and committees also formed on a proportional basis. Subject to a legally stipulated minimum, the size of municipal and county councils varies according to their population. Mayors are elected indirectly by the council, although in recent years some municipalities were permitted to conduct experiments with the direct election of mayors. The primary function of the mayor is to chair meetings of the local/county council. Mayors are also the legal representatives of their authorities and serve in a ceremonial capacity on official occasions.

Functional and financial aspects of subnational democracy

As noted above, municipal and county councils are vested with legal authority to engage in a wide range of discretionary activities. In principle they can take on any tasks that are not explicitly denied to them by law or specifically assigned to other authorities. Today's reality, however, is characterized by a situation in which a large portion of all local government activity is mandated and/or subject to control by national policy making. This situation is the result of decisions made by parliament whereby municipalities and counties have been assigned primary responsibility for the provision of most public services, often with stipulations regarding the character (and cost) of the services to be provided. The important role played by subnational government is readily documented by both financial and employment statistics. Thus, in recent years local governments have been responsible for providing roughly two-thirds of all public services, accounting for approximately 50 per cent of all public spending and roughly 60 per cent of all public employment.⁴⁶ Municipal expenditures amount to 17 per cent of GDP and county council expenditures to three per cent.

Figure 1: *Principal functions and responsibilities of each tier of government in the Norwegian political-administrative system*

Central government	<ul style="list-style-type: none"> • higher education and universities • hospitals and specialized health services • specialized institutions for child welfare and care of drug and alcohol abusers • the National Insurance Scheme (unemployment, disability and old age pensions) • labour market training schemes • national roads and railways • police services, courts and prisons • military defence • foreign policy • refugee and immigration policy • national agricultural and environmental issues
Counties	<ul style="list-style-type: none"> • upper secondary schools • dental services • county roads and public transport • county land use planning • regional development
Municipalities	<ul style="list-style-type: none"> • preschool child day-care facilities and child welfare services • primary and lower secondary schools • primary health care

⁴⁶ As of 2014, local government employment accounted for just over 19 percent of all employment in Norway among persons 15 to 74 years of age (<http://www.ssb.no/arbeid-og-lonn/statistikker/regsyst/aar/2015-06-12?fane=tabell&sort=nummer&tabell=229552>).

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- care for the elderly and disabled
 - financial support for welfare clients
 - church maintenance and cultural affairs (public libraries, etc.)
 - fire protection
 - municipal roads and harbours
 - water supply and sewage services
 - garbage collection and disposal
 - local land use planning and environmental issues
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It is important to emphasize that no single piece of legislation stipulates how various functions are to be divided among central government and the two tiers of subnational government. And uniquely to Norway, there is no constitutional recognition of local or regional self-government. Rather, the division of tasks is largely a matter of special legislation, the content of which is subject to continuous revision, and the bulk of which is considerable. Given frequent changes, it is difficult to draw up a comprehensive and completely up-to-date listing of functions and responsibilities at each level of government. The information presented in Figure 1 nonetheless serves to highlight some of the most important tasks at each level of government at the present time.

As this list makes clear, Norway can be described as a fairly decentralized state with a series of important tasks being given to local government. The period of 1970 – 1990 was one of continuous decentralization and transfer of functions to local government. During the 1990s, however, the tide turned. Several functions were either transferred back to the state or organized on a semi-public basis (quangos). For the county councils, the 1990s was the start of a process of hollowing out. First, county councils lost responsibility for core tasks related to economic development, and later, in 2002, their most important function – hospitals and specialized health care – was taken over by the state. The only significant development to counter this trend is a transfer of responsibility for national roads from national to county governments effective as of 2010, a transfer that came in the wake of the aborted attempt at regional reform mentioned above.

In terms of budgetary volume, primary education and caring functions are the most important tasks of municipalities, whereas secondary education is the most important function of counties (see Table 1a and 1b). Funding to cover the expenses associated with these activities comes from several sources, the most important being taxation on income and wealth and intergovernmental transfers (see Table 2), the latter of which involves an important re-distributive function based on several criteria.

It is important to note that local government finances are characterized by a funding paradox: a high proportion of revenue is derived from local taxes but local and county councils have very limited discretion with regard to stipulating levels of taxation since narrow limits are set by central government. The result is that all councils have set the same maximum level of taxation permitted. In reality, in short, rates of local income taxation are decreed by Parliament. A further result of this state of affairs is that councils see revenue augmentation as mostly a matter of seeking to influence national authorities rather than as an issue to take to the voters cum local taxpayers.

*Table 1a: Municipal government operating expenses by main type of activity, 2014 (per cent) **

Activity	All municipalities, including Oslo
Central administration	7.2
Child day-care and schools	35.7
Health and social services	39.3
Technical services	8.2
Churches and cultural programs	4.4

Other activities	5.2
Total	100.0

* Expenditures regarding Oslo, which has a dual status as both a municipality and a county, are now allocated according to function and included in the respective official statistical summaries.

Source: Kommunal- og moderniseringsdepartementet (2015: 101).

Table 1b: County government operating expenses by main type of activity, 2014 (per cent) *

Activity	All counties, including Oslo
Central administration	4.6
Secondary education	49.5
Health and social services	4.4
Transportation	5.2
Regional development	31.5
Cultural activities	5.1
Total	100.0

Source: Kommunal- og moderniseringsdepartementet (2015: 103).

Table 2: Sources of local government revenue, 2014 (per cent)

Source	Municipalities *	Counties
• Taxes on income and wealth	34.9	34.0
• Intergovernmental transfers		
– Block grants	32.0	42.1
– Earmarked grants	3.3	5.0
– Compensation for MVA	3.0	6.8
• User fees and charges	14.3	6.6
• Other sources	12.5	5.6
Total	100.0	100.0

Source: Statistics Norway, <https://www.ssb.no/offentlig-sektor/statistikker/kommregnko/aar-reviderte/2015-06-15?fane=tabell&sort=nummer&tabell=230410> and <https://www.ssb.no/offentlig-sektor/statistikker/kommregnfyaar-reviderte/2015-06-15?fane=tabell&sort=nummer&tabell=230994>

Subnational politics

Members of municipal councils have been selected by direct elections ever since local government was established in 1837. Initially, county councils were composed of the mayors of the rural municipalities of the county. When cities were incorporated into the counties in the 1960s, members of the county councils were selected from the ranks of the municipal councils proportionate to the population size of the municipalities.

Direct elections to the county councils were introduced only from 1976. Today, municipal and county councils are elected on the same day at four-year intervals. Lists of eligible voters are drawn up by local and county authorities on the basis of the national population register; individual residents are not required to take any special action in this regard. All persons who will have reached 18 years of age by the end of the election year are eligible to vote. For municipal and county council elections this includes not only Norwegian citizens, but also citizens of other Nordic countries and citizens of all other countries who have been registered as residents in Norway for three years prior to the election.

The main contenders in municipal and county elections are local branches of the national parties. Election procedures and the allocation of mandates are fairly complicated. Voters have the option of casting a vote for individual candidates as well as a party list, and determination of which persons are elected depends on the outcome of both party list and personal votes.⁴⁷ Should a representative become incapacitated and be unable to serve due to, for example, military service, sickness, death or other valid reasons, an alternate from the same electoral list is called to serve.⁴⁸ This means that there is no need to arrange special by-elections, and that apart from disaffections by individual members, the partisan division of the council remains the same throughout the entire four-year period.

In considering local elections, there are two trends of particular note, one concerning turnout, the other concerning women's representation. With the exception of the elections held immediately after World War II, participation in municipal council elections had shown an almost unbroken tendency to increase in the period from 1901 to the late 1950s, rising from a little over 35 per cent to more than 70 per cent at the end of this period, and then, based on some dramatic national political events, reached an all-time high of over 80 per cent in 1963.⁴⁹ In the years since, however, the long-term trend has been one of decline, with turnout dropping to roughly 60 per cent at the turn of the millennium. In the 2015 elections turnout was 60 per cent for municipal elections and 55.9 per cent for county elections.

With respect to women's involvement and representation in local politics, Norway was at the forefront in granting suffrage rights to women. It nonetheless took some time for women to become more active in local politics. In recent years, however, women have constituted an increasingly large segment of the representatives elected to municipal and county councils with increases being especially noteworthy since the late 1960s. This situation is the result of marked changes in the participation of women in various aspects of socio-economic life, including politics, changes that have in many instances been aided by policy decisions designed to facilitate women's political involvement.

Subnational governance

The daily operation of Norwegian local government is in the hands of municipal and county administrative bodies. The mayor has no direct say over day-to-day affairs. This is rather the purview of a chief administrative officer (CAO) who is appointed by the council to serve as the highest administrative official vested with responsibility for overall management of the local authority. These appointments are made on a meritocratic basis, and CAOs tend to be career officers who may move from one municipality to another during their careers.

The CAO is also charged with ensuring that all items of business placed before the council (or its subordinate bodies) are properly and thoroughly prepared, and that all decisions taken by the council are duly implemented. The local/county council or executive committee may also delegate authority to the CAO to make decisions on issues which do not involve questions of principle. The CAO may in turn delegate this authority to others within the local/county administration, but in doing so nonetheless remains accountable to the respective elected councils. Pursuant to the discharge of his or her responsibilities, the CAO has the right to be present and speak, either in person or by a designated representative, at all meetings held by the council or other popularly elected bodies. The only exception to this rule is the control committee or committee on administrative affairs (kontrollutvalget) which, when necessary, exercises a type of judicial review function with respect to confidential matters relating to operation of the local/county authority.

⁴⁷ A more detailed account of stipulations pertaining to municipal and county council elections may be found at the following web site: <https://www.regjeringen.no/en/portal/election-portal/the-norwegian-electoral-system/id456636/>

⁴⁸ Insofar as it is practical, alternates are called in the order in which they appeared on the electoral ballot.

⁴⁹ The national events involved a government crisis in which the Labour Party was forced to resign after a parliamentary vote of no confidence. The 1963 local elections were held in the wake of these events and in part served as a national referendum, which stimulated political interest and participation.

For much of the post World War II period, special legislation and national directives also mandated specific arrangements regarding the organization and conduct of local government activities. In recent years, however, municipalities and counties have been granted more latitude for determining their own internal administrative structure and for finding solutions for how they can best provide public services.

The future of regional governance in Norway

Regional governance has, as already noted, been an object of political conflict over the last decades. Parties on the right wish to abolish the counties while those on the left, and some of the parties of the political centre would rather strengthen regional authorities. The right-wing government coalition that came into power after the 2013 national elections developed a political platform that seeks to realize a radical overhaul of the structure of territorial governance. A process of municipal amalgamation was started and the government would have liked to eliminate the counties altogether. However, when the issue of structural reforms of local government was presented to Parliament in June 2014, the majority was in favour of keeping a regional level of governance. The precise nature of regional governance is still open to debate as regards tasks and number of regions. Nevertheless, some county councils have taken steps towards amalgamation and have also expressed a desire to take on new tasks. Parliamentary decisions on structural reforms are expected during the autumn of 2016.

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PORTUGAL

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Since 2007, the political administrative organization of the Portuguese State has not changed. Accordingly, Portugal remains an asymmetric State, with just two autonomous regions, the archipelagoes of the Azores and Madeira. The mainland territory of the country continues to have a unitary, centralized organization, although its regionalization remains a constitutional goal.

The regime of political and administrative autonomy of the Azores and Madeira did not undergo major change in the period in question. At the political level, the Statute of the Autonomous Region of the Azores was changed in 2009, while that of Madeira remains unchanged since 1999.

Nevertheless, the regional autonomy of both the Azores and Madeira has been affected by the present financial crisis at two levels: firstly, because of the alterations made to the national organic law in 2010, fixing the finances of both of them; secondly, through the Memorandum of Understanding signed between the national government and the regional government of the Azores, on the one hand, and the Program of Economic and Financial Adjustment of the Autonomous Region of Madeira, adopted following Madeira's request to the national government for financial assistance.

The new Azorean Statute introduces a rearrangement of regional autonomy. Major innovations include:

- a) Express introduction of a series of fundamental principles in the political organization of the region including:
 - Subsidiarity;
 - Cooperation between the Republic and the Region;
 - National solidarity;
 - Territorial continuity with outermost regions;
 - Autonomic acquis;
 - Supplementary character of national legislation;
 - Social and economic development;
 - Regional financial and patrimonial autonomy.
- b) Introduction in the statute of the change brought about by the previous constitutional revision (2004), which replaces the figure of Minister of the Republic by that of the Representative of the Republic with the following competences:
 - Nominating the president of the regional government, taking in consideration the results of the regional legislative elections;
 - Nominating and exonerating the other members of the regional government, upon proposal of the respective president;
 - Signing and promoting the publication of the regional legislative and regulatory decrees;
 - Vetoing regional legislation, which can then be confirmed by the Regional Assembly;
 - Requesting verification of the constitutionality of regional legislation.
- c) Clarification and systematization of regional competences, namely in terms of heritage, external relations and European integration.

The new laws on regional finance (2010 and 2013) were adopted in the aftermath of the external intervention in Portugal of the troika composed of the European Commission, the European Central Bank and the IMF, and the signature of the Treaty on Stability, Coordination and Governance. Broadly presented, these changes aimed at the adaptation of the juridical architecture of regional finances to the changes introduced by those mechanisms, particularly at the levels of the regional financial administration, regional revenues, the specific taxation power of the autonomous regions (including their capacity to introduce adaptations of the national

fiscal system), as well as to the financial relations between the Autonomous Regions and the respective municipalities. New rules were introduced regarding the oversight by the national government of the budgetary execution of the regions. Limits were established to regional debt. The formula adopted for the repartition of fiscal resources among the regions was revised. The capacity of the regions to introduce adaptations to the national fiscal system was reduced to a limit of 20%. The competences of the national Tributary and Customs Authority were reinforced so as to assure the unity and uniform action of the fiscal administration. Finally, and as the Constitutional Court would end up determining, the regions became responsible for the transfer to the respective municipalities of 5% of the Income Taxes collected in their territory. Revenue obtained from the special tax on gambling collected from activities developed within the regions was also expressly consigned to them.

The Memorandum of Understanding adopted by the Government of the Republic and the Regional Government of the Azores in August 2012 follows directly from the document of the same name signed by the Portugal and the troika and ensues from a loan requested by the Azores to the national government. The loan in question was, therefore, granted on the conditions identified in the memorandum foreseeing, namely:

- a) The absence of judicial proceedings brought by the region against the State;
- b) Regional adoption of an objective of budgetary equilibrium, while refraining from taking any measures that could hinder the realization of this goal and agreeing to inform the Ministry of Finance of its budgetary estimates and proposals, prior to presenting them the Regional Legislative Assembly;
- c) Achievement of financial equilibrium in the regional business sector;
- d) Application at the regional level of all measures foreseen in the national budget laws, and abstention from adopting any regional compensatory measures;
- e) To refrain from creating any new public-private partnerships and implement, in the territory, the national legislation adopted on the matter;
- f) To submit to the Ministry of Finance monthly bulletins regarding its budgetary execution, including the evolution of its income and expenses and the concrete circumstances of the regional public enterprises;
- g) Finally, the Region agreed to cooperate closely with the Ministry of Finance in the accompaniment and control of its financial and budgetary situation.

In a far more demanding development, over and above a State loan, the Autonomous Region of Madeira required financial assistance from the national government to invert the disequilibrium of its financial situation and to reach a level of sustainability of its public finances. Accordingly, on January 2012 Madeira signed a Program of Economic and Financial Adjustment, determining a series of measures to be adopted by the regional government in order to reach those goals as well as the terms in which national assistance would be forthcoming.

Including all the measures foreseen in the Memorandum signed afterwards by the Azorean Government and identified above, the Program of Adjustment adopted for Madeira goes on to adopt a series of concrete measures regarding:

- a) The adoption and management of the regional budget and management of the debt;
- b) The control of regional expenditure;
- c) The increase of revenue, including the introduction of new taxes, the increase of others and the elimination of regional tax differentiation with the mainland;
- d) A reduction in staff expenditure;
- e) The financial and administrative organization and management of the region;
- f) The regional business sector;
- g) Regional public-private partnerships;
- h) Health.

Cumulatively, Madeira agreed to report to the national government:

- a) Quarterly, on the number of its civil servants;
- b) Monthly, on its budgetary execution;
- c) Quarterly, on its accounting;
- d) Quarterly, on the estimated public debt, detailing direct, administrative, commercial and other debt;
- e) Monthly, a report of charges assumed, and debts not paid;
- f) Quarterly, a list of major creditors of the region;
- g) Arrears;
- h) Monthly updating of regional financial needs;
- i) Information on regional public-private partnerships;
- j) New guarantees issued;
- k) Detailed information on the execution of guarantees.

ROMANIA

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A short history of local administration

Since the withdrawal of the Roman administration during 271-274 AD, villages (Romanian *sat* from Latin *fossatum*) have been the main instrument for the coordination of social life. During the entire medieval period, the locus of local self-government - to the extent that it existed - have been villages, which were grouped into associations that constituted historic regions. Upon unification of the Principalities of Wallachia and Moldova in 1859, the label *județ* prevailed over *ținut* and remained the name coined on the main entity used for administrative coordination. In 1918, when Transylvania joined Romania, the label *județ* was generalised. Thus, *județ* (county/department) can be considered the main form of coordination amongst local entities initially provided with self-government capacity; in other words, historically speaking, *județ* may stand for region in Romania if the word "region" refers to a local entity which is intermediary between the state and the local self-government unit.

Picture 1 attempts to superpose (not so accurately from a geographical point of view) what is perceived to be the historical regions of Romania on the current borders of the existing counties.

Picture 1 – Historic regions and counties in Romania



Thus, since its creation, local government of the Romanian modern state has been organised in two tiers (communes and counties) and this has remained a constant feature in spite of the (all too) frequent changes in Romania's system of administrative organisation. Given the priority of building a functional and coherent institutional structure at the level of the state, local self-government was initially regarded as a secondary objective: local public authorities were conceived as complementary to central decision-making ones and enjoyed autonomy only insofar as it did not undermine the general interests of the national community.

After the events of December 1989, decentralisation entered the government agenda rather as a result of international political pressure (Council of Europe, European Union) and was not necessarily coupled with regionalisation.

Basic facts and figures

In Romania, there are two tiers of local government, generally addressed under the label "administrative-territorial units". These forms of organisation constitute entities subject to public law, have full legal capacity and possess their own assets.

The intermediate administrative level consists of counties (*județe*). Today, Romania has 41 counties plus the municipality of Bucharest (although this local authority is a municipality but equivalent to a county from the point of view of its powers and responsibilities).

Authorities established at this (intermediate) level are in charge with the management of local interests of a certain scale.

The county council (consiliul județean) is made up of members elected for four years by universal, direct and secret ballot. Its tasks are to ensure the organisation and proper functioning of the institution, the socio-economic development of the county and the management of the county's public services and assets in compliance with the law.

The chairperson (președinte) of the county council is elected by and among members of the county council. The 2015 revision of the Law on local elections eliminated the method introduced in 2008, on the basis of which the chairperson of the county council was elected directly by citizens. . S/he represents the council in its relations with other public authorities and individuals and represents the council in any legal action.

The prefect (prefect) is appointed by the government and reviews the legality of acts adopted by local authorities and county councils, including by its chairperson. Prefects are also responsible for having the government's strategy and programmes implemented at local and county levels and represent the State in each county council and within the council of the municipality of Bucharest.

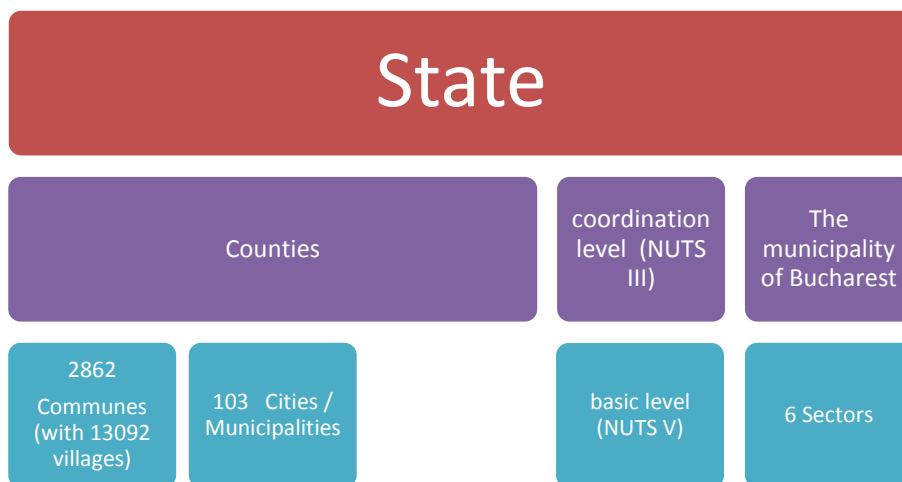
In so far as they carry out functions established by law, prefects constitute a public administrative body ranked by article 123 of the Constitution as local public authority. However, according to legal scholarship, since they represent the government and run the decentralised public services, prefects are not part of the system of local public administration, but are in charge with administrative monitoring of local public administration. It should be pointed out that Romanian legislation has recently appeared to be moving away from the thesis that the prefect is representing local administration. Amendments to Law no.215/2001 on local public administration extracted it from this legal framework and placed it in Law no.340/2004 on the institution of prefect. It should also be noted that the prefect is funded from the state budget, the budget of the Ministry of Administration and Interior and other sources specified by statute.

The basic (local) administrative level is made up of 2,862 communes (comune) and 217 towns (orașe), including 103 municipalities (municipii); most important towns are designated municipalities. Communes include one or more entities (void of any legal meaning) called villages (sate). There were 12,951 of these entities in 2008. Authorities established at local level are: local council (consiliul local) and mayor (primarul).

According to article 20 paragraph 4 of Law no.215/2001, municipalities can be divided into boroughs. To date, according to article 78 of Law no.215/2001 and Decree no.284/1979 on the establishment of boroughs (sector) in the municipality of Bucharest, only the capital city of Romania is divided into 6 boroughs.

Current basic legal framework of local government

Romania signed the European Charter of Local Self-Government on 4 October 1994 and ratified it through Law no.199/1997 (Monitorul Oficial al României no.331/26.11.1997), which came into force at the same time it was published. Upon ratification Romania issued a reserve and an interpretative declaration. The reserve concerns article 7 paragraph 2 of the Charter which is not enforceable on Romanian soil. The interpretative declaration refers to article 4 paragraph 4 and paragraph 5 of the Charter and concerns the concept of "region": since Romania has only one level of intermediary administration, counties are to be taken for regions. Thus, according to Romanian legislation, communes, towns and municipalities come under the provisions of the Council of Europe's European Charter of Local Self-Government, whereas counties are to be dealt with as "regions" within the meaning of the instruments of the Congress, particularly the Reference Framework for Regional Democracy.



The law which still regulates the administrative organisation of Romania was adopted in 1968 (Law no.2/1968 on the administrative organisation of the territory of the Socialist Republic of Romania). It is a relatively short piece of legislation, with only 10 articles, which restricts itself to describing coordination and basic administrative units and enumerates the 41 counties and 45 municipalities that Romania has, with appendices giving the list of cities and the list of communes. Although this law has been frequently revised over the last 40 years, whenever a commune has been transformed into a city or a city has been labelled municipality, it has never been quashed as it remains a brilliant example of legal simplicity. In fact, it does not regulate anything, it barely provides for definitions and enumerations.

The Constitution of Romania declares (article 120) “decentralisation” to be one of the basic principles of local public administration. It also refers to “local autonomy of communes and towns” in article 121, while in article 122 it clearly states the coordinating function of the county.

The general legal framework for decentralisation and local self-government is provided by a set of laws which have changed significantly over the past decade in particular. The two most important ones are the law concerning local public administration and the law concerning local public finance.

The 1991 law on local public administration, which was substantially improved by the law passed in 2001, which was itself revised in 2006 and modified and completed in 2008, 2010, 2011, 2012, 2014 and 2015, brings about real progress in terms of local self-government. Taking inspiration from the European Charter of Local Self-Government of the Council of Europe, the law now provides for the principles of subsidiarity and proportionality between responsibilities of local authorities and means available to them, etc. It should be noted that local councils exercise local self-government in keeping with the subsidiarity principle and are free to decide on tasks to be performed in order to meet the needs of local communities. The list of their own attributions is quite long, while delegated attributions may always be added in the process of decentralisation. The same law defines county councils as “co-ordinating entities”. In principle, counties should benefit of an exhaustive list of attributions, but the law refers to “main categories of powers” and gives a list ending with “other as provided for by law”. However, it may reasonably be assumed that the list of the attributions of county councils cannot be extended beyond the explicit legal provisions (of the law on local public administration and of other laws which might confer powers on them, for instance financial legislation).

The law on local public finance, which was passed only in 1998, was also replaced by improved versions (from the point of view of local self-government) in 2003, 2006 and in 2015. Among other things, the latest version provides for fiscal equalisation at central level (between counties) and local level (between communes or towns within individual counties) and sharing resources between central and local level, while allowing local authorities to enter the domestic and international bond market and to borrow funds. On the other hand, the revised law on local public finance placed local and central budgetary processes on the same footing and introduced the principle of the sharing of taxes, which enables local councils to receive a share of the duties and taxes they collect.

The above legislative framework is supplemented by a range of other sector-specific measures, which – all too often – provide for further transfers of responsibilities or expenditure (public services) from central to local level. It should be pointed out that some of these transfers are merely tasks assigned by central to local

government along with the resources (financial) for performing them, without the local authorities having any real decision-making powers (e.g. police, emergency services, education and social protection). In other cases, local authorities have the role of distributing funds, within the limits set by central government, for the providers of public services (waste, water, district heating). Central government displays a certain tendency to retain control over the level of expenditure of local authorities.

From all the above it may be inferred that in Romania, in modern times, decentralisation became politically relevant and technically possible only pending economic development and mainly during periods of intensive state transformation. However, whether this process can be considered as precondition or catalyst of a vigorous local self-government remains an open question. But if a relatively simple and constant redistribution of powers within the state, consisting in reallocating attributions from central to local level, does not seem to suffice for the accomplishment of local self-government, would a higher degree of complexity be of any help?

Regionalisation – concept and options

As shown above, the concept of 'region' is not alien against the background of Romanian history, but belongs rather to the past. Starting with the establishment of the modern state, Romania has evolved rather as a unitary and centralised government, with a certain potential for decentralisation depending on the economic, political and historical context. The idea of an intermediary level of administration, which should be placed between central state and local communities in order to allow for local needs to be better acknowledged and dealt with was not unknown, but was considered as implemented via the level of coordination which has always been the county. If the scale of issues that confronted local authorities would go beyond local capacities, but would not be fit for the central government either, voluntary associations of counties might prove to be an appropriate answer. Indeed, identifying a territorial community that would possess the size and weight needed in order to enable it to still function autonomously but, at the same time, be able to cope with problems and concerns that aggregate specific local interests of significant scale is one of the main arguments in favour of administrative organisation of the territory with more than one level of administration. Regions are a direct result of the crisis surrounding the very concept of state, as well as of the relative incapacity of local communities to deal with complex issues posed by the globalised world we live in.

The debate on regionalisation in Romania is as old as the modern state. Already in 1912 a draft law on the regionalisation of the recently united principalities of Moldova and Wallachia was based on an explanatory note that declared that such a reform can be based neither on historical traditions, neither on national requests, nor even on the sovereign right of several states that would abdicate from a share of their sovereignty in front of superior interests. As a matter of fact, legal scholarship of the time tended to invoke administrative and economic reasons in favour of regionalisation: the increase in number of counties and in their variety, the diversity of professional occupations of inhabitants which necessarily led to a diversity of interests to be protected, technological progress that allowed for better communication at distance, etc.⁵⁰ For some authors the region was "an organic, natural product of history that should be respected as such; it need not be created, but merely recognised"⁵¹. Those opposing regionalisation argued that another intermediary level of administration would only spoil scarce economic resources of the central government, while at the same time increasing bureaucracy and related corruption.⁵²

So regionalisation was not understood as a political process, rather as an administrative one, part and parcel of the process of decentralisation, in an attempt to further increase the participation of citizens to the decision-making process and the democratic legitimacy of the state at large while also improving the accountability of public authorities in particular and allowing them to better fulfil to the needs and requirements of their constituencies.⁵³

Decentralised administrative regions were created in Romania between 1938 and 1940, but the peculiar political context (second world war) in which they were enforced made it so that their functions were rather those of a deconcentrated level for the organisation of public services of ministries than those specific to local

⁵⁰ Gruia, Ion V., "Descentralizare administrativă și organizarea regională a Țării", *Revista de drept public* I n°1(1926): 83-92; Argentoianu, Constantin, "Descentralizare administrativă și regionalism", *Revista de drept public* I, n°1(1926): 18-25.

⁵¹ Guțan, Manuel, "Istoria administrației publice românești. Regiunea administrative", *Revista de drept public* (serie nouă) VIII, n°1(2002): 194.

⁵² Gruia, Ion V., "Necesitatea regiunii în organizarea administrativă", *op. cit.*, 182-183.

⁵³ Tănăsescu, Simina, "Regionalizarea României și implicațiile sale la nivelul cadrului legislativ", *Alterra* VIII n°19 (2002): 5-13.

autonomy. The short duration of the experiment together with the lack of practical results, coupled with the peculiar historical and political context of their birth, combined to make this type of regional administration a failure. Later on, the Constitution of 1952 introduced the Magyar Autonomous Region, based on several criteria, among which the ethnic one was the most obvious, but in 1960 the name changed to Regiunea Mureş-Autonomă Maghiară and its territory was increased while its attributions were diminished. This second attempt for regionalisation stopped in 1968, without reaching any more conclusive results than the previous one, nor being a true vehicle for local autonomy. It may be striking that, in Romania, in the past, is it only during extremist and repressive political regimes⁵⁴ that the concept of region has been employed for the administrative organisation of the territory, but this should not influence the present use of the word.

Post-communist Romania has set itself several ambitious goals, among which participation in international and regional organisations featured prominently. Membership to the Council of Europe had as prerequisites criteria related mainly to democracy and the protection of human rights, whereas membership to the European Union presupposed an assessment against the three criteria established in Copenhagen, political, economic and administrative capacity. None of these explicitly referred to regionalisation, but some expectations could be read between the lines.

Accession to the Council of Europe came first. Within that process Romania ratified the European Charter of Local Self-Government in 1997 and formulated an interpretative declaration regarding the concept of regional authority as understood by this international convention. Indeed, in Romania regional authorities referred to in articles 4 par.4 and 5 and article 5 of the Charter are counties, since they are the unique intermediary tier of public administration between the state and local authorities and they primarily have a coordination function. This interpretation only strengthens the idea according to which regions are one of the possible forms state structure may take, but also raises questions with regard to the process of regionalisation. If in Romania regions are to be considered counties, does it mean that regionalisation is already accomplished? Since there is nothing compulsory at European level with regard to regionalisation, this question is not easy to answer.

However, ratification of the Charter of Local Self-Government presupposes that local autonomy is guaranteed and that at least a minimum number of prerequisites, as provided by this international document, are met. This aspect has greatly contributed to the decentralisation process in Romania and has helped to frame the debate on regionalisation in rather technical terms, related to administrative devolution of central attributions and territorial organisation of the state. In other words, theory and practice of regionalisation established during the post-communist period re-joined legal scholarship between the two world wars, with all its pros and cons. The status quo, which seems to fit provisions of the European Charter on Local Self Government, also means that there is no need to create a supplementary level of intermediary local public administration in Romania.

Accession to the European Union came later. EU accession negotiations are a lengthy and relatively technical process, which covers not only political and economic criteria, but also institutional, legal and enforcement aspects. To a great extent, it is directly related to EU *acquis*, a vague concept itself, which has few, if any, specific requirements with regard to regionalisation. EU *acquis* rather provides for the strengthening of economic and social cohesion among member states as one of the main objectives of European integration and foresees regional development as one of its tools. There is no specific chapter of EU *acquis* related to regions and each member state has the territorial organisation and local government structure that corresponds best to its political and legal traditions and environment. Furthermore, the legal nature of the *acquis* under "Regional policy and coordination of structural instruments" is, primarily, standards which do not need to be transferred to national legislation.

While the concept of region within the EU remains multifaceted, diverse and undetermined, the integration organisation has been constantly seeking to combine two approaches: (i) respect for national sovereignty with regard to the administrative-territorial structure of each member state and (ii) introducing statistical uniformity for planning and reporting purposes. The latter may have an impact on national policies related to regional development. In practice, this has not led - and need not lead - to changes in the administrative structure of member states or to the establishment of new/additional territorial units. However, the existence of different territorial administrative structures in each EU member state has been identified as a potential

⁵⁴ "In a paradoxical manner, the only effort to solve the nationality question through legislation took place under royal dictatorship in 1938" Székely Zsolt, "The history of the Romanian system of public administration. The public administration of the royal dictatorship and the nationality question", *Transylvanian Review of Administrative Sciences* n°27E(2009): 235-249.

source of complications for EU regional policies and, in order to cope with it, the EU has developed and put in place a mechanism which attempts to introduce a uniform configuration of the territory within the union primarily for statistical purposes. The Nomenclature of Territorial Units for Statistics (NUTS) has a long history, but its present version was introduced by a 2003 Regulation of the European Parliament and the Council.

In Romania, the NUTS system is implemented as follows:

- NUTS I: macro-regions – not yet used
- NUTS II: regions - 8 development (purely statistical) regions
- NUTS III: counties - 41 counties (Județe) + the Capital city Bucharest (coordination administrative units)
- NUTS IV: associations of local authorities – not yet used
- NUTS V: local self-government - 103 cities, 217 towns & 2,862 communes (with 13,092 villages) (basic administrative units)

The NUTS classification offers a format within which the national administrative units of member states can fit to a given level. It can and has, however, had an impact on the development of regionalisation in some member states, but this has not been the case of Romania.

A first attempt to implement the NUTS system in Romania consisted in adopting law no.151/1998, which made possible the voluntary association of county councils in order to establish development regions, but it was repelled by Law no.315/2004, which made a step forward. Thus, the present eight development regions represent voluntary associations that may be established between county councils and local councils within those counties. Development regions are delimited by law, on the basis of geographical and population density criteria; they are identified as territorial entities devoid of legal personality, which correspond to the NUTS II level. Their two main functions are (i) statistical reporting and (ii) dealing with EU regional funds.

Development regions in Romania :

1. Development Region North-East - counties Bacău, Botoșani, Iași, Neamț, Suceava and Vaslui.
2. Development Region South-East – counties Brăila, Buzău, Constanța, Galați, Vrancea and Tulcea.
3. Development Region South-Muntenia – counties Argeș, Călărași, Dâmbovița, Giurgiu, Ialomița, Prahova and Teleorman.
4. Development Region South-West Oltenia - counties Dolj, Gorj, Mehedinți, Olt and Vâlcea.
5. Development Region West - counties Arad, Caraș-Severin, Hunedoara and Timiș.
6. Development Region North-West - counties Bihor, Bistrița-Năsăud, Cluj, Sălaj, Satu Mare and Maramureș.
7. Development Region Center - counties Alba, Brașov, Covasna, Harghita, Mureș and Sibiu.
8. Development Region București-Ilfov – regrouping the municipality of Bucharest and the county of Ilfov.

Conclusion

From the above it may be inferred that within European Union there is no prescription concerning the establishment of regions as administrative or territorial structures. Within the Council of Europe the Charter of Local Self-Government becomes binding once member states voluntarily agree to it, but this does not prescribe a specific structure or administrative organisation of the state. It merely sets a number of minimal requirements to be fulfilled in order to ensure a certain level of local autonomy, with a view to enhancing democracy, both at state and local level. In this respect, policies at European level, be it within European Union or Council of Europe, converge.

This translates into the fact that decentralisation and regionalisation are not compulsory in Europe, despite what seems to have become an almost generalised trend over the past few decades. Decentralisation and regionalisation are useful instruments for enhanced democracy, better coordination of public interests and

improved management of economic policies; as such they should not be neglected by any modern European state, but they should not become goals in themselves or be considered as mandatory outcomes of state transformation processes.

Currently, an on-going process of constitutional revision envisages the creation of a third layer (regions) of local administration in Romania, but it is highly unlikely that it will succeed given the political context.

RUSSIAN FEDERATION

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General situation in terms of territorial organisation

The current Russian state structure emerged relatively recently, during the 1980s and 90s. The process of its development, including its federal structure, is continuing. With few exceptions, Russian politicians and scientists agree that the federation is currently the most appropriate form of the state-territorial structure for Russia. Having decided on the creation of a democratic society, the post-Soviet Russian Federation borrowed the Western model, adopting it to its own circumstances.

Under the 1993 Constitution, the Russian Federation ("RF") is a federal state comprising 89 subjects (after 2008 some of them were merged and their number decreased to 83; and in March 2014 the number increased to 85, with the incorporation of the Republic of Crimea and Sevastopol as federal subjects of the Russian Federation). The federation subjects are regional, one of the three levels of administrative and political organization of the country, along with the federal and municipal ones.

The federal level covers the central authorities and their regional subdivisions. The regional level of government embraces the legislative and executive power in the regions, with their powers established by the Constitution of the Russian Federation.

The local government level covers the authorities responsible for issues of local importance. Under the Constitution, the first two levels (the federal and regional ones) are referred to as 'government' and, therefore, are public bodies. The third (local) level falls into a special category of public authority – that of local government, as stated by Article 12 of the Constitution of Russia: "The bodies of local government shall not be part of the system of state authorities". The representative body of the municipality (the city council) and the municipal administration participate in the implementation of federal and regional laws. The city council, as a representative body of local self-government, has control and normative functions (the adoption of municipal legal acts within existing competences).

Historically, since the establishment of the Soviet Union as a federal state (1922) and the Russian Federation (since 1991) the establishment of federation subjects takes place on the basis of two principles: national and administrative-territorial ones. Therefore, the subjects of the Russian Federation include 22 national republics, 46 regions, 9 territories, 4 autonomous regions and 1 area and 3 cities with federal status. Almost a third of the federation subjects are established on the national basis, and the remaining two-thirds are established on the administrative-territorial one.

The difference between these two principles of distinguishing the federation subjects is manifested in the fact that regions which are formally equal founded on this basis have actually unequal rights, both domestically and with regard to international relations. Like other multi-national democratic federations, the Russian Federation is an asymmetric one.

The tension between the centre and the regions (primarily national autonomies), with the regions striving to obtain more rights, was an important aspect of the USSR disintegration process and the formation of the new state, the Russian Federation, in 1990-1993. As a result of these processes the relations between the regions and the federal centre considerably changed in the new state.

In this process there was a clash of two positions concerning the understanding of the nature of the federation, which is the division and delegation of powers between the federation and the regions. This could be done either on the basis of treaties or constitutions. As a result, in Russia in 1990-1993 there came into existence a federation model, combining both the constitutional and contract approaches.

On coming to power in 2000, President Vladimir Putin announced that he would consolidate the political power into the so-called vertical power structure throughout Russia, seeking to limit the regions' political autonomy. This was necessary to overcome the tendency of unmanageable regionalization and the establishment of authoritarian political regimes in some regions. The country was divided into seven federal districts, each encompassing many federal subjects and headed by a presidential envoy (Central, Northwestern, Southern, Volga, Ural, Siberian, Far Eastern). In 2010 one more federal district was created, the eighth federal district, the North Caucasian one. In March 2014, after the establishment of the new

subjects within the Russian Federation – the Republic of Crimea and the federal city of Sevastopol – there was formed a ninth one – the Crimean federal district.

The head of a federal district is an official appointed by the President of Russia. He/she ensures the implementation of the constitutional powers of the President within the federal district. This institution is not provided for by the Constitution and was established by a presidential decree (May 13, 2002 № 849 "On the Plenipotentiary Envoy of the President of the Russian Federation in the Federal District"). The Russian Presidential envoys have done much to eliminate the contradictions between the federal and regional legislation. Federal districts, along with the federation subjects, have become an important part of the country's regional system and have made a considerable contribution to the evolution of Russian federalism.

In particular, since 2000 much has been done to limit the political autonomy of the regional elites in regard to the federal centre. The former partnerships of regional leaders (mostly of presidents of the national republics and governors) with the federal centre have been transformed into subordinate relationships. Besides, in 2007 the federal centre introduced the system of criteria in order to evaluate the work of governors on managing their regions.

Significant changes in the status of regional power bodies, by strengthening the federal centre at the expense of regional power bodies, were introduced by the Federal Law on Amendments and Additions to the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation (2003)".

Furthermore, the Russian government created special ministries dealing with the regions' problems. Thus, in 2004 there was created the Ministry of Regional Development of the Russian Federation. This was a federal executive body exercising functions of state policy formulation and legal regulation in the spheres of the socio-economic regional development, federal and inter-ethnic relations, division of powers in the areas of joint jurisdiction of the Russian Federation and the regions, local government, the implementation of cross-border cooperation, the development of the Far North and the Arctic, the protection of national minorities' rights and the original habitat and traditional lifestyles of indigenous peoples and ethnic communities. In September 2014 the Ministry of Regional Development was abolished under the pretext of optimization of the federal bodies of state executive power. The functions of the Ministry were distributed among five other ministries.

In 2012 there was established the Ministry of the Russian Federation on the development of the Far East (Presidential Decree of 21 May 2012, № 636 "On the Structure of the Federal Bodies of Executive Power."). The head of the ministry is at the same time the Presidential Plenipotentiary Envoy to the Far Eastern federal district. A Presidential Decree of 31 March 2014 introduced one more federation ministry on regional issues - for the Crimea, which is responsible for the development of the new Russian regions - Crimea and Sevastopol.

The Ministry for Crimean Affairs was created in order to increase the effectiveness of the federal agencies on the integration of the Republic of Crimea and the city of Sevastopol in the economic, financial, credit and legal system of the Russian Federation. The Ministry has been assigned duties, in particular, for developing projects of state programs for the development of the peninsula, as well as for the execution by the regional authorities of the powers transferred from the centre. The Ministry has developed a federal program for the development of the peninsula until 2020. However, three months later, President Vladimir Putin supported a proposal by Prime Minister Dmitry Medvedev to abolish this ministry. The head of state signed a decree on the liquidation of the Ministry of Crimea on 15 July 2015. The objectives for the development of the peninsula were transferred to the Trade and Economic Development Ministry and a government commission for the Crimea and Sevastopol was created. The governments of Crimea and Sevastopol will include a number of federal deputy ministers. According to Dmitry Medvedev, the Ministry for Crimean Affairs had fulfilled all its tasks. "At the moment all the legal issues are closed, it is not just about changing the constitution, which was done, and the full integration into the legal field of the Russian Federation ... In this sense, we can assume that the Ministry of Crimea has fulfilled its purpose". Putin added that in this way it will be possible to ensure greater independence of the regional authorities of Crimea and Sevastopol. The abolished ministry had as one of its objectives the establishment of a special economic zone of the Crimea, which would allow the peninsula to follow a special liberal development model. This task has now been removed, and the current federal target program considers the peninsula as a regular recipient of the Russian budget. The sole executor of the federal target program for the development of the Crimea after the liquidation of the Ministry will be the government of the Republic.

As a result of this activity the centralized system of state governance has been strengthened. The effectiveness of governance was improved in the conditions of serious challenges to the national security of Russia. At the same time, however, regional representation in the federal government bodies was weakened. The democratic principles of regional life were limited by the ban on direct elections of regional governors, as well as by the ban on the creation of regional political parties as well as parties on the basis of ethnic or religious affiliation.

The ban on the creation of regional parties was considered to comply with the Constitution of the Russian Federation by the Constitution Court ruling of 1 February 2005. The Constitution Court supposed that, in the current specific historical conditions of the establishment of democracy and rule of law in Russia, this limitation was necessary for ensuring such a constitutional value as the country's unity. The Court emphasized that the restriction was temporary and might be removed later.

In 2012 it was decided to restore direct elections of regional governors. The first such elections took place in 2014. In 2014, again (after the ban in 2006 - Federal Law on Amendments to Certain Legislative Acts of the Russian Federation in the form of the cancellation of voting against all candidates (against all lists of candidates), 12 July 2006, № 107-FL) the State Duma decided to introduce the possibility of voting "against all", at the elections at municipal level but not at the regional level or in the elections of the State Duma deputies. The regions are free to decide whether to permit this possibility for local elections or not. Besides this, the minimum threshold in the proportional electoral system at the regional and municipal levels was reduced. (Federal Law of the Russian Federation, 4 June 2014, № 146-FL)

The regions have certain powers in regard to local authorities within their territories (legislating on separate questions of the organization and competence of local authorities; determining the financial resources of local authorities; supervising; substituting), but most regulation is enacted through federal laws. In the charters of some regions there are norms guaranteeing the system of all executive authorities, management and control bodies, local authorities located and operating in the region, including the nature, types and the main contents of the administrative relationship between them.

The Budget Code of the Russian Federation (31 July 1998, № 145-FL, Articles 8 and 9) establishes the basic principles of the competence of state power of the Russian Federation subjects and local authorities in the field of regulating budgetary relations. There are separate budgets of the regions and municipalities. In relation to local budgets, the regional authorities have substantial competence (Article 8 of the Budget Code of the Russian Federation): the distribution of regional revenues between the regional budget and local budgets; the division of powers on expenditures with regard to the implementation of the regional budget and local budgets; defining the procedure and conditions for granting financial assistance and budgetary loans from the regional budget to local budgets and providing financial assistance and budgetary loans from the regional budget to local budgets.

In accordance with Federal Law "On General Principles of Local Self-Government in the Russian Federation", (16 September 2003, № 131-FZ) (the current version of 30 January 2014), the state authorities provide the regions with minimum local budgets and minimum required expenditures of local budgets, on the basis of minimum standards of fiscal capacity. The problem is that their own sources of revenues of local budgets, in the form of local taxes and dues, do not cover their expenses in most regions of the country. Although the revenues for local budgets from federal taxes are considerable, they are insufficient. In most regions there is a considerable budget deficit that complicates the activities of local governments. As a result, the inter-budget transfers to local budgets related to financial security of local government powers to address local issues in 2011 totalled 48.3% of the total own revenues of local budgets. At the municipal level, there is a common problem of "unfunded transfer of authority". For example, in 2013 the federal legislation (Federal Law of 22 October 2013, № 284-FL) entrusted the heads of cities and municipalities with responsibility for inter-ethnic conflicts. However, funding for these powers, now transferred to the municipal level, is not provided.

In this regard, the financial position of municipalities is largely dependent on the financial capacity of the regions, on the size of the inter-budget transfers and tax revenues transferred from the regional budgets to the local budgets, as well as on the effectiveness of their distribution mechanisms between the budgets of municipalities.

Institutional and administrative organization

The regional level of government in Russia is recognized in the Constitution of the Russian Federation (Article 5), which states that the Russian Federation consists of republics, territories, regions, cities of federal importance, autonomous regions and areas which are equal subjects of the Russian Federation. They have their own constitution or charter and legislation. The federal structure of the country is based on the unity of the state authority system, the division of authority and powers between the bodies of state power of the Russian Federation and bodies of state power of the subjects of the Russian Federation. In relations with federal bodies of state authority all the subjects of the Russian Federation are equal. However, the Constitution of the Russian Federation has supreme juridical force, direct application and is used on the whole territory of the Russian Federation. The laws and other legal acts adopted in the Russian Federation cannot contradict the Constitution of the Russian Federation (Article 15 of the Constitution).

The system of state power bodies in the subjects of the Russian Federation is exercised by them in accordance with the principles of the constitutional system of the Russian Federation and the general principles of the organization of representative (legislative) and executive bodies of state authority established by the federal law.

The Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation" (6 October 1999, № 184-FL) determines that the system of state power bodies of the Russian Federation is constituted by the legislative (representative) body, the supreme executive body, other bodies of state power of the Russian Federation subject, formed in accordance with the constitution (charter) of the Russian Federation subject (Article 2 of the Act).

To the latter ones there can be attributed constitutional (charter) courts, magistrates, human rights ombudsmen, chambers of control and accounts and other specialized bodies. Besides, in accordance with Federal Law no. 67-FL "On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation" dated 12 June 2002 (amended on 21 February 2014) election commissions of the subjects of the Russian Federation have been set up (Article 23 of the Act).

The Act (№ 184-FL) is amended almost every year, reflecting the rapid changes in the social relations regulated by the law. In 2013 the Act was amended 18 times. In 2013 a law was adopted banning persons who hold public office in the Russian regions and their family members from opening and keep accounts (deposits), and from storing cash and valuables in foreign banks located outside the Russian Federation and (or) using foreign financial instruments (Art. 2.1, paragraph 3).

The RF subjects form their own legislative bodies, different in name and structure, based on historical, national and other traditions. The system of regional executive bodies consists of senior officials of the RF subjects (heads of the republics, governors, and heads of administrations of other subjects), as well as the government (Cabinet, administration). In 2010 amendments were made to Federal Law № 184-FL, prohibiting regional leaders from being called presidents. Instead the regions themselves can choose another title for their heads in accordance with their historical traditions. Tatarstan is the only subject of the Russian Federation, which has yet to resolve the question of renaming the president.

In the Russian Federation elections are held at three levels - federal, regional and municipal. At the regional level there are direct elections to the legislative (representative) bodies and direct elections of senior officials (heads of the highest executive bodies of state power) (since 2012). According to Art. 73 of the Constitution of the Russian Federation, the subjects of the Federation possess full state authority, including in matters relating to the electoral system used in the elections, as well as specific parameters of electoral procedures and institutions in accordance with the peculiarities of the region, while meeting the standards of citizens' electoral rights, which are fixed in the Constitution and federal laws. However, Federal Law № 67-FL "On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation" of 12 June 2002 (amended on 21 February 2014) has limited the opportunities of the regions in addressing these issues on their own. It is a framework law, which applies to all elections held in the country. In accordance with this law, the elections of heads of higher executive bodies of the subjects of the Federation are based on the majoritarian electoral system, requiring an absolute majority.

According to paragraph 16 of Art. 35 of the Federal law, as many as 25% of seats in the legislative bodies in the region or in one of its chambers are distributed between the lists of candidates nominated by electoral associations, in accordance with the number of votes received by each of the candidates' lists. This means

that through federal legislation in all regions a mixed (majoritarian-proportional) electoral system has been introduced, which enhances the electoral activity of political parties.

Since 2008 Russia's electoral system has been modernised at the initiative of the Presidents of the Russian Federation, Dmitri Medvedev and Vladimir Putin.

In 2008-2009 provisions were introduced in the Russian electoral legislation on the right of the political party that won the regional parliamentary elections to submit to the head of state nominations for the position of the regional highest official (the head of the highest executive body of state power). These were in force until 2013. Amendments were also made relating to the registration of electoral associations and candidates of election campaigns (the number of signatures required for registration for the election of deputies to the State Duma was reduced; in addition to the parties represented in the State Duma, parties which formed fractions in more than one-third of the legislative bodies of the Russian Federation were no longer required to collect signatures).

In April 2012 a federal law was passed providing for the return of direct elections of regional leaders after the interruption from 2004 to 2011. In 2013 the law was amended to provide for the right of the regions, along with direct elections of regional leaders, to elect governors by regional parliaments. In 2013 four of the North Caucasus republics (Dagestan, Ingushetia, North Ossetia and Karachay-Cherkessia) took advantage of this opportunity and decided not to conduct direct elections of their leaders. In March 2014 the Republic of Crimea also decided not to elect directly the head of the republic. He was elected by the parliament on the basis of the Russian President's recommendation, similar to the decision of some North Caucasian republics. However, most Russian regions have decided to preserve the procedure of electing governors by direct vote.

We have already noted that Federal Law № 67-FL takes precedence over the local laws on elections of deputies of legislative assemblies. From 2007 to 2014 the State Duma made amendments in the law annually. Therefore the dynamics of change in the regional electoral legislation is dictated by the dynamics of the "framework law" changes. But amendments are often made also in the regional electoral laws, based on the regional legislators' own decisions.

These changes can be illustrated by the example of important rules of the electoral system at the election of regional deputies such as the legal electoral threshold (minimum percentage of votes received), which can be established by the regional laws at the elections of deputies for admission of candidates to the distribution of deputy mandates. The percentage of this barrier up to 2005 ranged from 3 to 10%, and in 2009 more than half of the regions established a 7% barrier. This corresponds to Art. 35 of Federal Law № 67-FL, according to which the minimum percentage of voters cannot be more than 7% of the number of voters who took part in the vote. The Federal Law "On Amendments to the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in a referendum of citizens of the Russian Federation", 5 May 2014, № 95-FL" has lowered the electoral threshold in the regional and municipal elections from 7% to 5%.

Today there is no legal turnout threshold for elections to bodies of state power. However, some have questioned the legitimacy of elected bodies, which are elected in elections with voter turnout of less than half of the number of voters included in the lists of voters. There are legislative proposals to establish a minimum threshold for voter turnout - at least 50% of voters included in the electoral lists at the federal and regional elections. This figure will be considered when declaring the elections invalid. An exception is provided for elections to local self-government.

The subjects of the Russian Federation are independent in the legal regulation of implementing their own powers in this rapidly developing sphere of public relations. However, major reforms to improve the management of the regions are carried out by the federal authorities in the form of administrative reform (c.f. The concept of the administrative reform in Russia in 2006 - 2010, approved by the RF Government Decree of 25 October 2005, № 1789-p (amended on 9 February 2008, 28 March, 2008 and 10 March 2009).

In 2007, in the framework of the administrative reform, it was planned to introduce anti-corruption expertise of draft laws, other regulations, as well as the implementation of administrative reform programs in the subjects of the Russian Federation. In this context, Federal Law of 25 December 2008, № 273-FL "On Combating Corruption" was adopted, followed by the National Anti-Corruption Plan, which was approved by the President of the Russian Federation on 31 July 2008 (№ Pr-1568). Most subjects of the Russian Federation have begun work on the development and approval of their regulatory acts on conducting the anti-corruption expertise. The final obligation of conducting the anti-corruption expertise was established in the Federal Law of 17 July 2009, № 172-FL "On Anti-corruption Expertise of Legal Acts and Draft Regulations."

From 2008 to 2012, at the initiative of the federal government, the implementation of basic standards of public services and administrative regulations was carried out. In 2012 the regulation of public services was completed. 540 administrative regulations of services (functions) of the federal bodies of executive power were approved. More than 9,000 and 15,000 administrative regulations were approved at the regional and municipal levels respectively. The administrative regulations of the state (municipal) functions and services enabled the powers of public authorities to be systematized, the regulatory gaps in the legislation of the Russian Federation to be filled and administrative procedures to be normalized.

The information support for the administrative reform was associated with the federal special-purpose program "Administrative Reform 2005-2010". The section "Program Management at the Regional Level" included the development of a sample program of the regional administrative reform and the creation of a sample program of the administrative reform for implementation at municipal level.

An important role in the implementation of the administrative reform was played by the "Concept on Reduction of Administrative Barriers and Improvement of Access to Public and Municipal Services for 2011-2013" (approved by Presidential Decree of 7 May 2012, № 601 "On the Main Directions of Improving Governance in the Russian Federation.").

These reforms contributed to the division of powers between the federal and regional executive authorities, as well as enhancing the fiscal capacity of local budgets, ensuring the stability of the volume of regional funds of financial support and the co-financing of municipalities. As a result of these measures, the powers between the federal level, the regions and municipal authorities were redistributed, although the powers of local government bodies are still not adequately provided for in financial terms.

Competences

The Russian Constitution contains the provision that the state power in the subjects of the Russian Federation is exercised by the bodies of state authority created by them (Article 11.1). The division of authority and powers between the state power bodies of the Russian Federation and those of the subjects of the Russian Federation is implemented by the Constitution, federal and other treaties on the delimitation of the authority and powers.

Under the Russian Constitution, each of the types of the Russian Federation subjects has its own specific constitutional and legal status. A republic is characterized as a state, whose status is determined by the Constitution of the Russian Federation and its own constitution. It has the right to establish its own state languages. The status of such subjects of the Russian Federation as a region, area or city of federal importance is determined by the Constitution of the Russian Federation and its charter, adopted by the regional legislative (representative) body.

The status of an autonomous region is defined by the Constitution of the Russian Federation and its charter, adopted by the legislative (representative) body of the autonomous region. It is also possible to adopt federal laws on autonomous regions.

The Constitution of the Russian Federation resolves the issue of sovereignty in the following way: the Russian Federation has sovereignty, but its subjects do not. The sovereignty of the Russian Federation extends to its whole territory (Article 4.1). The subjects have no right to secede from the Russian Federation.

Under the Constitution of the Russian Federation, federal bodies with executive power may create their own territorial bodies and appoint corresponding officials in order to exercise their powers. In agreement with the bodies of executive power of the subjects of the Russian Federation, the federal bodies with executive power may delegate to them the exercising of a part of their powers, and vice versa - in agreement with the federal bodies of executive power, the bodies of executive power of the subjects of the Russian Federation may delegate to them the exercising of a part of their powers.

The Constitution of the Russian Federation contains an explicit reference to the administration of the subjects of the Russian Federation, the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation (Article 72). The regions as the subjects of the Russian Federation have autonomy (full state authority) when solving only their internal issues which are beyond the authority and the powers of the Russian Federation on the issues of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation (Article 73).

It is known that the regional authorities do not always have sufficient tools to fully influence the system of government in the regions. It is the process of decentralization of government that may help to solve this issue. That is why in 2011 the Russian President established two governmental working groups, headed by Deputy Prime Ministers Dmitry Kozak and Alexander Khloponin, to solve issues relating to the decentralization of power, as well as the division of powers between the centre and regions. The key aim of both groups is to improve and reauthorize federal relations between the public authority bodies at the federal, regional and municipal levels.

In addition to these commissions, the Federal Ministry of Regional Development has also worked on the division of powers on the joint jurisdiction between the federal executive bodies, the executive bodies of the Russian Federation subjects and local government bodies. The regulation of inter-ethnic relations is also an important aspect of its activity.

Outside the jurisdiction of the Russian Federation and the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation, the regions exercise their own legal regulation, including the adoption of laws and other regulations. In case of any contradiction between a federal law and a regional regulatory act, it is the federal law which prevails.

Financial independence

Under the Russian Constitution (Article 71), federal taxes and dues are the exclusive jurisdiction of the federal government. The joint jurisdiction of the Russian Federation and the regions includes the establishment of general principles of taxation and dues in the Russian Federation.

The "Budget Code of the Russian Federation" of 31 July 1998, № 145-FL (the current version is dated 1 January 2014) (Articles 8 and 9) establishes the basic principles of the competence of state authority bodies of the subjects of the Russian Federation and local authorities in the field of regulation of budgetary relations. In order to expand the scope of legal regulation of their own fiscal competence, the subjects of the Russian Federation adopt the institutional budget legislation, characterized by regional specificity and diversity.

Under the Constitution of the Russian Federation, the Russian federal structure involves the participation of the subjects of the Russian Federation in the development and adoption of federal laws in the sphere of budgeting. Therefore the objects of the law-making process of the sub-federal level are not only laws and other legal acts within the established competence (Part 4 of Art. 76 of the Constitution), but also federal laws and projects to establish common principles of taxation and dues in the Russian Federation (Art. 72, Part 1 of the Constitution).

However, in real legal practice an effective and stable mechanism of the Russian Federation subjects' participation in the legislative process at federal level has yet to be developed. This is why the issue of coordinating the federal and regional budget legislation is of great importance.

The tax system of the Russian Federation reflects three levels of the budget system of the Russian Federation. Thus, according to the Tax Code of the Russian Federation of 31 July 1998, № 146-FL (Part 1), all taxes and fees are divided into three groups: federal, regional and local. In 1999 a provision establishing a substantially closed list of regional and local taxes was introduced in the Tax Code, which was of fundamental importance for preserving the unity of the tax system. No legislative power bodies of the Russian Federation subject and representative bodies of local government have the right to impose taxes which are not stipulated by the Code. Each year in the Federal Budget Law, standards of allocations of federal taxes and dues to the budgets of lower levels (regional and local) are determined.

Regional taxes are established by the Tax Code of the Russian Federation and the laws of the subjects of the Russian Federation. They are enacted by regional laws and are to be paid on the territory of the corresponding region. Establishing regional taxes, the representative (legislative) authorities determine tax rates on relevant types of taxes (within the limits established by the Tax Code), tax incentives, procedure and terms of taxes payment. All other elements of regional taxes are established by the corresponding chapters of the Tax Code. Regional taxes are accumulated in the regional budgets and are used by the subjects of the Russian Federation to fulfil their functions.

Local taxes are regulated primarily by federal rather than local laws. In particular, the land tax is established by the Tax Code and legal regulations of the representative bodies of municipalities. It comes into force and ceases to be effective in accordance with the Tax Code and legal regulations of the representative bodies of

municipalities, and is to be paid on the territories of these municipalities. Local personal property tax is set by the separate Russian Federation Law "On Taxes on Personal Property" of 9 December 1991, № 2003-1.

Regional authorities have the right to grant tax incentives for regional and local taxes. But given that it comprises just 10-12% of all tax revenues, the possibility of regions to regulate the tax burden is not great. However, this is an additional tool to improve the region's investment potential.

It is important to note that the division of taxes into federal, regional and local does not mean that they are rigidly fixed and should be fully remitted solely to the appropriate budget. The distribution of most taxes between budgets of various levels of government in the Russian Federation is realized by the budget legislation, and is usually made annually when approving the respective budgets.

Each tax share paid in a region is set in the respective budgets, in order to implement the regulation of the revenue base of all budgets during the budget planning in Russia. Changes that reduce revenues from the collection of regional taxes of particular regions may be introduced into the Tax Code by decisions of the federal authorities.

Prior to 2004, 16 taxes and dues had been attributed to the federal taxes and dues, seven to the regional ones and five to the local ones. After 2004 the corresponding figures were eight, three and two respectively. This change resulted in an increase of tax revenues to the federal budget and reduction of the share of tax revenues coming into the regional budgets.

The share of revenues from other budgets in the revenues of regional budgets is on average 25% and in 14 regions - more than 50%. Under these conditions, with discrepancies in the overall distribution of collected budget revenues between the levels of the budget system, there is inevitably reproduced the practice of inter-budget transfers. Economically weak regions need regular financial support from the federal budget.

Therefore inter-budget transfers turned out to be the main instrument of the federal government in its relations with regions, as financial redistributive operations became an important element of the state regional policy. This system withstood the test of the economic crisis of 2008-2009. But after the crisis, while preserving the overall centralization of financial flows, there began a process of expanding the regional financial capacity (such as the creation of regional road funds in 2011-2012 on the basis of tax and non-tax revenue sources and the expansion of tax collection at the place of production, through the establishment of mechanisms at the regional level encouraging enterprises to pay taxes at the actual location of production).

Financial support for regions from the federal centre was also provided by the Ministry of Regional Development of Russia. It controlled, within its competence, state support for regions from the federal Investment Fund, provision of subsidies from the federal budget to the regional ones, projects of social and economic development of federal districts, federal special-purpose programs and departmental special-purpose programs in respect of complex territorial development and federal special-purpose programs associated with the economic development of regions and municipalities.

However, the economic stagnation that began in 2012 is reducing the federal budget revenues. Regional budgets, faced with falling revenues on the demand of the federal government to increase social expenditures, risk defaulting. Because of this, regions are increasingly seeking the support of the federal centre. According to the Ministry of Finance, only 10 out of 83 regions did not receive subsidies from the federal budget in the first half of 2013 (Moscow, St. Petersburg, the Moscow Region, the Leningrad Region, Tatarstan, the Tyumen and Sakhalin regions, Nenets, the Yamal-Nenets Autonomous Okrug and Khanty-Mansi Autonomous Okrug). The public debt of the Russian regions in 2014 increased by 20% and exceeded two trillion roubles. In three subjects of the Federation, it has more than doubled, while in 10 regions it exceeding the income of local budgets. The Russian economy is so centralized that the economic independence of regions is difficult to achieve. Regions increase their debts, mainly because they have to finance a significant portion of social commitments (80-85%) while a significant portion of their income comes from the centre. The government continues to provide low cost loans to regions to replace commercial loans, as the territories have to increase debt to fulfill social obligations.

Financial independence of the regional authorities, which receive financial support from the federal budget, is limited by the Budget Code. Subsidization becomes a disqualification criterion for the evaluation of regional authorities. Regions with budgets of which 60 % or more depend on financial support from the centre are now under the control of the Ministry of Finance. On the initiative of the federal Ministry of Finance more subjects

receiving subsidies for the alignment of budgetary provision from the federal treasury will fall under federal financial control.

The ministry proposes to preserve the right to take foreign loans to pay off debts and finance local budget deficits only for those regions that do not receive subsidies for the alignment of budget security. From 2014, there has been an increase in audit monitoring of financial discipline in both the centre and in all regions. The Ministry of Finance, which is trying to maintain federal control over the regions, would like to be able to dismiss governors of regions with high debt, but this reasonable measure for improving financial discipline after the return of the system of regional leaders' elections does not correspond to the federal character of the Russian state.

Controls

The regions exercise their own legal regulation (adoption of laws and other regulations) only beyond the jurisdiction of the federation and the joint jurisdiction of the Federation and the subjects. Mention has already been made above of the capacity constraints of their own regional legal regulation in the areas of taxes and budgets.

The Constitution Court of the Russian Federation can consider cases concerning the compliance of federal laws and the president' normative acts and the government with the Constitution of the Russian Federation, at the request of the regional legislative and executive authorities. In addition, the president and the government can request the Constitution Court to consider the compliance of the constitutions of republics, regional charters, the laws and other normative acts of the subjects of the Russian Federation with the Constitution of the Russian Federation, on the issues under the jurisdiction of the bodies of state authority of the Russian Federation, or under the joint jurisdiction of the bodies of state authority of the Russian Federation and the bodies of state authority of the subjects of the Russian Federation (Article 125 of the Constitution).

Regional normative acts adopted outside these two sets of issues are not considered in terms of their compliance with the Constitution of the Russian Federation by the Constitution Court of the Russian Federation, as they are outside the competence of the Federation. The Constitution Court of the Russian Federation resolves disputes on jurisdiction matters between the bodies of state authority of the Russian Federation and those of the subjects of the Russian Federation and between the higher bodies of state authority of the subjects of the Russian Federation.

Relations with other levels of government

Under the Constitution of the Russian Federation, the source of the powers of local government bodies has a distinct federal structure, which results from the distribution of powers of legislative activity in the sphere of local government between the federation and the regions. The joint jurisdiction of the Russian Federation and the Russian Federation subjects includes the establishment of common principles of organizing the system of bodies of state authority and local government (Article 72, clause "m").

The structure of local government bodies is determined independently by the population (Article 131, Part 1 of the Constitution). Local government bodies independently manage municipal property, draw up, adopt and implement the local budget, establish local taxes and dues and maintain public order. They can be vested by law with certain state powers and receive the material and financial resources necessary to exercise them.

Local government bodies as public authority bodies play a significant role in the regulation of social relations in the region. However, one of the problems with regard to their activities is the delimitation of powers of local government bodies and bodies of state authority. It is difficult to distinguish those issues that should be solved only at the municipal level throughout the Russian Federation. Not being state authority bodies, local government bodies are limited in their capabilities.

The general principles of organization of local government bodies in the Russian Federation are regulated by the Federal Law "On General Principles of Local Self-Government in the Russian Federation" of 6 October 2003, № 131-FZ (the current version is dated 30 January 2014). The Act details the distribution of powers on local government issues between the two levels of government.

The Act contains special articles on the powers of the state authority bodies of the Russian Federation in the sphere of local government, on the powers of regional authorities of the Russian Federation in the sphere of

local government as well as the jurisdiction of local government bodies. Article 6 of the Act contains a list of thirty issues of local importance. This list may not be reduced by regional legislation, but regional laws can refer some other questions to local issues.

Article 6 of the Act also contains a fundamentally important provision on the right of municipalities to take into consideration issues that are not excluded from their competence and are not within the jurisdiction of other municipalities and public authority bodies. These rules are applied to federal guarantees of local government bodies' independence.

Lawmakers at the federal and regional levels have great potential to determine the legal, territorial, organizational and economic principles of the organization of local government. The possibility of own municipal law-making in these spheres is not excluded. However, basic legal regulation takes place at the federal and regional levels. State authorities are actually entitled to independently establish the scope of their own powers in the field of local government. This refers primarily to the federal authorities, and the regions' powers can be exercised only in those cases where expressly provided by law (Art.6.1 of the Federal Law № 131-FZ).

Law № 131-FZ has contributed to the centralization of a number of regulatory issues of local government, shifting this jurisdiction from the regional to the federal level. Although regions have retained some of their powers, their participation in the regulation of many issues of local government is no longer provided for. Thus, under this law, the federal component outweighs the regional one in the regulation of the general principles of the local government organization, which under the Constitution of the Russian Federation are in the joint jurisdiction of the Russian Federation and its subjects.

However, this does not mean that the regions thereby are prevented from independent (additional) legal regulation of local government. In 2008, the Constitution Court of the Russian Federation formulated the legal position that the regions (subjects) of the Russian Federation can participate in the legal regulation of local government and in those cases where this is not provided by federal law, without violating federal regulations.

One result of the increase of the federal government powers was that, in most regions, the basic regional laws on local government, which had been adopted at the beginning of a wave of liberal reforms of the 1990s, were abolished. The regional constitutions and charters preserved general provisions on local government echoing the federal regulations. It is possible that the regions will adopt new regional laws on local government, in which there will be developed and specified the normative content of federal law with respect to the conditions of particular regions (as an example, the Law of the Republic of Kalmykia on 23 November 2011 № 308-IV-L "On Some Questions of the Organization of Local Government in the Republic of Kalmykia").

Thus, the principle of federalism will be implemented with concrete measures, forming a transition link between the federal and municipal levels of normative regulation, creating a regional level of local government regulation.

In the final resolution of the IV Congress of the All-Russian Council of Local Government (June 2012) it was stated that in some cases the "delimitation of powers in the federal system is replaced by an administrative delegation of such powers "top down". As a result, federal relations as well as municipal relations, based on the constitutional independence of local government, are replaced by administrative relations on the implementation of delegated state powers of higher authorities". This paper proposes another way to define the powers of local government, namely by adopting a federal law that defines the criteria and limits of delegation and sub-delegation of certain federal and regional state powers to the local level.

The regions are also involved in the process of state law-making in the Federation Council, the upper house of the Russian parliament (The Federal Assembly). In accordance with Part 2 of Article 95 of the Constitution of the Russian Federation, the Federation Council is composed of two representatives from each subject of the Russian Federation: one from the representative body and one from the executive body of state power.

The Federation Council is the "Chamber of Regions", representing the interests of the regions at the federal level, while reflecting the federal nature of the Russian state. Being an institution of integration and consolidation of the regions, the Federation Council provides a balance of federal and regional interests when making decisions aimed at implementing strategic development goals.

The procedure for forming the Federation Council has been changed several times by federal laws and regulations. From January 1996 to December 2001 the governors (heads of regional executive authority) and the heads of regional Legislative Assemblies were members of the Federation Council ex officio. From January 2002 to December 2012, on the basis of the reform proposed by President Putin, the governors and heads of the legislature were replaced by designated representatives, who are to work in the Federation Council on a regular and professional basis (in this case one of them is appointed by a governor, and the other - by the regional Legislative Assembly).

Heads of regional executive authorities were thus deprived of the opportunity to independently engage in lobbying their interests in the capital and participate in the party and political activities at the federal level. As a sort of "compensation" for regional leaders, in 2000 by decree of President Vladimir Putin, there was established an advisory body, the State Council of Russia. This body, which meets periodically and with the president's participation examines the pressing issues of the country, has no constitutional status. It is an advisory body, which assists the presidential powers on issues of coordinated cooperation between state authorities. As envisioned by Vladimir Putin, the State Council should become a political body of strategic purpose.

Since 1 January 2013, a new procedure for the formation of the Federation Council of the Federal Assembly of Russia has been put into practice (Federal Law of 3 December 2012, № 229-FL "On the Formation of the Federation Council of the Federal Assembly of the Russian Federation") (Article 1, paragraphs 1-4). The federal legislation introduced the principle of election to the formation of the Federation Council, avoiding the need for any amendments to the Constitution of Russia. The authors of the new procedure for forming the Federation Council had to abandon the earlier idea of introducing direct elections for senators by the regions' populations. As a result, a compromise version prevailed that enables the will of the regional population to be taken into account. Moreover, the new procedure for the election of senators is written on the basis of the principle of the non-partisan basis of the Russian parliament upper house.

The new procedure for the election of senators should enhance the stability of the chamber activity as a whole, because regional authorities have lost their prerogative to groundlessly withdraw and change their representatives in the Federation Council. Now only a deputy of this body can be a representative of the regional legislative authority. As for a senator, who is a representative of the regional executive body, he/she will actually be elected, together with the governor.

Overall assessment

Indeed, in Russia there is a third element, the region as the subject of the federal structure of power. Russia continues its development as a federal state. By trial and error, Russian society is seeking its own model of federation. In the period from 2007 to the present, the democratization of the Russian Federation has continued in the form of regionalization. The Russian regions are becoming an important part of the political space of the country.

In the context of the power vertical creation initiated by Putin in 2000, the federal centre continues to unify the political regimes at the regional level. Therefore, the period 1991-1999 can be called the period of decentralization, whereas since 2000 we have been witnessing a process of re-centralization. However, the varied policy of the federal centre towards the regions, due to the diversity of economic, geographical and socio-cultural conditions of development, inevitably reproduces their diversification.

To understand the process of regionalization in Russia, we need substantive interpretation of the notion of a democratic political regime, with the analysis of specific government practices. That is, it is necessary not only to clarify the formal correspondence of the Russian political regime to democracy norms, but also to analyse the actual dynamics of the configuration of power at the regional level, and to take into account the political culture of the population.

While analysing the relations between the centre and regions, we must take into account the important role played by informal institutions in the political life of Russia. There is also a tendency towards the deformalization of formal institutions, as well as an instrumental understanding of federalism as a means of regulating inter-elite relations. The political autonomy of the regions is sometimes used by regional elites as a means of bargaining with the centre in the "political market".

The continuing policy of re-centralization of power in the country has been dominated by an administrative approach to the issues of federal relations development. The objective of achieving the financial autonomy of

the regions has not yet been achieved, as in the period since 2007 there has been a tendency to increase the federal budget by reducing the regional budgets. However, only a small number of regions were self-sufficient and were donors, while the remaining ones were recipients.

The most important conclusion is that while the state policy vacillates between centralization and decentralization, the political autonomy of the regions exists formally and in practice. However, further development of the society is undermined by the fact that federalism has not become a core value of political culture. The results of public opinion polls (2010-2012) show a lack of meaningful and systematic request for federalism as a part of everyday political discourse.

The regions still show great interest not in social and democratic federalism, but in an ethnic one. In the dominant political culture of the Russian society (among the elite and the masses of the population), the ideas of political pluralism and autonomy of subjects of the political process are less important than ideas of centralism, unitarianism and the personalization of power. According to political scientists, the current federal state system of Russia, with all its advantages and disadvantages, is quite consistent with the level of the socio-economic development of the society and the political culture of the elite and the population as a whole.

Currently, much attention is given to the bargaining between the centre and the regions over the division of powers and budget distribution to equalize the level of the regions' development. However, prospects for further development consist in combining the activities of the centre and the regions to achieve the public good on the basis of increasing regions' financial autonomy and competitiveness. The centre has created the political and economic mechanisms of interaction with the regions that allow it to keep the situation relatively stable, but constrain opportunities for regional development. The situation is complicated by external economic and political circumstances (low oil prices, the introduction by Western countries and their partners of economic sanctions against Russia after the annexion of the Crimea with Russia⁵⁵ and Russia's solidarity with Donbass as well as the active participation of Russia in solving the Syrian problem). It is no accident that, on 3 December 2015, in his annual address to the Federal Assembly, President Vladimir Putin was forced to point out the need to give incentives to the regions to increase their own revenues without reducing federal funding.

The incorporation of two new entities – the Republic of Crimea and Sevastopol city - into the Russian Federation in March 2014 is a major challenge to the political, economic and social stability of the state. This step may require increased attention to the problem of improving the federative structure, dividing competences between the centre and the regions and substantially strengthening local government.

⁵⁵ United Nations General Assembly Resolution 68/262

SERBIA

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General situation in terms of territorial organisation

According to the 2006 Serbian Constitution, the territory of the state is made up of local governments (municipalities and towns, in Serbian: opština and grad) and autonomous provinces (in Serbian: autonomna pokrajina) as its territorial units.⁵⁷ Serbia has a single level and an almost completely uniform local government⁵⁸ and, according to the Constitution, it has two Autonomous Provinces (hereafter referred to as 'AP') – the province of Vojvodina and the province of Kosovo and Metohija. The 2006 Constitution thus puts in place an asymmetrical regionalisation, in the sense that only those two parts of the territory are granted status of autonomous provinces, with a middle tier of government, while the rest (usually referred to as "Serbia Proper") does not have such or a similar status and has only one tier of government below the central tier.

New autonomous provinces may be established, and already established ones may be revoked or merged, in accordance with the procedure for constitutional amendments, following a proposal by a majority of voters in a referendum. The Law on territorial organisation⁵⁹ regulates the territory of autonomous provinces and the conditions for any changes to their borders. The territory of autonomous provinces may not be altered without the consent of its own citizens in a referendum.

In general, the constitutional status of autonomous provinces satisfies the indicators of regionalisation according to the Council of Europe Reference Framework for Regional Democracy (hereafter referred to as the 'Reference Framework')⁶⁰. They are indeed a level between central government and local authorities and the principle of regional self-government is recognised in the constitution (Article 182 of the Constitution). Provincial assemblies are elected through direct, free and secret suffrage (Article 180). The Constitution has, further on, set a circle of provincial own competences, in which autonomous provinces can regulate matters of provincial interest (Article 183). Their autonomy is regulatory, since the Constitution places the provincial statute and its other general acts below legislation passed by the national parliament within the hierarchy of domestic legal acts (Article 195). Within that framework, provincial authorities are free to regulate the organisation and competences of their bodies and public services (Article 179).

While the Constitution guarantees financial autonomy to the provinces, the practical realisation of that autonomy is put into question by the failure of the central state to pass legislation stipulating the details of the amounts and kinds of the provinces' own revenues, as well as the share of autonomous provinces in the revenues of the central budget (as envisaged by Article 184 of the Constitution). Nine years after the Constitution's adoption, the law on the financing of the province has not been adopted.

The provinces can independently determine policies in fields of their own competence. As far as national policies are concerned, provincial assemblies have the power to propose legislation and other general acts passed by the Parliament (Article 107), but not amendments to the Constitution (Article 203).

In relation to local authorities in their territory (e.g. there are 47 towns and municipalities in the territory of AP Vojvodina), the province may delegate tasks in its own competence to them, together with a transfer of adequate resources for their execution (Article 178).

Historically, Vojvodina and Kosovo and Metohija were established as territorial units within Serbia in 1945, Vojvodina as an autonomous province and Kosovo and Metohija as a district (in Serbian oblast) until 1963, when it also became an autonomous province. Under the 1974 Constitution of the Socialist Federal Republic

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⁵⁷ Text of the Serbian Constitution in English - <http://www.ustavni.sud.rs/page/view/en-GB/235-100028/constitution> [last accessed January 15, 2016].

⁵⁸ For more on the local government system in Serbia see for instance: Jerinic, J. Besirevic, V., Vila I., 2015, Local Self-government in Serbia, Observatory on Local Autonomy; Milosavljevic, B., 2015, Territorial Organisation of the Republic of Serbia – Possibilities for Reform, Serbian Architectural Journal, 7 [in print] or the monitoring report on the application of European charter of local self-government in Serbia (*Local and regional democracy in Serbia*, Congress of Local and Regional Authorities of Europe, CG(21)4, 18 October 2011), <https://wcd.coe.int/ViewDoc.jsp?id=1846217&Site=COE> [last accessed January 18, 2016].

⁵⁹ Official gazette of the Republic of Serbia, No. 129/2007.

⁶⁰ Council of Europe Reference Framework for Regional Democracy, 2009, Council of Europe, MCL16(2009)11, <https://wcd.coe.int/ViewDoc.jsp?id=1532237&Site=&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679> [last accessed January 19, 2016].

of Yugoslavia (within which Serbia was one of the federal units), they enjoyed several features that are more typical of federal units, in terms of functions and the authority to pass their own constitutions.⁶¹ This status remained after the dissolution of Yugoslavia, but their autonomy was significantly limited by the 1990 Serbian Constitution. Restoration of Vojvodina's autonomy began after the democratic changes in Serbia in 2000. The current 2006 Serbian Constitution basically institutionalised the level of autonomy granted to the province via a 2002 law (known in Serbia as the Omnibus law⁶²), which determined provincial competence in several significant areas, such as education, health protection, environmental protection, urban planning, building, housing and agriculture.

A significant component of Vojvodina's autonomy has always been its multi-ethnic identity. This is the part of territory where most of Serbia's national minorities can be found. Vojvodina is home to 26 ethnic groups and has six official languages - Serbian, Hungarian, Slovak, Romanian, Croatian, and Pannonian Rusyn. Around 33% of Vojvodina's inhabitants belong to one of the many national minority groups, the largest being the Hungarians (13%), Slovaks (2,6%), Croats (2,43%) and Roma (2,19%).⁶³ National heterogeneity was recognised in the preamble of the 2009 Vojvodina Statute, stating that it is, inter alia, based on the "wish [of Vojvodina citizens] to live together in freedom, justice and peace, persisting on mutual interests and respecting the cultural diversity of national communities living in Vojvodina". This statute was later replaced by a new text, following a decision of the Serbian Constitutional Court.

On the other hand, following UN Security Council Resolution No. 1244 (1999), the territory of Kosovo and Metohija was placed under the interim administration of UNMIK (United Nations Mission in Kosovo), later accompanied by EULEX (European Union Rule of Law Mission in Kosovo). The Kosovo Assembly declared independence in 2008, but is not recognized by the Serbian state. Currently, negotiations are under way on normalizing relations between Serbia and the institutions of Kosovo, a major step forward being the agreement signed in Brussels, on 19 April 2013 under the auspices of the European Union, whereupon Serbia began accession negotiations with the EU.

The Serbian Constitution itself awards the autonomous province of Kosovo and Metohija a so-called substantive autonomy, which was to be regulated by a special law adopted according to the procedure for constitutional amendments. This law is yet to be adopted. As regards Vojvodina, its status is governed by the Constitution, the provincial statute, adopted by the provincial assembly with an approval of the national parliament, and a law on establishment of its competences, passed by the national parliament.⁶⁴ Soon after the adoption of the Vojvodina Statute and the law on competences, in December 2009, a group of thirty MPs (of the Democratic Party of Serbia and New Serbia, then in the opposition) initiated a procedure before the Serbian Constitutional Court to strike down most of the provisions of both the statute and the law on competences. After two quite lengthy procedures, the Court first struck down more than twenty articles of the law on competences in July 2012⁶⁵ and more than a year after, in December 2013⁶⁶, it found the majority of the statute's provisions to be unconstitutional, delaying the entry into force of its own decision for six months, providing the decision-makers with an opportunity to align the statute with the Constitution so that serious consequences to the functioning of the province would be avoided. Following the second decision, the new Statute of the Autonomous Province of Vojvodina was passed in May 2014.⁶⁷

Due to the fact that the organisation of Serbia's constitutional provinces, Kosovo and Metohija, practically remains out of its reach, it will not be dealt with in this short paper. On the other hand, bearing in mind the large volume of Vojvodina's basic acts that have been found to be unconstitutional, it was also difficult to report on its status and organisation, since the decisions of the Constitutional Court practically reversed the process of the increase of the province's autonomy, which had begun in 2002. Thus, it cannot be said that that

⁶¹ Milosavljević, B., 2012, Ustavnopravni koncept teritorijalne autonomije u Srbiji, *Pravni život*, 12, pp. 835-848.

⁶² The full title of this law was Law on determination of certain competences of the autonomous province (*Official gazette of the Republic of Serbia*, No. 6/2002).

⁶³ Data provided according to the results of the 2011 national census.

⁶⁴ Following the adoption of the new Serbian Constitution in 2006, new legislation on territorial organisation (Law on territorial organisation of the Republic of Serbia, *Official gazette of the Republic of Serbia*, No. 129/2007) and competences of the autonomous province were passed (Law on determination of competences of the Autonomous Province of Vojvodina, *Official gazette of the Republic of Serbia*, No. 99/2009, 67/2012 (decision of the Constitutional Court), as well as the Statute of the Autonomous Province of Vojvodina (*Official gazette of the AP of Vojvodina*, No. 17/2009). In terms of territorial organisation, no changes were made comparing to the situation prior to the Constitution's adoption.

⁶⁵ Decision of the Serbian Constitutional Court, No. IY3-353/2009 of July 10, 2012.

⁶⁶ Decision of the Serbian Constitutional Court, No. IY0-360/2009 of December 5, 2013.

⁶⁷ Official Gazette of AP Vojvodina, No. 20/2014.

autonomy had a steady progress or that there is a rooted practice of autonomy in Serbia. In other words, at the very outset, one cannot help but stress that the character and outlook of Serbia as a regionalised state is most uncertain.

Finally, a short note should be added on the character of the so-called regions established via a law on regional development passed in 2009.⁶⁸ According to this law, for the purposes of regional development, Serbia is divided into five regions: Vojvodina, Belgrade, Sumadija and West Serbia, South and East Serbia and Kosovo and Metohija. As already mentioned, the Constitution does not mention regions (or other similar forms of territorial organisation other than the autonomous provinces and local self-government units). According to the law itself, these "regions" are statistical functional territorial units, established for the purposes of planning and realisation of regional development policy, in accordance with NUTS, at its level 2. As they are not administrative units and have no legal personality and therefore do not satisfy the criteria set by the Reference Framework.

Institutional and administrative organisation of Vojvodina

As mentioned above, according to the Constitution, the province is autonomous in regulating the organisation of its bodies, in accordance with the Constitution and its statute (Article 179). Relying on this provision, the Vojvodina Statute determined as its bodies the provincial assembly, which is also prescribed by the Constitution, the provincial government, and a provincial administration.

As stipulated by the Constitution, the assembly is elected in direct elections and the details of the electoral system were determined by the Statute and lower provincial regulations, establishing a proportional electoral system.⁶⁹ The Vojvodina Government, headed by a president of the Government and comprised of members (provincial secretaries), heading departments of the provincial administration, represents the provincial executive. It is elected by the assembly majority in a similar fashion to the central government. The organisation of provincial bodies introduced in 2009 actually reflected the parliamentary pattern, characterised by a system of checks and balances, which is also applied to the level of central government (which, on the other hand, is a peculiar example of a parliamentary system, having a directly elected head of state with very weak competences).

However, relying on the constitutional provisions concerning the provincial assembly in Article 180, the group which challenged Vojvodina's basic laws also questioned the constitutionality of such a provincial executive. They argued that the constitutional recognition of the assembly as the supreme body of the autonomous province is incompatible with the system of checks and balances introduced by the Statute. Following this argument of the proponents, the Constitutional Court essentially examined whether this constitutional provision pre-determines the system of government in the province as a Swiss-type "directorial" or "non-parliamentary" system, whereby the executive is completely subordinated to the representative body. In its decision, the Court, agreeing with such an argumentation, struck down all the statutory provisions outlining this character and competences of the provincial government and its members. On the other hand, the Court found that the provisions of the Statute relating to the provincial administration were in line with the Constitution.

The Constitutional Court held that the formulations of the previous statute defining the provincial assembly and its government (previously called the Government of the AP Vojvodina – in Serbian: Vlada AP Vojvodine - and now Provincial Government – in Serbian: Pokrajinska vlada) as bearers of normative, i.e. executive authority (or power, in Serbian: vlasti) are not in line with the Constitution, since such terminology can only be associated to the authority or the power borne by central state bodies – in terms of legislative, executive and judicial power – and not by sub-national levels of government. At the same time, bearing in mind the subordination of the provincial executive body (its government) to its representative body, the Court also struck down all the provisions which previously instituted the mentioned checks and balances mechanisms, e.g. the possibility to dissolve the provincial assembly in response to a reasoned proposal from the provincial government.

In the end, the province and the national parliament, which jointly adopt the provincial Statute, had very limited room for manoeuvre, once they sat down to align the Statute with the decision of the Constitutional

⁶⁸ Law on regional development, *Official gazette of the Republic of Serbia*, No. 51/09, 30/10.

⁶⁹ Under the previous provincial decision on the election of deputies to the provincial assembly (dating from 2004), there was a combined electoral system, whereby half of the deputies (60) are elected according to the proportional and the other half by a majority system.

Court. The decision of the Constitutional Court also made it difficult for commentators and constitutional law experts to understand what kind of autonomy the constitution makers (and its interpreters) had in mind when guaranteeing the province autonomy with regard to the organisation of its bodies (in Article 179).

Competences of the autonomous province

The Constitution recognises two types of provincial competences – those devolved to the province, which thus become 'provincial own competences' and others, which are delegated and upon which the central state preserves a wider volume of supervisory powers. The delegation of competences is governed by Article 178, stating that the central state can delegate by law certain tasks from its competences to autonomous provinces and local governments and provide resources for their implementation, retaining supervisory authority.

On the other hand, Articles 177 and 183 relate to the devolved, own competences of the province. First of all, the province is competent in issues which can appropriately be realised on their territory and are not the exclusive competence of the central state. The criteria to determine issues of central, provincial or local interest are determined by law.

The Constitution sets out a framework for provincial own competences by listing the fields in which the province is free to regulate matters of provincial interest. These are: urban planning and development; agriculture, water economy, forestry, hunting, fishery, tourism, catering, spas and health resorts, environmental protection, industry and craftsmanship, road, river and railway transport and road repairs, organizing fairs and other economic events; education, sport, culture, health care and social welfare and public information at the provincial level. The province is also to see to the exercise of human and minority rights, has the right to establish its own symbols and to regulate the manner in which they shall be put to use, and manages its assets in the manner stipulated by the law.

After distinguishing between devolved and delegated competences, the Constitutional Court found 22 provisions of the law on the competences of Vojvodina to be unconstitutional, for three types of reasons. First of all, some of the competences delegated by legislation were treated as devolved; secondly, the Court found that the law on competences regarded some of the fields listed in the Constitution as fields of exclusive provincial competence, while its competence was supposed to be limited to issues of provincial interest; finally, the law attributed some competences to the province in fields not listed in the Constitution.⁷⁰

However, the fact that these provisions of the law on competences were struck down did not produce serious practical consequences in mid-2012, when the Court passed its decision, due to fact that provincial competences are also regulated by other legislation and that most of these provisions were also in the provincial statute. However, just over a year later, these provisions of the Statute were also found to be unconstitutional. The cumulative effect of these two decisions made them much more visible.

Financial autonomy

The Constitution envisages that autonomous provinces have direct or original revenues intended for financing their own competences and that they adopt annual budgets. The kind and amount of these revenues was to be stipulated by a law, in addition to the province having a share in the revenues of the central budget.

The Constitution also stipulates that the budget of the Autonomous Province of Vojvodina shall amount to at least 7% in relation to the budget of the Republic of Serbia, bearing in mind that three-sevenths of the budget of the Autonomous Province of Vojvodina shall be used for financing capital expenditure (Article 184). However, representatives of the provincial government, as well as members of national parliament from Vojvodina, have stated year after year that the constitutional guarantee of the size of the provincial budget was not respected.⁷¹

A separate law on the financing of the autonomous province has yet to be passed. Probably for that reason, the 2009 statute listed the types of provincial revenues, determined that the rates of provincial own-source revenues were to be set by the provincial assembly and contained provisions on borrowing by the province.⁷²

⁷⁰ Milosavljević, 2012.

⁷¹ E.g. Sejdinovic, N., 2014, *Od prave mere do simuliranja, Nezavisno drustvo novinara Vojvodine*, Novi Sad, pp. 25-27 [an analysis of political parties' positions on the constitutional status of AP Vojvodina, the quoted chapter relating to the absence of a law on financing of the Province].

⁷² Article 63 of the former statute.

However, the Constitutional Court found this provision unconstitutional, basing its finding on the fact that the Constitution envisaged that these issues are to be regulated by law and not by legal acts of lower legal force. For these reasons a similar provision did not find its way into the 2014 statute. However, types of provincial revenues were already listed in the Law on Budgetary System,⁷³ which is still in force, and whose provisions are applied to the financing of the province, in the absence of a special law.

Supervision of provincial regulations and activities

The Constitution set up mechanisms for the supervision of both regulatory and administrative activities of the province. The central government may institute before the Constitutional Court a review of the constitutionality and legality of a decision adopted by the autonomous province, prior to its coming into force. In that sense, prior to passing its decision, the Constitutional Court may defer the coming into force of the challenged decision of the autonomous province.

With regard to administrative activities, there is a difference between the two types of competences. The provinces' own competences are mostly outside of the scope of the state's supervisory authority and are subject to the supervision of the Constitutional Court and the judicial system, as well as different independent bodies – both on the provincial level (such as the provincial ombudsperson) and the national level (e.g. the State Audit Institution, anti-corruption agency, commissioners for public access to information and personal data protection and protection against discrimination etc.)

According to the Law on state administration⁷⁴ (Article 71), central-level line ministries monitor the constitutionality and legality of decisions passed by autonomous provinces in their field of competence. Provincial authorities are obliged to forward their decisions to line ministries within 24 hours. The line ministries then have 48 hours to suggest to the Government to initiate the review of constitutionality and legality before the Constitutional Court. In practice, there is no information on whether provincial bodies actually comply with this requirement. The same law authorises the line ministries to intervene when the AP does not implement a general act, brought in the field of provincial own competences, and can direct it to take necessary measures in a period of 30 days (Article 72). If the provincial authorities do not act upon such a warning, the line ministry can arrange for another provincial body to take over the implementation of the general act or do so itself, during a maximum period of 120 days. Again, no information is available that such a situation has occurred in practice to date.

As a counterweight, the autonomous province has a constitutionally guaranteed right to appeal to the Constitutional Court, in cases where an individual act or action of state administration or local government are considered to violate one of its constitutionally or legally guaranteed rights (Article 187 of the Constitution).

Conversely, delegated competences are under strict supervision of the central state, in the sense that central state administration bodies have general and specific prerogatives as in the supervision of any other entities which perform delegated public functions. These include taking back a delegated task and supervision of the legality of general acts passed by these entities (see Articles 73, 55-57 of the Law on state administration).

Relations of the autonomous province with other levels of government

The autonomous provinces in Serbia are not institutionally represented in the national legislature or other central state bodies, nor do they participate in appointment procedures concerning the most important public bodies. The only form of institutionalised influence on national law-making is through a right of the provincial assembly to propose laws to the national parliament. This right also lies with every Member of Parliament, the Government and at least 30,000 voters.

Relations between regional and state bodies are supposed to be based on cooperation and mutual information. However, there is no obligation on the part of state authorities to consult regional authorities in matters of regional interest and in practice they seldom do so. No line ministry is solely responsible for relations with provincial authorities; this responsibility lies with the national Government as a whole. The Law on the determination of the competences of the AP of Vojvodina (Article 5) provides the possibility for the state Government to establish, upon a proposal by the provincial executive, a Standing mixed commission,

⁷³ *Official gazette of the Republic of Serbia*, No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013, 108/2013, 142/2014, 68/2015, 103/2015.

⁷⁴ *Official Gazette of the Republic of Serbia*, No. 79/2005, 101/2007, 95/2010, 99/2014.

consisting of representatives of the Government and the provincial executive. However, such a commission has not been established to date. A representative of the AP Vojvodina participates in the work of the Intergovernmental finance commission established under the Law on local government finance.⁷⁵ However, this body only discusses issues concerning the financing of local self-government and not provincial government, at least not as its direct concern.

In terms of relations of the autonomous province with local governments, these are not hierarchical, probably due to the asymmetric character of Serbia's regionalisation, but also to the understanding of territorial autonomy as such. However, the province can delegate a part of its own competences to the local governments in its territory.

Conclusions

When the drafting of this contribution began (beginning of 2014), bearing in mind the uncertain effects of the Constitutional Court's decision combined with the upcoming parliamentary elections in mid-March 2014, it was difficult to provide a conclusive evaluation of the state of regionalisation in Serbia. At the time of its final drafting, two years later, it is difficult to say that the situation has changed.

The constitutional provisions of the autonomous province in most part satisfy the criteria set by the Reference Framework and in that sense it can be said: yes, the Autonomous Province of Vojvodina is a region. However, it is also true that, after the constitutional framework was set, the national parliament and the provincial assembly passed basic acts governing provincial organisation and competences which were later found to be unconstitutional to a significant degree.

Part of the responsibility for such a situation lies with the text of the Constitution itself. The present Constitution was passed in some haste, with hardly any serious public debate, and is full of ambiguities and vagueness.⁷⁶ Another part, perhaps, lies with the legislators, who should have known that such provisions could be subject to a review of their constitutionality. The number of provisions that have been found to be unconstitutional confirm that. Finally, by mostly limiting itself to textual interpretation of constitutional provisions, the Constitutional Court itself failed to preserve some of the provisions of the provincial statute and law on competences.⁷⁷

The general understanding of provincial autonomy, as regulated by the Constitution which the Serbian Constitutional Court has interpreted, is certainly a narrow one. The Court found that, under the 2006 Serbian Constitution, the Autonomous Province of Vojvodina, as a part of internal organisation of the Republic of Serbia, is a form of territorial decentralisation. In that sense, the guaranteed right of citizens to territorial autonomy (determined in Article 12) is to be understood as one of the methods for the realisation of citizens' sovereignty and not as a guaranteed human or minority right. Further on, the Constitution provides for decentralisation of state power through devolution and delegation. Also, in its decision on the provincial statute, the Court did not afford the statute the legal force suggested by some national experts – of a *sui generis* act that is not completely subordinated to acts of national parliament⁷⁸ – but basically equated it with local government statutes, even though it is passed in a specific procedure combining the provincial assembly and the national parliament.

Besides the narrow interpretation of possibilities for regulating provincial organisation and competences by the province itself, the lack of an adequate legal framework on provincial finances is a strong indication of the small significance that the central government affords to regional autonomy.

⁷⁵ Official Gazette of the Republic of Serbia, No. 62/2006, 47/2011, 93/2012.

⁷⁶ For instance, in its opinion on the Serbian Constitution, the Venice Commission assessed it as an "over-hasty draft which does not do justice to the previous standards", particularly pointing out the lack of opportunity for its public discussion, "motivated by important political considerations and reflecting specific difficulties in the country", which raise "questions of the legitimacy of the text with respect to the general public". Further on, the Commission pointed out to the ambiguity of the constitutional guarantee of limitation of state power by the citizens' right to provincial autonomy and the possibility to restrict provincial autonomy by ordinary law (see points 7 and 8 of the Commission's Opinion). European Commission for Democracy through Law, 2007, Opinion of the Constitution of Serbia, CDL-AD(2007)004.

⁷⁷ On that: Beširević, V., 2013, "Muke po Statutu: Da li će jezička dogmatizacija Ustava ukinuti političku autonomiju Vojvodine? Prilog za javnu raspravu o ustavnosti i zakonitosti Statuta Vojvodine", *Pravni zapisi (Legal Records)*, No. 2/2013, pp. 476-510.

⁷⁸ For instance, Korhecz, T., 2013, "Statut autonomne pokrajine u ustavnom pravu Republike Srbije. Osvrt na neka načelna ustavnopravna pitanja u postupku ocene ustavnosti Statuta Autonomne pokrajine Vojvodine", *Pravni zapisi (Legal Records)*, No. 2/2013, pp. 436-466. For an opposite opinion, determining the statute as a "by-law without elements of constitutionality" see: Petrov, V., Simovic, D., 2013, Statut kao podzakonski akt bez elemenata konstitutivnosti: uz dilemu o pravnoj prirodi Statuta AP Vojvodine od 2009. godine, *Pravna riječ*, 35, pp. 143-154.

Anyhow, it can be said that regionalisation in Serbia, or at least the scope of regional autonomy, is in decline and that its future is uncertain. The hope remains, though, that amendments to the present Constitution, which are likely to occur, if for no other reason than in the framework of the country's negotiations for accession to the European Union, could also be a chance to provide some more clarity on the issues of regionalisation and regional autonomy.

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SLOVAK REPUBLIC

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General situation in terms of territorial organisation

The system of public administration in Slovakia is an example of a dual administrative system. The state administration operates at national (NUTS₁) and county level (LAU₁) and there is self-government at local (LAU₂) and regional level (NUTS₃). The NUTS₂ level ("supra-regional") is only statistical, has no powers, elected or other bodies and is used mainly in relation to the EU and its funding policies.

Self-government is mentioned in the Slovak constitution in Catch No. 4, Article 64 – 71. Both the local and regional levels of self-government are recognized in article 64 of the Constitution. The local self-governmental units were established in September 1990 by Act. No. 369/1990 and replaced the former local administrative units – "Local National Committees". Establishing regional self-government was politically more difficult. After long discussions about the number of self-governing regions (from the model 3+1 – Bratislava and three large regions, which are the same as the current NUTS₂ regions used in relation to EU funding policy, based on pre-1989 history, or 16 regions - based on the pre-1918 historical regions of the Slovak territory, the number of regions was reduced to 12 in governmental discussions and then further reduced by the parliament to the eight current regions), finally, after elections to regional assemblies on 1 December 2001, eight self-governing regions were established on 1 January 2002.

The existence of local and regional self-government units is granted by the Constitution. So too are their rights to set local taxes and to approve and issue general binding ordinances. All other rights, duties or responsibilities (taxes that can be collected, competences – original or delegated public services that have to be provided etc.) are defined in additional laws.

The power of local and regional governments to set standards is limited only to the power to approve and issue general binding ordinances which cannot contradict to the general legal system. These ordinances can affect all fields of conferred competences (on local or regional level).

The regional governments have no power to change the spatial organisation of their territory (the creation of all "smaller units" – counties (state administration) or local self-governments (communes, cities) is in the hands of the state). They are allowed to create institutions (agencies), to deal with tasks within their competences. Specific policies such as minority policy (and related questions – education, language, culture) are dealt with by the central government.

The local taxes which may be imposed by the municipality are: a) property tax (state regulated), b) tax on dogs, c) the tax for the use of public space, d) tax on accommodation, e) tax on vending machines, f) tax on non-winning game machines, g) tax on entry and parking of motor vehicles in the historic city centre, h) nuclear facility tax (state regulated).

The only regional tax that used to be imposed was a tax on motor vehicles, paid by all entrepreneurial units with their headquarters in the region. This tax has now been abolished, and since 1 January 2015 it is a tax set by the state, amending the Act No. 582/2004 Coll. on local taxes and local fee for communal waste and small construction waste as amended modifying the tax on motor vehicles. Neither local nor regional self-government play a significant part in setting taxes at national level. So the only regional tax has been abolished.

Regions have the power to design their own public policies in all areas within their competences, which are mainly secondary education, hospitals, social care services, cultural institutions, such as galleries and museums, regional public transport and roads. In the case of secondary education and "health policy", the competences cover mainly the development of networks of schools and hospitals (where private and church providers are also involved). The regions have no impact on education and health policies as such, which are drawn up at national level. Social care services are those with the biggest overlap in competences with local governments: where a service cannot be provided by a local authority, the region is obliged to provide it.

Regional governments have no powers in relation to local governments in their territory. Both levels are designated in the Constitution as being autonomous from each other. Cooperation in development or other policies is welcomed, but is only facultative.

Institutional and administrative organisation

Elected bodies (electoral system, functions)

The system of elections to the self-governing regions is regulated by the Law on Elections to regional self-government bodies. Deputies and "heads" of regions are elected by direct universal and equal suffrage, by secret ballot. The electoral system is a majority one and regions are divided into election districts. The turnout in regional elections is very low, both in 2009 and 2013 it was around 20%, which is significantly below the national (circa. 60%) or local (municipal) level (circa 50%). The assembly elects the Board of the region (the head plus a few other deputies).

The head of the region can be dismissed by referendum and his mandate ends only in special cases that are defined by the law (e.g. criminal offences or termination of permanent stay in the region). Elected representatives cannot be dismissed, although their mandates can be terminated for the same reasons, while any member of the regional assembly can resign by their own decision.

The only real preconditions for standing for election are age and permanent residence. The issue of conflicts of interest is not comprehensively regulated at regional level – for example heads of regions may sit in the National Parliament or even in the European Parliament (but deputies cannot be employed by the regional office and cannot be members of bodies of legal persons established by the region, head of regions, or a mayor).

Regional assemblies, composed of elected deputies, are convened regularly, at least once every two months. Meetings of regional assemblies are public and all deputies can participate in the debates and raise questions. Members of the public who are present may be given the floor (the president, members of parliament or government, representatives of central state bodies and mayors from the regions must be given the floor). The assembly meeting agenda is prepared by the Board of the region, with support from the executive office.

The region has legislative power by issuing "binding regulations". If the binding regulation contradicts the existing law, the regional prosecutor is expected to deliver an official warning. If this warning is disregarded, the case is decided by a regular court.

All elected members receive financial compensation. The level of salaries for the head of the region and the chief auditor are capped centrally and are not regulated by the labour code.

Executive Bodies

All regions have relatively large executive offices, headed by the chief administrator of the region, appointed and dismissed by the head of region. The structure of the executive office is approved by the regional assembly. All executive positions are filled by decisions of the Head/Board of the region in a fully decentralised procedure, with appointments expected to be made after a free competition. The regional executive is responsible to the Head/Board of the region, who manages all human resource affairs in the office.

Administrative structures

The responsibilities of central government, regional self-governments and local-self governments are defined by the law and cannot be transferred between levels; however, in some cases (like social care, culture, and sports) responsibilities of regions and municipalities may partly overlap. In other words, the state does not have any right to intervene in regional self-government structures.

The regions have a chief auditor, who reports to the assembly, which is the main control mechanism on this level. Formally the chief auditor is independent from the Head of the regions, elected by the assembly and his salary is also capped by the law. The only form of supervision is by external audit (Audit Office) and the prosecutor for illegality. Public control is ensured by the Act on free access to information, which is valid for all public bodies in Slovakia, including self-governments.

Competences

The self-governing regions were established as the result of lengthy political negotiations, which set in motion a massive 2001-2005 decentralisation process (reform). At the time they received several competences. Most of them were re-allocated from central level (so called original competences). There are also delegated competences, where the regions are those who execute, while the state retains responsibility for financing. Until 2005, most of the income of the self-governing regions came from transfers from the state budget, but financial decentralization has empowered the regions, giving them their own revenues and bringing changes to the system of shared taxes. Regional administrative competences and powers cover the following areas:

- Education: responsibility for secondary education ;
- Health: responsibility for large part of in-patient care (except for teaching hospitals) and also for specialised services (to guarantee minimum network of providers);
- Social welfare: providing social care services;
- Economic development: responsibility for regional economic development, creating regional development plans, managing EU funds in cooperation with NUTS₁;
- Environment: general responsibility ;
- Infrastructure/transport: responsibility for suburban mass transport and regional roads;
- Spatial planning: responsibility for regional spatial plans;
- Tourism: coordinating sub-regional and local actors;
- Culture: the regions own cultural heritage of regional importance, and supporting regional cultural traditions and "folk" art ;

(The regions also have responsibilities for planning the investments from EU funds, negotiating in the area of regional development and Slovakia's representation in the Committee of the Regions)

Self-governing regions are fully autonomous from the point of view of exercising their powers. Only illegal activities or decisions can be addressed by the state administration or judicial bodies. There is no link between local and regional self-governments.

Financial autonomy

The system of regional finance was created during the 2001-2005 reform. Self-governing regions are generally financially covered by their own income, subsidies from the state budget and other resources. The basic sources of funding were regional tax on motor vehicles (until 2012) and a proportion of income tax. Tax on motor vehicles was set by the region within certain limits, bringing a small amount of revenue. The proportion of income tax collected by the state and its percentage is negotiated by the Parliament on an annual basis, during the process of approving the state budget. From 2012 to 2013 the proportion decided by the government changed from 23,5% to 21,9%. In 2016, the state budget allocation of income tax was reduced to zero and regions were given 30%. (Tab. 1.), however, the political representatives of self-governing regions have expressed dissatisfaction with the current allocation.

Tab. 1 Proportion in income tax

	2002-2011	2012 - 2013	2014	2015	2016
Municipalities	70,3%	65,4%	67%	68,5%	70%
Regions	23,5%	21,9%	21,9%	29,2%	30%
State budget	6,2%	12,7%	11,1	2,3%	-

This 30% is divided among the eight regions and allocated according to the following equalisation criteria:

- the number of inhabitants with permanent residence in the region (15% of weight)
- the number of citizens between the age of 15 and 18 (15%)
- the number of citizens aged over 62 (32%)
- population density of the region (9%)
- second and third class roads in the region (20%)
- the area of the region (9%)

Tab. 2-1 Regional public spending trends in figures (thousands EUR):

	Total volume	% public spending	Per 1000 inhabitants	General services	Economic activities	Health	Education	Social care	Recreation Culture religion
2007	952 290	0.8	173	92 196	188 452	9 238	437 214	176 943	48 247
2008	1 121 888	0.8	204	171 894	217 424	19 359	464 306	189 730	59 125
2009	1 131 503	0.8	205	121 822	230 262	11 663	511 039	199 759	59 958
2010	1 055 177	0.8	192	95 134	190 581	9 958	504 625	194 018	60 861
2011	1 142 336	0.8	206	102 901	220 272	11 618	531 582	210 430	65 533

Tab. 2-2 Regional public spending trends in figures

	Expenditures of regional governments total (thousands EUR)	Expenditures of public administration (mil. EUR)	% of public spending	population	expenditures of regional governments per inhabitant (in EUR)
2012	1104264	27148,4	24,59	5410836	204,08
2013	1067139	27622,2	25,88	5415949	197,04
2014	1090440	28049,6	25,72	5421349	201,14
2015	1081004	30414,5	28,14	5421349	199,40
2016	1076064	29514,7	27,43	5421349	198,49
2017	1078064	30259,3	28,07	5421349	198,86

*estimated

Source: rozpocet.sk, STATdat.

As mentioned above, part of the resources are provided by the state, which has to provide the financial resources to regions for the execution of state delegated responsibilities (most visible is the transfer for educational).

Regions as legal persons are allowed to carry out business and are free to invest within the rules of the existing legal system of Slovakia. The state does not regulate their investment activities, borrowing and deficit specifically, but requires balanced current budgets and sets a maximum level of debt, which is 60%, counted from the previous budget year's "current" revenues.

It is not possible to present trends in the direct investment of regions in figures, as data on these structures is not available, but the investment expenditure of regions is approximately 10% of total expenditure.

Trends in the total revenue, grants, expenditures, deficit and borrowings of regions in figures are shown in the following table. Regional deficits and debt do not play any role in the national economy and did not increase during the crisis.

There is no data available to describe the real situation and trends in the staff of regions, but the total staff of one regional office is estimated as several dozen persons. Regions do not have their own sectoral employees. Schools, hospitals, social care establishments, etc. are legal persons and manage their employment affairs individually. For example there are almost 20,000 teachers in regional schools (about 1% of the total workforce in the country). The structure of the regional office is decided by the regional council.

Tab. 3 Trends in revenues, expenditures and deficit of regions 2009-2014

Approved									
(in thousands of EUR)	2009	2010	2011	2012	2013	2014	2015	2016*	2017*
total revenues	1,120,108	1,110,182	1,113,718	1,134,346	1,141,670	1,146,889	1253842	1279429	1327431
tax revenues	595,326	502,002	531,729	552,669	554,287	569,004	625 181	655 708	701 505
non tax revenues	59,749	75,337	77,505	78,000	89,000	84,000	122 500	122 500	122 500
grants and transfers	415,242	434,288	429,284	412,677	406,509	416,885	421 161	416 221	418 426
from repayment of credits, loans and repayable financial assistance (FO)	996,00	996,00	0,00	0,00	0,00	0,00	0	0	0
balances from previous years and the transfer of monetary funds (FO)	15 601	19 583	34 910	56 000	58 000	42 000	50 000	50 000	50 000
received loans (FO)	33 194	77 976	40 290	35 000	33 874	35 000	35 000	35 000	35 000
total expenditures	1 120 108	1 055 177	1 113 718	1 104 264	1 067 139	1 090 440	1 081 004	1 076 064	1 078 064
revenues and contributions	379 864	359 765	351 045	352 303,00	319 124	334 222,00	346 202	343 086	345 086
goods and services	245 887	222 332	246 815	203 528	199 323	201 225	201 986	201 662	201 662
common transfers	331 939	344 591	347 897	387 655	400 408	403 316	403 316	403 316	403 316

interest payments on loans	4 647	7 958	8 278	8 000	8 000	8 000	7 000	7 000	7 000
capital expenditures	147 813	88 363	145 741	135 778	105 343	111 401	86 500	85 000	85 000
loans and equity participation (FO)	664,00	664,00	664,00	1 000	1 000	1 000	1 000	1 000	1 000
repayment of principal (FO)	9 294	31 504	13 278	16 000	33 941	31 276	35 000	35 000	35 000
Overall surplus / deficit	0,00	55 005	0,00	30 082	74 531	56 449	172 838	203 365	249 367
exclusion of financial operations	-39 833	-66 387	-61 258	-74 000	-56 933	-44 724	-49 000	-49 000	-49 000
revenue (FO)	-49 791	-98 555	-75 199	-91 000	-91 874	-77 000	-85 000	-85 000	-85 000
expenditure (FO)	9 958	32 168	13 941	17 000	34 941	32 276	36 000	36 000	36 000
including accruals	1 328	11 382	1 230	-1 756	-4 688	970,00			
other adjustments				-3 500		2 324	0	0	0
surplus/deficit (ESA 95)	-38 50	0,00	60028,00	-49 174	12 910	15 019	123 838	154 365	200 367

Source: Ministry of Finance SR, *FO – financial operation

Supervision

Legal supervision is in hands of the prosecutor, who may propose to repeal, but does not have the right to suspend, a normative act. Only courts have such power. Financial supervision is covered by a Law on budgetary rules for self-governments. This law defines the budgetary process, maximum level of debt, rules how to manage ownerships etc. Only the National Audit Office has the general right to audit regions. Other audit/control bodies may act only in cases determined by law. There is no legal system or mechanism in force for supervision of people and administrative activities.

Relations with Central or Federal Government

In relation to participation in the procedure for adopting constitutional amendments or in the procedures leading to changes regarding their territorial and/or institutional structures, general rules apply, which means that the regions must be informed and consulted. Until now, there are no specific establishments and no official structures for the participation of regions in national law-making, through institutional representation or regional participation at national level, through mechanisms for procedural and cooperative participation. Neither is there any regular practice of strengthening intergovernmental relations between executives of different levels.

In terms of appointment procedures and regional participation in the determination of financial relations with the State, regions are not represented by any direct mechanism. Usually the regions are given some opportunity to make suggestions, but final decisions are made by the state.

There is an administrative section of the Ministry of interior, which is responsible for relations with regional authorities. However, the state is not allowed to intervene in regional spheres of competencies.

Relations with the EU

Regions are only represented in the Committee of the Regions, not other official structures, but there are no specific obligations in terms of providing information, which would justify further participatory rights.

There are regional offices in Brussels, which are responsible for the communication with the DGs, other Slovak representatives in Brussels, including members of the European Parliament, and which participate in negotiations with representatives of ministries.

Relations with the Council of Europe (COE)

Regions are represented in the Congress of Local and Regional Authorities.

Relations of Regions with Municipalities/Local Authorities

Regions do not have any regulatory powers regarding the municipalities situated on their territory, nor supervisory powers vis-à-vis, however, there exist local authority participation. All mayors from the region must get floor on request during the regional assembly meeting. Many mayors are members of the regional council, but there are no other general and institutional rules. The most significant, albeit informal, role of the regions towards municipalities is of assistance (financial or other), mainly in areas of project management, planning and implementation, often coordinating and initiating cooperation between municipalities. The so-called "The Partnership Board" brings together representatives of both tiers, which enables creating various working groups on strategic documents.

Relations with other regions

The only existing institutional form of cooperation is the Association of heads of regions (SK8). However, this Association operates at several levels, including meetings of "executive directors", heads of departments (such as education, social affairs, etc.) It also plays an important role in negotiation processes with the government. Relations among regions may be described as voluntarily cooperative. When it comes to attracting investors or potential citizens, however, they may be competitive (for example, for tax reasons), but not strongly so.

Transfrontier

Transfrontier cooperation with territorial entities in other States or all other actors or European Grouping of Territorial Cooperation (EGTCs) is voluntary with all neighbouring regions. In the period 2007-2013 there were five cross-border cooperation programs: 1 – external border and 4 – internal borders (Bratislava region for example SK-AT, SK-HU, nowadays SK-CZ), as well as programs like INTERREG and INTERACT II. There is also the Centrope initiative– created for the cooperation of several Austrian (3), Hungarian(2), Czech (2) and Slovak regions(2), aiming at developing areas of common interest.

Overall Assessment

Slovakia is a country with two tiers of generalised sub-national government. We agree with the statement of the "Preliminary notes on the situation of regionalisation in Europe" where Slovakia is, according to its RAI score, referred as a country with administrative regionalisation. Even when more than a half of regionalisation conditions are fulfilled, the real impact of existence of regions on the life of citizens cannot be seen. Competences dealing with common life situations tend to be in the hands of local governments, whereas the others, dealing with economic policy, social policy, health policy and all other "important" issues have been retained by the state. According to this, Slovakia is a typical representative of countries with two tiers of government. Despite its history and a relative strong Hungarian and Roma minority, there has never been a partial regionalisation.

There have been no changes since 2007 with regard to the role or even the competences of regions. Future debate will probably focus on the size of regions, as many people (both citizens and politicians) are talking about the merger of regions into today's statistical NUTS2 units (3+1 instead of the eight current regions; i.e. to have three regions and Bratislava as a Capital, with competences of a region such as Berlin in Germany for example). The possibility of this merger at this time is quite unrealistic and is more of an academic debate,

being slowly adopted by some politicians and practitioners, than a real political goal. So far, there are no indications that this reform of the regions would follow the Danish example.

General framework, recent developments and current challenges

From the point of view of its territorial structure, the Kingdom of Spain comprises three different levels: (a) the national, State level; (b) the Regional level; and (c) the genuine "local" level, which may also have different sub-levels, according to the part of the country concerned: (c.1) municipalities (in all Spain), (c.2) Provinces (in most of the peninsula) and other forms of supra-municipal bodies; and (c.3) islands, in the Archipelagos of the Canary and Balearic Islands. The regional level is made up of seventeen "autonomous communities" (Comunidades Autónomas in Spanish)⁸⁰. Although many of these are related to the different kingdoms that were formed in Spain during the Middle Ages, the current regional subdivision stems directly from the political negotiations and agreements performed during the "transition process" which took place in 1975-78. After the enactment of the current Spanish Constitution in December 1978, the current autonomous communities were fully established during a five-year process (1979-1983), although some institutional arrangements for the establishment of "interim" or provisional bodies (*entes pre-autonómicos*) were made even before this enactment.

From the analytical perspective of this study, the Spanish *Comunidades Autónomas* can be described as true and genuine "Regions" in the context of Council of Europe legal criteria and terminology: these bodies have democratic institutions (regional parliaments); they handle a large domain of public responsibilities and have powers and competences that are typical of institutions of "regional" status. Regions are fully recognised and guaranteed by the 1978 Constitution (especially in chapter VIII). According to that Fundamental Law, all regions are territorial bodies enjoying political autonomy, whose powers and competences are defined by the Constitution itself and – especially- by their respective statute of autonomy ("*estatuto de autonomía*"). However, the Constitution did not regulate in a precise and comprehensive manner the allocation of powers between the State and the regions, but rather established a general framework⁸¹. This situation produced a lot of constitutional litigation and a scenario of legal disputes about the "ownership" of specific competences (triggered either by the national government or by the regional bodies), quarrels that had to be adjudicated by the Constitutional Court. Therefore, a complete understanding of regional devolution in Spain requires careful consideration of the massive body of case-law produced by that Court since its inception in October, 1979⁸².

Contrary to what happens in other countries, Spanish regions are not classified or sorted formally into different "types" or categories ("regular" or "special" regions, for instance)⁸³. All regions are placed on an equal footing, even if they do not have all the same competences and even if two of them (the Basque Country and Navarra) do enjoy a particular system of financing⁸⁴. Therefore, the system is "asymmetric" from a *de facto* perspective, but not *de lege data*.

Spanish regions enjoy a considerable degree of constitutional autonomy, which means, *inter alia*, that the State parliament or government cannot curtail their powers or competences, and that regions may challenge in the Constitutional Court the national laws and regulations that would impinge on their powers. Regions enjoy full autonomy in the exercise of their powers, as they do not need the prior approval of State authorities in enacting parliamentary legislation or regional administrative regulations. If the State considers that a given piece of legislation falls outside the reach of regional powers, it may sue the Region in the Constitutional Court. Regions have full standard-setting autonomy, in the sense that they have full authority to establish

⁷⁹ This contribution describes in a concise manner the current system of regionalisation in Spain, underlying the most recent developments. It is based on a longer document, written in Summer 2013 in response to a comprehensive questionnaire. Therefore, it cannot be taken as a full and detailed description of that system.

⁸⁰ Since 2007, there has not been any increase or reduction in the total number of regions, and their territorial boundaries remain the same.

⁸¹ The 1978 Constitution did not even define the name or the number of regions to be established.

⁸² In this field, no relevant changes have taken place since the 2007 CDLR Report: the said constitutional provisions have not been amended. The Constitutional Court issued several important rulings in this field in this period, which have helped in further clarifying the degree of self-government enjoyed by the regions, such as the ruling on the Statute of Autonomy for Andalusia and the one dealing with the Statute of Autonomy for Catalonia (*see below*).

⁸³ The Constitution certainly provides for such differentiation at an early stage of regional devolution, but since the early nineties this differentiation has no longer *raison d'être*.

⁸⁴ The case of the Canary Islands region is also particular, in the domain of indirect taxation.

both legislative norms and administrative regulations, within the limits of the Constitution and their respective statutes of autonomy.

Regional rules are not subordinated to State rules, and the relations among the State's legal order and the regional legal orders are not based on the principle of "primacy" or "supremacy", but on that of "competence". What is more, State legislation does not prevail over regional legislation in all cases (see, art. 149.3 of the Spanish Constitution). This feature is particularly striking, considering that, in federal countries, it is common practice that domestic Public Law establishes the supremacy of federal law over state law. The principle of "pre-emption" of State law over regional law is not recognised either. These considerations provide a clear picture of the depth of regional legislative autonomy. On the other hand, critics of the current situation point out that it leads to a dispersed domestic legal system and that it even amounts to a "de facto" fragmentation of the national, internal market⁸⁵.

On the other hand, regions have a very large statutory and legislative autonomy which enables them to adopt specific rules on the internal organisation of the region. They have the power to set some taxes and they participate in the collection of national ones. They also have the power to determine public policies in an independent or autonomous way, without the interference or the approval of the State. However, several of those regional policies have to respect legislative provisions established in national legislation ("basic" or framework legislation, binding on the regions). On the other hand, regions play a significant part in determining national public policies, such as in the case of the public system of health, agriculture, environment, etc. Regions also have large in relation to the local authorities within their territory: they can legislate on the organisation and competences of local authorities, with due respect to the framework or "basic" State legislation on the subject (namely, Act 7/1985, of 2 April 1985, on local government); they may create specific forms of local authorities (usually at the supra-municipal level), they practise several mechanisms of supervision and control of their "own" local authorities, etc. Most "executive" competences regarding inter-administrative relations connected to local bodies belong to the regions, not to the State. In a nutshell, regions are the "natural" interlocutor for local bodies.

The most noticeable developments in regional devolution in the kingdom since the 2007 CLDR report concern the amendment of several Statutes of Autonomy ("Estatutos de autonomía"), which in general resulted in strengthening and deepening the autonomy and the powers of the concerned regions:

In Catalonia, the "organic act" 6/2006 of 19 July 2006 introduced a comprehensive reform of the pre-existing Statute of Autonomy. The resulting Statute was challenged in the Constitutional Court, which ruled that several of the new articles were unconstitutional (Ruling no. 31/2010, of 28 June 2010). This ruling produced a sort of political "storm" in the country and opened a political crisis which is far from closed (see below).

In Andalusia, the "organic act" 2/2007, of 19 March 2007 introduced a modest reform of the pre-existing Statute of Autonomy. The resulting Statute was also challenged in the Constitutional Court, which ruled that one article of the amended statute was unconstitutional (Ruling of the Constitutional Court no. 30/2011, of 16 March 2011).

Other laws amended several Statutes of Autonomy:

- Aragón: "organic act" 5/2007;
- Extremadura: "organic act" 1/2011;
- Illes Balears: "organic act" 1/2007;
- Castilla and León: "organic act" 14/2007.

Other regions (Madrid, Rioja, etc.) did not feel the need to amend their existing Statutes of Autonomy. Moreover, there were no clear popular demands for this.

The Spanish system cannot be described as a "closed process", since it provides for mechanisms allowing for further decentralisation transfers, if this is the political will of the major political parties. Nowadays, and with the exception of some nationalist and pro-independence regional parties, the overall assessment is that the process has achieved a reasonable result, and that the current challenges do not consist of more regional

⁸⁵ This view has been openly asserted by top politicians of the Popular Party, which is currently in power. In order to "redress" this situation, the Spanish Parliament, on a proposal of the central cabinet, recently enacted the *Unity of the Market Act* (Act 20/2013, of 13 December, 2013). Some regions have announced that they will challenge this statute in the Constitutional Court.

devolution, but rather to ensure the smooth functioning of this complex system, which certainly needs more inter-administrative cooperation and collaboration, not only between the State and the Regions, but among the Regions themselves. The Senate has not been reformed in order to be a real “chamber of the regions”, and other initiatives (such as the “conference of presidents” (the regional presidents plus the national Prime Minister) have not produced noticeable results in this domain. This is probably the most important “failure” of the Spanish system of regionalisation, together with regional financing and the growth –in certain regions - of demands for more autonomy, and even independence.

In the Basque country, the last regional elections (held in October 2012) showed a clear increase in the political power of the pro-independence party “Bildu”, although there is no “formal” coalition agreement with the winning party, the “Basque nationalist party”, whose visible head is the present regional president.

In Catalonia, after the last regional elections (held in November, 2012), a coalition was formed between “Convergència i Unió” (a “nationalist” party, traditionally not pro-independence) and “Esquerra Republicana” (Republican Left), which is openly pro-independence. Since 2012, the regional Parliament has approved a couple of political resolutions claiming for the recognition of the “right of self-determination” (*derecho a decidir*) for that region. A first Resolution was adopted in September 2012, before the regional elections⁸⁶. After these elections, the regional Parliament approved a second Resolution in Spring 2013⁸⁷, but this was appealed to the Constitutional Court by the central government, and the court granted an injunction, suspending the effects of the resolution⁸⁸.

However, the regional government went even further and, in December 2013 it officially called for a regional referendum on self-determination, with voters being given two interconnected (albeit confusing) questions, regarding the future independence of Catalonia. The referendum should take place on 9 November 2014. This decision by the regional government was not preceded by negotiations or political talks with the national government. What is more, in the present constitutional framework there is no room for such a “referendum” on self-determination⁸⁹, and the regional initiative has been formally rejected by the national Parliament (March 2014). However, the regional government insists that the referendum will go ahead. In a climate of mutual misunderstanding and lack of dialogue between the State and the regional government, the coming months will prove to be of essential importance to finding a workable solution to this open political conflict between State and Regional institutions.

Institutional and administrative organisation of the regions

Deliberative bodies and Executive bodies

No significant changes in this field can be detected since the 2007 CDLR Report: each region has a Parliament, whose composition and members can be largely regulated by the regions, within the limits of the regional autonomy statute⁹⁰. The electoral system is based on a direct mode of election. The electoral system is proportional, but the “D’hondt rule” applies. Therefore, big parties get an over-representation, while small parties are under-represented. As for the turnout at elections, it is uneven and, in most cases, lower than that of national elections⁹¹. As for the functioning of regional assemblies, there have been no significant changes in this field since 2007: regional assemblies replicate, to a large extent, the functioning of the National

⁸⁶ See: Resolution of the Catalan Parliament Nr. 742/IX, of 27 September, 2012.

⁸⁷ See. Resolution 5/X of 2013. This documents proclaims that Catalonia is a political and legal, sovereign subject.

⁸⁸ Apart from “formal” initiatives, it is notable that, since 2010, several “informal” *referenda* on “self-determination” have been held at local level in several Catalan municipalities. Although those “local referenda” do not meet the necessary formal legal requirements, and have been called with no legal basis, they are considered by some regional politicians as a clear indication of a popular proactive approach towards independence.

⁸⁹ The Spanish Constitution does not include any provision on the so-called “self-determination” of any region, and neither is the “right to decide” or the “right to secession” recognised (this is not common practice, even in federal or confederal countries). On the other hand, national electoral legislation does not allow for a referendum such as the one called by the regional Catalan government. Therefore, this political move is doomed to illegality.

⁹⁰ At present, there are initiatives in two regions (Madrid and Castilla-La Mancha) to significantly reduce the number of regional MPs.

⁹¹ National elections of 2008: 76,32%; 2011: 68,94%. Some figures for regional elections: Catalonia, 2010: 58,78%; Catalonia 2012: 67,76%; Galicia, 2012: 63,7%; Basque Country, 2012: 65,8%. Clarification: Regional elections are not called at the same time in Spain. Most regional elections are held at the same time, every four years (2007 and 2011). However, in a group of four regions, elections are called at different times: Catalonia (2010 and 2012), Basque Country (2012), Galicia (2012) and Andalusia. The turnout in the key referendum on the 2006 Statute of Catalonia was also impressively low, as less than 49% of the electorate voted in that regional referendum.

Parliament. They function as a standing body and in sessions; they keep close relations with the executive: control, lobbying, submission of oral and written questions; discussion of the regional political agenda, votes of confidence (unusual), etc.

With regard to executive bodies, there have been no significant changes in this field since 2007: the president of the regional government is elected by the assembly. Direct election by the people is not practiced in any region. Subsequently, the president of the regional government appoints the regional ministers (*consejeros*) without the formal approval of the Assembly. Therefore, the president of the regional executive is not a simple *primus inter pares*, but a real chief executive with powers of appointment and dismissal of the members of the regional government. He is the real political leader and the visible head of the Region, and the system is rather "presidentialist". As for the number of members of the executive or cabinet, in most regions there has been a move in recent years to reduce the number of cabinet members (amalgamation of departments), driven by the need to reduce public spending. Political responsibility of the regional executive (as a whole) lies with the regional parliament, which can table a non-confidence motion or "censure motion", which is quite rare in the Spanish political landscape, due to the electoral system and the overall electoral polarisation along two big national party (PSOE and PP). Some regions have also "regional" or even "nationalistic" parties (Catalonia, Basque Country and Galicia), which eventually may be in power as a sole ruler or in coalition with other parties.

Administrative organisation of the region

There have been no significant changes in this field since 2007: regions are autonomous to decide the organisation of their public administrations, something that is recognised both by the Constitution and by the respective Statute of Autonomy. There is no state intervention in the organisation of regional administrative structures, no "technical" supervision, although there is a duty to provide information in some fields such as the execution of the budget. There is complete freedom of choice with regard to the manner of implementing regional responsibilities.

Regions have wide powers in defining the status of the staff working for the region, within the framework of national legislation (the most important statute, the 2007 Civil Service Act, *Estatuto del empleo publico*, is considered a "basic" rule and therefore applicable to all public employees, regardless of what government they work for). All regions have approved laws and regulations that apply only to their public employees (recruitment procedures, structure of internal ranks and divisions, profile of positions, etc.). As a rule, however, regional civil services broadly replicate the national model. In the field of staff remuneration, the Regions also have wide powers in defining the remuneration of staff working for the region, within the framework of State legislation (Civil Service Act, 2007). Moreover, some salaries, known as "basic", are approved every year by the National Parliament in the annual State Budget Act and are applicable to all civil servants in the country. In actual fact, most regions offer higher salaries to their civil servants than those offered by the State. On the other hand, there is no organised system of mobility between national, regional and local public service.

Competences and powers

In the field of normative powers of regions, no significant changes have happened since 2007: these powers are recognised and guaranteed by the Constitution (arts. 148-149) and by their respective statutes of autonomy. The main criterion for the allocation of normative powers consists in identifying areas of responsibility ("materias"): some belong to the exclusive competence of the State (currency, the army, etc.) while others correspond exclusively (at least in theory) to the regions (industry, agriculture, tourism, etc.). However, in some areas there is a "functional" allocation of powers, by which the State may approve the "basic" or uniform legislation for the whole country (environment, public procurement, etc.), and the Regions may approve regional laws that "develop" or supplement the national statutes. In other areas, the normative powers of the State and of the Regions "de facto" coincide ("concurrent" powers). Therefore, the case-law of the Constitutional Court has been (and still is) instrumental in clarifying the precise allocation of normative powers between the State and the Regions, by adjudicating an endless number of inter-governmental quarrels.

Since 2007, there has been a reinforcement of regional legislative competences in many sectors (education, health, social welfare, economic development, environment, infrastructure/transport, legal system of local authorities), mainly due to three factors: (a) the completion of some decentralisation processes initiated

previously; (b) the amendment of some Statutes of autonomy in the period 2007-2011 (see point 1 above) which resulted in more powers devolved to the regions; and (c) specific transfers of State powers to selected regions, as a result of "ad hoc" political compromise (for instance, traffic supervision in Catalonia and Basque Country, whereas this power is enforced by a State agency in the rest of the kingdom).

With regard to the "administrative powers" allocated to the regions, there have been no significant changes since 2007: there are key sectors where the most important "executive" or "administrative" powers, competences and policies belong to the regions, and where the role of the State is more or less that of a coordinator. These sensitive areas include, inter alia, education, health, social welfare, economic development, environment, agriculture, infrastructures, transport and tourism. It is hard to provide a "percentage" or a figure, expressing the quantitative importance of regional administrative competences in the above key sectors. The rule is that, in all the above domains, the State acts purely as a legislator, establishing the framework or general laws and regulations on the matter. It can also implement some murky and controversial "coordination" powers, which are frequently questioned by some regions. Beyond this, Regions are competent to approve their own laws and regulations and to implement those laws and policies. Therefore, entire fields such as "education", "health" or "social welfare" are the exclusive responsibility of the regions, although in some fields (environmental protection, social services) there is a share between the regions and local authorities, to be decided by the former.

Financial autonomy

Since 2007, the constitutional provisions dealing with this matter (arts. 156-158 Spanish Constitution) remain unchanged. The key statute is still the "organic Act" no.8/1980, of 22 September ("LOFCA"), which has been amended several times. Although the model remains the same with regard to its structural pillars, it was altered in 2009, by virtue of Act no. 22/2009, of 18 December, which regulates the financing of regions belonging to the "regular" model ("regimen común"), with effect from 1 January 2009. In 2012, however, the new government in power (the "Rajoy cabinet") reopened the debate about amending the details of regional financing, with some results (see below). In this context, the Region of Catalonia has repeatedly requested to have its own specific system of financing, but this demand has not been accepted by the central government, and this is an additional source of tension between the State and that regional government. On the other hand, there have been changes related to the freedom in the allocation of spending, to the fight against the financial crisis and the public deficit. In any case, regions remain fully autonomous in deciding what they spend their resources on, for this is understood to be a core ingredient of the political autonomy they enjoy ("qualitative" spending decisions). On the other hand, in the period 2007-2010 the volume of regional spending grew steadily. The main reason for that increase was the devolution of new competences and public services to the regions. Expenditure on some of these services (especially "health" and "education") has a tendency to escalate over time.

Since 2011, however, noticeable changes have taken place in the context of the economic crisis and the fight against the public deficit. To that end, new norms for supervising regional expenditure have been introduced ("quantitative" spending decisions). These rules now require the regions to draft pluri-annual plans to control their structural deficits; to draft balanced budgets, to give priority to the payments of their debt and suppliers etc. (see below).

Under the new system of regional financing, in force since 2009, the regions' own financial resources are derived from four main sources: (a) own taxes; (b) "transferred taxes" (taxes that were previously state taxes and have been transferred to the Regions); (c) charges and fees and (d) loans and credits. On the other hand, the new system has set up different types of permanent funds, run and financed entirely by the State, whose aim is to achieve the financial sufficiency of the regions and relieve their fiscal imbalances. The different data and coefficients that define the participation of each region in those funds are updated regularly. These funds are: the Fund for the Guarantee of basic public services (Fondo de Garantía de Servicios Públicos Fundamentales) and the Fund for Global Sufficiency (Fondo de Suficiencia Global). These are mainly operating grants. There are other funds financed by the State, with the aim of achieving convergence in the financing of the regions and to promote a balanced regional economic development: the fund for regional convergence (Fondo de Convergencia Autonómica), the competitiveness fund (Fondo de Competitividad) and the cooperation fund (Fondo de Cooperación). These are mainly investment grants.

Apart from those permanent funds, the economic crisis prompted the central government to implement, since 2012, two programmes designed to relieve the cash-flow shortage of some Regions: (a) the "Fondo de

liquidez autonómico”; and (b) a special plan for the payment of suppliers (programa de pago a proveedores), aimed at paying the invoices of companies that had contracted with the region in the past (for the provision of goods and services) but had not received the agreed payment.

Another important development in the period 2007-2013 has been that of budget deficits, debt and borrowing of regions. As a general rule, regions may have recourse to the private sector, to ask for loans and credits from the banking system, and they may also issue bonds. The key legal provisions on this important aspect of regional finances have not changed since 2007: Art. 157 of the Constitution and the afore-mentioned “LOFCA” Act. In spite of existing rules on deficits and borrowing, a critical aspect of current regional finances consists of the burden of debt that they have accumulated⁹². In the period 2007-2012, regions increased their structural debt with private contractors and banks (both short and long-term loans), due to different reasons that cannot be detailed here.

As a result, the financial situation is unsatisfactory in many regions. Several of them have incurred huge deficits and some of them have had problems paying their suppliers. The State has rescued some of them through a bailout, by implementing special, supplementary funds (mentioned above), by guaranteeing regional bonds, etc. For their part, regional authorities have had to implement dramatic spending cuts in many governmental programs in sensitive areas (social welfare, education, health, etc.), which has triggered a lot of popular reaction.

In the framework of the current economic and financial crisis, the level of public debt (and that of the regions) has become a matter of national political concern. This stringent situation triggered the enactment of different rules, some inspired by a sense of urgency. For instance, a 2007 statute on Budgetary Stability introduced provisions to combat public deficit and impose budget discipline (Royal Legislative Decree 2/2007, of 28 December 2007). Later, Royal Decree-Law 8/2010, of 20 May 2010 established exceptional measures for the reduction of the public deficit. Furthermore, and in the wake of growing political concern about this state of affairs, the Constitution itself (art. 135) was amended in September 2011, to introduce further limitations on the public debt and to stabilise the public budgets, a provision that binds all governmental bodies, including regional authorities.

Since the general elections (November 2011) the new conservative central cabinet has tried to implement a new, more stringent budgetary policy, fuelled by the pressures from Brussels. New legal developments took place in 2012: The most important is the Organic Law on Budgetary Stability and Financial Sustainability (Ley de estabilidad presupuestaria y de sostenibilidad financiera), passed in April 2012. This statute has introduced a series of measures with the aim of strengthening the capacity of the several public administrations to control their own expenses.

Different measures have been put into practice, and new obligations are now imposed on the regions (especially those with higher levels of debt):

- Under the new art. 135 of the Constitution, all regions must endeavour to approve a balanced budget, with the smallest possible deficit;
- The payment of their debt must take preference in their spending decisions;
- Every three months, they must submit to the Ministry of Finance and Public Administration a comprehensive report about the state of implementation of their budget, to indicate whether there are any deviations from the approved budget, and whether they need to take preventive actions or receive “warnings” by the State;
- They must draw up a Financial and Economic Plan to redress any excessive debt (Plan económico-financiero de reducción de deuda) with concrete measures and a credible time scale;

⁹² Some data about regional deficit and debt: Volume of regional debt: 149,513 million € (2011 data). Percentage of consolidated public debt: 23,2%. Other relevant figures and data: (a) In 2010, Regional debt amounted to 18% of the total public debt (5% for local authorities and the rest - 77% - for the State). In 2011, State debt declined to 71,6%, local authorities increased to 5,2% and the regional debt was equivalent to 23,2%.

(b) In 2011, 89% of the regional debt corresponded to the regional executive, while 11% was the debt of regional public companies.

(c) The rate of regional public debt among the different regions is uneven. For example: - Castilla La Mancha: 9% (2007), 11,5% (2008), 15% (2009), 17,8% (2010); - Catalonia: 9,9% (2007), 11,8% (2008), 15,3% (2009), 20% (2010); - Cantabria: 3,4% (2007), 3,8% (2008), 5,2% (2009), 7,3% (2010);

(d) The circulating public debt (Bonds) has increased sharply in the period 2007-2010: 386,7% in the Basque Country, 229% in Murcia, 148,1% in La Rioja.

- They must submit an Annual Debt management plan (programa anual de endeudamiento);
- They must approve a Strategy on Budgetary Consolidation.

The Ministry of Finance has also tightened the margin for authorising regional debt operations (bonds).

Furthermore, in 2013, there were negotiations between the State and the Regions in the Council for Fiscal and Financial Policy (Consejo de Política Fiscal y Financiera). A majority (not unanimous) agreement was reached by the end of June 2013: in 2014, the Regions will endeavour to have a deficit of 1,3% of the GDP, and 1% in 2015.

Supervision and inter-administrative controls

As explained above, in Spain there is no formal "supervision" of regional legislation or regulations on the part of the State. When the national government believes that a regional Act or an administrative regulation falls into a domain for which the region has no competences, or if the said rule encroaches upon the State competences, the State may file an appeal in the Constitutional Court, which may eventually invalidate the regional rule for being unconstitutional (Acts of regional parliaments) and may declare that the discussed competence belongs to the State. While the case is pending, the Constitutional Court may declare the suspension of the legal force of the challenged legal rule, at the request of the State. The reverse does not apply, and the regions cannot ask the Court to suspend an Act of Parliament or an administrative regulation of the State, if a Region believes that the national rule encroaches upon regional competences. The weakest part of the system is the length and slowness of the constitutional proceedings. Some cases have taken up to ten years to be adjudicated by the Court, which is highly unsatisfactory and the cause of a lot of legal uncertainty, as well as political tension between the State and the regions.

As for Financial supervision, in the period 2007-2010, there were no substantial changes as compared to the situation described in the 2007 CDLR report. However, since 2011, State supervision over regional finances has been tightened, in order to reduce the public deficit. Different mechanisms have been introduced, which are implemented by the Ministry of Finance and Public Administration. These mechanisms have been described in section 2.3 above. An important role in the field of financial supervision is also played by the National Court of Auditors (Tribunal de Cuentas), to which all regions must submit their accounts and final liquidations of their budget. Moreover, each Region has its own regional court of auditors, which performs a specific supervision of the accounting and spending (lawfulness, regularity, etc.) of the whole regional public sector.

Finally, Art. 155 of the Constitution provides for the possibility of State powers to take over regional powers in exceptionally serious cases (whenever a Region takes decisions that seriously put in danger the general interest of the nation) but this provision has never been used.

Relations with other levels of government

Domestic issues

Since 2007, there have been no significant changes concerning the inter-governmental relations of regions with the State administration or the local government. In the field of participation of regions in national law-making, the most important interventions of regions in national law-making through institutional representation take place in the Upper Chamber of Parliament (the Senate), where a number of senators are appointed by the regional parliaments. After the last general elections, held in November 2011, there are 57 such senators (out of 266). The number of such senators differs according to the region's population: for instance, Andalusia appoints nine senators, while Navarra appoints just one. However, this regional influence on national law-making is considered as weak and almost irrelevant. The Spanish Senate is far from being a sort of German Bundesrat.

The Conference of Presidents (Conferencia de presidentes) remains the top political organ for cooperation between the State and the Regions. It is composed of the Prime Minister (presidente del Gobierno), the presidents of the seventeen regions, and the presidents of the two autonomous cities (Ceuta and Melilla). The creation of such a conference (which is not established in the constitution) has certainly been the most important achievement in the field of inter-governmental cooperation and negotiation at the very top level. This conference was established in October 2004 but, since that date, it has held only five sessions. For this

reason, this body is not considered to be a very successful initiative. Apart from that, there are also sectoral conferences (*Conferencias sectoriales*), composed of the relevant Minister of the State Administration and the respective ministers (*consejeros*) of the regions. There are sectoral conferences on health, agriculture, environment, etc.

Another important body for Regional participation in the area of financial relations with the State is the Council of Fiscal and Financial Policy (*Consejo de Política Fiscal y financiera*), which is technically one of the "sectoral conferences" mentioned above. It is composed of the Minister of Finance and Public Administration and the Regional ministers on finance. Many decisions are negotiated in this forum, which is of key political importance.

Relations with the EU

For many years, participation in EU matters has been a persistent demand of the Spanish regions. Several negotiations have taken place at different times; some solutions have been found and some mechanisms have been established, which for the most part satisfy both the State and the Regions (with the notable exception of Catalonia and the Basque Country).

Thus, regional participation in EU matters crystallises in different forms:

- a) formal participation: regions have an important weight in the Spanish delegation in the Committee of the Regions: out of 21 delegates, 17 represent the regions (one for each region) and four represent the local authorities; on the other hand, there are a couple of special advisors on regional matters in the structure of the Permanent Representation of Spain in the EU; moreover, it has been agreed that, when the Council deals with affairs that affect directly the competences or the interests of the regions (agriculture, fisheries), one regional representative shall be formally a part of the Spanish delegation in the council, with the right to take part in the discussions, to advise the central Minister, but with no voting rights. Finally, when Spain has to express a view in the Council on a matter affecting regional interests, it has been agreed that prior negotiations would take place in the competent "sectoral conference" (see *supra*), so that a common, negotiated position is reached. Furthermore, the bulk of the actual management of the EU regional policy (cohesion and structural funds) and the EU agricultural policy (payments to farmers) stays in the hands of the Regions, while the State behaves simply as a coordinator, negotiator or legislator.
- b) informal participation: the coordination of the "external" action of the regions within the EU has been the source of permanent political conflict. In the 1980s, all regions established separately an "office" in Brussels with the aim of promoting their own interests (lobbying, information-gathering, etc.). In recent years, some of these offices have been closed, while others (Catalonia, Basque country, Andalucía) remain open. The central cabinet seeks to "rationalise" this activity, but no full political agreement has been reached on the matter.

The Constitution, passed in 1978 (before the accession of Spain) did not foresee any powers for the central government to monitor the implementation of EU legislation by the regions. No political consensus has subsequently been achieved in defining those powers. Technically, there are no "specific" or "separate" State powers to monitor the implementation of EU legislation by the Regions. The State can only use the general mechanisms established in Constitutional law, which are rather rudimentary (basically, introducing appeals in the administrative courts when the regional activity is unlawful, promoting constitutional challenges, etc. (see above). However, an important change was introduced by a piece of national legislation passed in 2011, namely the Sustainable Economy Act (*Ley de economía sostenible*). This statute has established that, whenever Spain is condemned by the European Court of Justice for not implementing an EU rule (following an infringement procedure), if this sentence is due to the action or inactivity of a particular region, the State may recover from it the lump sum or the penalty imposed on Spain by the European court.

Overall assessment

These considerations allow us to reach the following conclusions:

- a) The Spanish Comunidades Autónomas are really “regional” institutions.
- b) After a process that has taken more than 30 years, regionalisation has been fully developed. During the first decade of regional devolution, a massive transfer of State resources, facilities, infrastructures and public employees took place in favour of the regions. Subsequently, the statutes of autonomy of the regions have been amended several times.
- c) The degree of regionalisation is very high. Spain is probably one of the most decentralised countries in Europe, to the point that some scholars describe the system as being “quasi” federal in nature (at least from the functional point of view). Today, regions are responsible for more public spending⁹³ and have many more public employees⁹⁴ than the national public administration. Therefore, Spanish regions do not just comply with the Council of Europe’s standards on regionalisation, but are already well beyond those standards.
- d) There have not been any significant changes in the legal status of Spanish Regions since 2007, although some modifications have taken place. In general, these have had the effect of deepening the decentralisation of the Kingdom: several Statutes of Autonomy have been amended in order to grant more powers to the Regions; the system of financing has been revised to grant more financial autonomy to the regions, etc. This process resulted in a reinforcement of the status and identity of the regions and an extension of their powers and competences. The general trend is clear and can be defined as a deepening of regionalisation.
- e) The process of regionalisation seems now finalised and, after more than 30 years, the constitutional system seems fully developed. At present, there are no prospects of further steps towards more regionalisation during the next few years, since the Popular Party (which has a large majority in the national parliament and is also in power in many of the regions) does not favour this movement. However, the regional model in Spain is still open to discussion and is the source of a constant political debate. While some regional parties are clearly advocating independence for Catalonia and the Basque Country, the main national party in the opposition (the Socialist party) has made (5 July 2013) a formal declaration that it is in favour to changing the model into an openly federal one. On the other hand, another minority, national party (Unión Progreso y Democracia, UPD) speaks of the need to “recentralise” the model. Therefore, the debates and controversies about regionalisation are unlikely to disappear from the political landscape, and appear rather to be a permanent feature.
- f) Important and burning questions remain open. The first, and probably most important concerns the situation in the Basque Country and in Catalonia, where there are clear claims for more autonomy, and even for a dramatic change in the model (in the case of Catalonia, there is a clear claim in favour of “self-determination” and even independence). The second issue relates to the effects of the economic crisis on the finances of the regions. On the one hand, the decline in regional revenues triggered by the crisis jeopardises their financial autonomy, and at the same time exacerbates the problem of the public (regional) debt. As the new Rajoy cabinet (in power since late 2011) tries to tame the public deficit, it remains to be seen what powers the State can legitimately use in this endeavour to control this deficit, and to what extent the mechanisms and initiatives put in practice to date might produce tensions with (or even contradict) regional self-government⁹⁵.

⁹³ Roughly 56% of the total public expenditures

⁹⁴ 56,5% of the total number of public employees in Spain (2012 data).

⁹⁵ For instance, in June 2013 the central government launched a plan to “rationalise” and reform Spanish public administration. The plan included some 200 measures, of which more than half were addressed as recommendations to the regions, that they should eliminate bodies and agencies that duplicate the work of national agencies

SWEDEN

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The intermediate level of government

Sweden has a two-tier system of local government, consisting of 290 municipalities (kommuner) and an intermediate level, currently consisting of 11 county councils (landsting) and 10 regions (regioner). The island of Gotland is both a municipality and a region. The main difference between regions and county councils is that regions have an overarching responsibility and more resources for economic development in their area. From 1997, county councils have gradually been transformed into regions. Both municipalities and county councils/regions are self-governing units of local government with separate tasks and there is no hierarchical relationship between them. County councils were established in 1862 for self-governing tasks that required a larger population base. Today, the main function for county councils and regions is the responsibility for health care. The smallest intermediate level authority has 126,000 and the largest 2.1 million inhabitants. The average size is 452,000 inhabitants (Lidström 2011a).

Comparative analyses suggest that Swedish local government generally has considerable resources and extensive although limited self-government (Sellers and Lidström 2008). Among second tier local authorities in 12 European countries, analysed by Heinelt & Bertrana (2012), the Swedish county councils and regions turn out to have the strongest fiscal and political-administrative capacities, in relation to both central government and the municipalities. However, in terms of supervision by central government, they have an average position. Clearly, the intermediate level in Sweden is much more restricted than more powerful regional authorities in the federations and the regionalized unitary states. This is nicely captured in Hooghe, Marks and Schakels (2010) comparative analyses of intermediate level governments in 42 countries. In their Regional Authority Index, which can vary from 0 to 32, the Swedish county councils and regions have a value of 10.0, which is roughly the same as the intermediate levels in Denmark and Norway. It is clearly lower than many other more regionalized unitary states, such as Italy (22.7), Spain (22.1) and France (16.0) and much lower than the federal states of Germany (29.3) and Belgium (28.1).

The main source of revenue of county councils and regions is a proportional income tax. The tax level is set by each council independently. Neither central government, nor any other local authorities have to be consulted. On average, the Swedes pay 31 per cent of their incomes in local government tax, of which about a third is the county council/regional tax. Measures of equalization even out the largest differences, but there is still a variation between 29 and 34 per cent. Most Swedes only pay income tax to local government and only the highest income earners pay an additional central government income tax. Another major source of local government revenue consists of general grants, provided by central government. These are mainly block grants, although there are an increasing number of special additional grants.

Local authorities have considerable autonomy but are also subject to central government regulation and control. Both tiers of local government have constitutional protection which includes the power to levy taxes. Some of the functions are mandatory, as they are formally carried out on behalf of central government. Many of these concern welfare services, which in the Swedish system of government is mainly a local government responsibility. At county council/regional level, these functions concern health care, care of the handicapped and public dental services. Indeed, in a European comparison, the county councils stand out as uniquely dominated by one function, as approximately 80 percent of their resources are spent on health care. Most other functions are optional, falling under a general competence, and include cultural institutions and limited regional development measures. Where there are regions, these have more extensive responsibility for the economic development of their area. Contrary to the second tier in Germany, Austria, Switzerland and Belgium, the county councils and regions in Sweden have no legislative powers. Neither is there any asymmetry in Sweden, with certain regions having special functions and more extensive powers, such as Åland in Finland and Scotland in Great Britain (Lidström 2011b).

The road to regional reform

Sweden is often characterized as a decentralized unitary state (Loughlin 2000; Ansell and Gingrich 2003), with a traditionally strong and unified central level of government and with significant municipalities, but with a weak and fragmented intermediate level. Apart from county councils and regions, there are also county government administrative boards that carry out central government functions and share the same territory

as the county councils and regions. Furthermore, there are regional branches of specialized central government agencies, although most of these have their own territorial divisions, with regions that generally are larger than the counties. Typically these divisions have been adjusted from time to time to fit the specific needs of the agency. Against this background it is not surprising that the Swedish intermediate level is referred to as "a regional mess" (Olsson and Åström 2004). There is a sharp contrast between this fragmented structure and the seeming rationality that characterizes both the municipal and central government levels.

The county division essentially originates from a revision of the Swedish constitution in 1634, when Sweden was a great power, and aimed at facilitating central control of the country's territory. However, gradually, and in particular from the 1970s, it became obvious that the existing division into counties was outdated. Functional areas of economic activity and increased citizen mobility made many of these borders obsolete. This is perhaps most obvious in the metropolitan areas, but patterns of economic and social activity have changed even in rural municipalities. Thus the need for reform of the county level has been apparent for many years, but has turned out to be difficult to achieve in practice.

A number of parliamentary committees have investigated the matter and suggested different types of reforms. From the 1990s, three models have dominated the debate. The first was a continuing strong role for central government through the county administrative boards. The second was to extend the functions of county councils into elected regional parliaments with extended responsibility for regional development. The third was to replace the directly elected county councils with indirectly elected units of inter-municipal cooperation (Johansson 1999). Each of the models has been tested in different parts of the country.

The county structure was regarded as being particularly problematic in two parts of the country: the greater Göteborg commuting area along the western coast crossed three counties and in Skåne, in southern Sweden, the region had been artificially divided into two counties – Malmöhus län and Kristianstads län respectively, after the region had been captured from Denmark in 1658. In both of these areas there were pressures not only from municipal and county council politicians to establish larger regions, but also from regional business interests. Regionalization was clearly driven by local and regional elites. Popular support for reforms was at best lukewarm (Nilsson 2007). Both different forms of institutionalized cooperation between municipalities and county councils, as well as directly elected councils were considered.

The process towards regionalisation was strongly boosted by the Swedish membership of the European Union in 1995. Already prior to Swedish entry, the counties had started to adjust to the reality of a European Union which put special emphasis on the role of the regional level. Once membership was a reality there was no longer any doubt among most politicians at all levels that Sweden needed a regional level with significant powers. If county councils previously in some quarters had been seen as an anomaly, they now had a role to play in a Europe of the Regions, as the only directly elected form of regional government in Sweden (Lidström 2010a).

Against this backdrop Parliament decided in 1996 and 1997 to accept the creation of two new regions on an experimental basis. The Skåne region, that was an amalgamation of Malmöhus and Kristianstads län, came into effect from January 1997. The Västra Götaland region was the result of the amalgamation of four West Swedish counties, and was established one year later. As a way of gaining legitimacy among the municipalities in the region as a whole, the municipalities in Västra Götaland were represented in its decision-making structure. In order to avoid a feeling that the regions would be mere extensions of their largest cities, moreover, the regional centres were located not in the main city but elsewhere. Hence, in Skåne, Kristianstad ended up as the regional capital instead of Malmö and Vänersborg was given this role in Västra Götaland instead of Göteborg.

However, regionalization was not only about amalgamations of county councils. In addition, regional development functions were transferred from the county administrative boards to units representing regional self-government. In addition to Skåne and Västra Götaland, two counties that were not affected by territorial change were also included in this experimental programme. In one of these, Kalmar county council, an indirectly elected model of regional governance was tested. A regional co-operation council, consisting of representatives of the municipalities and the county council was given responsibility for regional development matters. Hence, the experiments also promoted use of indirect elections as a solution to the question of how regional self-government could be strengthened and made legitimate.

The Committee on Public Sector Responsibilities

In parallel with the discussion about regionalization, the question of the future of the welfare system was on the agenda. Contemporary and expected challenges to this system, such as an ageing population, rural depopulation and increasing urbanization were regarded to require an extensive revision of the division of functions and tasks in the public sector (Lidström 2010b). In addition, the consequences of the Swedish membership of the European Union for the system of public administration needed to be investigated. The system generally needed to become more efficient, by allocating each function to the most appropriate level of government and by avoiding overlaps between levels.

In January 2003, the Social Democratic government appointed a parliamentary committee – the Committee on Public Sector Responsibilities – with the task of carrying out an extensive review of the division of functions between levels of government and of the structure of local and regional government. The committee consisted of representatives from all the political parties in Parliament. It was hoped that the suggestions from the committee would be acceptable for all the parties and if accepted would therefore stand a chance of being implemented and made permanent. The extensiveness of the task was unique. Never before in modern times had a single parliamentary committee been charged with the responsibility for making such a comprehensive review of the system of public administration in Sweden. It was emphasized that anything was possible and that, if necessary, there was even scope for radical reform.

The Committee presented a number of proposals that, if implemented, would reshape the Swedish system of public administration in several ways (Ansvarskommittén 2007). Perhaps the most important was the suggestion that the present county councils and regions should be replaced by six to nine regional authorities (regionkommuner) with directly elected councils. As a general rule, each region would have a population of between one and two million inhabitants, its own regional hospital and at least one university with significant research resources. Moreover borders should be drawn so that labour market areas are encompassed within regions. If possible, citizens should also feel that they belong to the new regions, although the question of identity had not been a particularly important criterion for the Committee. Instead, its major concern was to create a basis for efficient health and medical services and for regional development. These proposals were supported by all political parties and at a later consultation process, also by an overwhelming majority of the county councils and municipalities.

Contrary to previous amalgamation reforms, the Committee suggested that it should be left to local and regional stakeholders to agree on the territories of the new regions. Municipalities, county councils, central government actors at regional level, together with regional business interests and political parties should come together and try to find acceptable solutions. It was stipulated, however, that the final results of these negotiations would have to be approved by the Parliament.

The new regional authorities were to be in charge of health and medical services and for regional development. The latter includes both coordinating the work of other actors within the region and carrying out own developmental functions. Regional development tasks that were the responsibility of county administrative boards would be transferred to the regional authorities. The county administrative boards would also be amalgamated to correspond with the territories of the new regions. They would retain functions confined to controlling and overseeing local and regional implementation of national policies, but would be stripped of their development tasks. In addition, it was suggested that the regional branches of central government agencies should also be adjusted to the borders of the new regional authorities. If adopted this would mean that there would be only one territorial regional division in Sweden and this would be the same for both regional self-governments and the various regional branches of central government administration. If this reform was implemented, it was expected to greatly improve coordination of all actors at both local and regional levels.

In parallel with the investigations carried out by the Committee, regional co-operation councils were formally introduced from 2003, mainly in line with the model that already had been tested in the county of Kalmar. In each county, all municipalities and the county council had to join the council in order for it to be established. However, once in place, significant funding and the main coordinating responsibility for regional development would be transferred from the county administrative board. In addition, the county council moved its regional development and regional cultural functions to the council and the municipalities also contributed with resources. Hence, in these counties, the regional co-operative council became the main regional development actor.

A partial implementation and future prospects

As mentioned, the representatives of all political parties in the Committee on Public Sector Responsibilities were unanimously in favour of the regionalization reform. This included all parties in the non-socialist coalition government, in power 2006-2014. However, outside the committee, the Conservatives were reluctant to support the proposals. As this party was the dominant force in the government and effectively had a veto position, the plans for comprehensive reform were effectively stopped. Although the Conservatives agreed to regionalization in principle, they emphasized that any amalgamations would require the consent of the concerned local and regional interests, which already previously had been difficult to achieve. Hence, it became obvious that regionalization would be implemented in a more gradual and piecemeal way than proposed by the Committee.

In 2009, the government accepted that the experimental regions of Skåne and Västra Götaland be given permanent status as regions from 2011. In addition, surprisingly, the two smaller county councils of Gotland and Halland were also given such status, despite not meeting most of the criteria for new regions set by the Committee of Public Sector Responsibilities. Most of the remaining county councils and municipalities established regional co-operation councils. By 2011, 13 such councils had been set up. In the remaining four counties, overarching responsibility for regional development remained with the county administrative boards (Sveriges kommuner och landsting 2013). From 2015, six of the counties with regional co-operation councils received formal status as regions, which means that both the county councils and the cooperative councils will be abolished and their functions transferred to the new regions. An additional three county councils will be transformed from 2017, which means that from this year, the intermediate level in Sweden will consist of 13 regions and eight county councils. Hence, the general trend during recent decades is a transfer of regional development responsibility from central government agencies to elected regional governments. However, the aim of establishing fewer and larger regions through amalgamations has been less successful.

Nevertheless, with a Social Democratic-Environmental Party government, in power from 2014, amalgamations returned to the policy agenda. Two commissioners have been appointed with the task to suggest a new regional division, with "considerable fewer counties and county councils" (Government directive, 2015), which effectively means amalgamations of current county councils and regions into larger regional units. This process involves consultations with local and regional interests, but these would have an advisory rather than a veto role. Although the first regions may be in place in 2019, it should be expected that the process may take longer. Hence, for the time being, the "regional mess" remains.

Conclusions

In many ways, the regional reform carried out in Sweden during the last 20 years has followed very different paths in comparison with previous territorial reforms in this country. Two previous municipal amalgamation reforms, carried out between 1952 and 1974, were comprehensive, compulsory and centrally driven. The current regionalization reform, on the other hand, has been much more piecemeal, voluntary and dependent on initiatives from the local and county levels (Lidström 2010b). It is obvious that the attempts to carry out a comprehensive restructuring of the intermediate level have taken much longer than expected. Currently, this level is a mix of very different types of solutions: These include amalgamated and non-amalgamated, directly elected regions and county councils, where regional development functions have either been transferred to indirectly elected units or remain a central government responsibility at regional level. Indeed, the developments in Sweden have followed a very different path compared with those in neighbouring countries (Torfing, Lidström and Røiseland 2015).

Although all parties represented in the Committee of Public Sector Responsibilities were in favour of a comprehensive regional reform, so far, this has only been partly implemented, mainly due to the central position of the Conservatives in the previous government. There has been a gradual transfer of responsibility for regional development matters from central government agencies at regional level to elected regional governments, but there have not been any further amalgamations. The Conservatives have opposed any attempt to make large scale and comprehensive reforms, but have instead promoted a bottom-up driven process. Municipalities and county councils have found it difficult to agree on the borders of larger regions, with the result that such an option has not been possible to realize.

Whether the new government will be able to implement and safeguard a comprehensive regional amalgamation reform remains to be seen. The process is underway and although there is significant political support for such a reform, popular support for regionalization remains weak (Lidström 2012).

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SWITZERLAND

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General situation in terms of territorial organisation

Switzerland is a federal republic (called the Swiss Confederation) with a subnational state level consisting of 26 cantons and 2,294 municipalities. These are the cantons of Zurich, Bern, Lucerne, Uri, Schwyz, Obwalden and Nidwalden, Glarus, Zug, Fribourg, Solothurn, Basel Stadt and Basel Landschaft, Schaffhausen, Appenzell Ausserrhoden and Appenzell Innerrhoden, St. Gallen, Graubünden, Aargau, Thurgau, Ticino, Vaud, Valais, Neuchâtel, Geneva, and Jura. The cantons dispose of great autonomy, having wide-ranging competencies and rights of self-determination. The principle of sovereignty of the cantons is stated in the federal constitution, although only to the extent that it is limited by the latter. The centrepieces of the Swiss federal republic are the cantonal autonomy according to the federal constitution, the equal rights of the cantons, their participation in the decision-making of the Confederation and the cooperation between the cantons (Vatter 2006).

The federal structure of the Swiss state has led to some variety between the Swiss cantons (Vatter 2006). Not only do the cantons differ in their political-administrative organization, but also in their social and economic structure. Whereas the smallest canton, Appenzell Innerrhoden, counts only roughly 16,000 inhabitants, the largest canton, Zurich, has a population size of more than 1.4 million inhabitants. Geographical reasons, differences in the economic development and differences in the tax base have led to disparities between the cantons, which are intended to be reduced by the national fiscal equalization, i.e. resource equalization and cost compensation (FFA 2015a).

In the Swiss context, the 'national' level denotes the federal level, the 'regional' is understood as the cantonal level and the 'local' level as the municipal level (Mueller 2015). This article focuses on regionalisation mainly understood as the situation of the Swiss cantons, without neglecting their relationships with the national level and the municipalities. The cantons correspond to the NUTS regions at level 3. For the NUTS regions at level 2, Switzerland is divided into seven (large) regions (Grossregionen)⁹⁶. They are, however, predominantly used for statistical purposes and are, therefore, not the main topic of interest for this article. Neither do we focus on the understanding of the term region (Region) as it is, in some cantons, used for parts within the cantonal territory, for example, Bern and Graubünden (Mueller 2015).

The article is organised as follows: in section two, we look at the organisation of the cantons regarding their institutions. Section three focuses on the competences of the cantons, section four on their financial autonomy and section five on the controls. In section six, cooperation between the cantons is highlighted. Section seven discusses the relation of the cantons with other levels of government, followed by conclusions in section eight. In each section, we describe the basic principles and put an emphasis on the latest trends of the last ten years.

Institutional and Administrative Organisation

Against the background of federalism and subnational democracy, the institutional framework in the 26 cantons varies considerably. The cantons have their own constitution, which must not be contrary to the federal law, where the political institutions and their activities are defined (Art. 51 of the federal Constitution; Ladner 2011). The cantons have organisational autonomy, i.e. they organise themselves and are free to decide about their authorities (Koller 2013).

The cantonal executives usually consist of five to seven members. With some exceptions, being a councillor of a cantonal government is a full time employment. Other than at the national level, the executives at the cantonal level are directly elected by the people. They are predominantly elected by a majority vote. The only exception is the canton of Ticino, where proportional representation is applied (Ladner 2011). The cantonal government systems are a combination of collegial and departmental systems, meaning that as a rule, each member of the cantonal government directs a department and the government forms a collegial authority

⁹⁶ The seven NUTS (Nomenclature des Unités Territoriales Statistiques; according to Eurostat) regions at level 2 are CH01 Région lémanique, CH02 Espace Mittelland, CH03 Nordwestschweiz, CH04 Zürich, CH05 Ostschweiz, CH06 Zentralschweiz, CH07 Ticino (Eurostat 2014).

without significant prerogatives for annually changing district president (Regierungspräsident) except for chairing the government meetings (Vatter 2006).

The number of departments in the cantonal administration is, in most cantons, equal to the number of executive members. The administrative units of the cantonal administration are usually called offices (Ämter). The functioning and size of the administration varies between the large urban cantons and the small peripheral, often conservative cantons. While the cantonal administrations (including cantonal public agencies) of Geneva, Vaud and Zurich employ more than 25,000 members of staff, seven cantons have less than 2,000 employees (Koller 2013). With the New Public Management (NPM) wave in the 1990s and 2000s, a large number of cantonal administrations have undergone reforms.

Each canton has its own cantonal parliament that exercises legislative power and has a supervisory or control function, even though their significance differs between the cantons. The size of cantonal parliaments varies from 49 members in Appenzell Innerrhoden to 180 in Zurich. The members of these unicameral parliaments are democratically elected. Compared to national Parliament, the cantonal parliaments play a less dominant role. One reason is that the cantonal executives are, except for the Federal Council, directly elected by the people and are, thus, independent of the parliaments. Another reason is that the more far-reaching instruments of direct democracy at the cantonal level restrain the legislative power of the cantonal parliaments. The number, competences and importance of parliamentary committees varies between the cantons (Ladner 2011; Vatter 2006). In two Swiss cantons, Appenzell Innerrhoden and Glarus, the so-called Landsgemeinde still exists. The Landsgemeinde is a sovereign assembly of active citizens, which is held at least once a year. It is the highest cantonal legislative authority, where the government and high civil servants are elected and new laws are passed (Ladner 2011).

Direct democracy in the Swiss cantons is more developed than at the national level. A core difference is the more far-reaching possibilities of the referendum. Other than at the national level, where the referendum is a way to react against laws and changes in the constitution, it is, at the cantonal level, a means to react against individual acts and administrative decision taken by the parliament. With the obligatory or optional financial referendum, recurrent or large one-time investments are submitted to the voters for their approval. It is also possible to amend laws at the cantonal level by an initiative (Linder 1999; Ladner 2011).

In the Swiss federal structure, the cantonal courts constitute the judiciary at the cantonal level. They are elected by the cantonal government or by the cantonal parliament.

There have, in recent years, occasionally been political attempts or discussions about territorial reforms on the cantonal level, such as amalgamations. With these visionary ideas, proponents expect the elimination of the free rider problem that affects metropolitan areas, a stronger position in the international competition of regions, more efficient administration, shorter political decision making processes and the elimination of inter-cantonal negotiations, for example, for concordats. Territorial rescaling of cantonal boundaries is, however, at this stage, unlikely to be realised. This is not only due to high barriers in constitutional law (Kübler 2006), but is also beyond the realms of political reality, with the main focus at present being the strengthening of inter-cantonal cooperation. Attempts at merging cantons have clearly failed so far, as can be shown in the case of the failed amalgamation of the cantons of Geneva and Vaud, which was clearly rejected by the voters in 2002, or the vote on the initiation of a merger process in the cantons of Basel Stadt and Basel Landschaft in 2014, which was clearly rejected in the more rural canton of Basel Landschaft, making the approval of the more urban canton of Basel Stadt meaningless.

All Swiss cantons have implemented Public Management reforms, however, due to the federal system, the steering models and the concrete implementation of the single elements vary considerably between the cantons (Ogul et al. 2012). The main objective of these administrative reforms is a higher steering capacity and an effective, efficient and customer/citizen-oriented fulfilment of public tasks.

Competences

The cantons hold all powers that are not specifically delegated to the federation (Ladner 2011). The current task sharing between the Confederation and the cantons since 2008 is the result of a disentanglement of tasks, which became necessary because the task and competence sharing that had evolved over the years was not clearly arranged, inefficient and produced unintended incentives. The current task sharing is based on subsidiarity, fiscal equivalency and congruency. The principle of subsidiarity is a leading principle in the allocation and performance of state tasks (Art. 5a of the Federal Constitution), which states that tasks are to

be fulfilled by the lowest possible state level (Steiner/Kaiser 2013). "The Cantons decide on the duties that they must fulfil within the scope of their powers" (Art. 43 of the federal Constitution) (FFA 2015a).

The range of tasks of the cantons is wide. The total expenses of the cantons correspond to a share of more than 40 per cent of the total expenses in the entire state sector (FFA 2015a). In absolute terms, the total expenses of the Swiss cantons mount up to almost 82,000 million Swiss francs. Dividing the cantonal expenses by functions, the expenses for education account for the largest part with 27 per cent of the total cantonal expenses. The cantons bear the main responsibility for education, even though, depending on the educational level, the Confederation, the canton and the municipalities take over different responsibilities and cooperate closely (Koller 2013). A share of 20 per cent is spent for social security, 14 per cent for health issues, and 13 per cent each for economic affairs and the general public administration. For public order and security, a share of eight per cent is used. Leisure, culture, the church, environment protection, defence as well as housing and public facilities account for the remaining four per cent of the total expenses of the cantons (FFA 2015b).

In Switzerland, one can speak of a trend towards centralisation, with laws that provide guidelines at the federal level introducing minimal standards. An example is provided from the educational area: In 2006, the Swiss voters approved revised articles in the constitution with respect to education, aiming to harmonise the key parameters of the Swiss educational system, such as guidelines on school entry age and the duration and objectives of different levels of education. The cantons are, thus, obliged to fulfil this constitutional assignment. In the framework of the HarmoS-Konkordat, an inter-cantonal agreement on the harmonization of compulsory education, the Swiss Conference of Cantonal Ministers of Education (Schweizerische Konferenz der kantonalen Erziehungsdirektoren; EDK) has elaborated the concrete form of the key parameters. In 2015, the harmonisation of compulsory education is far advanced (EDK 2015). A further example for the trend towards more centralisation is high-end/high-tech medicine, where the cantons are required by the federal law on health insurance (Bundesgesetz über die Krankenversicherung; KVG) to commonly decide upon a countrywide planning.

Financial Autonomy

Financial autonomy is a core element of federalism. According to the federal Constitution (Art. 47, Abs. 1 and 2), the Confederation respects the autonomy of the cantons regarding their tasks, organisation and finances. Financial autonomy comprises the possibility to generate financial means, especially by levying fees. Besides this, financial autonomy also includes the expense side, thus creating an interface between tasks and organisational autonomy (Müller/Vogel 2013). In principle, the territorial units of the three state levels can, thus, fulfil their tasks autonomously and are also free to levy taxes and fees for financing these tasks. In combination with the elements of direct democracy, which allow the citizens to decide about many factual issues at the poll, this tends to lead to an economical handling and allocation of public resources. Because there is fiscal competition between the territorial entities of the same state level, taxes are less elevated than in other systems (FFA 2015).

The new financial equalisation came into effect in 2008 (together with the task sharing), aiming to reduce cantonal differences in the provision of public goods and in the tax charge as well as increasing the efficiency of public service provision. The old system, due to its historical origins, no longer fulfilled these requirements. The fiscal equalization of the Confederation is intended to reduce the disparities between the cantons, which occur due to geographical/topographical reasons, differences in economic development, and, thus, also differences in tax revenues. The equalisation of financial resources and burdens is a prerequisite to maintaining the federal structure of the Confederation and is rooted in the federal Constitution (Art. 135). In particular, it intends to:

- a) reduce the differences in financial capacity among the Cantons;
- b) guarantee the Cantons a minimum level of financial resources;
- c) compensate for excessive financial burdens on individual Cantons due to geo-topographical or socio-demographic factors;
- d) encourage inter-cantonal cooperation on burden equalisation;
- e) maintain the tax competitiveness of the Cantons by national and international comparison. (Art. 135, Abs. 2 of the federal Constitution).

The funds for equalisation are provided by the cantons with a higher level of resources and by the Confederation. Financial equalization is not uncontroversial, especially with regard to the level of contributions. In addition to fiscal equalization between the cantons, intra-cantonal fiscal equalization systems are established to reduce disparities between the municipalities (FFA 2015).

Controls

The Confederation has a superordinate legal – not, however, political – control concerning the cantons' and municipalities' compliance with constitutional principles and law. Due to the cantonal guarantee of existence, changes in the cantonal territory are subject to approval by the Confederation. The cantons can request assistance by the Confederation in case of conflict between the cantons or threats to their inner security and order. The political institutions of the cantons must fulfil some minimal standards of democracy: their constitutions must be based on participation by the people. According to the principle of separation of powers, they must be divided into executive, legislative and judiciary powers. Additionally, the cantons must guarantee their citizens the rights that they are entitled to by the federal constitution, such as basic rights. The cantons are obliged to respect and execute federal law. Where the legislation completely lies with the Confederation, it can execute a relatively strong legal control over the cantons and municipalities. Federal law thereby comes before cantonal law. Furthermore, the cantons are obliged to establish organisations and facilities, which are required to enforce federal law, such as prisons (Linder 1999).

Inter-cantonal cooperation and agreements

According to the federal constitution (Art. 48), the cantons can enter into agreement with each other (so-called concordats (Konkordate)) and they can establish organisations or institutions, mainly in order to jointly fulfil tasks of regional importance. They must not be contrary to the law or the interest of the Confederation and the Confederation may participate. In certain fields, the Confederation may declare inter-cantonal agreements as generally binding by a federal decree or require cantons to participate if this is requested by interested cantons (Art. 48a of the federal Constitution). This possibility exists in the following fields: the execution of criminal penalties and measures, school education in the particular, specified matters, cantonal institutions of higher education, cultural institutions of supra-regional importance, waste management, waste water treatment, urban transport, advanced medical science and specialist clinics as well as institutions for the rehabilitation and care of invalids. Inter-cantonal institutions, for example, a school of higher education, may be established to jointly fulfil tasks or in order for one canton to fulfil services for others.

Inter-cantonal cooperation is a form of horizontal federalism in Switzerland. Especially since the second half of the twentieth century, the cantons have started to coordinate elements and establish inter-cantonal organs with adequate competencies (Zehnder 2007). Inter-cantonal cooperation is multifunctional, flexible and responsive to local requirements. The forms of organizing cooperation between the cantons, either formal or informal, are manifold. There may be bilateral or multilateral agreements, joint task fulfilment, exchange of experience, standardisation or joint representation of interest vis-à-vis the Confederation. Inter-cantonal conferences are an important element of cooperative federalism, enabling an informal but direct vertical influence. The aim of these nationwide or regional conferences is to coordinate their activities and find a common position vis-à-vis the Confederation (Iff et al. 2009). In the conference of the cantonal governments (Konferenz der Kantonsregierungen, KdK), the government of the 26 cantons is intended to coordinate the interests of the cantons and jointly represent them vis-à-vis the Confederation. It is mainly concerned with renewing and developing federalism, task sharing between the Confederation and the cantons, decision-making in the Confederation, execution and implementation of federal tasks by the cantons as well as foreign and European policy (KdK 2015). The regional conferences (Regionalkonferenzen) cover forms of co-operation that need not be solved countrywide, but bilaterally or within a region. The sectoral directors' conferences (Direktorenkonferenzen) are unions of the directors of cantonal governmental departments, with the aim of informing and bundling opinions in the respective topic area. Conferences not only exist at the governmental, but also at the administrative level (Fachbeamtenkonferenzen).

These conferences have become increasingly important, due to the introduction of minimal standards and a somehow higher emphasis on using economies of scale (e.g. the police school in Hitzkirch trains students of eleven cantons) and comparable public services in the cantons. In some cases, the cantons have entered into agreements with each other in order to avoid regulation by the Confederation. An example is the so-called 'hooligan concordat' (Konkordat über Massnahmen gegen Gewalt anlässlich von Sportveranstaltungen) by the responsible conference of cantonal ministers (Konferenz der Kantonalen Justiz- und Polizeidirektorinnen

und -direktoren; KKJPD), where all 26 cantons have agreed to a number of measures, for example, the creation of a database HOOGAN, aiming to keep away known violent fans from areas surrounding stadiums (KKJPD 2015).

Relations with other levels of government

Swiss federalism has a strong cooperative character. This cooperative federalism is a kind of cooperation of the different state levels for fulfilling a political task (Linder 1999). There are a couple of reasons for this cooperative character in Swiss federalism: one is the factual connection of complex tasks, for example, in land use planning, which requires a vertical cooperation and coordination between the three state levels. Furthermore, there is a political incentive for financial interlocking in federal systems, because the central state tries to stimulate innovation in the cantons by transfer payments for specific purposes, whereas the cantons try to use the budget of the central state for their own purposes (Scharpf 1994). Compared to other federal systems, such as German federalism, federalism in Switzerland is characterised by a high autonomy of subnational state levels (Linder 1999).

Constitutional law defines the autonomy of the cantons and the municipalities. The cornerstones of cantonal autonomy are the guarantee of existence of the cantons, organisational autonomy, free elections of their authorities, freedom of political control by the Confederation, substantial own competences, own financial resources and participation as equal partners in the creation and expression of the national will (Aubert 1980; Linder 1999). The Swiss federalism is, thus, a symmetrical type of federalism, envisioning statehood of the Confederation and the cantons instead of a hierarchical subordination of the lower state levels. This is expressed by the fact that the cantons have their own constitutions and the cantons as well as the municipalities have fiscal sovereignty (Linder 1999).

Looking at cantonal-local relations it can be stated that the cantons in the French-speaking part of Switzerland are more centralised than the German-speaking cantons. The reasons for this are likely to be found in the different political cultures, policy preferences, and the closeness to France (Mueller 2015). A typology of cantonal decentralisation identifies five groups of cantons: first, decentralized and large cantons (Graubünden, Thurgau and Zurich), where the sovereignty of the municipalities is preserved. Second, decentralised and small cantons (Appenzell Innerrhoden, Appenzell Ausserrhoden, Glarus, Schwyz, Obwalden and Nidwalden) with a traditionally conservative political culture and a strong local autonomy. Third, balanced and large cantons (Bern, Lucerne, St. Gallen, Aargau, Uri, Solothurn and Valais) where a Germanic political culture predominates and centre-right and centre-left majorities alternate. Fourth, the balanced and small cantons (Basel Stadt, Jura, Schaffhausen and Basel Landschaft), and, fifth, the centralised cantons of Geneva, Neuchâtel, Fribourg, Vaud and Ticino, with an egalitarian political culture leading to more centralisation (Mueller 2015).

Conclusions

The Swiss cantons dispose of a strong autonomy with manifold competences. In an international perspective, Swiss federalism can be called a 'decentralized' federalism. This means that changes in the direction of centralization require justification, whereas in the 'unitary' federalism of Germany, it is decentralization and competition which need to be justified (Braun 2003).

However, during the last couple of decades, one could observe a certain tendency towards more coordination between the cantons and more centralization. The federal level plays a proactive role, which is backed by the citizens. This may be a consequence of enhanced competition between the European regions, economies of scale and scope which can be better used in a larger perimeter, and the expectations of citizens that cantons should provide a more comparable level of service provision. The small scale of the Swiss cantons is considered to be an obstacle. Amalgamations might appear to be a way of resolving these problems, but the Swiss cantons and the Confederation have chosen a more pragmatic way of coordination, in favour of keeping the responsiveness and proximity of the present small cantons towards their citizens and keeping the tax competition.

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UKRAINE

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Introduction

Post-soviet countries have witnessed many problems with their regionalization and decentralization processes. Waves of decentralization have alternated with the opposite tendency of recentralizing the system of governance and public administration. Ukraine illustrates these trends and at times is also the scene of clashes of diametrical tendencies, a decentralizing approach aimed at granting regions more power and resources, and the opposite trend of taking the state resources and competencies from the regions back into the central government and its departments.

Ukraine, according to its Constitution, is a unitary state, with the only exception being the Crimean autonomy status. The country has three layers of regional power organization:

- a) 27 Regions (24 oblast), Autonomous Republic of Crimea (now annexed by the Russian Federation after a dubious and illegal referendum, held on the peninsula on 17 March 2014), and two cities with special status – Kyiv and Sevastopol;
- b) 490 administrative raions (districts);
- c) 458 cities, 118 districts within cities, 886 settlements, and 28,540 villages⁹⁷. This composition of the county is mainly inherited from USSR times, with some changes which concern the status of Crimea, which was granted autonomy in February 1991⁹⁸, and some changes with administrative bodies such as raions, etc.

This chapter considers the main trends of Ukrainian regional policy with special attention to the system of governance and local self-government.

Shedding the Soviet heritage: the 'dead hand' grip

The key factor, which is still influential as far as the regional policy and self-government of Ukraine is concerned, remains the Soviet model of administrative-territorial arrangement of the country, and the related model of regional policy and politics, inherited from the past. While regional and local governance were legally the responsibility of the local Radas (Councils), they never exercised real power, being integrated into a system of governance organised according to so-called democratic centralism principles. Under the cover of ostensibly democratically elected bodies, that principle meant in practice the total centralization of state machinery and the hierarchical subordination of all public bodies to the highest party structures. The higher Rada body could make null and void any decision of a lower Rada, and all of them were totally dependent on the Political Bureau of the Communist Party of the Soviet Union. So regional authorities were integrated into a comprehensive centralist system of government, under a facade of Soviet self-government⁹⁹. It was not until Gorbachev's reforms, despite their profound contradictions and inconsistencies, that the dismantling of that kind of ineffective and resource-consuming system of power could begin.

Some of the foundations of the new Ukrainian regional policy and regional administration were laid down when Ukraine declared State Independence (24 August 1991). Right from the beginning, the new independent state faced many challenges and issues of an urgent nature. The regional policy of the new State had to protect the territorial integrity and unity of Ukraine, before it could turn its attention to the economic and social development of the country's territories. For instance, as early as 1992 the threat of separatism clouded the political horizons of Ukraine, mainly from Crimea, and partly from Transcarpathia. The Government of Ukraine had to react to those challenges, and it accepted as a key response a process of accelerating centralization, e.g. implementing the post of Presidents' representatives in all the regions and districts of the country.

⁹⁷ National Atlas of Ukraine [Electronic resource]. - <http://wdc.org.ua/atlas/en/1060000.html> [accessed at 12.02.2016]

⁹⁸ Tatarenko A. The Legal Status and Modern History of Crimean Autonomy [Electronic resource]. - <http://verfassungsblog.de/the-legal-status-and-modern-history-of-crimean-autonomy>

⁹⁹ Черкас О.Г. Становлення та розвиток взаємовідносин вищих і місцевих органів влад в Україні: радянський період, [в:] Теорія та практика державного управління, Зб. наук. праць, Харків, 2013. - Випуск 1 (40). - С. 430

Centralist by definition, this model of regional administration was consolidated with the adoption of the Constitution of Ukraine (28 June 1996). On the one hand, the Constitution declares a wide range of local self-government competences and separates the latter from the State government structure. The local self-government bodies were granted a certain administrative and financial autonomy. But this step forward is limited by the constitutional provision on so-called 'delegated competences', where regional and local Radas have to carry out some state functions, under the scrutiny of the President of Ukraine and the Cabinet of Ministers. The real power, however, was vested with the regional and district Heads of State Administration. They were to be appointed by the President, with the formal consent of the Prime-Minister, thereby ensuring that their loyalty would be first and foremost to the President's Administration.

As a further development of the Constitutional principles of a dual model of a regional distribution of power (a combination of a strong state administration and weak self-governing bodies), a new Law on local self-government was adopted in Ukraine (21 May 1997)¹⁰⁰. The Law outlined the main competences of all self-government bodies and implemented the new territorial structure. Local self-government of villages, settlements and cities received the status of basic level Councils, with a wide scope of competences. They are to represent legally the interests of the related local communities (in Ukrainian: territorialni hromady). Thus, they received the legal right to establish their own executive bodies and apparatus. Simultaneously, district and regional (oblast) Councils were defined by the new Law as representative institutes, to represent the total set of local communities on certain territories but not the individual communities themselves. The most important novelty with regard to the regional and sub-regional councils is the absence of their executive bodies. The role of the executive is carried out by the regional and district state administrations, with their expanded apparatus of bureaucrats (civil servants, whose employer is the President of Ukraine, not the local communities). So, these two levels of self-government have to delegate many of their functions to the state administrations. At the same time, they retain the right of controlling the delegated functions and competences and request regular reports on their performance. They cover issues of the budget, regional programs of short and long duration and some other issues¹⁰¹. From a legal perspective, these Regional and District Councils are entitled to supervise some of the activity of the State Administrations' Heads. They have to report to the Councils annually on their activity in the social and economic development of the territories that they are in charge of. Should the majority of regional and district' deputies vote against the Head of the related State Administration, the President has to examine this case and propose a solution. The President also has to dismiss any Head who has been the object of a vote of no confidence by at least 2/3 of the Council members¹⁰².

Still, the national practice demonstrates the limited effectiveness of this controlling mechanism as a tool for influencing the activity of local executives in Ukraine by means of representative bodies' control. Concluding this brief historic survey it is worth mentioning that the Ukrainian Parliament (Verkhovna Rada) ratified the European Charter of Local Self-Government on 15 July 1997¹⁰³. This has revealed the necessity of some further changes regarding the system of local self-government in the country, regional and sub-regional levels included.

Backwards and forwards: promises and failures of regionalization in Ukraine

A new window of opportunity for modernizing the regional policy and regional governance system opened after the Orange Revolution of 2004 – 2005. Inspired by the ideal of democratization and European integration of Ukraine, the majority of citizens and local communities expected profound changes in the country. The promises of radical betterment also related to local self-government and regional administration reform. As a second step came the Constitutional reform (8 December 2004), which provided for a considerable reduction of the President's powers in favour of the Parliament and the Cabinet of Ministers¹⁰⁴. The draft of the reform was discussed in the Parliament and approved by the Constitutional Court of Ukraine. But despite popular enthusiastic expectations, the reform was never enacted. The President, like his

¹⁰⁰ Про місцеве самоврядування в Україні: Закон України від 21 травня 1997 року № 280/97-ВР [Електронний ресурс]. – Режим доступу: <http://zakon3.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>

¹⁰¹ Руснак Б.А. Конституційно-правові засади та пріоритетні напрями розвитку місцевого самоврядування в Україні, Місцеве самоврядування в Україні: досвід, проблеми та перспективи розвитку. Матеріали міжрегіональної науково-практичної конференції, м. Чернівці, 15 грудня 2000 року. – Чернівці, 2000. - С. 26

¹⁰² Закон України "Про місцеві державні адміністрації", Офіційне видання, Київ 1999, 30 с.

¹⁰³ Європейська хартія місцевого самоврядування [Електронний ресурс]. – Режим доступу: [Zakon.rada.gov.ua/laws/show/994_036](http://zakon.rada.gov.ua/laws/show/994_036)

¹⁰⁴ Закон України "Про внесення змін до Конституції України" від 8 грудня 2004 року № 2222-IV, «Офіційний вісник України. Щотижневий збірник актів законодавства», 2004. - № 49. – С. 21 – 47

predecessors and successors, did not want to loosen his grip on power via the centralized bureaucratic apparatus. As a rule, when in office, all Ukrainian leaders prefer to postpone reforms to the day after their retirement.

As well as the reform of regional administration and self-government, President V. Yushchenko also attempted to launch an administrative-territorial reform. The rationale of the reform was grounded in the recognition fact that the territorial division of Ukraine, laid down in the 1930s, was outdated and did not correspond with the actual goals of the country's regional policy. The most striking fact of the inappropriateness of the composition of the regions and districts is their irrelevance, in terms of their territorial, financial and economic potential. This inadequate administrative division of territories requires urgent changes and equalization¹⁰⁵. Another objective for the reform of the regions and districts was to create self-governing bodies which would be able to exercise their functions with adequate material and fiscal resources¹⁰⁶. In spite of these noble aspirations, the reform, which was begun in 2006 did not meet understanding and support of society as a whole and finally failed in 2008. The main reason, apart from public fears and distrust of the aspirations of the reformers themselves, was the lack of the careful preparation required for the reform's success. The initiators did not propose any detailed justification of the necessity of the changes envisaged; they did not submit any table of the possible pros and cons of reform, and failed to outline the most attractive gains of the reformed system of local government to its supposed beneficiaries.

In accordance with the suggested reforms, the previous three level of regional governance would have to be retained. But the first and basic level of local self-government (communities) would have to undergo a process of amalgamation into larger and more sustainable units, comprising several villages and settlements, for instance. This idea seems to have been inspired by the Polish experience of administrative reform, as the most successful among post-communist countries¹⁰⁷. The chaotic character of the planned reform and the lack of positive financial arguments in favour of the proposed changes undermined the efforts of the reformers and finally resulted in the fiasco of this political campaign. For example, the general public and even many of the experts did not get any comprehensive information about the proposed taxation system change or the distribution of budgetary resources between the three levels of self-government (community-district-region). Last but not least, the strong opposition to the reform fuelled the idea of changing the administrative bodies of the regions themselves. This proved to be a very sensitive issue, striking at the heart of the regional identity of Ukrainian citizens.

The second time that the issue of regional reform was touched on was by the Government of Julia Tymoshenko. Her cabinet of ministers approved an expanded text of the concept of reforming local self-government (27 July 2009). This document correctly described some of the shortcomings of local self-government in Ukraine and contained proposals for eliminating them. The proposals focused on abolishing the district state administrations and reducing the functions of regional state administrations, limiting these to activities of monitoring and supervision. The proposals suggested that the latter would have to oversee the state budget implementation in a given region, as well as the implementation of laws, decrees of the President and resolutions of the Government etc. Local councils (of districts and regions) would get additional powers, including the right of establishing their own executive bodies. This would entail that the vast majority of public officials from regional state administrations would have to leave them and become local civil servants (with a dramatic change in their loyalty).

A novelty of these proposals was the recognition of the notion of public service as the criteria for the transfer of administrative functions. Consequently, the document proclaimed the reform of regional and local bodies, with the aim of providing at more accessible and better quality public services to local inhabitants (a kind of declaration that had not been seen in previous official discourse in Ukraine)¹⁰⁸. However, despite the sound

¹⁰⁵ Ткачук А, Ткачук Р., Ганущак Ю. З історії реформ адміністративно-територіального устрою України 1907 – 2009 роки. – Київ, 2009. - С. 81 – 90

¹⁰⁶ Адміністративно-територіальна реформа: завдання, шляхи реалізації і критерії ефективності: Матеріали "круглого столу" / За ред. Варналія З.С. - Київ, 2005. - 73 с.

¹⁰⁷ Kruglashov A. Central and Eastern Europe Regional Reforms: From Dismantling a Soviet Model to Europeanizing a National One [in:] Regional Dynamics in Central and Eastern Europe, Edited by Francesco Palermo and Sara Parolari, Laiden & Boston, 2013, p. 7 – 34.

¹⁰⁸ Дацшин М., Керецман В. Інституційне забезпечення регіональної політики та практика взаємодії органів влади в Україні. - Київ, 2007. - С. 52

ideas in this document, the real dysfunction of the regional administration and self-government remained untouched¹⁰⁹.

Thus, the ambitious plans and promises of V. Yushchenko and J. Tymoshenko of reforming the regional policy, governance and self-government in Ukraine resulted in total failure. The fiasco of the reformers, together with some other reasons paved the way for the election of V. Yanukovich as the new President of Ukraine. He initiated a policy which might be described as a set of counter-reforms with regard to the European course of Ukraine. He aspired to build up a system of power similar to the Russian and Belarusian models of power. This is why he began with the dubious (in the legal sense) return to the Constitution of 1996. In turn, this opened the way for the recentralization of Government in the President's office and enabled him to tighten his grip of power over regional and local authorities.

In order to outline the tendencies of regionalization in Ukraine, it is also necessary to examine the evolution of local election models. Since 2006, Ukraine has been experimenting with a system of political parties electing the deputies of regional and local councils. As the result of implementing a proportional system of election (with an exception made for the smallest local communities) the political parties of Ukraine monopolized the process of proposing candidates, the composition of electoral commissions and the composition of the regional and local councils. Moreover, in the composition of electoral commissions, priority is given to those political parties which are represented in Ukrainian Parliament. This gives more power to those parties with regard to electoral process in local and regional constituencies. This law therefore effectively limits the passive electoral rights of Ukrainian citizens. That means if the citizen of Ukraine is not a member of a political party or not recommended by a political party he or she would have difficulty being a candidate for a regional or local council. This legal provision could be criticized as anti-constitutional, by the nature of this discriminating provision. Later the Parliament made some concession to the claims of civil society and citizens in 2010, when they introduced a mixed system (proportional and majority system of voting), but in 2015, the law was revised once again. This time the party monopoly over the process of regional and local election was made even tighter. This met with considerable disappointment on the part of voters and a growing gap between elected local and regional councils and their respective communities, undermining the process of strengthening local democracy in Ukraine.

Under the government of V. Yanukovich, heads of regional and district state administrations have been regaining their former total control of the territories entrusted to them. While building up the so-called vertical of power, V. Yanukovich and his entourage have persistently tried to gain control of local councils with directly elected mayors. To this purpose, they have sought to exercise strict political control of those territories, where the Party of Regions never enjoyed mass support. As a result, mayors who did not demonstrate unquestioning servility were dismissed from their positions in around 40 Ukrainian cities and towns by means of manipulated city council votes of no confidence.

Officially, President Yanukovich and his Government came to power under a banner of reform in 2011-2012. Having in mind his projected image of a true reformer, he produced a lot of new documents and reports on a strategy of public administration, administrative reforms and so on¹¹⁰. He promised to reform not only the central government and its bodies, but also the administrative reform of Ukraine. However, he failed to realise many of his promises. As far as the regionalization process is concerned, his policy could hardly be valued as a successful and democratic one.

After the revolutionary change of power in Ukraine and the flight of V. Yanukovich, the whole situation with regard to regional policy, regionalization and local self-government gained a momentum in the public discourse. The new authorities, including the new President of Ukraine Petro Poroshenko, Prime-minister Arseniy Yatseniuk and the Speaker of Verkhovna Rada Volodymyr Groisman repeatedly state that the country should undertake a set of reforms, including reforms of public administration, regional governance and local self-government¹¹¹. Some juridical and political steps have been taken in order to fulfil these promises and

¹⁰⁹ Мамонова В. Державна регіональна політика: проблеми формування правової бази. [Електронний ресурс]. – Режим доступу: www.kbuvara.kharkov.ua/e-book/putp/2010-1/doc/2/03.pdf. - С. 66

¹¹⁰ Яримистий М. Напрямки реформування системи державного управління та державної служби, «Буковинський вісник державної служби та місцевого самоврядування», 2010. - № 1. - С. 7 – 9

¹¹¹ Про внутрішнє та зовнішнє становище в Україні в 2015 році: щорічне послання Президента України до Верховної Ради України [Електронний ресурс]. – Режим доступу: <http://www.president.gov.ua/news/shorichne-poslannya-prezidenta-ukrayini-doverhovnoyiradi-u-35412>

obligations of the new authorities¹¹². However, these attempts of changing the state policy and regional politics have met with a host of obstacles and difficulties. After the brutal violation by Russia of international law and the guarantees of Ukrainian sovereignty, with the direct annexation of Crimea and proxy war in Donbas, sponsored and orchestrated by the Kremlin, the Ukrainian State and society are faced with unprecedented challenges and threats. All of these, on the one hand, prompt the authorities to accelerate the pace of reform, but on the other hand, make the reform process more difficult and costly.

A key word at present for the reforms of regional governance is 'decentralization'. The very idea of decentralizing Ukrainian governance of territories is welcomed by society at large and there have been many public discussions on the issue¹¹³. It seems to be a golden middle path between the scenario of federalization for the country (which is not regarded as a good prospect for the state and the nation)¹¹⁴, and the previous highly centralized, bureaucratic and corrupt system of government. The concept of decentralization is gradually (maybe it would be more correct to say "slowly") being described in a government policy document¹¹⁵, the Draft Constitutional Amendments, initiated by President P. Poroshenko. Some laws are required to realize this course of decentralization but the list remains pretty modest¹¹⁶. The process of transforming the appeal of the decentralization reform into practice provokes a lot of concern and debate. For instance, the Draft Constitutional Amendments propose the position of Prefect in Ukrainian regions, with some controlling functions. They propose his right of veto on any decision taken by local and regional councils. This point of the draft, along with the proposal of the prefect being appointed by the President instantly raised some negative reactions from national politicians and experts. It might be added that this right of veto exceeds the current powers of the heads of regional state administrations. So, if the constitutional changes are to endow prefects with greater powers, can this best be described as decentralization or rather as a recentralization process?

Not so impressive but nevertheless noteworthy progress with the decentralization reform can be observed at the lowest level of self-government in the country. The local communities, primarily villages, settlements and small towns, are encouraged to merge into bigger and stronger communities. However, these united communities remain a small proportion of Ukrainian communities in general. The Government encourages the process of communities' amalgamation with some rewards from the State budget and other incentives¹¹⁷. Meanwhile the controversial issue of changing the administrative borders of regions and districts in Ukraine has not been resolved and seems to have been postponed to a later phase of the decentralization reform, if and when this occurs.

Conclusions

The Ukrainian authorities have officially declared the need to reform the system of regional governance and local self-government, in accordance with Council of Europe norms and the EU practice. Government policy papers and strategies now include a wealth of appropriate concepts, such as the principle of subsidiarity, decentralization policy and other relevant terms, taken from the normative language of the European institutions. In fact, Ukraine like many other post-soviet countries, finds itself in a vulnerable position with regard to its domestic politics, which could be characterized as swings between centralizing and decentralizing regional policies. Key legal issues of regional reforms are opened for sometimes endless discussion and are not adequately entrenched neither in the Ukrainian constitution, nor in a set of laws necessary for the success of any reform. For example, the European Charter of Local Self-Government

¹¹² Гройсман В. Процеси централізації та децентралізації в сучасному державному управлінні // Державне управління та місцеве самоврядування. – 2015. – вип. 2 (25). – С. 26 - 37

¹¹³ Тарасенко Т. Проблема децентралізації в реформуванні місцевого самоврядування в Україні // Державне управління та місцеве самоврядування. – 2014. – Вип. 2 (21). – С. 278 - 282

¹¹⁴ Литвин В. Децентралізація, федералізація, сепаратизм: парадокси політичного дискурсу / Володимир Литвин. // Голос України. – 2014. – 8 травня. – С. 4 – 5

¹¹⁵ Мішина Н.В. Сучасні процеси децентралізації виконавчої влади та реформування місцевого самоврядування в Україні // Наукові праці НУ ОЮА [Електронний ресурс]. – Режим доступу:

<http://dspace.onua.edu.ua/bitstream/handle/11300/2272/Mishyna.pdf?sequence=1>. - С. 229

¹¹⁶ Закон України «Про засади державної регіональної політики»: в редакції від 05.02.2015 № 156-VIII [Електронний ресурс]. Офіційний веб-портал Верховної Ради України – Режим доступу: <http://zakon3.rada.gov.ua/laws/show/156-19>; Закон України «Про засади внутрішньої і зовнішньої політики від»: в редакції від 01.07.2010 № 2411-VI [Електронний ресурс]. Офіційний веб-портал Верховної Ради України – Режим доступу: <http://zakon3.rada.gov.ua/laws/show/2411-17>

¹¹⁷ Лопушинський І.П., Оленковська Л.П. Реформування місцевого самоврядування як основа впровадження децентралізації цих моделей управління // Теорія та практика державного управління та місцевого самоврядування. – 2015. - № 1. [Електронний ресурс]. – Режим доступу: http://el-zbirn-du.at.ua/2015_1/17.pdf

provision concerning regional and district councils' executive bodies has not been realized since the Charter was ratified. No progress has been made on this point in the two years since the announced decentralization in February – March 2014.

The institutional aspects of the regional governance reform have still not been properly addressed. The allocation of powers between regional state administrations and councils, and between councils of different levels awaits further resolution. Most powers and functions remain under the authority of the regional and district state administrations. The regional councils' ability to manage them has not changed since 2007.

Regional and local councils encounter many financial difficulties. Despite some promising steps by the new government, the budgetary process in Ukraine remains centralized and characterised by 'special relations'. The chronic lack of transparency and a comprehensive set of modern rules leaves the door to corruption open. In addition, in recent years regional and local councils have been deeply affected by the oligarchic clans' competition for territory and resources. The model of local elections via political parties works more in favour of local business groups rather than the local communities.

One positive aspect of the changes taking place in Ukraine, with regard to the regionalization process, is the growth of the impact of civil society. There are new forms of interaction between regional and local institutions of power and NGOs and civil society activists. Local councils and state administrations are developing new platforms and practices to improve communication, such as consultative bodies, expert committees, public hearings, information requests, electronic petitions etc. The problem remains, however, of the lack of practical implementation of the instruments of dialogue, as they are prescribed by Ukrainian law. They require a lot of goodwill, energy and resources to be successfully implemented. Local and regional civil servants and municipal officers need to be well trained and motivated to use instrument of cooperation with civil society, while NGO representatives and citizens also need to be supported and educated. Both parts of the communication have many obstacles to overcome on the way to effective functioning of regional and local governance, which is far from functioning effectively or being properly established.

Regional and local institutions of the state administration and local self-government remain vulnerable to negative influences. They have to work in an unpredictable context and are not as effective or efficient as Ukrainian citizens want them to be. The central government hesitates to take a clear political line with regard to decentralization, reforms are lagging behind the promises, and centre – periphery relations require much adjustment and improvement. The whole system of governance is outdated and requires systematic reform and innovation.

In general, the fluctuations between centralization and decentralization in Ukrainian regional policy tend to incline towards the dominance of the centralist approach that is intrinsic to the country's political elite. Ukraine has still not completed the elaboration and implementation of a new model of regional policy, that corresponds to its European choice and the basic expectations of its society. This task needs to be undertaken as soon as possible.

UNITED KINGDOM

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The Unfinished Revolution: Devolution in the UK

The United Kingdom (UK) has for a long time operated as a multi-national, unitary state where power is centralised in a sovereign parliament at Westminster. Furthermore it is a country with no formal constitution which means that the capacity for central government to alter the 'rules of the game' in relation to local and regional government is unchecked: there are no constitutional impediments. However, the centralised nature of this state has come under increasing pressure over the last half century. Substantial changes are occurring across the UK, but unevenly. Since the election of a Labour government in 1997 there has been significant legislative change, especially with new legislative acts relating to the component nations of Scotland, Wales and Northern Ireland, while there have been piecemeal and contradictory changes within England. This has served to reinforce the asymmetrical and unbalanced nature of devolved governance in the UK.

The referendum on Scotland's future within the United Kingdom took place in September 2014. It resulted in a vote for Scotland to remain within the UK. However, as the campaign proceeded, all the major political parties campaigning for Scotland to remain within the United Kingdom committed themselves to further substantial powers for the Scottish parliament. Thus, the referendum process did not stabilise the 'status quo' but rather indicated that the existing governance arrangements of the UK will continue to be a point of political contention.

This paper examines the key developments that have been occurring across the UK within the recent period and assesses potential future trends.

Background

Historically, in England, its distinctive counties or shires have long been incorporated into the national state, unlike in Italy or Germany. Of the separate nations within the United Kingdom, Wales has been incorporated since 1536 with no separate legal system; Scotland was incorporated into the country by the Act of Union of 1707 but retained a distinctive legal identity, while Northern Ireland was incorporated in 1922 as part of the conclusion of the Irish war of independence, which partitioned the Irish state.

This unitary state with its four component national elements held firm for much of the 20th century but began to unravel from the late 1960s onwards, firstly with pressure from the civil rights movement in Northern Ireland and then later from awakening national movements in both Scotland and Wales, alongside pressures within England for its local authorities to have more freedom from central government financial and policy control. However, the movement towards decentralisation and devolution remained contradictory with significant elements of both the political Establishment and the wider electorate remaining doubtful of their value.¹¹⁸ The agreed consensus within the UK Parliament is that any constitutional changes have to be agreed by a referendum of the relevant electorate¹¹⁹. Thus the initial moves to devolution in Scotland and Wales proposed in 1973 by the Kilbrandon Commission achieved a narrow majority in a referendum in Scotland, although insufficient numbers of people voted to clear the necessary turnout threshold of 40%, while in Wales, the initial devolution proposal was resoundingly defeated by a majority of more than 4:1.

The partial introduction of metropolitan regional authorities in England in 1974, with responsibilities for transport and planning, was overturned by the Conservative government of Margaret Thatcher in the mid-1980s, when a number of them became the focus of opposition to the government's policies.

Moves to Devolution

The economic and social upheavals of the late 1970s and 1980s provoked a dramatic shift of opinion both within the political arena and amongst the electorates of particularly Scotland and Wales, who felt increasingly unrepresented and neglected by the Conservative Governments at Westminster. Pro-devolution

¹¹⁸ <http://hansard.millbanksystems.com/commons/1973/oct/31/royal-commission-on-the-constitution>

Particularly noteworthy here is the vocal criticism of Neil Kinnock, later to become leader of the Labour Party.

¹¹⁹ This was also the argument which the Labour Prime Minister Harold Wilson used to overcome divisions in his party and secure Britain's membership of the EEC in 1975.

opinion cemented its grip amongst most of the Scottish establishment heavily influenced by the activity of the Scottish Constitutional Convention of Scottish political parties, churches and other civic groups, which would pave the way towards eventual devolution. At the same time, scepticism towards devolution within Labour ranks steadily diminished. Thus, the election of a Labour government in May 1997 gave renewed momentum to the devolution project. During 1998 and 1999, the UK Parliament devolved certain powers and responsibilities to new elected bodies in Scotland, Wales and Northern Ireland - and also to the Greater London metropolitan area.

Scotland

The most significant change was in Scotland with a population of 5.1 million. On 11 September 1997, the Scottish devolution referendum was held. In a 60% turnout, almost three-quarters of the Scottish electorate supported the proposal for a devolved Scottish Parliament to be based in Edinburgh, with 63.5% agreeing that it should have limited tax-varying powers. An election was held on 6 May 1999, and on 1 July power was transferred from Westminster to the new Parliament.

The Scotland Act 1998¹²⁰ set out the functions and role of the Scottish Parliament and the limits of its legislative competence. For the purposes of parliamentary sovereignty, the Parliament of the United Kingdom at Westminster continued to constitute the supreme legislature of Scotland. However, under the terms of the Scotland Act, Westminster agreed to devolve some of its responsibilities over the domestic policy of Scotland to a new, directly-elected Scottish Parliament. Such matters are known as "devolved matters". These matters are all subjects which are not explicitly stated as reserved matters in Schedule 5 to the Scotland Act. All matters that are not specifically reserved are automatically devolved to the Scottish Parliament. These include agriculture, fisheries and forestry, economic development, education, environment, food standards, health, home affairs, Scots law – courts, police and fire services, local government, sport and the arts, transport, training, tourism, research and statistics and social work. The Scotland Act enabled the Scottish Parliament to pass primary legislation on these issues. A degree of domestic authority, and all foreign policy, would remain with the UK Parliament in Westminster.

Wales

The devolution referendum in Wales, held on the same day as that in Scotland, showed the extent of the turnaround in opinion. A 4:1 defeat less than two decades earlier, now turned into a narrow majority for a devolved National Assembly for Wales in Cardiff. As a smaller country with a population of 2.9 million and with a weaker nationalist movement, the Assembly did not have primary legislative or fiscal powers, as these powers were reserved by Westminster. The Assembly did have powers to pass secondary legislation in devolved areas. It took some years, and a supportive review by the Richard Commission, before the Government of Wales Act 2006¹²¹ was passed conferring on the Assembly legislative powers closer to those of the Scottish parliament. The Act reformed the assembly to a parliamentary-type structure, establishing the Welsh Government as an entity, separate from but accountable to the National Assembly, rather than as a committee of the Assembly as it had been previously. It enabled the Assembly to legislate within its devolved fields. Thus, the National Assembly gained the right to pass laws (known as Assembly Acts) in areas where those powers had been expressly conferred. These powers were outlined in the following twenty subjects of Schedule 7 to the Government of Wales Act 2006: Agriculture, Forestry, Animals, Plants and Rural Development; Ancient Monuments and Historic Buildings; Culture; Economic Development; Education and Training; Environment; Fire and Rescue Services and Fire Safety; Food; Health and Health Services; Highways and Transport; Housing; Local Government; National Assembly for Wales; Public Administration; Social Welfare; Sport and Recreation; Tourism; Town and Country Planning; Water and Flood Defence; Welsh Language.

If a policy area is not specified within one or more of the subjects listed, then the National Assembly cannot legislate in relation to it. These legislative powers mirror the executive responsibilities of the Welsh Ministers who, as members of the Welsh Government, are accountable to the National Assembly for their decisions and actions.

¹²⁰ <https://www.gov.uk/devolution-settlement-scotland>

¹²¹ <http://www.assemblywales.org/o6-o38.pdf>

Northern Ireland

The impetus to devolution for the 1.7 million inhabitants of Northern Ireland has been markedly different, bloodier and more complex compared with the rest of the United Kingdom. The 1998 Belfast or 'Good Friday' Agreement¹²² involving most of the parties within Northern Ireland, plus the governments of the UK and the Republic of Ireland sought a wide-ranging compromise to the conflict. It established two "mutually inter-dependent" institutions, the Northern Ireland Assembly and a North/South Ministerial Council with the Republic of Ireland. The Agreement aimed at bringing an end to Northern Ireland's violent 30-year Troubles. It was supported by 71.1% of voters in a referendum on 22 May 1998 and on the same day it was supported by 94.3% of voters in a referendum of voters in the Republic of Ireland.

The Assembly is a unicameral, democratically elected body currently comprising 108 members known as Members of the Legislative Assembly, or MLAs. Members are elected under the single transferable vote form of proportional representation. The Assembly selects most of its ministers using the principle of power-sharing to ensure that Northern Ireland's largest political communities, the unionist and nationalist communities both participate and have a stake in the Northern Ireland government. The Northern Ireland devolution settlement gave legislative control over certain matters (known as 'transferred matters') to the Assembly. In the main these were in the economic and social field. The issues on which the Northern Ireland Assembly has full legislative powers are health and social services; education; employment and skills; agriculture; social security; pensions and child support; housing; economic development; local government; environmental issues, including planning; transport; culture and sport; the Northern Ireland Civil Service; equal opportunities. While the political and electoral arrangements are different from those for Scotland and Wales, the range of topics devolved to the three bodies is broadly similar.

Its early years were difficult and the Assembly was suspended on several occasions, the longest suspension being from 14 October 2002 until 7 May 2007. When the Assembly was suspended, its powers reverted to the Northern Ireland Office. Following talks that resulted in the St Andrews Agreement being accepted in November 2006, an election to the Assembly was held on 7 March 2007 and full power was restored to the devolved institutions on 8 May 2007.

England

The public interest in devolution and popular identification with their local region is generally much weaker in England where regions had disappeared centuries earlier and where the cities rather than regions are a stronger cultural identifier e.g. Scousers, Tynesiders, Brummies, Mancunians, Cockneys, etc. Thus, the Labour Government proceeded more cautiously. The Regional Development Agencies Act 1998 established new bodies responsible for promoting economic development, innovation, business opportunities and large-scale regeneration programmes across England with significant budgets devolved from central government departments in Whitehall. Within the provisions of this Act, eight regional chambers, as indirectly elected regional bodies, were created. All eight regional chambers adopted the title "regional assembly" or "assembly" as part of their name, though this was not an official status in law. Their role was to channel regional opinions to the business-led Regional Development Agencies (RDAs) Their role later included scrutinising their RDA; integrating policy development and enhancing partnership working at the regional level across the social, economic and environmental policy agenda; as well as carrying out a wide range of advocacy and consultancy roles with UK government bodies and the European Union. Each acted as a Regional Planning Body with a duty to formulate a Regional Spatial Strategy including Regional Transport Strategy, replacing the planning function of county councils. However, their public profile was minimal.

The Labour Government's medium-term plan, to raise the profile of regional government and make it more democratic and clearly accountable, was to introduce, over time, directly elected assemblies. Accordingly, in an attempt to put these Assemblies on a firmer footing, in 2004 the government held a referendum for the establishment of a directly elected regional assembly in the North East of England, the region judged to be most receptive to the idea. However, its potential powers remained unclear and a powerful campaign arguing against the unnecessary introduction of a new layer of political bureaucracy ensured that the proposal was heavily defeated. The government was thus forced to drop all its plans for the introduction of elected regional assemblies in England.

¹²² http://education.niassembly.gov.uk/post_16/snapshots_of_devolution/gfa/after

London remained an exception. In 1985/86 the Conservative Government had abolished the Greater London Council, along with the upper tier of the local government in England's six other main metropolitan areas. In London most local government services remained in the hands of the now unitary borough councils, but it became increasingly clear that as the country's capital and pre-eminent city with a growing population and strong cultural identity it needed an overarching political structure if it was to fulfil its economic potential. It was widely seen that the abolition of the Greater London Council in 1985 had been an act of narrow political vengeance which damaged the city's economic prospects. During the 1990s Labour promised to restore a structure of London-wide sub-central government. Following a referendum on 7 May 1998 when 72% of London voters supported the re-establishment of a London Mayor and assembly the London Government Act 1999 was passed.¹²³ This established a Greater London Authority (GLA), comprising a Mayor and 25-member Assembly, both directly elected, and with largely strategic responsibilities. The GLA's main functions would be exercised through four boards, appointed by and responsible to the Mayor: Transport for London, the Metropolitan Police Authority, the London Fire and Emergency Planning Authority, and the London Development Agency. Meanwhile the 32 boroughs remained the primary unit of sub-national government responsible for everyday basic services such as education, housing, social services, local roads, libraries and museums, refuse collection and environmental health.

Thus, across Scotland, Wales and Northern Ireland the changes after 1997 endorsed by referendums represented a real sea-change within the governance structure of the United Kingdom. Directly elected assemblies acquired genuinely new powers, although with strict limits, in particular with regard to tax-raising and other financial powers. Within England there had been much more tentative moves towards devolved administration through the RDAs but with central government retaining complete control over finances. Only in London was a directly elected mayor and assembly created with direct political influence over transport, planning and economic development. Elsewhere, the momentum to create directly elected regional assemblies collapsed. Thus, in England, although an increasing amount of governance and public spending was taking place at regional level by a wide variety of non-elected bodies, there was no directly elected and democratically accountable regional government. Devolution could be said to have been left unfinished and the overall system increasingly lop-sided or asymmetric.

Changes since 2007

The Financial Context

As indicated, the devolutions to Scotland, Wales and Northern Ireland have been essentially about the devolution of functions, of giving the new governments and assemblies greater say over how they organise and prioritise their functional responsibilities. With the exception of Scotland's modest, and so far unused, tax-varying power, there has not been significant financial devolution, and Her Majesty's Treasury has retained its traditional tight control over macro-economic policy and public expenditure. It has maintained this through the Barnett formula, a mechanism used by the Treasury in the United Kingdom to adjust the amounts of public expenditure allocated to Northern Ireland, Scotland and Wales. In traditional UK style, the Barnett formula is merely a convention with no constitutional backing, which can be changed by the Treasury at will. Introduced in the late 1970s, the formula has been retained and the current government still declares its intention to continue to use it as the basis for funding the three devolved governments. The formula distributes expenditure to the constituent countries of the UK in proportion to their population. It applies only to expenditure on issues which the devolved administrations (as opposed to UK central government) are responsible for. Its principle is that any increase or reduction in expenditure in England will automatically lead to a proportionate increase or reduction in resources for the devolved governments in Wales, Scotland and Northern Ireland.

Financial autonomy has been one of the main areas where devolved administrations have been trying to chip away since 2007. Where the devolved institutions had an established democratic legitimacy the main line of travel has been in the direction of more power and autonomy with regard to competences, controls and money.

¹²³ <http://www.legislation.gov.uk/ukpga/1999/29/part//crossheading/the-authority>

Scotland

This has been most evident in Scotland. Gradually, the differences arising from devolved government and parliament have become more visible. While no use has been made of the limited tax-varying powers, nonetheless in areas of devolved responsibility significant differences now exist between Scotland and England. For example, in health, Scottish citizens of all ages have free eye tests and dental examinations; medical prescriptions are free; while Scottish students pay no tuition fees at Scottish universities. The trend towards increased competences and autonomy for the Scottish Parliament found expression in the deliberations of the Calman Commission, a review of the workings of devolution after ten years.¹²⁴ Following this report a political compromise was reached on an extension of powers to the Scottish Parliament and Executive expressed in the Scotland Act 2012.¹²⁵ The coalition government at Westminster claimed that it represented the biggest transfer of fiscal power to Scotland in more than 300 years. But the Scottish government believed the bill was a missed opportunity. The bill officially became law after receiving Royal Assent, but will only become operable in 2016.

The legislation gives Members of the Scottish Parliament (MSPs) the power to set income tax rates in Scotland with more autonomy than before. The Scottish Parliament will be able to set the rates of income tax lower or higher than the rates that apply in the rest of the UK. However, if they set a different rate it will apply to all the income tax rates – the basic rate, the higher rate and the additional rate will all go up or down by the same percentage, relative to the UK rate. The Scottish rate will apply from 6 April 2016 – that is from the 2016-17 tax year. The new act also gives new financial competences. As well as a new Scottish rate of income tax, there is the devolution of stamp duty land tax; the devolution of landfill tax; the power to create new taxes; and new borrowing powers for Scotland. The UK government said the new borrowing limits would be reviewed regularly and a consultation would be launched into the possibility of the Scottish government being able to issue its own bonds.

In February 2014 the UK Treasury announced that in future the Scottish government would be able to issue bonds, just as local government has traditionally been able to do. However, this unexpected announcement from HM Treasury did not provide additional funds to the Scottish Government. Rather it provides for another 'source' of borrowing but as the HM Treasury announcement carefully stated, it is a source of borrowing '...within the same limits..' meaning that Scotland's borrowing, despite this announcement, will still be capped at £2.2 billion until 2015/2016.¹²⁶ In addition, under this legislation Holyrood gained a number of other competences, namely legislative powers over air weapons in Scotland; responsibility for drink driving and speed limits on Scotland's roads; a role in appointments in broadcasting and the Crown Estate; and a new procedure for Scottish criminal cases that go to the UK Supreme Court.

The 2011 Scottish Parliament election resulted in a clear victory for the Scottish National Party (SNP) which won 69 of the 129 seats in the Parliament and was able to form a government on its own. The SNP had stated clearly its commitment to hold an independence referendum when it published its election manifesto and has proceeded to operate on this mandate. In January 2012, the UK Government offered to legislate to provide the Scottish Parliament with the specific powers to hold a referendum and following negotiations between the two governments an agreement was reached to hold a referendum on 18 September 2014.

On 26 November 2013, the Scottish Government published "Scotland's Future"¹²⁷ a 670-page White Paper laying out the case for independence and the means through which Scotland might become an independent country. Subsequently, both the Governor of the Bank of England and the UK Chancellor of the Exchequer questioned the currency and financial policy which the Scottish government has outlined, namely for an independent Scotland to keep the pound (£) and create a currency union with the Bank of England. At the same time the President of the European Commission stated that it would be 'extremely difficult' for an independent Scotland to join the European Union. These arguments highlight some of the key issues about independence and interdependence in the contemporary world; the degree to which nations have autonomy; and the extent to which new nations are genuinely able to control their own affairs.

¹²⁴ For full details of this report by Sir Kenneth Calman entitled *Serving Scotland Better: Scotland and the United Kingdom in the 21st Century* see <http://www.commissiononscottishdevolution.org.uk/>

¹²⁵ <http://www.legislation.gov.uk/ukpga/2012/11/contents/enacted>

¹²⁶ <http://opinion.publicfinance.co.uk/2014/02/scottish-bonds-what-are-they-worth/#sthash.XSU3lcYm.dpuf>

¹²⁷ <http://www.scotland.gov.uk/Publications/2013/11/9348/downloads>

As the contest became closer with clear signs of the independence movement achieving popular momentum and opinion polls showing those arguing for independence gaining ground, the main UK parties grew increasingly concerned. The former Prime Minister Gordon Brown, who retained significant credibility among traditional Labour supporters in Scotland, secured the support of the three main UK political leaders for a new political initiative on the eve of the poll. "The Vow" was a letter, written on mock medieval parchment, which appeared on the front page of the Daily Record, the country's main tabloid newspaper two days before the referendum. It saw the three main UK party leaders David Cameron, Nick Clegg and Ed Miliband promise Scotland extensive new powers within the UK. This was the 'devolution max' option that was not officially on the ballot paper. It helped sway a close contest, with 55.3% voting No to independence and 44.7% voting yes.

The following day, on 19 September 2014, the Smith Commission, chaired by Lord Smith of Kelvin, was established as a fully independent body to facilitate talks on the devolution of further powers to the Scottish Parliament with the remit to publish its Heads of Agreement by the end of November and the government agreeing to respond to set out draft legislative proposals accompanied by an explanatory text in January 2015. These were to form the basis of a Scotland Bill to be brought forward by the next UK Government in the Parliament following the May 2015 General Election.

This process is now underway in a political context profoundly altered by that election. That saw the Scottish National Party make unprecedented parliamentary gains winning 56 of the 59 parliamentary seats in Scotland and thereby immensely strengthening its political position. It may have lost the referendum but was undoubtedly winning the wider political battle. Labour was left floundering, utterly broken in its former electoral heartland and forced to choose yet another new leader. In September, former Prime Minister Gordon Brown expressed his frustration at the process of handing over more powers to Holyrood and said that the Scotland Bill was falling short of the recommendations made by the Smith Commission. With elections for a new Scottish Parliament due in May 2016, the new ascendancy of the SNP looks likely to be confirmed and the future constitutional status of Scotland within the United Kingdom remains as uncertain as ever. The referendum had certainly not settled the issue for a generation.

Wales

The pace of change has been slower in Wales but the broad direction towards additional powers is similar. Some of this has been incremental. Thus, while in principle the Assembly has no tax-varying powers, it can influence the rate of Council Tax set by local authorities, which are part-funded by a grant from the Welsh government. It also has some discretion over charges for government services. Notable examples where this discretion has been used to create significant differences from other areas in the UK include charges for National Health Service prescriptions in Wales, which have now been abolished; charges for university tuition which are different for Welsh resident students studying at Welsh Universities, compared with students from or studying elsewhere in the UK; and charging for residential care. In Wales there is a flat rate of contribution towards the cost of nursing care, roughly comparable to the highest level of English contribution for those who require residential care. This means in reality that there is a wider definition of "nursing care" than in England and therefore less dependence on means testing in Wales than in England. This means that more people are entitled to higher levels of state assistance. These variations in the levels of charges may be viewed as de facto tax varying powers.

However, the Assembly has also built on its legislative discretion and extended its competences. Following a 'yes' vote in a referendum in March 2011, the National Assembly for Wales is now able to pass laws on all subjects in the 20 devolved areas without first needing the agreement of the UK Parliament. The result of the referendum does not mean that the Assembly can make laws in more areas than before but rather that there will no longer be a need for negotiation between the governments of the UK and Wales over what law-making powers should or should not be devolved to the Assembly. The 'yes' vote also removes the involvement of Members of the House of Commons and House of Lords in scrutinising proposals to give the Assembly the power to make laws. Instead, the responsibility rests on the Welsh Government and the Members of the National Assembly alone to decide how to use the Assembly's law-making powers. Furthermore, Assembly laws will no longer be called Assembly Measures. Proposed laws will now be called Bills, and enacted laws will be called Acts. The Measures made since 2007 will continue to be called Assembly Measures and will continue to have the same legal effect. What will change is that it will not be possible to make any more Measures and new laws made by the Assembly will be called Acts. This represents a consolidation of the statutory and legislative position of the Welsh government and Assembly.

Moreover, the pressure to extend the powers of the Assembly further is persistent and strong. As in Scotland the momentum has been maintained through the mechanism of independent Commissions. The Commission on Devolution in Wales was launched by Welsh Secretary Cheryl Gillan on 11 October 2011. The Commission, chaired by Paul Silk, had eight unpaid members drawn from Welsh business, academia, the four main political parties and civic society. It was established to review the present financial and constitutional arrangements in Wales. The Commission published its first report which looked at fiscal powers on Monday 19 November 2012.¹²⁸

In November 2013 the UK government published full details of its response to the Silk Commission's recommendations on financial devolution. Thirty of the thirty one recommendations for the UK government, made by the Silk Commission, were accepted in full or in part. This will result in the devolution of many new financial powers as well as giving borrowing powers to the Welsh government. The new financial powers include: fully devolving non-domestic business rates raised in Wales, so that the Welsh government budget benefits more directly from growth in Wales; ability to create new taxes with the UK government's agreement; tools to manage these new tax powers; the creation of a cash reserve that the Welsh government can add to when revenues are high, and utilise when revenues are below forecast; and limited current borrowing powers if there is insufficient funding in the cash reserve to deal with revenue shortfalls.

This follows on from devolved financial powers including: borrowing powers for Welsh Ministers; a Landfill Tax and Stamp Duty Land Tax in Wales devolved to ensure the Welsh government has an independent funding stream to pay back the money it borrows; the right for the Assembly to hold a referendum so that the people of Wales can decide whether some of their income tax should be devolved; and prior to the tax raising powers coming on-stream, the Welsh Government to have early access to existing limited borrowing powers to use for motorway improvements.

The Commission published its report on Part II 'Empowerment & Responsibility: Legislative Powers to Strengthen Wales' in the spring of 2014 and recommended an increase in the Assembly's legal and policy-making powers. The report had 61 recommendations including the devolution of police, youth justice, energy projects up to 350 megawatts and water, as well as recommending an increase in the size of the Welsh Assembly. The report also called for the current conferred powers model to be replaced with a reserved powers model to bring Wales in line with both Scotland and Northern Ireland. The newly elected Conservative government announced its intention to present a new Wales Bill in the Queen's Speech in May 2015. This is currently subject to Parliamentary discussion and consultation with significant disagreements on the changes being proposed.

Northern Ireland

The situation in the Northern Ireland Assembly is more complex and less stable. However, it served out a full term between 2007 and 2011 and during this period important powers in relation to policing and justice were transferred to the Assembly on 12 April 2010. This was a topic of key political significance, especially to the nationalist communities and brought its responsibilities more into line with those of the other devolved bodies.

On the financial front, the main issue that has been raised is the desire to lower corporation taxes on firms within the North to the same level as exists in the Republic of Ireland. This call, which is also a feature of the SNP's independence programme, has been firmly resisted by the UK government.

England outside of London

As a kind of delayed response to the failure of its plans for directly elected English regional assemblies, the Labour Government in July 2007 published the Review of Sub-National Economic Development and Regeneration. The review brought forward the Government's plans to alter the structure of regional governance in England. The impact of the review was that the regional assemblies in their current form and function would not continue and that the regional development agencies (RDAs) were given executive responsibility for developing the single regional strategy. The regional chambers were abolished between 2008 and 2010 with their executive functions transferring to the RDAs. Local authorities were given an

¹²⁸ <http://commissionondevolutioninwales.independent.gov.uk/>

increased role in scrutiny at the regional level including scrutiny of regional spatial planning strategies and the RDAs through participation in new local authority leaders' boards which were established in each region. The two bodies were intended to produce jointly new single regional strategies, with Ministers exercising an oversight function.

Following the 2010 General Election, both parties in the new Coalition Government – the Conservatives and Liberal Democrats – were opposed to the regional institutions they inherited from Labour. In one of its first acts, therefore, the new Government in June 2010 announced plans to remove funding from the leaders' boards and to remove their statutory functions. RDAs were to be abolished, with their functions being taken over by smaller local enterprise partnerships (LEPs) which were not to be based on regional boundaries but rather be consortiums of local authority areas. There were two rationales behind this move. The first was an ideological opposition to 'regions.' The Conservatives saw these as a 'foreign' construct, a model taken from Europe with no roots within English experience. They were to be replaced by LEPs put together from the bottom up. No criteria were set for LEP partnerships to follow, so the consequence has been the creation of 39 separate groupings which do not necessarily relate to functional economic geography; travel to work areas; or economic logic. Furthermore, unlike the RDAs, the 39 LEPs have no budget allocations of their own and no staff to develop proposals. The second reason was financial. The economic development and innovation activities of the new LEPs were to be financed through a Regional Growth Fund. This Fund was less than one-third of the previous RDA budgets and all applications had to be made to central government, which would decide the projects to support. Whatever the democratic shortcomings of the RDAs, this move was widely seen as a decisive re-centralisation or re-nationalisation of power back to central government Departments in Whitehall.

However, the position of London was different. Two nationally known politicians, Ken Livingstone (2000-08, Labour/Independent) and Boris Johnson (2008-16, Conservative) were the first to be elected to the new post of Mayor of London, and helped to establish and latterly extend its political profile. The two-tier arrangement with the boroughs offered a balance between local and metropolitan interests, which was lightly modified by further changes in 2007 and 2011, marginally enhancing the roles of the mayor and the GLA. It quickly became a well-established pattern and there has been no call from any political party for the roles of Mayor and Assembly to be abolished. Democratic legitimacy and a strong cultural identity protected these new institutions.

In common with the rest of sub-national government in the UK, London has very limited fiscal and financial autonomy, especially when compared with other major cities such as New York, Berlin, Paris and Tokyo. Yet the pressure for change is evident here too. The report of Mayor Johnson's independent London Finance Commission in May 2013, 'Raising the Capital' proposed that all property taxes should be devolved to the London government.¹²⁹ It recommended that London government should be able to use these resources to make additional self-determined investments in its infrastructure. Relaxing restrictions on borrowing for capital investment while retaining prudential rules and simultaneously devolving the full suite of property tax revenue streams would give London government significantly greater resources to invest in the capital.

But the on-going governance changes in the rest of the UK have aroused growing concerns and unease at city and local government level. While the UK government has been having to cede influence and control to Scotland, Wales and Northern Ireland, the central government machinery, Whitehall departments and the Treasury have shown an unrelenting appetite to direct, control and inspect local government in England ever more closely or to remove functions and responsibilities from it, such as the oversight of education. This is beginning to prompt a reaction. The Core Cities group of the eight major English cities outside of London argue for additional powers to strengthen them and their associated city regions; and there is an underlying sense that London is emerging as a 21st century 'city state' which unbalances the entire economic, social and cultural fabric of the country in such a way that over time will have significant destabilizing consequences. While there is little evidence of any popular groundswell for a return of English regional bodies there is a growing sense that major parts of England outside of London are severely disadvantaged by the absence of any clear political voice able to speak on their behalf or to act in their interests.

This has provoked a concerted response of a new kind from the Conservative Chancellor of the Exchequer, George Osborne. He has recognised the growing emergence of metropolitan regions across the developed

¹²⁹ <http://www.london.gov.uk/priorities/business-economy/championing-london/london-finance-commission>

world¹³⁰ and saw a political opportunity to rebuild Conservative support in the North of England. Before the General Election he won agreement with the ten local authorities of Greater Manchester for a substantial devolution package, which he presented as an opportunity to develop a 'Northern powerhouse'. In his first post-election speech he offered new powers over housing, transport, planning and policing for English city regions provided they accepted the imposition of a Mayoral system. Greater Manchester should become a blueprint for other large cities, he said. The new government has introduced a Cities and Local Government Devolution Bill 2015–16 designed to introduce directly-elected mayors to combined local authorities in England and to devolve housing, transport, planning and policing powers to them. The main provisions of the bill are:

- To allow for the devolution of powers from the UK government to some of England's towns, cities and counties.
- To allow for the introduction of directly-elected mayors to combined authorities.
- To allow directly-elected mayors to replace Police and Crime Commissioners (PCCs) in these areas.
- To remove the current statutory limitation on the functions of these local authorities. (Previously they have been limited to economic development, regeneration, and transport.)
- To enable local authority governance to be streamlined as agreed by councils.

The provisions in the bill are generic and expected to apply primarily to England's largest city-regions. However, there could be instances where the devolution of powers could be agreed to "a single county" or other local government areas where a combined authority is not in place, provided all the councils in that area are in agreement

Concluding assessment

This review highlights the contradictory developments that have taken place across the UK over the past few decades. Where devolution has been approved by public vote, it has stuck; its momentum has grown; and its scope has been extended in response to popular demand. Where there was no agreed electoral legitimacy, as in the English regions, it has been rolled back.

The UK remains a strongly centralised state but in the areas where there are devolved powers, the trends are all going in the same direction. The Calman Commission, the Silk Commission and the London Finance Commission all call for additional financial powers and competences to the devolved authorities and the UK government has already agreed to many of these with respect to Scotland and Wales. Thus, there is now within the UK, asymmetrical devolution. This has no obvious logic but the rationale is clear: the relevant electorates have supported this in some parts of the UK but not in others.

The indications are that this bandwagon will continue to roll. The Scottish people's decision to remain within the UK was based on the vow from the main UK parties for substantial additional powers to be given to the Scottish Parliament. Wales's "devolution journey" is still not over, while the Northern Irish too are mulling over greater devolution.

These changes are beginning to cause constitutional concerns across the political spectrum in England too. The new moves to devolved government in city regions are one aspect of this. Another is the move for English Votes for English Laws, a frequently voiced demand from the Conservative Right, which Prime Minister Cameron gave voice to on the morning after the Scottish referendum result. When Scotland voted to remain part of the UK, David Cameron promised significantly increased powers for the Scottish Parliament, including the ability to set some tax and benefit levels. At the same time, he promised English MPs they would get more power too, that they would be able to legislate in areas such as health and education without any input from MPs representing Scottish seats. It was designed to address an issue that has dogged Westminster for decades - why should Scottish (and sometimes Welsh and Northern Irish MPs) get a say over laws that only affect England when English MPs no longer have a say over an increasing tranche of areas - like schools, that are the responsibility of the devolved administrations? He called it "English Votes for English Laws", which got shortened to EVEL.

¹³⁰ For more on this see the report item for the Council's Governance Committee CG/GOV/2015(28)5 28 May 2015 entitled Good Governance in Metropolitan Areas.

This commitment was placed in the 2015 Conservative election manifesto and has been quickly implemented. Under the new rules, all laws passed at Westminster will, in theory, continue to have the backing of the majority of MPs, just as they do now. However, where parts of a bill are deemed to only affect England, or England and Wales, a new stage is added to the usual law-making process at which only MPs for English - or English and Welsh - constituencies can vote. The introduction of an extra stage in the middle of the law-making process was agreed by the House of Commons on 22 October 2015. Its Standing Orders now allow members from England or England and Wales to give their consent to legislation that affects only England, or England and Wales and that is within devolved legislative competence.¹³¹ MPs representing Scottish constituencies are entitled to speak but not to vote on these topics.

This has divided political parties partly because according to the independent House of Commons Library research, it is "not a simple matter" to count England-only bills and that "whatever method is used, there are relatively few bills that unambiguously affect England only". More generally, the issue serves to highlight the fragile and awkward nature of the UK's constitutional arrangements.

This all indicates that there is no stable, democratic settlement within the UK. Even though the referendum outcome was for Scotland to remain within the UK, it is clear that the existing governance arrangements will radically alter. As Labour Secretary of State Ron Davies presciently stated when piloting the first devolution proposals through the House of Commons, "Devolution is a process not an event."¹³² The only certainty is that this process will continue to unfold and that by the end of this decade there will have been further significant changes in the UK's governance arrangements.

¹³¹ <http://www.parliament.uk/business/news/2015/october/english-votes-for-english-laws-motion-to-approve-standing-orders/>

¹³² <http://www.iwa.org.uk/en/publications/view/209>

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