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Regionalisation and its effects on local self-government

Local and regional authorities in Europe, No. 64

REGIONALISATION AND ITS EFFECTS ON LOCAL SELF-GOVERNMENT

Report by the Steering Committee on Local and Regional Authorities (CDLR)
prepared with the collaboration of Professor Gérard Marcou

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INTRODUCTION

This report deals with the importance of regionalisation in the political and administrative organisation of European states, particularly from the angle of its relations with local self-government.

The popularity of the theme of regionalisation and the concept of the region contrasts with the elusiveness of a satisfactory definition of regionalisation and the region. The traditional concept of the region originates in human geography: it refers to an area defined by a number of physical, climatic and human features showing some degree of temporal stability. As a political or administrative unit, on the other hand, it is a relatively recent concept, if one considers that the 19th century regionalist movements were backward-looking and had no immediate successors.

Italy was long the only country whose constitution provided for the institution of regions (although the "ordinary-status" regions were only introduced in 1970), while in France the region was merely a geographical area delimited for the purposes of implementing the government's regional development policy. Most European states were unitary, with local authorities which had some degree of autonomy within the limits established by law. The few federal states (Germany, Austria and Switzerland) were exceptions[1].

Nowadays, the regionalisation theme has become so familiar that sometimes the peculiarity and ambiguity of the regional institution are overlooked. It is completely absent from the legal systems and institutions of many countries, and other states implement such widely diverging conceptions that it would seem virtually impossible to squeeze them all into one category. Lastly, there is the question of the relationship between regions and federalism: can federate states be equated with regions?

It was apparently the reforms attempted or implemented in the 1970s which shifted regionalisation to the centre of political debate[2] by casting it as a manifestation of the "crisis" in the nation-state inherited from the 19th century, of which France was the archetype. This decade saw the implementation of regionalisation in Italy (1970), the emergence in the United Kingdom of the plan for devolved regional assemblies in Scotland and Wales, which was finally rejected in the 1979 referendum, the beginning of Belgian regionalisation with the constitutional reforms of 1970 and 1980, which introduced the language communities and two regions, the French regionalisation process of 1972, which had supplanted a more ambitious project rejected in the April 1969 referendum, and the establishment of the Autonomous Communities in Spain under the 1978 Constitution.

The accumulation of these reforms, against very different political and institutional backgrounds, alerted the public more to the apparent massive spread of the regional phenomenon than to the differences among the reforms. As a result of this development and in view of the already existing federal states, the traditional unitary state seemed henceforth to be the exception, and progress in European construction seemed to confirm their obsolescence.

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1 The eastern European federal states (USSR, Yugoslavia, and Czechoslovakia from 1969 onwards) are deliberately left aside, as they no longer exist and should be discussed in a different context.

2 See the introduction by Yves Meny (pp. 5-21) to: Meny, Y. (ed.) (1982) *Dix ans de régionalisation en Europe. Bilan et perspectives 1970-1980*, Cujas, Paris.

Yet none of these reforms could be seen as part of the process of European construction. In addition to the fact that the European treaties disregarded sub-national entities, whatever their legal status, all the attempts at "regionalisation" were responses to problems and situations peculiar to each of the countries in question[1]: the language problem in Belgium, the response to the electoral successes of the Scottish and Welsh nationalist parties in the United Kingdom, the attempt to break the deadlock in the Italian political system at cental level as an indirect consequence of the crisis in the late 1960s, and the response to the need for decentralisation in France.

However, the process of European integration soon began to play a major role in revitalising the region concept. With the introduction of the European regional policy in 1975, Community construction could be directly implemented at the local and regional levels, and the rapid growth of structural funds stimulated local and regional authority interest in Europe. The Commission divided up the territory into statistical areas in order to assess regional economic situations (the NUTS I, II and III nomenclatures).

Since Community policy in this area was aimed at remedying or preventing regional imbalance and therefore helping economically handicapped regions, it allowed the regions (and in fact any authority capable of representing the areas in question) to promote regional interests. Community regional policy triggered the setting up of all the current associations of regions, aimed at lobbying the Brussels Commission.

From 1980 onwards the Community's budgetary crisis led to a decrease in the relative size of the Common Agricultural Policy within the EEC budget, while the accession of Spain, Portugal and Greece caused an increase in the overall budget earmarked for regional policy, and eventually led to its confirmation in the Treaty on the occasion of the 1987 Single European Act.

However, the successive reforms of regional policy and the structural funds in 1979, 1985 and 1988 not only resulted in an increase in their budgets[2], but they also considerably increased the Commission's assessing and decision-making powers as compared with the national governments[3]. This development stimulated competition not only between states but also between regions or groups of regions for the apportionment of regional policy resources.

The regions, or the authorities in charge of regional interests, established offices in Brussels; increasing numbers of associations of regions were set up (peripheral maritime regions, traditional industrial regions, central Alpine regions, western Alps regions, wine-growing regions, national capital regions, etc.); this culminated in a demand for participation in the institutions, to which the Maastricht Treaty responded by setting up the Committee of the Regions.

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1 See Portelli, H. (1993) "Aux origines de la décentralisation dans les Etats européens: l'absence de prospective européenne" (The origins of decentralisation in European states: the lack of a forward-looking European approach), pp. 17-19, in Portelli, H. (ed.), "La décentralisation française et l'Europe", Ed. Pouvoirs Locaux, Boulogne-Billancourt.

2 When it was introduced in 1975 regional policy accounted for 1.2% of the Community budget; it stood at 7.8% in 1980. However, in 1986 all the structural funds accounted for 17.6% of the Community budget, rising to 27.6% in 1992; the estimate for 1999 is 36%.

3 Smith, A (1996), *L'Europe au miroir local. Les fonds structurels et les zones rurales en France, en Espagne et au Royaume-Uni*, L'Harmattan, Paris, pp. 54-57.

The Assembly of European Regions was founded in 1995 by amalgamating these interregional organisations with the regions which were members within the meaning of its statutes; its aim is to "reinforce the representation of the regions with the European Institutions and facilitate their participation in the construction of Europe and Community life in all fields relevant to them" (Article 2 para. 2) and to step up interregional co-operation[1]; in 1994 it had 250 members, only two thirds of which were from European Community member states[2].

Above and beyond its socio-economic objectives, therefore, Community regional policy has had a major impact on the institutions. Firstly, it has promoted the setting up of new networks of operators who are to some extent independent from the prevailing inter-governmental rationale. Secondly, it has legitimised the Community institutions within the local and regional authorities and facilitated recognition of the regional dimension in the national institutions, thus making the region a kind of common institutional reference point, despite the fact that there is no European conception of the "region".

This development highlights a common overall trend in the regionalisation process, though this trend covers such a wide variety of institutional forms that it is still impossible to identify a "region" concept shared by all European countries, or even all European Union member states[3]. The only possible definition is so general in nature as to completely obscure the region's specific institutional status.

This applies to the definition given in the statutes of the Assembly of European Regions, which refers to the criteria adopted by the European Community and the Council of Europe: "local authorities immediately below the level of central government, with a political power of representation as embodied by an elected regional Assembly; failing this, it may be substituted by a group constituted at regional level or a body of the local authorities".

This definition is purely descriptive and has the disadvantage of grouping under the same heading such different entities as the German *Länder*, the Dutch provinces, the French regions, the Swedish counties and even the new "unitary councils" set up as a result of the latest territorial reform which is currently being implemented in the United Kingdom.

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1 In fact the Assembly of European Regions was the successor of the Council of European Regions, after the latter's statutes were amended in 1987. It is an association established under Alsatian law and based in Strasbourg. Its statutes are published, together with those of various other organisations, in: Luchaire, Y./Dolez, B./ Vantroys, A. (1992), *Les relations extérieures des régions françaises*, Ministry of the Interior, *La Documentation Française*, Paris.

2 Hrbeck, R. (1994), *Die Regionen in der Europäischen Union*, p. 136, in: Schneider, H4./Wessels, W. (ed.) *Föderale Union - Europas Zukunft ?*, C.H. Beck, Munich. With the accession of Sweden, Finland and Austria to the European Union, the number of regions in member states is bound to have increased since.

3 See Marcou, G. (1993), "New tendencies of local government in Europe", particularly pp. 54 and 55, in Bennett, R.J. (ed.), *Local government in the new Europe*, Belhaven Press, London; Marcou, G./Verebelyi, I. (1993), "Size, levels and functions of local government", particularly pp. 51-99, in Marcou, G./Verebelyi, I. (ed.), *New trends in local government in western and eastern Europe*, International Institute of Administrative Sciences, Brussels.

It also has the drawback of labelling different entities in one and the same state as regions, depending on which administrative reforms the state introduces: e.g. French departments corresponded to this definition before the Law of 5 July 1972 introducing the regions. In the Netherlands the term "region" is applied to administrative districts below the provincial level or the "metropolitan regions" within the meaning of the general principles act of April 1994.

The scientific label adopted by Jim Sharpe, namely the "meso government, which was selected to prevent confusion with the region[1], has the advantage of designating the intermediate level(s) of the state's territorial organisation as that or those in which the most significant developments are taking place, though without creating an impossible category.

This is why it does not seem possible to advocate a single model or any specific conception of the region. On the other hand, a method of dealing with the regional dimension of the various issues and providing institutional responses consistent with the political and administrative situation in the individual countries might be proposed.

In the light of the comparative work conducted by the CDLR's Committee of Experts on Regionalisation, this approach can be based on accurate analysis of the different forms of regionalisation encountered, drawing on the experience of countries selected on the basis of the diversity of their institutional experiments and traditions and taking account of any reforms planned or under discussion.

This report is a summary of this work. It draws on an explanatory report prepared by Professor De Bruycker and Professor Nihoul and nine national reports from the following countries: France, Germany, Hungary, Poland, Portugal, Sweden, Switzerland, Spain and United Kingdom. Where necessary, other countries or authors will be referred to in footnotes.

1 Sharpe, L.J. (1993) "The European Meso: an Appraisal", p. 1, in Sharpe, L.J. (ed.), "The Rise of Meso Government in Europe", Sage, London.

I. REGIONALISATION AND REGIONS

If both the general trend towards regionalisation and the irreducible heterogeneity of intermediate levels of territorial organisation in European countries are to be taken into account, one must endeavour to clarify the relationship between the concepts of regionalisation and region (§ 1). This clarification can then be used to distinguish between and describe the different forms of regionalisation (§ 2), before placing them back in their context (§ 3).

1. Definitions

The regionalisation concept is generally understood in a narrowly institutional sense. It therefore contrasts with regionalism, which is a political or ideological movement[1].

Regionalisation is generally understood as the creation of a new level in a state's territorial organisation; the new institutions can vary widely in terms of bodies, responsibilities and powers, but they are always superimposed on the existing local institutions. They could be defined very broadly, including regions which are merely subordinate levels of the central government, or else narrowly, whereby the only expression of regionalisation is the region as a territorial authority, which can be further differentiated according to its constitutional status.

On the other hand, regionalism corresponds to the definition of the region as a set of human, cultural, linguistic or other features which justify turning it into a body politic requiring a greater or lesser degree of autonomy.

The trend towards regionalisation as it is currently emerging in Europe makes these traditional definitions somewhat obsolete, because it is even happening in countries which do not intend to introduce a new territorial level and already have elected councils at every level. Regionalisation corresponds more generally to a new interpretation of the state's territorial organisation, and more specifically to a novel approach to the intermediate level and its duties and objectives.

To define regionalisation one should perhaps start from the geographical and economic definitions of the region. Disregarding the theoretical debates on this concept among geographers and economists, a number of virtually undisputed points[2] can be established:

- The region is an intermediate area: it designates an area which is larger than that of local affairs (such as labour or population catchment areas) but is itself part of a greater national or state area.

- While the definition of a region depends on the criteria used, it nevertheless appears that different variables (natural, social, cultural and economic) more or less coincide, so that in the long run specific areas can be identified as regions.

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1 In connection with these definitions, see: 1) on regionalisation: Duhamel, O./Meny, Y (ed.) (1992), *Dictionnaire constitutionnel*, P.U.F., Paris, article "Régionalisation" by Wallon-Leducq, C.M.; and 2) on regionalism: Voss, DH. (1989), *Regionen und Regionalismus im Recht der Mitgliedsstaaten der Europäischen Gemeinschaft*, Peter Lang, Frankfurt/Bern, New York/Paris, particularly pp. 21-51.

2 Cf. Perrin, J.C. (1985) "La région revisitée", pp. 175-195 in *Région et aménagement du territoire. Mélanges offerts au Doyen Joseph Lafugie*, Ed. Bière, Bordeaux; Akademie für Raumforschung und Landesplanung (1995), *Handwörterbuch der Raumordnung*, Verlag der ARL, Hanover, article entitled "Region" by Manfred Sinz, pp. 805-808.

• Economic organisation also has a territorial rationale: when economic operators modify their territorial environment by expanding their activities, the extra resources they pour into it help make the territorial structure more attractive.

• Development is an inter-territorial process which combines differentiation and interdependence between the various levels. Thus the region can be defined as an intermediate level of territorial organisation of economic relations[1]. Since development is produced by the combination of the different territorial systems, the opportunities for mobilising the resources of the regional system[2] must be exploited.

Under this definition, the region is a source of potential rather than a framework for action. This potential can be tapped by increasing regional integration, helped along to some extent by regional sentiment. In the economic sense the region is not an institution, it is a simultaneously urban, industrial and political area[3], i.e. it is characterised by some degree of spatial polarisation by urban centres, industrial resources facilitating intra- and interregional specialisations, and lastly organisational forms which guarantee solidarity, co-ordination and the integration of private and public decisions[4].

The public institutions must then help ensure that this area functions smoothly. All the European countries are tending, by a variety of means and against differing institutional backgrounds, to resort to regional and local development to support employment and maintain the level of economic activities; increased participation by the citizens and economic groups in defining the main thrusts of public action seems to be a prerequisite for this.

An additional intermediate level in the state's territorial organisation is not a *sine qua non* for tapping regional economic and human potential and energising the regional environment. The main thing is for the public institutions to set their sights on these two aims. The public authorities must therefore to some extent encourage regional expression; this would justify referring to a tendency towards "regionalising" the public institutions.

However, one might more generally identify a regionalisation process where the public institutions are established in such a way as to reflect a number of distinguishing features of a region: accordingly, the retention of local law in certain fields and in municipal institutions in both the Alsatian departments and Meurthe-et-Moselle after 1919 is a form of regionalisation which preceded by far the region as an institution.

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1 Marcou, G. (1988), *L'aménagement du territoire et les pouvoirs locaux et régionaux face aux mutations économiques*, International Institute of Administrative Sciences, Brussels, p. 17.

2 The third and fourth points are directly inspired by Jean-Claude Perrin, op. cit.

3 Arena, R./Maricic, A./Romani, P.M. (1987), "Pour une appréhension de la notion et des formes de la notion de tissu industriel régional", p. 21, in Fourcade, C. (ed.), *Industries et régions*, Economica, Paris.

4 Perrin, J.C. (1983), "Economie spatiale et méso analyse", p. 207 in Paelinck, J.H.P./Sallez, A (ed.), *Espace et localisations*, Economica, Paris.

In order to gauge the scope of this institutional change one must remember that within the state's territorial organisation the intermediate level is never a mere homothetic transformation of the local (municipal) level. On the contrary, whereas the local level was the direct expression of communities of inhabitants, the intermediate level has always been organised as a relay station for the central authorities; until recently it had never been designed to represent the interests of a political community at this level, but rather to discharge duties relating to general power or administration for the central authorities. This is the thinking behind the French department and the transformations it has since undergone; but it was also the former *raison d'être* of the British counties, and even in the 19th century German states the *Landrat* discharged administrative and judicial duties on behalf of the King in the districts (*Kreise*)[1].

Consequently, regionalisation corresponds to a change in the functions of the territorial institutes at the intermediate level. This change may take a wide variety of forms, and may or may not involve a new territorial level. Federalism and regionalisation do not necessarily coincide, because the federal state is formed through the union of several states, and there is no reason why such federate states should correspond to regional entities because of their historical development; they may even have some degree of internal heterogeneity, which is especially conspicuous because the fundamental political loyalty is to the federal state itself. Nevertheless, it should be recalled that federate states see themselves as regions as well, and, as regions, they are represented at the European institutional level.

Accordingly, on the basis of the national reports, a classification of the different forms of regionalisation might be drawn up in order to gain a better grasp of the extent of the phenomenon (§ 2). The enormous variety of these forms and the impossibility of formulating a common conception of the region are therefore explicable not by the change in the functions of the intermediate level which have just been described but by the heterogeneity of political and legal systems, as well as by the combination of divergent purposes (§ 3).

2. Classification of forms of regionalisation

There are in fact three different types of regionalisation: a) regionalising without creating a regional level; b) regional decentralisation; and c) political regionalisation (or institutional regionalism). Federal states can be classified with one of the three aforementioned types. Each of these types correspond to a different conception of the region, but as shown below several forms of regionalisation can co-exist within a single state. Lastly, the specific position of the federal state in regionalisation will be discussed.

A. Regionalising without creating a regional level

This is a situation or policy met with in both unitary and federal states. It is the most common situation in Europe. In this case regionalisation does not involve introducing a new territorial level but rather tailoring existing institutions to the aims of regionalisation.

1 Marcou, G./Verebelyi, I. (1993), op. cit. pp 52 and 53.

The example which is both the most characteristic and the most peculiar is that of the United Kingdom. Regionalism in this country has a long history which started with the unification of four separate countries under the same Crown: England, Scotland, Wales and Northern Ireland, not to mention the special systems in force in a number of islands. This development reflects the particular features maintained by the four countries which in the course of history became united under the English Crown.

These differences are expressed not only in cultural life but also in the administrative organisation and, in the case of Scotland, the legal system, whose basic institutions are extraneous to the Common Law family.
On the other hand England itself has never been regarded as a region, and the country was only sub-divided into administrative regions to facilitate the work of the various ministries, except during the fairly short life of the regional economic planning boards (1964-79), which were in fact answerable to the central rather than the local authorities.

In April 1994 Government Offices for the Regions (GORs) were set up, covering the regional departments of four ministries (Environment, Transport, Trade and Industry, and the Employment Ministry's Training and Employment Division), under the responsibility of a regional director. The latter is, in particular, responsible for the Single Regeneration Budget.

The regional offices must work "in partnership with local populations" to develop "competitiveness, prosperity and quality of life" in the regions, and they must liaise with the local authorities, but the directors are answerable only to the Minister for Environment and the other ministers responsible for the programmes implemented by the regional departments.

Where Scotland, Wales and Northern Ireland are concerned, each of these regions is placed under the responsibility of a minister who is a member of the Cabinet and whose actions are scrutinised by a standing committee of the House of Commons, made up of members of parliament from the region in question. The three regions have different administrative responsibilities; the most important is the Scottish Office.

This is an ambiguous system. On the one hand it ensures genuine participation by the region in question in the political system, and the ministries and parliamentary committees uphold regional interests in government and parliament; on the other hand, they are really just cogs in the government machinery and the ministry must guarantee the implementation of the government's overall policy in its region.

So it is not a form of regionalisation in the sense it has been defined, but rather a special form of devolved regional administration.

The process of local authority reorganisation launched in 1991 even went in the opposite direction from regionalisation, because it was aimed at establishing wherever possible "unitary" local governments, i.e. a system with only one local authority level. This reform was fully implemented in Scotland and Wales, but is meeting with firm resistance in England, where most of the counties in non-metropolitan areas will be retained.

In the European context, the counties, the Metropolitan Districts (after the dissolution in 1985 of the Metropolitan County Councils) and the nine Scottish regions[1] came forward as the regional interlocutors of the European authorities. The regional ministries also defend their regions' interests in the Commission. The Labour Party victory at the May 1997 election has resulted in specific proposals for regional devolution. The people of Scotland and of Wales will be allowed to vote in separate referendums on proposals to create respectively a Scottish parliament and a Welsh assembly. In the Scottish referendum separate endorsement will also be sought for a proposal to give any parliament defined and limited powers to vary revenue. So far as England is concerned, the government proposes to build on existing arrangements for voluntary co-ordination between local authorities through the establishment of regional chambers. The government also intends, in the longer term, to introduce legislation to allow the people of England, region by region, to decide whether they want directly elected regional government.

Sweden is a unitary state with a two-tier local government system: the municipality and the county. At county level, a local authority and a government department co-exist and co-operate, the latter being under the authority of a Governor. The local authorities, especially the municipalities, have a wide range of powers and huge financial resources.

The prospect of Sweden's accession to the European Community, and then the actual accession, led to a debate on regionalisation, fuelled by the new opportunities for transfrontier co-operation and access to the structural funds. Since 1991 there have been a number of official reports on the adjustments which such a process would necessitate in Sweden's territorial organisation.

It should be noted that while the municipalities have been radically reformed, reducing their numbers from 2 500 in 1952 to a current 278, the map of the counties (totalling 24) is virtually the same as in 1634. However, the organisation of individual counties has greatly changed. Since the 1862 reform counties have had an elected council which is independent from the national government.

Moreover, since 1989 most of the sectoral government departments have been placed under authority of the Governor, though the latter is surrounded by a council whose 14 other members are elected by the county council and which takes the most important decisions, so that in the county the national government is in fact largely placed under the supervision of the county council. However, regional development is still a matter for central government, not the county council.

The position of the county is therefore somewhat ambiguous, but it might be posited that at the institutional level it is fairly strongly oriented towards expressing regional interests, and the county councils are aspiring to a more important role in regional policy, taking the lead from European policies. However, at county level the central government tends to consider the municipalities rather than the county councils as its main partners.

In this connection, a number of approaches have been considered with a view to tailoring the intermediate level to the development of regionalisation. The most radical reform, which was discussed in a 1992 report, is to reduce the number of counties from 24 to between 6 and 12 and to set up in each resultant region both a central government department and a local authority with an elected regional council. This reform would move Sweden into the second type of regionalisation identified, that of regional decentralisation.

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1 Second local government level, with an elected council, introduced under the 1974 territorial reform.

Other approaches are currently being advocated, and some could in fact, but would not have to, be combined with the foregoing one:

- reinforcing state responsibility at county level, in line with the concentration of state departments under the authority of the Governor; in fact this model would be going against the interpretation of regionalisation, as defined;
- developing inter-municipal co-operation: responsibilities currently held by the county council or the central government in the county would be transferred to the "super-municipalities" thus created;
- reinforcing regional power by transferring attributions from the central government departments in the counties to the county councils, perhaps accompanied by a reduction in the number of counties (see above).

Measures based on a combination of the second and third approaches were introduced into western Sweden (4 counties) and Skåne (2 counties) under the 1995 Act. This text defines the possible areas for regional co-operation between local authorities (health, public transport, regional planning and development, industrial development, culture, environment and education); a council made up of representatives of the municipal and county councils has been set up in each region; new responsibilities may be transferred to the counties, but no plans have been announced for new county borders.

In Germany too regionalisation involves co-operation between local authorities in the *Länder*; consideration has also been given, under the influence of the local authorities, to creating a regional level, but the *Länder* also see themselves as an expression of regional interests and none of them has made much headway in this direction[1]. Nevertheless, a regional level based on co-operation between local authorities has been introduced in Lower Saxony (7 regions) and Rhineland-Westphalia (regional conferences organised on a voluntary basis).

More generally, however, the larger *Länder* have a type of internal regionalisation based on co-operation between local authorities. No referrence is made here to the administrative districts (*Regierungsbezirke*) which exist in 8 of the 16 *Länder* and which form an intermediate level of the central government subordinate to the Land government, but to the regional associations of municipalities which exist in 5 *Länder* and generally cover a larger area than the administrative districts (although in Bavaria the two coincide). They are the expression of historic solidarities and exercise responsibilities in the fields of regional culture, health and social services. An example is the Palatinate association (in Rhineland-Palatinate).

Perhaps even more important are the planning regions, of which there are 113 in 12 *Länder*, though they are smaller than the administrative districts (except in 3 of the *Länder*). They have an average population of 700 000 and an average area of 3 150 km². These associations establish the regional plans provided for in the Federal Spatial Planning (General Principles) Act, which fall under the competence of the state.

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1 On regionalisation in Germany see the following additional sources: Marcou, G (1995), "L'évolution récente du fédéralisme allemand sous l'influence de l'intégration européenne et de l'unification", RDP No. 4, pp 883-919 (particularly pp 912-914); Seele, G (1994), "Staatsaufbau, Raumordnung and raumwirksame Fachpolitik", pp. 28-70 (particularly pp. 35-38), in Akademie für Raumforschung und Landesplanung, *Conditions institutionnelles d'une politique européenne de développement spatial*, Verlag der ARL, Hanover.

However, the local authorities are involved to a greater or lesser extent in formulating the regional plans, an involvement which is justified by the fact that such plans are a prerequisite for obtaining urban planning documents. For instance, in the *Länder* of Baden-Württemberg, Bavaria, Lower Saxony and Rhineland-Palatinate regional planning is entrusted to decentralised structures operating under the supervision of the Land, the regional planning association (representing *Kreise* and towns with *Kreis* status) or, in Lower Saxony, the *Kreis* itself. In three of the *Länder* an elected body representing the local authorities decides on the regional plan drawn up by the intermediate-level Land government (*Regierungsbezirk* - administrative district).

The local authorities and their representative organisations at Federal and Land level are responsible for co-ordinating and representing regional interests, drawing on their proximity to the population and the fact that in the federal system the Land is the state and it is not responsible for representing regional interests; in fact it corresponds to the NUTS I level in the Community's nomenclature. They are particularly opposed to the predominance of the *Länder* and their governments in the German delegation to the Committee of the Regions set up under the Maastricht Treaty.

However, in Switzerland, a Federal state made up of small units, the regionalisation process is leading to the development of inter-cantonal co-operation. Switzerland has a greater degree of regionalism than Germany, a phenomenon which is inherent in the cantonal identity. Swiss regionalism is fuelled by Switzerland's geographical, linguistic and religious diversity, as shown by the conflicts which led to the creation of the Jura canton in 1978 and the fact that most of the cantons have retained the same boundaries throughout history. This has preserved a number of regional idiosyncrasies, although in the course of time many responsibilities have transferred to the Federation.

Nevertheless, the imperatives of spatial planning and economic development are currently giving rise to new alliances or solidarities, at both the intra- and the inter-cantonal levels. The public authorities are able to organise and adopt economic production areas extending beyond the boundaries of their political territory[1]. The formation of urban areas based on co-operation between municipalities and inter-cantonal groupings illustrate this facility and correspond to a type of regionalisation for essentially economic reasons.

The inter-cantonal groupings which have very gradually grown up since the late 1960s are primarily aimed at counterbalancing the predominance of Zurich canton, which, precisely, belongs to none of these organisations; they are the Alemannic Area, the Mittelland Area, the central Swiss Area, the North-western Area and the eastern Swiss Area. It should be stressed that these are cantonal rather than federal initiatives.

Lastly, in the Netherlands, with its deeply-rooted provincial structure, regionalisation is dominated by the search for an administrative framework suited to the country's unique urban structure. As Kleinfeld and Toonen have noted, the intermediate level does not suffer from its lack of regions; it would be more accurate to say that the intermediate level suffers from institutional "overcrowding"[2].

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1 See the national report on Switzerland.

2 Kleinfeld, R. and Toonen, T.A.J. (1996), "Political, institutional and legal aspect of the regions in the Netherlands", p. 105, in Farber, G. and Forsyth, M. (ed.) (1996), op. cit.

Rather than the twelve provinces, which play a fairly modest role (their budgets are ten times smaller than those of the municipalities) even though they have been quite dynamic for a number of years now, the Dutch conception of the region designates a level midway between the municipality and the province, and at this level there are indeed many institutions: 60 inter-municipal co-operation districts, 100 water boards (*waterschappen*), to mention only those with elected bodies, though there are also many districts geared to devolved state administration.

Many reforms have been planned, implemented and abandoned; none of them has had any lasting success, so that the status quo prevails. The latest project, which resulted in a law that came into force on 1 July 1994, is particularly interesting: it is aimed at setting up seven urban regions, each of which would take in the largest cities in the country with the surrounding municipalities, with a view to encouraging their development and competitiveness in the single European market.

This reform should subsequently lead to new provincial boundaries, whereby each region would become independent from the province and become a separate provincial entity. However, implementation of the reform, the first phase of which concerned Amsterdam, Rotterdam and The Hague, is currently blocked by opposition from the municipal councils and the populations, which were consulted by referendum (in Amsterdam and Rotterdam) and which refuse to allow their towns to be split up into a multitude of smaller municipalities under the new arrangements[1].

Whatever becomes of this reform, Dutch regionalisation is aimed at securing a new territorial organisation which would still be based on the three traditional levels of state, provinces and municipalities.

In the countries of central and eastern Europe, the current territorial organisation takes no account of the aims of regionalisation. Only Hungary and Romania have so far introduced local authorities at the intermediate level, but their size and configuration as well as their functions approximate them more to the provincial than the regional level. Some other countries (Poland, Czech Republic and Slovakia)[2] are currently discussing regionalisation projects.

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1 On this reform see Marcou, G. (1993), "La coopération intercommunale et la réforme territoriale aux Pays-Bas", 12-page report, Institut de la Décentralisation, Paris; Toonen, T.A.J. (1995), "Provinces versus urban centres. Current developments, background and evaluation of regionalisation in the Netherlands", Colloquy *Les Régions en Europe*, Institut d'Etudes Politiques de Rennes, CRAP/CERI, Rennes, 4-6 October; Raadschelders, J.C.N. (1996), contribution to "Riforma delle Autonomie in Europa", annual chronicle (ed. G. Marcou), *Annuario 1996 delle Autonomie locali*, Edizioni delle Autonomie locale, Rome, Vol. 1 pp. 449 ff.

2 For an overview of the current situation, see Marcou, G. (1996), "L'administration locale et régionale en Europe centrale et orientale", pp. 33-67 in *L'Europe centrale et orientale 1996*, a publication co-ordinated by Edith Lhomel and Thomas Schreiber, La Documentation Française, Paris.

B. Regional decentralisation

Regional decentralisation is the creation or replacement of a new local authority at the regional level. This type of regionalisation therefore has a specific institutional expression characterised by the application to the region of the general regulations governing local authorities. The region therefore neither has a higher legal status than, nor differs from, existing local authorities, but it has a broader geographic framework and its duties are mainly economic in nature. It fits in with the constitutional system of a unitary state[1].

France is currently the only one of the states whose experience is presented in this report which corresponds to this type, but the reforms under consideration in other western and eastern European countries show that some of them may well follow suit.

The current boundaries of the French regions were a response to the needs of state spatial planning policy; they are purely functional in nature, and in fact they have been criticised for this very reason. Since the nation was constituted very early on, closely followed by the formation of the state, federalist and regionalist ideas have never had much influence in France. It is significant that the first modern regional institution was the office of regional prefect.

From the legal point of view regions are now territorial authorities like the municipalities and departments, though they do not have a constitutional guarantee on their existence. On the other hand, the constitutional principle of free administration of the territorial authorities (Article 72 of the Constitution) is applicable to them. French regionalisation respects the principles of the unitary state, which have their constitutional guarantee in the principle of the indivisibility of the Republic.

Unless otherwise expressly stipulated by legislation, the principle of free administration of the territorial authorities cannot be used as the basis for statutory powers. In practice the region's law-making powers are much more limited than those of the municipalities and departments, and particularly those of the mayor. Regions cannot exercise or assume the right of supervision of local authorities on their territory.

Territorial authorities' institutions, powers and finances are established by law. The regions are administered by a regional council elected by direct universal suffrage under a proportional vote taken in the departments. Executive duties are exercised by the Chairman of the regional council, who is elected by the latter. The regions are covered by the same standard jurisdiction clause as other local authorities. Moreover, legislation has attributed or assigned them responsibilities in the following fields: spatial planning, state-region planning contracts, secondary education (educational planning and school premises), local economic development, transport, vocational training and tourism.

The French conception of the unitary Republic does not preclude taking account of local cultural differences. French law has incorporated and retained part of the German legislation introduced in the Upper Rhine, Lower Rhine and Moselle departments before 1919; the 1991 statute for Corsica stipulates that it is a *sui generis* territorial community with different institutions and wider powers than those of the regions. There are also special regulations for overseas regions, the city of Paris and the Ile-de-France.

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1 See Marcou, G. (1996), "L'expérience française de régionalisation (la décentralisation régionale dans l'Etat unitaire)", pp. 505-520 in *L'Etat de droit. Mélanges en l'honneur de Guy Braibant*, Dalloz, Paris.

In some countries regionalisation could be expressed by similar institutional arrangements. This applies to Sweden, if larger counties are created with elected councils holding new powers, while retaining a central government department at this level.

In Portugal, apart from the overseas regions which will be discussed again later, the regions as defined by the 1976 Constitution within the metropolitan territory have not yet been set up. However, the old districts, which were based on the Napoleonic model, have now lost their local authority status, and the 1991 general principles act set forth the general provisions on the creation of administrative regions, governed by an assembly made up of both municipal representatives and members directly elected by the citizens. The regions would exercise administrative responsibilities in the economic, cultural and environmental fields, in respect of which they would be attributed statutory powers. However, their boundaries have not yet been set.

Regionalisation projects in Poland, the Czech Republic and Slovakia also seem to follow this model. Polish regionalisation apparently involves reducing the number of voivodships, which would be reorganised around regional urban centres or the main towns and cities, depending on the project; there should be an elected council but, even though discussions are not centred on this matter, the recent transfers of responsibilities to the towns and cities limit the number of responsibilities which could be transferred to the regions.

Regional reform in Poland is still quite a long way off. On the other hand, such reform has made more progress in other countries, particularly Slovakia, where 7 regions are about to be introduced with local authority status and an elected council responsible for exercising a number of powers which would be transferred from the state (secondary schools, hospitals, regional planning and cultural amenities). Less progress has been made in defining the number and powers of the Czech regions, but as in the other two countries the region would one of the standard institutions of the unitary state.

Some states have created administrative regions without prior decentralisation, for the sole purpose of regional or spatial planning. This is the current situation in Portugal and Greece, and it was the case in pre-1972 France. The present administrative regions in England, in which Government Offices for the Regions were recently set up (see above), are further examples of this approach. Such administrative regions can lead to regional decentralisation where elected, statutorily self-governing institutions are subsequently set up, as in France and perhaps soon in Portugal. However, this is not indispensable. In Hungary the 1994 Law abolished the office of Commissioner of the Republic which had been instituted in 8 regions in 1990.

C. Political regionalisation (institutional regionalism)

This form of regionalisation covers a wide variety of situations. Spain is the only country which has fully implemented it. It is to some extent based on the Italian Constitution, but in fact in Italy institutional regionalism was a response to a national political project rather than the upsurge of regionalism, as was the case in Spain. Belgium has also taken this approach, even if it became a federal state in 1993. Lastly, political regionalisation is partly applied in the regions of certain states such as France and Portugal.

Political regionalisation in Spain as organised by the 1978 Constitution was mainly motivated by the restoration of the rights of the "historic" regions which had been recognised by the 2nd Republic but abolished under Franco. It reflects the complex relations between the Spanish nation, the "common and indivisible country of all Spaniards", and "the right to autonomy of the nationalities and regions of which it is composed" (1978 Constitution, Article 2).

The seventeen Autonomous Communities are politically self-governing in that their constituent statutes also establish their organisation and responsibilities, within the limits set out in the Constitution and subject to approval by the Cortes Generales, and they exercise legislative power in fields falling within their competence.

The Constitutional Court has clarified the legal concept of autonomy (or self-government) in many of its decisions. Autonomy is not sovereignty, and the Constitution guarantees the supremacy of the state as the expression of the unity and predominance of the interests of the Spanish nation. However, regional autonomy is not the same as the administrative autonomy enjoyed by local authorities; the legislative and governmental powers of the Autonomous Communities are such that they enjoy "political autonomy" (judgment 25/1981 of 14 July 1981).

The fact that the state comprises entities with political autonomy necessitates a variety of legal systems and makes Spain a composite state (judgment 1/1982 of 28 July 1982). However, solidarity is the corollary of the autonomy principle (judgment 25/1981).

The Spanish regional system is not homogeneous. There are several different overlapping systems corresponding to different groups of Autonomous Communities.

The Autonomous Communities have large differences according to their heterogeneous historical experiences, cultural identities and aspirations, development level and social cohesion. Accordingly they have a differentiated assumption of administrative responsibilities, political powers and speed in their autonomous evolution.

The Spanish Constitution intended this differentiation in the apportionment of responsibilities as a transitional measure, and the 1992 Agreement setting up the Autonomous Communities provided for transferring to the "ordinary" Autonomous Communities most of the responsibilities listed in Article 151 (except medical services, prisons and the autonomous police). However, the heterogeneity subsists partly because the transfers of responsibilities have not been completed in respect of all the Autonomous Communities concerned and partly because of demands from Catalonia and the Basque Country for additional powers in keeping with their special status within the Spanish state.

Although the 1978 Spanish Constitution is to some extent based on the 1947 Italian Constitution, Italian regionalisation is less advanced, at least for the moment. As in Spain, regional self-government is considered in a different way from local self-government. The regions establish their own statutes, but the latter must be approved by parliament, and they exercise legislative powers in fields falling within their competence.

There is also a great deal of heterogeneity, because there are regions which hold a special status and exercise broader responsibilities and legislative powers. However, the Italian regions do correspond to any regionalist aspirations, apart from the northern regions which comprise linguistic minorities. The ordinary regions were set up in accordance with statistical criteria.

Political regionalisation may be encountered in particular forms in other states. The autonomous status granted to Corsica under the Law of 13 May 1991 recognises the special status of the island and attributes to it more extensive powers that those of the regions, but the Corsican assembly exercises no legislative powers. Scotland and Wales could become political regions after the next elections if the conservatives lose their majority.

In Belgium the reform of the state began with the passing of the language laws of 1962- 63, when the linguistic frontier was fixed and the territorial principle established. The idea of cultural autonomy then took hold, and as a result the Constitution was amended four times (1970, 1980, 1988 and finally 1993), gradually establishing the three communities, three regions and four linguistic regions.

The Belgian Constitution allows the institutions of the Flemish Community and of the French-speaking Community to exercise the powers of the Flemish region and the Walloon region. In the case of the Flemish institutions, the community institutions took over the powers of the region in 1980, after which there remained only a Flemish Council and a single government in the North.

In the South, on the other hand, the French-speaking Community and the Walloon region each continue to have their own institutions.

The Constitution does, however, allow community powers to be exercised by the region and vice-versa (Articles 137 and 138).

D. Federal states and regionalisation

There often is a tendency to contrast the federal state with the nation-state, equating it with the unitary state. Under this approach, federalism is a means of taking account of regional differences in the state organisation, be they cultural, linguistic or other, by granting them extensive political autonomy.

In fact federalism[1] and regionalism refer to different political realities. The federal state is always the result of the union of a number of states, each of which is itself a political entity that is not necessarily homogeneous, as illustrated by the status of Prussia within the German Empire and during the Weimar Republic, many US states and the Canadian provinces.

Although the federal constitution defines the federate entities' responsibilities and their place in the institutions and guarantees their political autonomy, an *a posteriori* reconstruction is needed to justify federalism by the autonomy which it grants to the federate entities. Moreover, the history of the more durable federal states shows that their creation was also a means of national integration; these federal states are in fact nation-states, as seen in the examples of Switzerland, the United states of America and Germany.
On the other hand, there is no precedent for a multi-national state which has been protected by federalism from tensions endangering its very existence: the USSR, Yugoslavia and Czechoslovakia did not break up because their federalism was artificial, but rather they had held together because communism had disguised the fact that the state lacked the requisite degree of national integration.

Therefore, federalism and regionalisation are two types of institutional arrangement which can be combined in different ways depending on the individual country's specific history and circumstances.

1 For the sake of convenience and in view of the subject under discussion, we will equate federalism with the federal state, though in fact federalism in a much broader concept; the federal state is merely one of the forms it can take, and in some ways it is a contradictory form since the federal state absorbs the sovereignty of its component parts.

Institutional regionalism can sometimes emerge in a federal state. Self-governing federal entities have developed in Belgium just as in other European states which have established entities with the autonomy required to express their cultural, linguistic or religious identity or their distinctive social and economic characteristics (e.g. Spain and Switzerland).

In both federal and unitary states institutional regionalism reflects weaknesses in national integration, and political regionalisation can result in federalism, as happened in Belgium and might happen in Spain and Italy.

However, this is a very different type of federalism from the traditional type, which derived from a desire for union and was a special mode of national integration; in this other type the federal option is the result of a centrifugal force, and it cannot be taken for granted that the federal option, which confers the title of state on an entity which is demanding political autonomy, will help restore unity.

Institutional regionalism is very different from federalism in institutional terms. First of all it is always asymmetrical as it stems from the recognition of certain specific features, whereas in the federal state all the subjects of the federation are equal. The aforementioned examples show that the encounter between political regionalisation and federalism raises difficulties to which there are only hybrid solutions.

Furthermore, the main feature of the federal state is the fact that the state's attributes are shared between two levels and that the federate states participate in one way or another in the exercising of state responsibilities at federal level. On the other hand, political regions are not state authorities, they have no constituent power and they play no part in exercising state responsibilities at the federal level.

The overall coherency and unity of the structure is ensured by the Federal Constitution, which lays down the respective powers of the federal state and the member states and provides for procedures to settle conflicts. However, the federal component is the reciprocal independence of the authorities from the federate authorities and from the federal state in the exercise of their respective responsibilities[1].

That does not preclude the existence of rival fields of jurisdiction or limitation of the number of fields in which the federate authorities can independently exercise their responsibilities; such independence must at least exist, especially in order to prevent the federate authorities, in exercising their state responsibilities, from being actually or potentially dependent on the central state in all fields.

Thus federalism does not preclude centralisation: one might say that the extent of centralisation in federations depends on the extent of the exclusive responsibilities of the federate states. On the other hand, the legislative powers of political regions are always actually or potentially subordinate to the national legislator; in Italy, where the special-status regions have exclusive legislative powers in principle, the reservation regarding the national interest which is included in their statutes has been interpreted by the Constitutional Court in such a way as to enable the national legislator to intervene in such matters[2].

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1 Wheare, K.C. (1953), "Federal Government", Oxford University Press, 3rd ed., pp. 79 ff.

2 Paladin, L. (1992), *Diritto regionale*, CEDAM, Padua, particularly pp. 65-197; see also the general analysis of this subject in respect of Sicily in de Rossi, G. (1962), *Profili e problemi dell'autonomia regionale siciliana*, Giuffrè, Milan, pp. 6 and 7.

Combinations of federalism and other forms of regionalisation are more complicated. First of all, there is no precedent for combining regional decentralisation with federate states. Whereas political regionalisation can affect federal state structures, as seen above, the same does not apply to regional decentralisation, to the extent that it does not express a form of political autonomy.

On the other hand, in modern federal states which have undergone a process of political centralisation, the aims of regional decentralisation can be met with the administrative powers exercised by the federate states. The evolution in state functions is naturally also reflected at federate state level.

Secondly, federate states can also undergo various forms of administrative regionalisation. There are examples of regional decentralisation inside federate states, and the situation of the Prussian provinces under the Weimar Constitution was a similar phenomenon. Present-day Switzerland provides examples of forms of inter-cantonal regionalisation aimed at solving certain economic problems. In Germany, regionalisation is also expressed in co-operation between local authorities.

3. The context of regionalisation

This subject can be dealt with more briefly since the classification reveals the context in which regionalisation is carried out in the various states that have been mentioned. It reveals the aims of regionalisation and the difficulties it encounters.

A. The aims of regionalisation

The aims of regionalisation are many and varied. Within a given country regionalisation can be a response to several different aims, but furthermore, the actual aims of the regional institutions can change with time.

Federalism, as seen above, is not a form of regionalisation; it always has political objectives. The federal state is the result of a political union and takes on state powers corresponding to the common interests of its members. In the course of time, however, the federal state has constantly expanded its powers to the detriment of its members, and the national integration which accompanies the construction of the federal state may have the effect of reducing the place of member states to a mere expression of regionalisation, at least in some respects, including the absorption of legislative powers in most fields by the federal legislator; the federate states may also lose ground in public perceptions.

Nevertheless, it appears that circumstances, a change in the international environment or to the balance which had been struck between the various components of the population and the state, can easily reactivate state attributes which are still vested in the federate authorities. Not only have some states split up under conditions which suggest that their members' status as states facilitated the break-up, but also, besides such spectacular cases, political developments sometimes point to a reawakening in the member states. This is illustrated by the revisions of the Basic Law in Germany which have accompanied the latest stages in European integration (the Single Act and the Maastricht Treaty) and unification[1], or the results of the Swiss referendum on accession to the European Economic Area. Moreover, political regionalisation may take the form of federalism, as in Belgium.

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1 Marcou, G. (1995), "L'évolution du fédéralisme allemand sous l'influence de l'intégration européenne et de l'unification", *RDP*, No. 4, pp. 883-919.

Concerning the aims of regionalisation one can identify a political aim, possibly in relation to ethnic or cultural specificities, an economic aim and an aim of rationalising and modernising state structures.

Regionalisation may have a political aim without imposing any particular model for the process. The truth is that it is difficult to imagine regionalisation having no political aims when it comprises the setting up of regional institutions with some degree of autonomy.

Regionalisation as set out in the 1947 Italian Constitution was in fact a response to a political project, which had originated in a conception of the state developed within the People's Party just after the First World War and revived by the Christian Democrats just after the Second World War. In this conception, the state must be based on intermediate bodies, a position paralleled in the doctrine of the Roman Catholic Church; this means that the regions are a natural extension of the local self-governing bodies and a factor for pluralism aimed at obviating the dangers of authoritarianism and centralism[1].

Although it was developed in a very different spirit, French regionalism also pursued political aims. The Gaullist project which came to grief in the 1969 referendum had been aimed at renewing the local elites on which the central power was based; on the other hand, the 1972 reform was aimed at incorporating these elites into the modernisation project being implemented by the state. Again, the 1982 reform made decentralisation a means of democratising the institutions, and regionalisation was geared to implementing its principles at regional level.

In Spain regionalisation is geared to the construction of a democratic state, leaving behind the centralising authoritarian state of the Franco era. More general, the setting up of elected regional institutions is always backed up by the argument that it increases participation by the citizens in decision-making, under authorities which are closer to them than the state.

In some cases regionalisation is aimed at meeting a regionalist demand for as broad a political autonomy as possible on the basis of a given region's and/or population group's ethnic, cultural or linguistic specificities. This is a political type of regionalisation whose underlying rationale is not integration as in federal states, but differentiation. In extreme cases this can lead to separatism.

In Spain, the confirmation of the historic regions with their recognised linguistic and cultural specificities, is accompanied by a special status and a refusal by these communities to be drawn into a system common to all the regions; on the contrary, they insist on retaining of their special status.

In Italy this approach has only been adopted in certain small northern regions which use different languages (Valle d'Aosta, Trentino-Alto Adige, Friuli-Venezia Giulia). In France, Corsican regionalism and autonomous status are in line with this objective.

1 Onida, V. (1988), "Landesbericht Italien", pp. 244 and 245, in Ossenbühl, F. (ed.), *Föderalismus und Regionalismus in Europa*, Nomos, Baden-Baden.

In the United Kingdom, public opinion (in Scotland and Wales) is again in favour of devolving certain parliamentary powers to Scottish or Welsh regional assemblies, which reflects some degree of exacerbation in regional sentiment, and would confirm the particularism of these "nations" within the United Kingdom; such regionalism contrasts with the total lack of regional sentiment in England itself[1].

The economic aim is present in virtually all forms of regionalisation, including those which do not involve creating an additional administrative level or new institutions. In view of the importance of regional economic systems for overall economic efficiency and the fact that the collective goods produced by the public institutions occupy an important position in regional economic systems, regionalisation may be aimed at tailoring existing local institutions to the needs of economic development or setting up new institutions better able to meet such needs, in the political and institutional context of a given country.

This is the objective of the urban regionalisation process initiated in the Netherlands. Moreover, French regionalisation has always been geared to achieving spatial planning goals: even the regional boundaries were drawn with this in mind, and funding public investment was the main task entrusted to the regions, in the aborted 1969 project, in the 1972 and 1982 laws and also in the practices developed under the latter texts.

European regional policy is also a powerful factor in regionalisation because it legitimises this level of territorial organisation. In Portugal, while the mainland regions provided for in the Constitution will at some stage have to be created, this will be done largely for the purposes of adapting administrative structures to the management of the large amounts of structural funds which have been paid to this country; where regional boundaries are concerned, discussions are under way between supporters of a 7-region set-up, as proposed by the Ministry of Economic Planning and Co-ordination, and those advocating a division into 5 regions, on the model of the European Community's NUTS II statistical units for Portugal. The current regional co-ordination commissions, which are devolved state bodies, correspond to the 5-region set-up.

In Sweden the debate on redrawing the map of the counties has been given new impetus by the prospect of forthcoming accession to the European Union. The demand for regionalisation comes mainly from the southern regions (Western Sweden, Skåne and the Stockholm region), which wish to expand relations with the border regions of neighbouring countries, while local authorities in the peripheral regions are especially interested in the resources potentially created by regional policy because the economic recession in the country is affecting their financial situation.

The economic aim has scarcely been a factor at all in regionalisation in other countries: this is true of Italy, where economics is virtually absent from the responsibilities of the ordinary regions; and economics had very little to do with the creation of the Spanish Autonomous Communities. On the other hand, the role of the regions as institutions in developing infrastructures and organising regional networks reinforces the administrative boundaries and maintains economic dynamics which support the institution itself[2].

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1 Sharpe, L.J. (1996), "Regionalism in the UK: the Role of Social Federalism", pp. 62-65 in Färber, G./Forsyth, M. (ed.), op. cit.

2 Färber, G. (1996), "Regions in Europe: the Economic Perspective", p. 30, in Färber, G./Forsyth, M (ed.), *The Regions - Factors of Integration or Disintegration in Europe?*, Nomos, Baden-Baden.

Accentuating economic disparities or competition may revive forms of regionalism which had been considered extinct and threaten national unity if the wealthier regions get the idea that they would be more successful if they did not have to show solidarity with the poorer regions.

Lastly, regionalisation is often aimed at rationalising and modernising administrative structures; however, only reforms which are geared to encouraging regional expression, not just the action of the central authorities, can be seen as instances of regionalisation, in this case administrative regionalisation.

The French regions reflect this trend, even to the extent of disregarding old historic regional boundaries. Even though departments co-exist with the regions, the creation of the latter went hand-in-hand with modernisation of the state.

In Sweden the main reason for the debate on new county boundaries was the realisation that the existing ones have become meaningless; national administrative agencies (particularly those in charge of road networks and education) often base their action on regional divisions other than those of the counties.

The adoption of special regionalisation schemes can also be seen from this angle: above and beyond cultural differences, not all of which are asserted to the same extent, distance and isolation justify special institutions and increased autonomy. This fact emerges from study of Spanish and Portuguese island regions, Sicily and Sardinia and Italy, and the French overseas regions.

Lastly, in central and eastern Europe the introduction of regions in the Czech Republic and Slovakia would also mainly follow this model. While economic development is stressed in proposed reforms, the general aim is rather to secure a territorial structure enabling certain responsibilities to be devolved to units capable of coping with them in administrative terms.

B. Obstacles to regionalisation

These may be obstacles to all, or only to some specific types of regionalisation. Firstly the fear that regionalisation will threaten state unity; secondly the fear of depriving the state of the means of implementing its policies (challenging its internal sovereignty); and thirdly the fear on the part of the local authorities that their autonomy will suffer if such an intermediate level is introduced. In practice, these three fears have seldom foiled regionalisation but they are inspired by provisions aimed at either guaranteeing state unity or protecting the autonomy of existing local authorities.

The fear of a threat to state unity from the creation of excessively powerful regions has generally hindered the setting up a large regions. This is the reason for the occasional allegations of irrationality in the establishment of regional boundaries or the exiguity of certain regions, although the latter is in fact explained by the desire to take account of local historical idiosyncrasies, as is also reflected in the structure of federal states (for instance Navarra or the Asturias [a single-province autonomous community holding ordinary status] in Spain, or the city-states and the Saarland in Germany).

Of course it is not only the size of the regions that can threaten state unity; the combination of size with other features is also at issue. With 17 million inhabitants North Rhine Westphalia does not pose a threat to German unity; but in Belgium the combination of linguistic and economic divisions between the French-speaking Walloons and the Dutch-speaking Flemish has shaken the unity of the country, which is now based on a fragile constitutional balance within a federal framework.

In Spain the Autonomous Community system differs from federalism in that the central government refuses to confer on these communities the attributes of a state, so as to prevent the threat of dismemberment of the Spanish State stemming from combined federalism and regionalism[1].

In Italy the creation of very large regions, as proposed by the Northern League, would probably threaten national unity; in fact the League is currently campaigning for the independence of an entity referred to as "Padania".

In the case of Belgium, and possibly in the case of Italy, solidarity between the regions is also being directly or indirectly called into question. However, there is less risk of separatism when regionalisation benefits economically weak regions rather than the wealthier ones.

In the United Kingdom, the budgetary system in fact operates in favour of Scotland and Wales[2], and oil resources in Scotland are no longer sufficient to sustain any advanced separatist plans; these facts suffice to ensure the unity of the United Kingdom under any reform introducing devolution into these two regions.

In central and eastern Europe the concern to guarantee national unity is present in discussions on regionalisation, and plans to establish a small number of large regions have little chance of success[3], because the governments of these countries realise that areas with widely diverging levels of development give rise to strong economic forces of attraction.

In countries which have introduced regional institutions, legal safeguards have been laid down for the unity of the state. In France the principle of the indivisibility of the Republic prevents the legislator from recognising "components" within the French people, as was held by the Constitutional Court in its 1991 judgment on the new status of Corsica.

The Spanish Constitution places regionalisation within a unitary framework: it proclaims "the indissoluble unity of the Spanish Nation, the common and indivisible country of all Spaniards" (Article 2), prohibits the federation of Autonomous Communities, makes co-operation agreements between these communities conditional upon the authorisation of the Cortes Generales (Article 145), and provides for control mechanisms aimed at ensuing that the Autonomous Communities fulfil their obligations within the Kingdom of Spain (Articles 153 to 155). The case-law of the Constitutional Court states that autonomy does not include the right to act in a manner prejudicial to the interests of the nation or other general interests separate from the specific interests of the Autonomous Community, and that solidarity is the corollary of the autonomy recognised under the Constitution[4].

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1 Garrido Falla, F. (1989), *Tratado de derecho administrativo*, Tecnos, Madrid, 11th ed., Vol 1, Pp. 269 and 270.

2 Sharpe, L.J. (1996), op. cit., pp 71 and 72.

3 For instance, the plan advanced in Moravia for the creation of three Länder in the Czech Republic immediately prompted strong opposition. In December 1995 discussions were held on the respective merits of Parliament's preferred option (9 regions) and the Government's suggestion (17 regions).

4 See the commentary and case-law quoted under Article 2 in "*Constitución española. Doctrinas del Tribunal constitucional, Tribunal supremo y Tribunal europeo de derechos humanos*", by Pereda Rodriguez, J.M.M/Gonzalez Rivas, J.J./Martinez de Velasco, J.H./Iba_ez, J.L.G. (1993), Ed. Colex, Madrid, 2nd ed., pp. 17 and 18.

In the United Kingdom the devolution bill tabled in parliament in November 1976 stipulated that it did not affect the unity of the United Kingdom or the supreme authority of parliament in matters of legislation regarding the United Kingdom or any part of its territory (1st part, § 1) and it reserved supervisory powers on the part of the central authorities and parliament vis-à-vis regional legislation[1].

In fact, Belgium would appear to be the only country involved in regionalisation whose constitution contains no provision on the unity of the state; it merely lays down a procedure for settling conflicts of interest (Article 143), in addition to the supervision which the Court of Arbitration may be called upon to conduct. The Swiss Federal Constitution is much more restrictive in this regard (Articles 5 to 7).

Even if the unity of the state is not under threat, regionalisation is also limited by the concern not to deprive government of the means of implementing its policies. This subject often crops up in the conception of regionalisation. In France it is expressed by the combination of decentralisation and devolution, which enables the government to base its action on its own regional departments, and also by the legislation on powers which stipulates that some of the latter are entirely within the purview of the state. Sweden considers that the setting up of regional parliaments in the framework of enlarged counties might jeopardise the state's "internal sovereignty"[2].

Devolution also exists in Spain and Italy, but the territorial departments subordinate to the government are less highly developed than in France, where they come under the authority of regional and departmental prefects; in Spain the position varies from one Autonomous Community to another depending on the powers actually assumed by the Community's administrative departments.

Even in Germany, a federal state, implementation of Federal legislation by the *Länder* is guaranteed by constitutional provisions governing federal supervision (Articles 84 and 85), and the Basic Law empowers the Federation to set up departments directly administered by the Federal Government (Article 87), a power to which the latter has often had recourse.

Lastly, the autonomy afforded to local authorities often limits the scope of regionalisation. The Portuguese Constitution provides that the setting up of mainland regions will depend on a favourable vote of the majority of the municipal assemblies representing the larger portion of the regional area's population (Article 256), but the Portuguese municipalities, which were set up in the Middle Ages, are concerned that the new regions will reduce their weight in the administration of the country, and their opposition has so far prevented regionalisation; increased safeguards on municipal autonomy was apparently a prerequisite for the creation of the mainland regions.

In the Netherlands the reform aimed at introducing metropolitan regions centred on the major cities was blocked by opposition from the populations of Amsterdam and Rotterdam to any attempt to restructure their municipalities.

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1 Stanyer, J. (1982), "Le débat britannique sur le régionalisme et la dévolution" (The British Debate on Regionalism and Devolution), particularly pp. 224-226, a summary of the bill, in Lagoye, J./Wright, V. (ed.), "Les structures locales en Grande-Bretagne et en France", *Notes et Etudes Documentaires*, No. 4687-4688-4689, 30 October, La Documentation Française, Paris.

2 Report on Sweden by M. Östhol.

In Sweden, where municipalities have very extensive powers and resources, regionalisation will, as seen above, probably be carried out on the basis of co-operation among municipalities in the same region.

Because the French departments had shown hostility towards the formation of regions, the 1982 reform and subsequent reforms have confirmed the importance of departments in the French administrative system; this approach has limited regional powers, but in fact it has encouraged dynamism in the regions, which have fewer management responsibilities and, despite the importance of secondary schools, still have a great deal of room to manoeuvre; the state-region planning contracts also make them the prime partners of the state.

II. THE CONSEQUENCES OF REGIONALISATION

The consequences of regionalisation can be addressed from the angle firstly of relations between the regions and the state and among the regions themselves, and secondly of relations between local authority autonomy and the regions. The scope of this study must be narrowed because one can only deal with situations in which regions have actually been set up as new institutions in the politico-administrative system.

The situation resulting from regionalisation will be compared with that of federal states, in order to identify the specific features of regionalisation and federalism and also the common aspects of all the systems which have to combine unity and autonomy, whatever the relation between these two elements.

1. Relations between the state and the regions and interregional relations

This report has already dealt with the provisions aimed at preserving the unity of the state and will now concentrate on the procedures and methods of co-ordination and co-operation and on the public finance aspects of these relations.

A. Co-ordination and co-operation

In practice, there is no clear-cut distinction between co-ordination and co-operation. Co-operation presupposes shared objectives between the co-operating parties; it includes and transcends mere co-ordination, but on the other hand co-ordination presupposes a minimum level of co-operation. In fact, in all modern administrative systems co-ordination and co-operation are only two of the expressions of the general development of intergovernmental relations.

Although it is generally considered desirable to establish a clear apportionment of responsibilities, as this provides the best guarantee for both the autonomy of the territorial authorities and the accountability of the public authorities vis-à-vis the citizen, the complexity of the main fields of public policy often has the opposite effect, as the exercise of a legal responsibility frequently involves other public authorities or institutions.

This applies to regionalisation, though the latter generally leads to an expansion of intergovernmental relations either because it prompts the introduction of an additional governmental level or because it intensifies co-operation between public authorities within the same geographical area. The reasons for the trend towards regionalisation include the need for improved co-ordination of the various public interventions and for improved co-operation between the institutions.

The structure of intergovernmental relations vary considerably from sector to sector, depending not only on the apportionment of responsibilities between the different government levels but also on their relations with the interests in question. However, it is possible to identify different types of intergovernmental relations, whereby some of them are encountered more often in some countries than others and these differences apparently stem from the nature of the state and its constitutional organisation.

Exclusive consideration of the regional level narrows the range somewhat, eliminating some of the relations one observes when intergovernmental relations involve both the state and the municipalities. With specific regard to decision-making procedures, the relations between the state and the regions or among the regions might be broken down into three main categories: institutional or deliberative co-operation, contractual co-operation, and integration.

Of course informal networks play a role in all these relations, though this role is difficult to pinpoint. Institutional co-operation may include recourse to specific types of agreements, but it is distinguished from contractual co-operation by the fact that it establishes permanent, stable forms of co-operation.

Institutional co-operation is characteristic of the studied federal systems. It is one of the aspects of "co-operative federalism"; and correspond to some extent to one of the "laws" of federalism which states that member states must participate in the political management of the federal state, but from another angle it points to the centralising trend which has characterised the development of federal states in that some of its forms enable the federal authorities to exert an influence over the powers of the member states.

In Germany, while the Bundesrat, which is made up of representatives of the *Länder* governments, guarantees the participation of the *Länder* in federal legislation, the operation of the German administrative system overcomes the duality of federal and *Länder* administration through a large number of intergovernmental bodies responsible for co-ordinating, harmonising and even formulating the policies to be implemented by the competent ministers of the Federation and the *Länder*.

Examples are the conference of *Länder* prime ministers, which are geared to formulating a joint position by the *Länder* (which is often difficult to achieve) when circumstances require (e.g. in 1990 regarding the negotiations on the unification of Germany and its financing), and 13 specialised ministerial conferences (set up under specific agreements), including the Conference of Transport Ministers, the Conference of Spatial Planning Ministers (MKRO) and the Conference of Finance Ministers.

These conferences draw on the work of innumerable commissions, committees and working groups made up of civil servants from the Federation and the *Länder*, responsible for preparing their decisions and organising their enforcement. Although most of these conferences are held on the initiative of the *Länder*, the Federation is usually the driving force behind them. Ministerial conference decisions must be taken unanimously, in the absence of a text providing otherwise (e.g. for the MKRO).

One special form of co-operation between the Federation and the *Länder* which is laid down in the Basic Law (Articles 91a and 91b) is the *Gemeinschaftsaufgaben* (joint responsibilities), which are shared by the Federation and the *Länder*, give rise to joint funding and planning in specified fields and are organised under a Federal Act (the case of Article 91a) or an agreement between the Federation and the *Länder* (the case of Article 91b). The fields covered by such joint responsibilities fall under the competence of the *Länder*, but the Federation provides funding (generally 50% in respect of Article 91a) and contributes to planning, and therefore exerts an influence on the exercise of these responsibilities[1].

Institutional co-operation does not preclude recourse to contractual co-operation. Agreements between the Federation and *Länder* have become a common decision-making procedure, and the Basic Law and federal legislation provide for the conclusion of such agreements in certain cases[2]. The combination of these two forms of co-operation result in a complex decision-making procedure which requires the Chancellor to know his limits in terms of exercising federal responsibilities and powers in the context of the *Länder* (particularly when the opposition is in the majority in the Land government), and conflicts are often referred to the Federal Constitutional Court.

Furthermore, the *Länder* often conclude mutual treaties regarding the exercise of specific responsibilities which involve several *Länder*; there are treaties in the fields of spatial planning, the development of areas which straddle *Länder* boundaries but in which an overall project has to be implemented (e.g. the Rhine-Neckar area or the outskirts of the city-states), and the operation of television networks, as the audiovisual field is one of the *Länder*'s cultural responsibilities.

The Swiss federal system is in fact very different from the German arrangement. The cantons participate in federal legislation through an assembly, the Council of States, whose members are now elected by direct suffrage on the basis of two per canton (or one per half-canton). Federal legislation is constantly extending its scope, and Swiss federalism is now commonly described as "enforcement-oriented federalism", meaning that most of the legislation is concentrated at federal level but the enforcement of laws is generally a matter for the cantons.

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1 These joint responsibilities are as follows: 1) Article 91a: building of institutions of higher education including university clinics, improving agricultural structures, preserving coasts and improving regional economic structure; the planning committee is organised on a parity basis and decisions are taken on a three-quarters majority, including the majority of the Länder; the planning committee adopts an outline plan, which, however, does not include individual projects (except for the building of institutions of higher education), because the subject of the outline plan is a matter for the Länder; 2) Article 91b: educational planning and the promotion of research institutions and projects of supra-regional importance.

2 See Grewe-Leymarie, C. (1981), *Le fédéralisme coopératif en République fédérale d'Allemagne*, Economica, Paris; Marcou, G. (1994), "Les structures politiques et administratives", Chapter 2, in Marcou, G./Kistenmacher, H./Clev, H.G., *L'aménagement du territoire en France et en Allemagne*, La Documentation Française, Paris (German version published by the Akademie für Raumforschung und Landesplanung, Hanover, 1994); Schreckenberger, W. (1983), "Les relations intergouvernementales au sein de la Fédération", pp. 90 ff., in König, K./von Oertzen, J./Wagener, F. (ed.), op. cit.

The apportionment of legislative powers is more complex in Switzerland than in Germany, and on the legislative front the cantons still exercise greater powers than the German *Länder*. Yet the cantons also indirectly participate in the executive because the 7 members of the Federal Council, the Swiss collegial executive, come from different cantons, and also because consultations are held with a view to formulating federal policies or legislation in a particularly compromise-oriented system.

Moreover, the Swiss cantons have developed the practice of inter-cantonal agreements ("concordats"), as is in fact expressly laid down in the Federal Constitution, "concerning matters of legislation, administration and justice" (Article 7 para. 2). However, whereas the German practice is to conclude treaties between two or more *Länder* on matters of common interest, the Swiss cantons draw up agreements which are negotiated and signed by all 26 cantons and half-cantons. These "concordats" therefore represent an alternative to federal centralisation in certain fields, providing the cantons manage to reach agreement.

In an agreement of 8 October 1993 they even established a conference of cantonal governments aimed at improving inter-cantonal co-operation, particularly in connection with the further development of federalism, the apportionment of responsibilities between the Federation and the cantons, the preparation of federal decisions, the implementation of federal tasks by the cantons and foreign and integration policies.

In Belgium the amended special law on institutional reform of 8 August 1980 (Article 92 bis) provides that co-operation between the state, the communities and the regions, which is especially important because of the complexity and fragmentation of the apportionment of powers, should be conducted by means of agreements, a number of which are mandatory. These agreements re-establish the physical unity of specific powers and facilitate the co-ordination of the various competent authorities. The co-operation agreements have been retained in the federal system which has since been introduced[1].

Comparison with states which have introduced institutional regionalism highlights the distinguishing features of intergovernmental relations in such countries. First of all, the regions do not participate in any way in the national legislature or executive.

The membership of the Spanish Senate is not such as to represent the Autonomous Communities, because some four fifths of Senators are elected in the provincial framework, and the government is set up on a purely national basis. On the other hand, the assemblies of the Autonomous Communities can initiate legislation in certain conditions (Article 87).

Spain to some extent followed the model of "German co-operative federalism" in this respect. In 1983 sectoral conferences (*conferencias sectoriales*) were established by law to ensure co-operation between the state and the Autonomous Communities; they can adopt agreements which become binding upon the parties as soon as they are signed[2].

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1 Coenraets, Ph. (1993), "Les accords de coopération dans la Belgique fédérale", *Administration publique*, pp. 158-200.

2 These agreements are now provided for in the Law of 26 November 1992 on common regulations for the public administration and administrative procedure.

The central government and the Autonomous Communities also formulate bilateral agreements for investments in certain fields, either because the government wants to make specific investments within the territory of the Autonomous Community or because the extent of the planned investment and the fact that it cannot be covered solely by the Autonomous Community mean that the state has to step in.

In such cases the two authorities reach a consensus or conclude an agreement on the arrangements for the investment, whereby an appropriate agreement signed by both parties lays down the schedule for the operation and the funding quotas[1]. Lastly, the Autonomous Communities can conclude mutual agreements for managing their own specific public services, in the cases, conditions and terms laid down in their statutes (Article 145).

Portugal has several modes of institutional co-operation for the island regions, in the form of participation in various national bodies; the Constitution also provides that in such regions the "organs of supreme authority" must consult the organs of regional government on matters within their powers which concern the region (Article 231.2). There is no equivalent of these provisions for the administrative regions which are provided for in the Constitution but which have not yet been created, which explains the different legal status of these two categories of regions.

Italy draws a distinction between special-status and ordinary-status regions. Whereas over 85% of the budget for ordinary regions comes from the state budget, the special regions have more extensive powers and are largely self-financing (over 55% of all their resources are independent), enabling them to engage in more balanced co-operation with the state[2]. However, the development of co-operation between the state and the regions is essentially based on agreements, and even the special-status regions have no form of institutional co-operation with the state.

The recourse to the agreement method was confirmed in Legislative Decree No. 616 of 24 July 1977, and was subsequently used in other contexts, such as the Mezzogiorno development programmes (Law No. 64/1986). However, as early as 1958 the Constitutional Court had acknowledged the need for close co-operation between the state and the regions, and now recognises the lawfulness of agreements between the state and a given region. Article 15 of Law No. 241/1990 empowers all government departments and authorities to conclude agreements to regulate co-operation in the development of activities of common interest. Regions can accede to such agreements, the contractual validity of which is recognised under Italian law[3].

However, France is the country with the most systematic contractual co-operation between state and regions. The existence of territorial authorities which have general jurisdiction above and beyond their attributions under the law and which are prohibited by law from exercising supervision over each other, has created the need in the French administrative system for new instruments of co-ordination and co-operation.

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1 Pola, G./Marcou, G./Bosch, N. (ed.): *Investissements publics et régions*, L'Harmattan, Paris.

2 Cassese, S./Torchia, L. (1993), "The Meso Level in Italy", p. 105, in Sharpe, L.J. (ed.), op. cit.

3 Sabbioni, P. (1996), "Les accords entre les administrations dans le système juridique italien", to be published in Marcou, G./Rangeon, F./Thiebault, J.L. (ed.), *Le gouvernement des villes et les relations contractuelles entre les collectivités publiques*, to be published.

The state-region planning contract, which was developed on the basis of the Planning Reform Law of 29 July 1982 and which was designed as a means of ensuring consistency between national and regional planning, quickly became the main instrument for co-ordinating state action with that of the local authorities, and it has survived the recent decline in national economic planning.

Since 1983, the state and each region conclude a planning contract for a five-year period. The methodology behind these contracts has developed towards concentration of action and clarification of clauses, particularly the financial ones. The contractual validity of the clauses in these documents was affirmed by the law itself and legally approved by the State Council, although discussions are continuing on reconciling such commitments with the requirements of annual budgeting.

The process of formulating the planning contract has become a complex form of political and technical negotiation between, on the one hand, the regional prefect and the state departments, and, on the other, the prefect and the region. The contract comprises the establishment of a joint institutional mechanism for monitoring and assessment. On the whole the parties implement the contract in compliance with the undertakings and any necessary adjustments are negotiated; on the other hand, little use is made of the formal procedure for revising the contract laid down in the law.

Lastly, the state-region planning contract now embraces all the contractual undertakings made by the state in a given region under other contracts, which may be provided for in specific legislation, as for example contracts on the building of institutions of higher education which are jointly funded by the region and possibly other local authorities, or the funding of contracts with other local authorities such as the urban contracts ("contrats de ville"). On the other hand there are no permanent institutions for co-operation or co-ordination between the regions and the state; the National Planning Council which had been provided for under the 1982 law and in which the presidents of the regions were to participate is now dormant.

In the Netherlands, which is also a unitary state, but one in which regionalisation has not led to the setting up of new institutions, there is also increased use of contractual techniques. Under the Fourth National Development Plan (VINEX) approved by parliament, agreements can be concluded with local and regional operators with a view to its implementation; in fact these agreements are drawn up with the towns and cities (see § 2 below), but while the government has itself directly concluded agreements with the four main cities in the country, it has drawn up a contract with the Union of Dutch Provinces delegating to the latter the negotiation and signature of agreements with the municipalities of 18 other towns[1].

The United Kingdom presents yet another model, which for the moment is unique and which might be called "integration-oriented regionalisation", with regional ministries for Scotland, Wales and Northern Ireland operating under the authority of a Cabinet Minister and under the scrutiny of parliamentary committees made up of the members of parliament for these regions.

These ministries have several departments corresponding to sectoral ministries, whose responsibilities they carry out in their regions; they are also backed by a large number of non-elected bodies such as the regional development agencies. These regional ministries raise an unusual variant of the problem of relations between the state and the regions, because they are simultaneously a branch of central government and an organisation peculiar to the region; they are both the representatives of the region with the government and the agencies responsible for implementing national policy in the region.

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1 De Bruijn, H./van Eeten (1996), "L'administration négociée aux Pays-Bas. Une analyse des possibilités et des limites des conventions dans les relations intergouvernementales et les relations public-privé" in Marcou, G./Rangeon, F./Thiebault, J.L. (ed.), op. cit.

In countries which have no regional institutions or else only have devolved government departments at the regional level, the problem of relations between the region and the state obviously does not arise, but relations at local level between local authorities and devolved government departments become more important (Sweden, England and Portugal where regional co-ordinating committees are concerned, and Hungary and Poland). In Sweden, the United Kingdom and Hungary it is difficult to equate the county as an institution with a region, even though it contributes to regionalisation with its changing responsibilities and institutions.

The Swedish counties are undergoing twofold vertical and horizontal integration. On the one hand, the elected county councillors now dominate the county's state administrative council and can therefore influence the action of the administrative departments, most of which have been placed under the county's State Administrative Department. On the other hand, there are formal and informal central controls: the national administrative agencies have issued a whole series of directives on the implementation of national legislation governing the mandatory powers of the counties or municipalities, but party links also have a role to play in the integration of the different levels[1].

B. Regional finances, solidarity and equalisation

Only the general and political aspects of this highly complex subject can be broached here, and the following will but illustrate the propositions set out below.

1) Regions generally have greater financial autonomy vis-à-vis their expenditure than their resources. This proposition applies equally to regions and federate states, with the notable exceptions of the Swiss cantons and the French regions - though obviously on a different scale - as well as the Swedish counties if equated with regions, but this is a hypothesis which must be treated with all due caution.

Only these three types of authority are genuinely financially autonomous in terms of resources, because their independent resources constitute a large percentage of their total resources and they can levy taxes, set income tax rates; and therefore deciding on the amount of tax revenue, under the conditions set out in law.

Swiss cantons and Swedish counties levy and set income tax rates; taxation provides 49% of the cantons' total budgetary resources[2], and income tax revenue represents almost two thirds of the Swedish counties' total resources[3]. The French regions have much smaller budgets because they have relatively few administrative attributions, but their tax revenue represents almost 50% of their total resources.

The Italian regions and the Spanish Autonomous Communities, however, derive most of their resources from shares in national tax revenue, over which they have no influence, and direct budget transfers from the state. In Spain, independent resources represent only 10% of the Autonomous Communities' budgets, and tax revenue only 1%. In Italy this percentage has increased to 15%, but independent and transferred tax revenue represents little more than 10%, although this average

1 See the Swedish national report by M. Östhol and Marcou, G./Verebelyi, I. (1993), op. cit., pp 60-62 and 88 ff.

2 In 1992, although it was 57% in 1984.

3 See also Weber, L. (ed.) (1992), *Les finances publiques d'un Etat fédératif, la Suisse*, Economica, Paris; and Gustafsson, A. (1988), *Local Government in Sweden*, The Swedish Institute, pp. 115 ff.

embraces wide disparities since special-status regions have more extensive tax-levying powers[1]. The situation in the German *Länder* is fairly similar: over 85% of their tax revenue comes from their shares in national tax revenue; the *Länder* have a very low level of independent tax revenue.

2) The regions with the large budgets are also those with the lowest independent tax revenue. Here again Switzerland is the exception. This situation can be explained by the concern to avoid economic distortions caused by regional variations in the tax burden. This was an explicit consideration in the formulation of the financial system for the German Federation and *Länder*. Moreover, when authorities wish to ensure some degree of equality in the level of public services they tend to place the emphasis on transfers from or shares in national tax revenue rather than independent taxation, because the former type of revenue is easier to adjust to the level of the needs[2]. However, these aims are somewhat at variance with the financial autonomy objective.

3) Financial solidarity and equalisation mechanisms are not peculiar to regionalisation or federalism; they occur in most public finance systems. On the other hand, the modalities of their implementation and their intensity depend on institutional factors and explicit or implicit choices between political values.

The most vigorous equalisation systems are to be found in the United Kingdom and Sweden, though they concern local rather than regional budgets. In the United Kingdom equalisation is based on the principle of bringing resources into line with the estimated cost of the needs to be met: in a word, revenue support grants are calculated by comparing the standard spending assessment with the total average expected revenue from independent or transferred local taxation; in this system the assessment of needs is the most difficult, and sometimes controversial, operation.

Sweden has a system of tax revenue equalisation which is applied to income tax. Where the municipalities are concerned, the main mechanism consists of defining a guaranteed level of income tax bases, whereby the government sets a tax rate which is applied to the difference between a given municipality's real tax bases and the guaranteed level; this gives the amount of the equalisation grant paid to the municipality by the state.

Germany has a complex equalisation system based on the apportionment of VAT revenue. Since 1995, 56% of VAT revenue has gone to the Federation and 44% has been divided out between the *Länder* according to three main procedures: 75% of this volume is apportioned in accordance with the size of the population, which is already a form of equalisation in view of the uneven distribution of economic activities; the other 25% is used for attributing tax supplements to *Länder* whose tax revenue from all sources is below the average for the *Länder*; lastly, on the basis of variations in tax revenue noted among the *Länder*, taking 50% of tax revenue totals from the Land's municipalities as the basis this time, a horizontal equalisation funded by the wealthier *Länder* is conducted on behalf of those *Länder* which lie below the equalisation index.

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1 See financial tables published each year in Volume 2 of the *Annuario delle Autonomie locale*, Edizioni delle Autonomie, Rome.

2 In Germany this aim corresponds to a principle set out in the Constitution, namely the objective of homogeneous living conditions throughout the Federal territory (Basic Law, Article 106).

In Switzerland, the cantons' share in some types of Federal revenue and their contribution to some types of Federal social expenditure are adjusted in accordance with a financial capacity index.

However, neither the Swiss nor the German equalisation system is sufficient on their own; they are both complemented with subsidies which are also attributed on the basis of equity criteria. Even so, the results do not always correspond to the aims and sometimes have a fairly limited impact as compared with the budgetary volumes in question. Equalisation in Switzerland concerns less than 3% of cantonal budgets; in Germany, before the integration of the eastern *Länder*, the percentage was the same, but in 1995 it can be estimated at approximately 12% of the *Länder* budgets. In fact this leap explains the increase in the proportion of VAT which is to be attributed to the *Länder* from 1995 onwards, preventing imbalance in the western *Länder* budgets, which have virtually all become net contributors[1].

4) Regionalisation can also be accompanied by pressures towards regionalising resources rather than promoting interregional financial solidarity. In this case it can help maintain inequalities rather than creating favourable conditions for endogenous development.

Selfish regional interests may emerge in many different forms and at many levels, but they may be able to establish themselves through the institutions and the self-governing system. In more tragic circumstances, they fuelled separatism on the part of certain republics in the former Yugoslav and Soviet federations[2]. This risk is particularly high when political regionalisation benefits wealthy regions.

5) Not only the creation of regions but also progress in decentralisation seem to push public expenditure up, even when the regions have little or no control over the changes in their resources. This phenomenon can be seen in Spain, Italy and France.

In Spain, the Autonomous Communities' share in overall public expenditure increased from 6.1% in 1982 to 22.6% in 1992, and has since remained static; their staffing increased from 3.9% to 39.1% of the total Spanish civil service between 1982 and 1994, whereas over more or less the same period (1981- 1991) the latter increased by 50%.

The expenditure of the Italian regions is proportionally similar to that in Spain, and the consensus is that regionalisation was made possible by economic growth, particularly because the ordinary-status regions' most important powers are in the social field and these gave the politicians direct control over a certain proportion of public expenditure; the result is that the regions' role is especially important because the economic situation gives them more resources to manage[3].

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1 On Germany see Marcou, G. (1994), "Finances publiques et inégalités territoriales", pp. 185-227, in Marcou, G./Kistenmacher, H./Clev H.G., op. cit., and Bundesministerium der Finanzen (1994), *Finanzbericht 1995*, Bonn, particularly pp. 99 ff.

2 On the break-up of the USSR and separatist tendencies in some regions of Russia, see Marcou, G. (1993), "Local Government and Economic Development", particularly pp. 218-221, in Marcou, G./Verebelyi, I., op. cit.

3 Cassese, S./Torchia, L. (1993), "The Meso Level in Italy", p. 113, in Sharpe, L.J. (ed.), op. cit.

In France, where the regional councils establish the rates for taxes which they levy on the same bases as the municipalities and departments, the regions' share in local direct tax revenue increased from 5% to 8% between 1988 and 1994 and their overall expenditure in real terms increased by over 20% per annum or thereabouts between 1984 and 1988; despite a slowdown from 1987 onwards, which was also when the transfers of powers were completed, the growth rate stayed above 12% until 1991. The development of regional investment expenditure is even more significant, because it has grown much faster than investment expenditure in the departments and municipalities[1].

However, this evolution is apparently not entirely attributable to the creation of regions; it is a phenomenon which occurs in all decentralisation processes. Public expenditure is also to some extent a mode of legitimisation; the elected members of the new institutions must meet the needs confronting them. This corroborates Jim Sharpe's theory that meso government reinforces the coalition of consumers vis-à-vis the coalitions of producers characteristic of modern neo-corporatism[2].

2. Local self-government and the regions

Regionalisation obviously has different effects on local authorities' self-governing powers depending on whether or not it entails a new governmental level in addition to the existing local authorities. Clearly, when regionalisation involves transforming the functions of the intermediate-level institutions or inter-municipal co-operation it does not curb these local authorities' autonomy; on the contrary, it may reinforce it vis-à-vis central government.

However, the positive or negative consequences for local authorities are just one of the elements to be considered in assessing the merits of regionalisation, or to be more exact of the forms it takes in a given country. Here again, comparison between regionalisation and federalism is relevant to the appraisal of the specific institutional expressions of regionalisation.

One will therefore consider the situation of infraregional local authorities vis-à-vis the regionalisation process in a unitary state, then in situations of political regionalisation, and lastly in federal states. Three variables are relevant for analysing the consequences of regionalisation for local self-government: the statutory, functional and financial dependence of local authorities[3].

A. Infraregional local authorities and regionalisation in the unitary state

The most typical example here is France. The situation in Portugal is comparable, even though regionalisation is still hypothetical in this country's mainland European territory. In both cases regionalisation has been influenced by the concern to avoid affecting the autonomy of the other local authorities.

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1 Report on France by G. Marcou.

2 Sharpe, L.J. (1993), op. cit., p. 17.

3 De Bruycker, Ph./Nihoul, M. (1995), *The Impact of Regionalisation on Local Self-Government*, Council of Europe, Strasbourg. See also Nihoul, M. (1993), *Les communes dans l'Etat fédéral. Analyse comparative de la situation dans cinq Etats fédéraux: les Etats-Unis, le Canada, l'Allemagne, La Suisse et l'Espagne*, "Le Mouvement communal", pp. 8-21.

The French and Portuguese regions are in fact "local authorities" within the constitutional meaning of the term; this means that they have the same legal nature as municipalities or other local authorities. In France the regions were established by law, as permitted by the Constitution, but they do not have Constitutional status, unlike the departments and municipalities, whereas in Portugal the administrative regions are provided for in the Constitution although their establishment is subject to the wishes of the legislator and the majority of the municipalities in the region (Articles 238 and 256 of the Constitution; see I.1.B above). Local self-government (or the principle of free administration by the local authorities) is recognised and protected by the Constitution.

In this model the infraregional authorities are in no way statutorily dependent on the region because both the institutions and the responsibilities of such authorities are established by national law, including territorial changes and the conditions for such changes. Clearly, neither the French regions nor the Portuguese administrative regions exercise statutory responsibilities vis-à-vis the other local authorities, namely the departments and municipalities in France and the *municípios* and *freguesias* in Portugal. Furthermore, controls over local authorities (control of legality and financial controls) are exercised by the state, not the region: they involve state institutions, namely the prefect in France and the civil or district governor in Portugal[1], as well as the competent courts and in certain cases the government itself[2] or a minister.

The two countries adopt different approaches to protecting the autonomy of infraregional local authorities. In Portugal some (less than half) of the members of the regional assembly will be elected by the college of municipal councillors from the *municipíos* in the region, while its other members will be elected by direct suffrage.

The Portuguese Constitution confers regulatory power on the local authorities, but they are also required to observe the regulations issued by higher-level local authorities, which means that the administrative regions will be able to issue regulations binding upon the municipalities. However, the Constitution provides that the administrative regions, which will be responsible for co-ordinating and supporting the municipalities, must respect the latter's autonomy and refrain from limiting their powers.

The French local authorities have no regulatory power except where the latter is expressly provided for by law as part of the exercise of a responsibility; this explains the importance of negotiations, incentives and contracts in interregional relations and relations between the regions and the departments or municipalities. Furthermore, the apportionment of responsibilities between municipalities, departments and regions must not enable any of these authorities to exercise any form of supervision over any of the others (CCT, Article L.1111-4) and a decision whether or not to grant financial aid to another local authority cannot have the effect of establishing or exercising supervision (Article L.1111-4). On the other hand, the plan set out in the 1969 draft to include representatives of the local authorities on the regional councils, which plan was actually applied in the setting up of the regional public establishment provided for under the 1972 Law, has been abandoned.

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1 When the regions have been set up a Government representative will be appointed in each region; he will also represent the region with respect to the other local authorities within its area.

2 Particularly in order to dissolve the municipal council.

These provisions show a desire to prevent the municipalities from becoming functionally dependent on the regions (or, in France, on the departments), but they also demonstrate that such dependence can be indirect and arise, for instance, out of financial "support". Subsidy schemes invariably lead to some degree of dependence, be it only in terms of determining the purpose of the subsidy. However, this means that one must assess the overall system governing resources.

One can only do so in respect of France because the Portuguese administrative regions do not yet exist, but it can be noted that communal and departmental finances are completely separate from regional finances: each local authority is specifically empowered to levy taxes, and the main budgetary transfers are attributed by the state in the form of a lump sum (except for investment subsidies for municipalities with populations of under 2 000). Financial equalisation systems are managed by the state, not the region, apart from small equalisation funds which are administered by the department council.

Broadly speaking, the Constitutions of unitary states include provisions geared to creating local authorities, guaranteeing their autonomy and establishing state control, with the sole exception of the United Kingdom, but more in the nature of its (unwritten) constitution than in what it provides. In unitary states without regional institutions it is always the state or its local representative, not an intermediate-level local authority, which supervises the local authorities; this is the case in Sweden, and now also in Hungary and Poland.

The Netherlands are the exception here because the provincial council is responsible for municipal reorganisation, and the executive elected by the provincial council (which is, on the other hand, chaired by the Queen's Commissioner) supervises the municipalities and their co-operation agencies[1].

B. Infraregional authorities and political regionalisation

In all the countries which have undergone political regionalisation (Spain, Italy, and Belgium even though it has now become a federal state, as well as Portugal in respect of its overseas regions), the responsibilities vis-à-vis local authorities have been apportioned between the state and the region.

As in the unitary state, the national constitution defines the local authorities and the guarantees on their autonomy. General legislation on local authorities is adopted at the national level. In both Spain and Italy, as in Belgium, France and Portugal, the existence of municipalities and (apart from Portugal) provinces as an intermediate level is guaranteed by the Constitution.

However, there is *de facto* competition between the region and the province which has been facilitated in the case of political regionalisation by the weakness of the provincial level, confirming its subordinate status. For instance, where the expenditure of the French departments amounts to 46% of that of the municipalities (including communal groupings with independent tax-levying powers), the expenditure of the Belgian provinces corresponds to only 20% of that of the municipalities, and that of the Italian provinces under 9% of that of the municipalities.

1 Toonen, T.A.J. (1993), "Dutch Provinces and the Struggle for the Meso", pp. 132 and 133, in Sharpe, L.J. (ed.), op. cit.

In Spain the situation is more difficult to gauge, because the provincial level has disappeared in the one-province Autonomous Communities. However, the historic territories of the Basque Country and Navarra have a system based on "fueros" or privileges, which increases their resources; some of the other Autonomous Communities experience institutional clashes (Catalonia, Castile - La Mancha and the Valencia region), and some have a high level of co-operation[1]. Political regionalisation generally tends to subsume the province as a district of the region.

Local authorities are in a situation of partial statutory dependence on the regions, reflected in the apportionment of law-making and supervisory powers. Spanish national legislation establishes the bases of the local authority system (Law of 2 April 1985), regulates local finances (Law of 28 December 1988) and the property system (Legislative Decree of 13 June 1986); however, the Autonomous Communities also exercise a subordinate legislative power, which has for example been used to create special local authorities below provincial level, such as the *comarcas* (regions) in Catalonia and the Asturias, the associations of municipalities (*mancomunidades de municipios*) in Aragon, the organisation of metropolitan areas, and also the provinces' powers and relations with the Autonomous Community.

The Autonomous Community is also responsible for deciding on the creation or abolition of municipalities or alterations to their territorial boundaries (Law of 2 April 1985, Article 13). Supervision of legality is shared by the state and the Autonomous Community, which receives notification of decisions taken by the local authorities and may apply to the courts to have them rescinded; however, the Constitutional Court has called a halt to the efforts of certain Autonomous Communities to establish closer supervision over the provinces, particularly their budgets.

Portugal has introduced a similar system in the autonomous island regions. The latter legislate on regulations governing local authorities, in compliance with the Constitution and general national legislation, determine local authority boundaries (creation, removal and amendments) and exercise supervision.

Italian legislation on local authorities is still adopted at the national level, but the regions can legislate on town boundaries (Article 117 of the Constitution). Law No. 142/1990 lays down provisions enabling regions to rationalise the organisation of municipal territories and provides for setting up metropolitan municipalities in nine specified urban centres, leaving it to regional legislation to implement this reform and define further metropolitan municipalities; these municipalities are superimposed on the ordinary municipalities and combine both own attributions with those of the province.

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1 On Belgium, see De Bruycker, Ph./Dujardin, Ph. (1994), "La décentralisation à l'épreuve de la nouvelle forme de l'Etat", pp. 59-90, in Delcamp, A. (ed.), *Les collectivités décentralisées de l'Union européenne*, La Documentation française, Paris; Delmartino, F. (1993), "Belgium: in Search of the Meso Level", pp. 40-60, in Sharpe, L.J. (ed.), op. cit.; on Spain, Fernandez Espinar Lopez, L.C. (1994), "Espagne: les structures locals dans l'Etat des autonomies", pp 117-148, in Delcamp, A. (ed.), op. cit.; Cuchillo, M. (1993), "The Autonomous Communities as the Spanish Meso", pp. 210-246, in Sharpe, L.J. (ed.), op. cit.; on Italy, Merloni, F. (1994), "Italie: l'Etat régional contre la centralisation ?", pp. 233-254, in Delcamp, A (ed.), op. cit.; Cassese, S./Torchia, L. (1993), op. cit., pp. 91-116.

The dilatory implementation of the reform (except in Bologna and Genoa) shows the limits of regional power as compared with municipal power. On the other hand, delays in the process laid down in Law No. 142/1990 for transferring or delegating regional powers to the municipalities and provinces reflect the regions' reluctance to initiate decentralisation[1].

Also in Italy, supervisory powers over local authorities are apportioned between state and region: supervision of decisions is exercised by a regional body constituted in accordance with the laws of the Republic (Article 130 of the Constitution); Law No. 142/1990 set outs the principles governing such supervision, establishes the composition of the regional supervisory board and abolishes supervision of expediency. The state is responsible for supervising elective bodies (dissolution or revocation).

The 1976 British Scottish and Welsh devolution bill provided for empowering the regional assemblies to legislate on local government and finances, but it also guaranteed the current powers of local authorities.

Even though Belgium has become a federal state, legislation on municipal and provincial organisation is still adopted at national level (cf. the new law on local authorities of 26 May 1989). However, inter-municipal co-operation is now a matter for the regions (Law of 16 July 1993 specifying the apportionment of powers), and since 1980 supervision of local authorities has been gradually regionalised. Regions are currently responsible for organising and exercising the supervision of municipalities, subject to specific types of supervision organised by the national and community legislators[2] in matters falling within their respective jurisdictions.

Broadly speaking, regional powers, based on a high level of legislative power and finances, tend to make local authorities somewhat dependent on the region, both functionally and financially. The determination of the Spanish Autonomous Communities and the Belgian regions (or communities) to affirm their autonomy from the central authorities leads them to lay particular stress on their power over local authorities, which are sometimes better advised to seek the support of the central government in certain fields.

The proximity-based approach plays against the local authorities: the regional authority can exercise more detailed supervision than the state supervisor. The regional legislator is a subordinate legislator as he is bound by national legislation, and so he is tempted to legislate in more detail, which reduces the area in which municipal or local autonomy can be exercised.

And if, under regional decentralisation, applications can always be made to the administrative judge against a measure decided by a local authority which infringes local autonomy to the detriment of another body, in the case of political regionalisation it is more difficult for local authorities to challenge regional laws because the region is actually empowered to make laws.

In Spain only the national board of the local government department or the delegation representing the local authorities within the latter can apply to a competent authority to refer a national or regional law to the Constitutional Court (Article 119 of the Law of 2 April 1985). In Italy only the Government Commissioner in the region can appeal to the Constitutional Court against a regional law

1 Under Article 3 of this Law the regions must organise the exercise of administrative functions at local level by municipalities and provinces, apart from "unitary-type" functions which must be exercised at regional level.

2 In Belgium the community is a federate public authority specialising in so-called "personalised" powers.

on the grounds of its unconstitutionality; the local authorities can only adduce the unconstitutionality of a regional law which is already the subject of judicial review [1]. In Belgium, however, local authorities can lodge an appeal directly with the Court of Arbitration[2].

C. Local authorities in the federal state

The situation in federal states is very different from that not only in states undergoing regional decentralisation but also in those experiencing political regionalisation. Local authority status is determined exclusively by the federate states, subject to any relevant Constitutional provisions. Belgium is not really an example of this because its Constitution uses institutional regionalism to establish federalism, and the Belgian federal system still bears the clear imprint of such regionalism.

This is because the federal state is based on federate states, i.e. on the superimposition of state attributes at two different levels, and apart from a number of directly enforceable federal powers, internal administration falls within the competence of the member states. This is in any case the model used by Germany, Austria and Switzerland, but there is some diversity.

First of all, the federal constitution does not necessarily mention the existence or autonomy of local authorities. This applies to the Swiss Federal Constitution and those of the United States of America and Canada.

The German Basic Law recognises and safeguards the principle of self-government (*Selbstverwaltung*) by local authorities in general terms, including the principle of financial autonomy (Article 28), and establishes the bases of the system governing local authority resources (Article 106, paras. 5 to 8). On the other hand, the Austrian Federal Constitution is much more detailed: it sets out a veritable "general principles act" on the system of local authorities (Articles 115 to 120, together with the amended Constitutional Law on Finances of 21 January 1948). Yet the constitutions and laws of federal states set out the regulations governing local authorities; in principle there are no federal laws on territorial organisation or regulations governing local authorities[3].

The fact is that local authorities in federal states depend statutorily, functionally and financially on the federate state; where the federal constitution contains provisions on local authorities, federal law is rather a source of safeguards against the powers of the federate state to which the local authorities are answerable. Local authorities have basically no direct relations with the federal administration; to them, the state is the federate state to which they belong.

There is, however, partial functional and financial dependence on the federation in that federal legislation can set out programmes which require the participation of the local authorities (e.g. in the social policy field), and it directly affects their budgets firstly if it does not completely offset the costs arising out of federal programmes and secondly if it intervenes in local authority resources, for instance through tax policy measures aimed at different goals.

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1 Article 134 of the Constitution; Article 23 of Law No. 87/1953 of 11 March 1953.

2 This facility is laid down in the special law on the Court of Arbitration of 6 January 1989.

3 However, the Russian Federation has enacted a law on the general principles of the autonomy of local authorities (Law of 29 August 1995).

One typical example is provided by the current debate in Germany on the partial abolition of business tax and the alternative resources which would have to be found (e.g. a share in revenue from VAT or an eco-tax)[1].

Contrary to the generally accepted idea, while federalism undeniably encourages institutional diversity in the local authorities, it does not foster decentralisation. To be more exact it is neutral vis-à-vis decentralisation. The issue of decentralisation in fact arises inside each member state.

The extent of local authority autonomy depends on the extent of the guarantees set out in the federal constitution and of the powers and degree of financial autonomy granted to local authorities by the constitution and legislation of each federate state, but the federal constitution may also allow for both centralised and decentralised systems. In fact, within one and the same federation there may be considerable differences in the extent of the actual autonomy of local authorities; as in both Germany and Switzerland.
Local authorities sometimes have greater autonomy in unitary states than in federal ones, as can be seen from the examples of Sweden or Denmark[2]; detailed comparison between France and Germany also shows that in many respects the French municipalities, particularly the urban municipalities, have more autonomy than their opposite numbers in Germany, particularly in terms of finance and town planning - which sometimes has drawbacks as well as advantages[3].

1 "Die Reform der Kommunalfinanzen", *Informationen zur Raumentwicklung*, No. 8/9 1995, Bundesforschungsanstalt für Landeskunde und Raumordnung.

2 On Denmark, se Jorgensen, H.O. (1994), "Communes et comtés: le modèle nordique", pp. 91-115, in Delcamp, A. (ed.) op. cit.

3 Marcou, G./Kistenmacher, H./Clev, H.G. (1994), op. cit., particularly Chapter 4 on planning (by H. Kistenmacher and H.G. Clev) and Chapter 5 on public finances and territorial inequalities (by G. Marcou), and Pola, G./Marcou, G./Bosch, N. (1994), op. cit.

CONCLUSIONS OF THE CDLR

1. The different models of regionalisation

Each individual member state of the Council of Europe has its own history and geography, its cultural, linguistic and other human characteristics, its economic and social situation, and its political leanings and tensions, all of which generate and explain the wide differences existing in the territorial organisation of these states. These disparities also make it difficult to arrive at a common notion of the term *region* or to encompass in a single unambiguous definition the term *regionalisation*.

The word *regionalisation* may be used to cover a wide variety of situations, including also certain forms of co-operation between local authorities and even decentralisation of the administrative departments of central government. In fact, regionalisation may also occur - and often does - irrespective of whether a recognised regional authority already exists or is to be formally created.

The decentralisation of the administration departments of central government is clearly distinguished from the other forms of regionalisation in that it is almost entirely consummated by reorganising the central government administration and its operation.

True, decentralisation of the central government's administrative departments is usually attended by a new conception of state-local government relations. Greater proximity of the central administration to the local authorities naturally entails the discovery of new forms (and procedures) for co-ordinating and supervising the action of the latter, and it may also aid the devolution of certain functions to local government.

While by no means insignificant, the effects of decentralisation nevertheless differ in extent and above all in nature from those produced by the other forms of regionalisation.

Development of intermunicipal co-operation assumes major importance in a number of European states. It is a response to the challenges which certain communities, not of sufficient size for the complete discharge of all their responsibilities, are unable to meet if they remain isolated.

On a different plane, it also provides a response to the problems faced by Europe's large towns and the communities on their outskirts. Significantly, these areas are referred to under the designation of urban or metropolitan "regions".

The above forms of regionalisation admittedly have a substantial impact on local authorities engaged in reorganisation and establishment of institutional structures aimed at improving the management of affairs which pertain to their level and catering more satisfactorily for the needs of their residents. Moreover, the stimulus to integration which they create frequently proves itself a powerful instrument of rationalisation and efficiency, and as a result the process can make for the conferment of new functions on the structures thereby established.

The CDLR has already has occasion to comment on the essential role which can be performed by types of association between local authorities, in particular between urban regions, and has given definite indications regarding the institutional structures of these regions; reference can therefore be made to its studies in this field[1].

Thus, in the context and for the purposes of these conclusions, attention will be focused on the forms of regionalisation based on the notion of region as intermediate self-governing authority, on the level just below central government, having a political representativeness.

The trend towards greater regionalisation, even in this narrower sense which describes the development of the territorial structure in favour of an intermediate tier of government, does not necessarily lead to the creation of a new territorial entity but may rather entail the adaptation of existing institutions: it may occur within states where an intermediate authority already exists on which it is intended to confer new responsibilities and duties; at least in theory, regionalisation might in some cases lead to the abolition of a lower intermediate tier of government.

In other words, understood in this way, the process of regionalisation may take one of two paths: the creation of an intermediate authority, or the strengthening of one that already exists by allocating to it certain powers and the management of certain public services.

2. The purpose of regionalisation

Whatever the model chosen, regionalisation reflects a particular view of the nation state and translates a specific policy.

There are undoubtedly political motives underlying the establishment of a regional level of government when it is a case of responding to demands for self-government. More generally, the creation of autonomous regional authorities - or their reinforcement - can be justified by the desire to bring the exercise of public responsibilities as close as possible to the citizen and represents a method of implementing the *principle of subsidiarity*, which thus constitutes the basis and justification of the process.

Other forms of regionalisation linked with the enhancement of intermunicipal co-operation may also be contemplated in response to the political demand for more pronounced decentralisation.

The second aim of regionalisation corresponds to the need to structure the territory in such a way as to allocate public responsibilities to the different levels of government according to the *principles of efficiency and economy.* In this connection it is necessary to note that territorial organisation is an extremely complex and highly sensitive task and that the individual features of each country may justify the adoption of different solutions. In this sense, the setting up of a regional self-governing authority is advisable whenever it enables powers to be shared more rationally, available resources to be used more efficiently and economically and public services to be better managed for the benefit of the public.

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1 See in particular the following studies:

– Major cities and their peripheries - co-operation and co-ordinated management, No. 51 in the series "Local and Regional Authorities in Europe";
– The status of major cities an their peripheries, No. 59 in the series "Local and Regional Authorities in Europe".

Lastly, an economic aim usually exists whatever the form of regionalisation, even where it does not involve the creation of an additional tier of administration. Indeed, with the growing importance of regional economic systems in the present European and worldwide context, regionalisation can become a mandatory choice for adapting established local institutions to the dictates of sustainable economic development or founding new institutions capable of fulfilling them effectively.

3. The factors of regionalisation

At all events, whether to regionalise or not remains an eminently political decision, which depends on the concept of state organisation adopted. This concept has changed - and is still changing - particularly in the light of the role taken on by the state and its component authorities and of the extent of their involvement in ordinary people's day-to-day lives.

It is up to policy-makers in each state to assess their country's specific situation and to decide whether one of the regionalisation models is an appropriate response to citizens' problems, expectations and aspirations. Several factors should be taken into account for this purpose:

- historical (e.g. presence of former territorial divisions, such as kingdoms, principalities, duchies ...);

- political (e.g. vigorous nationalism, autonomist, separatist or federalist movements);

- ethnic and/or cultural (including language factors);

- geographical (e.g. the larger the country, the more important it is to set up intermediate authorities; special consideration has to be given to islands ...);

- demographic (e.g. the existence of a large number of local authorities with small populations; concentration of population in certain parts of the country ...);

- socio-economic (e.g. marked differences in the development of the different parts of the country, activities of inhabitants of each area and the income they derive from these...).

It is impossible to place these factors in order, as the importance of each may vary, depending on the context. All deserve to be taken into consideration with a view to determining whether regionalisation is desirable, or even necessary, and which form it should take.

They also shape the course of the regionalisation process, influencing both the division into regions and the nature and scope of regional self-government, when this is the result of the process.

Nor is it possible to present a single regionalisation model or even a standardised regional model, be it in terms of size (geographical or population) or competencies. Such uniformity would not seem feasible given the differences between states.

On the contrary it is possible and worthwhile to indicate the criteria which may guide policy-makers. In particular, the adoption and implementation of these criteria in a given situation should comply with three principles:

- firstly, the solutions adopted should conform to the necessity of safeguarding the territorial unity of the state while preserving solidarity between its various components;

- secondly, in a rapidly changing environment, the regionalisation process should lead to solutions well suited current problems and also adaptable to future changes;

- lastly, given the highly competitive European and world situation, the territorial organisation of the state - and the accompanying administrative institutions - should act as a catalyst for stimulating the economy, avoiding unnecessarily bulky or complex structures which would hamper or handicap the private sector.

4. Administrative decentralisation and political regionalisation

Regional self-government has implications for local self-government whose importance in quantitative and qualitative terms warrants more thorough examination of the process of setting up or strengthening self-governing regional authorities. This process may follow two paths that should be clearly distinguished: administrative decentralisation at regional level and political regionalisation[1].

Administrative decentralisation may involve the attribution to regions of management and/or planning powers in fields determined by the law. This may be distinguished from administrative decentralisation which takes place in the form of execution of public tasks by region-related state administrative authorities, which however do not represent an autonomous regional level.

Political regionalisation entails the attribution of legislative powers, enabling regions holding such powers to draw up or supplement statutory rules in the fields in which they have such powers.

The concept of regional self-government refers to the existence of an assembly which has democratic legitimacy and of a regional executive answerable to that assembly.

Election of the regional assembly by direct suffrage is the only appropriate solution in the case of political regionalisation, especially in view of the ensuing hierarchical relationship between the region and the other territorial authorities. In the event of administrative decentralisation, on the other hand, the democratic legitimacy of the regional assembly may be based on indirect representation.

1 This terminology is borrowed from Italian and Spanish doctrine and, in the legal systems of the two countries, characterises the specificity and the extent of the powers conferred under the respective constitutions on regions or autonomous communities. These powers are more akin to those enjoyed by federated states than to those of the regions in France or other European countries where forms of regional self-government are established. However, this terminology does not imply that the political dimension is absent from the sphere of regional decentralisation. This dimension is in fact inherent in the notion of regional self-government; what is more, it is present to differing degrees in all forms of regionalisation, even those not resulting in regional self-government.

The choice of the model to be followed depends on the actual situation of each state. It is nevertheless possible to say that political regionalisation raises problems which are more complex to solve and also that the process as such implies the possibility of proceeding step by step.

It is thus perfectly possible, within the context of a political and/or economic transition, to embark on this process by administrative decentralisation at regional level, thereby making it possible gradually to set up the structures necessary to the exercise of the management and planning powers devolved to this level, and to lay sound foundations for the move towards political self-government of the region, if so desired.

Nevertheless, there is no reason to regard administrative decentralisation at regional level only as a step towards political regionalisation. On the contrary, it constitutes a separate model designed to deal with problems of a different nature.

It should be noted that the two models of self-government are not mutually exclusive and may coexist within a single state: the particular situation of some regions may justify, or even require, specific solutions, particularly the recognition of political self-government, despite this not being deemed appropriate for every region of the country concerned.

5. The definition of new geographical areas

When the regionalisation process involves the creation of new intermediate authorities and no obvious solution is imposed by historical, ethnic, cultural, linguistic or other traditions, the definition of their geographical area can also be made on the basis of other criteria.

First of all, the size of regions must be appropriate to the powers which it is planned to give them; if geographical size and scope of powers are inconsistent, the whole process becomes pointless. Similar considerations may be applied to the population of regions.

The aim is not, of course, to make every region the same size, with the same population: not only is this unnecessary, but there are usually several factors standing in its way. As far as possible, however, it is advisable to avoid significant disparities between regions, which could give rise to inefficiency.

Regions must also be large enough to make possible and effective the performance of the tasks entrusted to them.

Regions must be in a position to foster the balanced development of the country. Often, there is no way of delimiting them without "consolidating" existing inequalities, but in these cases, it would be appropriate in so doing to bear in mind the specific action which the situation of certain areas requires, in order to simplify structural policies and make them more efficient.

It should also be noted that, once the number of regions has been determined, account should be taken of how to make optimum use of public resources. Therefore, it is important to assess the benefits resulting from the new expenditure incurred through regionalisation.

The geographical situation - even when it is not an essential factor in itself - may also help to create and strengthen a feeling of belonging to a region. It is therefore appropriate to take due account of it.

Dividing the country and delimiting regions is not an innocuous operation: quite the contrary, it is likely to give rise to strong resistance, particularly from local authorities if they feel that the process is impinging on their prerogatives.

Furthermore, the factors mentioned above, already difficult to appraise, may give rise to discrepancies, generate conflicts of interest and create tension between incompatible solutions, all of which delay the process.

If such tension is to be reduced, and even prevented, it is absolutely essential that local authorities as well as their citizens be involved in the process, directly and/or through associations which defend their interests. In particular, it would be advisable for the opinion of the populations affected by the proposed reforms to be sounded out by means of referenda.

If the regional boundaries are drawn in such a way as to take account of pre-existing territorial authorities, and without calling these in question, this should normally simplify the process. However, if, despite the efforts made, it appears impossible to resolve every dispute, decisions will have to be taken in the light of the general interest.

6. Definition of regions' powers

The definition of powers should draw on the subsidiarity principle "as a criterion for allocating powers between different levels of government and guiding them in the exercise of these powers"[1].

At the same time, the attribution of powers to regional authorities must meet the requirements of efficiency and economy which the subsidiarity principle implies and which underlie the regionalisation process.

Wherever possible, it is desirable for a set of exclusive powers to be allocated to the regions. An effort should also be made to ensure that all these powers (whether or not they are exclusive) are appropriate to the size (in terms of territory and population) of the regional authorities. Such powers must be defined as clearly as possible, as uncertainties lead to both malfunction and conflict.

What is more, clarity is not irreconcilable with some degree of flexibility. Generally speaking, it of course seems preferable to avoid regionalisation "à la carte", and equality between the regions should be ensured as far as possible, since this makes co-operation between regions easier, while its absence makes co-operation far more difficult.

It is not essential, however, for every region to be given exactly the same powers at the same time; on the contrary, some time-lags may meet some regions' need to avoid taking on responsibilities they are not yet ready to bear. It is also possible, as part of a dynamic process and in the light of changes in the situation, to provide for "adjustments" to the powers determined at the outset.

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1 The Committee of Ministers of the Council of Europe, on 12 October 1995, adopted Recommendation No. R (95) 19 on the implementation of the principle of subsidiarity. Furthermore, a report prepared for the CDLR entitled "Definition and limits of the principle of subsidiarity" was published as No. 55 in the series of studies on "Local and regional authorities in Europe".

Any system of self-government should include an effective remedy enabling regions to protect their powers from illegal or undesirable interference by the state and enabling the state to prevent the regions from exceeding their powers. When powers are divided under constitutional law, the arbiter in dispute over powers should be, as a last resort, the body responsible for determining whether legislation accords with the constitution.

Lastly, care must be taken to ensure that administrative structures exist which are capable of performing the new tasks, and an answer must be found to the various problems relating to regional government staff.

7. Regional finance

There can be no genuine self-government without financial resources. The recognition of regions' own powers and the delegation of responsibility for administrative management must be accompanied by the provision of appropriate financial resources, i.e. resources allowing regions to perform all of their tasks efficiently.

Regions, in particular those enjoying political self-government, should be allowed an appropriate margin for determining their level of expenditure and a corresponding control over their revenue.

When regions have a certain financial self-management, this has an impact on national macro-economic policy; nevertheless, if their margin of manoeuvre is properly defined, this financial self-management may not be an obstacle to a policy of expenditure control. Indeed, regions' share of fiscal responsibility in relation to taxes they can levy is likely to encourage the search for greater efficiency, thus helping to moderate regional public expenditure and to stabilise the system for the financing of regions. The repercussions of the financial independence of regions on national economic policy should therefore be balanced against the advantages it can offer.

Lastly, it is also essential when creating regions that a financial equalisation system be set up at national level, in order to lessen the effects of inequalities between regions, while maintaining their degree of autonomy.

8. Inter-regional and state/region relations

In the framework of the regionalisation process, the principle of subsidiarity plays a vital role. Nevertheless, compliance with this principle is not sufficient: attention should also be paid to the *principle of coherence and unity of application of public policies* for the benefit of the whole population, and to the *principles of co-ordination and territorial solidarity*[1].

In the fields of competence allocated exclusively to regions, it is advisable to define the limits to their action by means of legal instruments giving directives. To the extent that responsibilities over the same field are shared between the state and the regions, regional self-government should go hand in hand with the setting up of appropriate and functional machinery for co-ordination and co-operation between regions and the state.

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1 See Recommendation No.R (95) 19 and the report of the CDLR on "Definition and limits of the principle of subsidiarity", quoted in preceding footnote.

Moreover, regions should have available a forum for dialogue allowing them to harmonise their action in the fields where synergy, though not indispensable, is advisable.

9. The impact of regionalisation for the existing authorities

Regionalisation inevitably has repercussions on the situation of local authorities and, where they exist, of the intermediate sub-regional authorities. These consequences arise in respect of the scope of the said authorities' powers and their relations with both the state and the regions.

The creation of a self-governing regional authority implies the reallocation of powers between the state and the other authorities. The question which then arises is whether these authorities' degree of self-government is to be restricted to the benefit of the new regional authorities, or whether their powers should correspond exclusively to certain powers hitherto exercised by the state. Consideration must also be given to whether it would be advisable to maintain any intermediate sub-regional authorities which exist. The answer to these questions is not necessarily the same in every case.

It is advisable that regionalisation takes place as far as possible without restricting the competencies of the existing local authorities - namely the municipalities - without strengthening the supervision over the latter and without reducing the financial means at their disposal.

However, it is possible that these authorities may have encountered difficulties in the efficient exercising of some of their powers and that regionalisation may therefore be the occasion for withdrawing these. Regions might possibly be authorised not only to "restore" these powers through delegation, but also, by the same means, to assign new responsibilities to the local authorities.

The option of delegating powers must not serve as a pretext for denying that local authorities have powers of their own, but rather as a way of ensuring that the system for the division of powers has the flexibility which enables it to achieve an appropriate balance between the responsibilities taken on by each level of administration and the actual underlying situation, while complying with the principle of subsidiarity.

This flexibility may be increased by making it possible for local authorities to hand certain powers over to the regions, with their agreement, where this makes a more efficient and economical management of local public services possible.

At all events, local authorities should have available a judicial remedy to protect themselves from any illegal interference in the fields of their competencies.

Viewed as a means of achieving an optimum allocation of tasks and the corresponding burdens, regionalisation is not a process which conflicts with local self-government; indeed the latter may emerge strengthened as a result.

The intermediate sub-regional authorities are in a particular situation, however, since the setting up of regions raises questions not only about their powers, but about their very existence.

It is advisable to keep them only if they are in a position to perform certain functions better than regions and municipalities. If they are not, they will simply stand in the way of the rationalisation which regionalisation aims to achieve, or they will remain in existence without real power.

Furthermore, the more levels of sub-national government there are, the more necessary it is to draw up a clear definition of the relations between them, so as to avoid constant disputes and the resulting paralysis of the workings of the system as a whole. So even in cases where regionalisation takes place without any change in the powers of the existing authorities, its effects are still not neutral, for the regional authority takes up a place between them and the state, thereby disrupting the interrelationships which previously existed.

Political regionalisation requires a thorough rethink of functional dependence, in order to avoid the proliferation of administrative checks on local authorities, but also to ensure the necessary co-ordination between their actions, those of any co-operation structures which may be set up by them and those of the regions. The need for co-ordination is just as important in the event of administrative decentralisation, although in this case the territorial authorities are placed on an equal footing and their relationships are free of hierarchical considerations.

In addition, political regionalisation can result in a change in statutory and organisational dependence, if the regions obtain powers relating to local organisation. In this case, the national uniformity of sub-regional territorial structures might decrease in proportion with the margin of manoeuvre granted to the regions. It therefore seems appropriate for states to supervise the exercise of these powers by the regions, in order to avoid unjustified inequalities between local authorities.

Regions could also be required, within the context of their financial self-management, to ensure at least some degree of equalisation of resources among the local authorities on their territory.

In addition, and in more general terms, the system of financing local authorities should be conceived with a view to limiting, if not suppressing, their "de facto" dependence on the state or the regions.

APPENDIX

NATIONAL REPORTS ON REGIONALISATION AND ITS EFFECTS ON LOCAL SELF-GOVERNMENT

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I. FRAMEWORK

1. Development of the French system of local government

France has developed as a unitary, centralised state. Under the Ancien Regime, the monarchical state was continually reinforced, with a corresponding reduction in the political privileges of the aristocracy and the independence of the towns and provinces to the advantage of central government and its local representatives.

In a sense, it was this process of unification which made the French Revolution possible. The Revolution ushered in a republican state based on national sovereignty, a concept which means that sovereignty is vested entirely in a "single, indivisible nation". The modern constitutions of France (1946, 1958) uphold the democratic character of the state without questioning the unitary foundation of sovereignty.

But the French Revolution was also a local revolution. The "abolition of privileges" was declared on the night of 4 August 1798, after the peasant rising of that summer, and the Constituent Assembly formally recognised 44 000 municipalities which were all equal before the law, governed by councils elected by the inhabitants, and protected by the law. The Revolution turned the municipality into a "community of citizens" which became the basic framework of civic life. The departments, on the other hand, were set up by the "government of the Kingdom" (1791 constitution), which was subject to the executive authority.

The Third Republic was founded on a historic compromise between the middle classes and the peasantry, linked together by the inhabitants of the villages and small towns, which were represented through the method of election to the Senate. This compromise was reflected in the 1884 Law on the Municipalities, by which the mayor became the key figure in local politics, and which continues to underpin municipality-level institutions today. One has to go back to this period in order to understand the enduring significance of local roots in French politics.

However, the centralised form of government created by the Consulate and the First Empire was superimposed upon this communal tradition. The aim of the centralisation, based on the new system of prefects, was to extend to the local level the concentration of all power in the hands of Napoleon Bonaparte. No subsequent regime challenged the prefectoral system, and the departments became established as the essential rung of government, the level on which state services were organised.

Originally, the concept of decentralisation, when it emerged during the Restoration, was understood in a literal sense, as a campaign to loosen the shackles of centralised government, led by an aristocracy seeking to reclaim at least some of its former local prerogatives. With the July monarchy, the campaign was taken up by the liberal movement, and its first success came with the reforms of 1833 to 1838, by which local powers were to be shared with landowners and the enfranchised middle classes, in parallel with the progress of parliamentary government.

By introducing political democracy, the Third Republic altered the foundation and the dynamics of decentralisation. Although the grip of central government on local affairs seemed to be assured, the result of universal suffrage was to give local elected representatives a legitimacy akin to that given by state authority to the prefects. The hierarchical system set up by Napoleon was gradually transformed into a system whereby power was shared and negotiated among local elected politicians and the local representatives of the state. Decentralisation, which in the 19th century was merely an adapted form of centralised government, had become by the end of the Third Republic one element of a liberal democratic system of government.

The 1946 and 1958 constitutions confirmed this development, which was interrupted only by the Vichy regime. They recognised the existence of local authorities, enshrining the principle that these authorities should be self-governing, under the conditions prescribed by law (1946 constitution, art. 87; 1958 constitution, art. 72). Whereas the concept of decentralisation had hitherto been merely an administrative concept, subjecting the local communities to a degree of state control, the principle of self-government gave local authorities rights guaranteed by the constitution. The 1958 Constitution also defines the role of the Senate as "representing the territorial authorities of the Republic" (art. 24). However, it was only with the decentralisation reform, which started in 1982, that these provisions were fully implemented.

The regions were incorporated into this system without altering the principles of the system, and in fact without detracting from the status which the municipalities and the departments had acquired over a period of two centuries.

The existing boundaries of the French regions originated in 1955, as a result of the requirements imposed by the government's policy of town and country planning. This makes them functional divisions, in the same sense as the departments created in 1789. The boundaries were drawn without consulting local elected representatives, and the state subsequently undertook to reorganise its external services within the boundaries of these regions. The twenty-one (plus Corsica) regional units in metropolitan France were intended to form the framework in which the state's regional plans would be carried out, and they enabled the state's economic development plan and its budget to be implemented at the regional level.

Only a few of these regions, such as Brittany and Alsace, resemble the traditional regional pattern; the Haute Normandie and Basse Normandie regions, for instance, have no historical antecedents. It is noteworthy that the first regional institution was the regional prefect, an office created in 1964. This reform followed upon the introduction of the DATAR *(Délégation à l'Aménagement du territoire et à l'action régionale* - Delegation for Territorial Planning and Regional Action) in 1963, and ushered in a new devolved tier of government for the purpose of implementing the economic policy, the plan and the policy of regional development. In 1972 regional public offices were set up within these boundaries, and in 1982 the regions as public authorities.

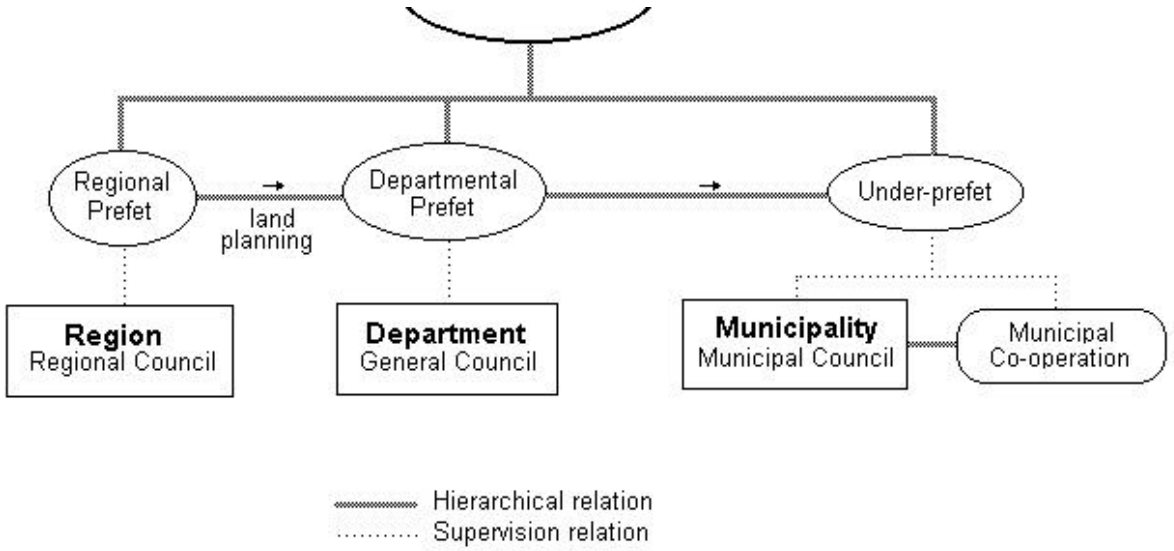
On the other hand, regional features have never been the cause of significant political movements or campaigns, with the notable exception of Corsica, which now has independent status within the Republic (Law of 13 May 1991). Regionalist or federalist ideas have always been confined to a small minority.

The table below summarises the local government system in France:

Municipalities: including: municipalities in Metropolitan France: Overseas departments (DOM): Overseas territories (TOM):	36 744 36 551 113 80
Public corporations exercising communal and departmental functions	18 902
Departments: including: departments in Metropolitan France: DOM:	100 96 4
Regions: including: Metropolitan France: DOM: **Overseas territories: (TOM)** **Public authorities with special status:** (Corsica, Mayotte, Saint-Pierre-et-Miquelon)	25 21 4 4 3

Another feature of the French system of local government is "devolution", i.e., the performance of state functions at the local level by subordinate authorities acting under higher authority. Under the Law of 6 February 1992, devolution became the general principle of the organisation and operation of state services; the prefects are government representatives, according to the Constitution (art. 78, para. 3), and are in charge of most of the devolved state services.

The diagram below shows how local government in France is organised.



2. The region as local authority of the Republic

Originally introduced by the Law of 5 July 1972 as public corporations, the regions became local authorities (In the French legal order, the term "local authorities" refers not only to municipalities and departments, but also to regions) under the Law of 2 March 1982, the date of the first elections by direct universal suffrage to the regional councils (March 1986). In this respect they are the same as the municipalities and the departments, but unlike the latter, which are mentioned in article 72 of the Constitution, they derive from statute law rather than from the constitution. They are self-governing public authorities, according to the principle enshrined in article 72, but at the same time they are part of a unitary state which has a constitutional guarantee in the principle that the Republic is indivisible.

The principle of indivisibility is upheld in the Constitution of 4 October 1958 (Art. 2) and the case-law of the Constitutional Council. This principle, which dates back to the Revolution, relates to the subject of sovereignty, and should not be confused with the protection of territorial integrity. It means that sovereignty is vested only in the French people as a whole; the citizens of a public local authority, treated in isolation, cannot therefore exercise sovereignty. As a consequence of this principle, regionalisation cannot be interpreted to imply any form of federalism.

The principle of self-government for the local authorities, which guarantees their independence in dealing with local matters, is exercised under the conditions prescribed by law (Art. 72). The competence of the legislator covers the system of electing local assemblies, the fundamental principles of self-government in the local authorities, their powers and their resources. The extent of legislative competence is the same for the regions as for the departments or the municipalities, but the existence of the regions is also a matter of legislative competence, since the regions were established by law.

Just as there is only one law-making body, so there is only one regulatory authority with general competence, this being the competence exercised by the Prime Minister. However, the principle of self-government enshrined in Article 72 does not give rise to independent regulatory powers. Many regulations are enacted by local authorities, but they must be derived from statute, as with the police powers of the mayors and the chairmen of general councils, local regulations enacted through urban plans, or enterprise grants awarded by local authorities. Under Article 72, the law could require local authorities to enact implementing regulations, but there are few instances of this being done. Hence the regulatory powers of the regions are very limited, even more so than those of the municipalities or departments.

3. The powers of the regions

In this context, the powers of the regions are those involving decision-making or management functions. The definition of competence as it applies to local authorities in France rests on a fundamental distinction. The substantive powers enjoyed by these authorities are derived, in part, from what is called the "general competence clause", and also from the matters in which the law formally accords them competence.

The decentralisation reform involved a transfer of state powers to the local authorities. This increased the number and significance of the functions attributed by law to the various authorities. But the general competence clause remains in being, and is still a key source of autonomy and initiative. In this respect, the position of the region is no different from that of the other local authorities.

Originally applied to the municipal council under the 1884 Law (municipality code, Art. L. 121-26: "the municipal council debates and resolves questions pertaining to the municipalities"), the general competence clause was extended to the general council and, under the Law of 6 January 1986, to the regional council. Its application to all tiers of government reflects the fundamental distinction drawn in French public law between the concept of a self-governing authority and the concept of a public corporation. A self-governing authority has general competence and is supposed to take action on everything; the public corporation is based on the principle of specialisation, i.e., it may act only within the bounds of the specific competence defined in its founding instrument. Moreover, a public corporation is always attached to a public authority of some kind, whether the state or a local authority, and this body monitors its activities and remains the source of its powers.

The chief restriction on general competence has been the freedom of trade and industry, which tended to prevent the local authorities from playing an economic role. The essential change in this respect came with the Law of 2 March 1982 (Art. 5), which recognised that the local authorities could "intervene in economic and social matters" although "provided they respect the freedom of trade and industry, the principle of the equality of citizens before the law, and the rules on national and regional development contained in the law which sanctions the development plan."

Moreover, this extension of local powers in economic matters makes it necessary to do away with the supervisory role of the prefects; the decisions of the local authorities in these matters have full force and effect as soon as they have been published or notified, and have been transmitted to the representative of the state.

However, although the economic role of the regions has been repeatedly emphasised, the regions do not actually have any powers of their own in this area, except in a marginal sense. The economic activities of the municipalities are more important in practice than those of the regions, in terms of public expenditure; the gap is even greater when it comes to loan guarantees[1].

In other matters, it is the law which designates the region as having power to act. This substantive competence is therefore protected, within the limits fixed by the law, against initiatives taken by other local authorities or by the state in line with their general competence.

1 According to figures published by the Ministry of the Interior, taken from the Exchequer, out of a total of 13.3 billion francs spent on economic activities in 1992, 4.8 were spent by the municipalities, 4.3 by the regions and 4.1 by the departments (*Local authorities in figures*, 1995 edition, La Documentation francaise, p. 40).

Under the Laws of 7 January and 22 July 1983, the state transferred new powers in certain fields to the regions. Other powers were transferred subsequently, under special legislation, for instance in tourism (Laws of 3 January 1987 and 23 December 1992), in vocational training (Law of 20 December 1993), in national and regional development (orientation law, 4 February 1995) and, subject to request by the region, for industrial waste disposal (Law of 2 February 1995).

The table below shows the areas in which the regions exercise powers under the various laws, distinguishing between compulsory and optional powers.

Region	**Compulsory Powers**	**Optional Powers**
Former powers (pre-1982)	None	- Contribution to investment funds raised by the state or other Local Authorities - Studies on regional development
New powers	- List of Schools (Secondary School) - General or vocational Secondary School - operation (second cycle), special schools - Vocational Training - Regional transport plan - Tourism - Subsidies to the fishing fleet and to fisheries - Plan for disposal of special industrial wastes	- Secondary school building - Housing (renovation, provision of sites) - Regional plan - Regional development plan - Economic development - Inland waterways - Regional transport (Agreements with SNCF, road transport)

4. The existence of special status

The principle of the indivisibility of the Republic and the unity of the law have not prevented the unitary Republic from tolerating and absorbing, in pragmatic fashion, a number of local and regional features. The French legal system retained much of the legislation of German origin which held sway in the departments of Haut-Rhin, Bas-Rhin and Moselle when these departments were brought back into the French Republic in 1919, especially as regards the administrative and financial arrangements in the municipalities, the right of association and even the concordat system.

Since 1946, in the overseas departments it has been possible to make "adjustments rendered necessary by their particular situation" (1958 Constitution, Art. 73). Adjustments like these seem also to have inspired the special legal arrangements made for the three largest French cities, Paris, Lyons and Marseilles, all of which have elected district councils (Law of 31 December 1982).

Notably, the provision in the Constitution for creating new local authorities by statute has also been used to establish special regimes to meet particular situations, not only in Corsica, but also in Paris, which is both a municipality and a department, in the island of Mayotte in the Indian Ocean, or in Saint-Pierre-et-Miquelon.

The only limitation seems to be that arrangements made in particular situations may not extend so far as to grant subjective rights to a local authority, as would have been the case with the "Corsican people" if the constitutional court had decided to recognise the term for legal purposes, for this would conflict with the idea that the French people forms a single whole and has only one citizenship.

The regions with special status are the regions of the overseas departments and Ile-de-France. Corsica should be included, although it is now a local authority created by law, within the meaning of Article 72 of the Constitution.

II. THE RELATIONS BETWEEN THE REGIONS AND THE OTHER LOCAL AUTHORITIES

In principle, the French system of local government excludes any dependency, whether statutory or functional, of one local authority upon another. In this respect, the system is concentric rather than hierarchical. The reforms projected at present do not seek to alter this system. This does not mean that the region has no scope for interaction with the other units of local government; but any such interaction must conform to the principle of self-government at the local level.

On the other hand, in regions which have a special status, the system for exercising competence tends in some instances to give priority to the region, either because the other local government units have additional responsibilities, or because some of their usual functions are transferred to the region. In spite of the restrictions placed on its powers and resources, the activities of the regions are generally viewed in a positive light.

1. The other local authorities are not dependent, in a statutory or functional sense, on the region

1.1. The region does not predominate

The aim of the Law of 2 March 1982 on the rights and freedoms of the municipalities, the departments and the regions was to get rid of centralist practices: the controls exercised by the prefects, the technical and financial supervision exercised by the state, and the prefectoral role in carrying out the decisions of the general and regional councils.

The goal of freedom could not be achieved if a tutelary role were to be played by other authorities, and the introduction of the region as a new territorial unit would not have been tolerated if it had involved a diminution of the freedoms of the other local authorities. Moreover, the Constitution confers on the prefects, as the sole representatives of central government, the power to exercise administrative

supervision over the local authorities (art. 72, para. 3). This explains the principles laid down in Law no. 83-8 of 7 January 1983. Its Article 2 states that: "The transfer of powers (...) to the municipalities, the departments and the regions does not empower any one of them to exercise supervision of any kind over another". Article 3 also stated the principle of a "grouped" division of powers, "so that every area of competence, as well as the corresponding resources, is attributed as a whole either to the state, or to the municipalities, the departments, or the regions" (para. 1). If this principle is acted upon when powers are transferred, it should be possible to avoid local authorities becoming dependent upon one another when the transferred powers are exercised.

However, the principle has not been respected in practice. Inevitably a distinction was drawn, in the most significant fields of activity, between the powers possessed at the different levels of government. But the sharing of power, and the introduction of areas of joint competence in some areas, as in education and housing, and more recently in urban and social policy, works in favour of the state, which thus retains the capacity to make and conduct national policy in these areas. There is no instance of the law providing for joint competence in cases where the region has priority over the other local authorities.

On the contrary, it is sometimes the region which finds itself dependent on the other authorities. This is true of the most important regional powers, relating to the financing of public investment. The investment function has always been regarded as one of the chief areas of regional activity; it is associated with the very beginnings of the regional system, and with the goals of national and regional planning.

The Article 4-1 of the Law of 5 July 1972 provides that the region is to contribute to regional development through "voluntary participation in the financing of public facilities of direct relevance to the region" (para. 3) and through "the installation of facilities of direct relevance to the region, with the agreement and on behalf of local authorities, groups of local authorities, other public corporations, and the state (para. 4). The third paragraph is the one most frequently applied in practice, but in both cases it means that the initiative may come from other local authorities or from the state, rather than from the region. However, the 1982 reform strengthened the institutional position of the regions, and financial contributions by the region are now the chief method whereby it can influence the decisions and choices of its partners.

In the field of secondary education, a municipality which has a lycee, or a special school with a regional catchment area, will on request be given full responsibility for building and equipping the school, on the basis of financial decisions taken by the region and with funds provided by the region. In this case, the municipality is automatically responsible for its operation (Law no. 83-663, amended as of 22 July 1983, Art. 14-VII ter). How this provision is applied varies considerably according to local circumstances.

Variations in the exercise of competence among local authorities at different levels are also found in other fields (especially in the field of vocational training) but this must always be by agreement with the region.

The only field in which the law had formally granted the region a legal power which in turn affected the competence of the other local authorities is the matter of subsidies for economic development. Under the system established by law, direct aids are confined to the employment creation subsidy, the enterprise creation subsidy, and loans on specially favourable terms. Payments are subject to a ceiling fixed by decree (an order of the Minister of Finance in the latter case). Where they are to be paid by a local authority, they must have been introduced by a decision of the regional council. In this instance only, they may be granted to eligible enterprises by the various local authorities, within the set ceiling, and in sectors and zones specified by the region. Indirect aids are free of any such restriction.

However, this provision likewise failed to meet its objective. The municipalities and departments have never bowed to the authority of the region in the only area in which the latter was legally able to impose its decisions; by means of indirect subsidies and *ad hoc* organisations, they have always been able to carry out their own local development policies, which are not always compatible with the guidelines adopted by the region.

Moreover, the checks on legality which were supposed to ensure compliance with the provision were incapable of doing so. Many aids escape these controls, because the procedures followed to grant them are not open to scrutiny; these include subsidies granted on the basis of a contract which does not have to be submitted to the prefect, or the use of intermediary bodies, such as mixed economy companies, whose acts or contracts are outside the purview of the administrative courts, making it difficult to detect and punish illegal acts.

Finally, the Conseil d'Etat has itself given a restrictive interpretation of the competence of the regions in economic planning, which it refuses to regard as an application of the general competence clause.

It is not only merely their equal status and the system of local competence which prevents the regions from acquiring any legal superiority over the other local authorities; there are two other factors which stand in the way.

First, the Laws of 2 March 1982 and 7 January 1983 provided that staff and services could be transferred to the departments and regions in order to carry out the functions transferred to them (Law of 2 March 1982; Arts. 26 and 28; Law of 5 July 1972, as amended, Arts. 16 and 16-3; Law of 7 January 1983, Art. 8). As far as the regions are concerned, the only transfers effected are those where certain regional responsibilities have been handed over to the prefecture of the region, and where certain staff responsible for vocational training have been transferred. Because of the areas of competence assigned to them, the departments received most of the transferred services. Even today, the regions are lightly staffed; the 25 regions, plus Corsica, together had in 1993 about 6 100 staff working in the equivalent of full-time jobs, by comparison with more than 140 000 staff in the departments.

Moreover, the regional councils are elected by proportional representation, based on the departments. In fact, the departments are where the political parties are organised; local politics are traditionally based on the departmental framework, and are conducted through cantonal and municipal elections.

Because of the method of electing the regional councils, the results tend to reflect and represent the departments. This tendency is emphasised by the practice of dual mandates; many regional councillors are also general councillors and/or mayors, and for most of them, the regional mandate is a "subsidiary mandate".

Far from dominating or even supporting the local authorities within its boundaries, the region operates in a context where the institutions and interests which it represents are in competition, resulting in a series of networks and alliances. There is competition not only between local authorities themselves, but possibly between local authorities and the state, which has deconcentrated services pursuing their own tasks, and whose objectives may lead to the support of certain local policies.

A number of different local authorities, because of the functions entrusted to them or because of their general competence, are active in the same field, albeit under different guises and with different objectives and methods. Their relationships will then be regulated through negotiation, resulting in a cooperative relationship based on a compromise among the various interests involved. This situation could be described as competitive co-operation.

Matters would only be different if the law were to give the higher-level local authorities the power to make rules for the lower-level authorities. But only the state actually has such a power, through its legislative authority. In some cases, the general council may make decisions which give rise to obligations for the municipalities or for groups of municipalities. However, the region has no such powers in any field.

1.2. Compliance with the principles of decentralisation in the planning of future reforms

The present division of functions among local authorities is often criticised as being confused and tending to dilute responsibilities. The Orientation Law of 4 February 1995 on National and Regional

Development sets out the guidelines for a projected reform in this area (Arts. 65 to 67). However, there is no certainty that this reform - if actually implemented, which cannot yet be guaranteed - will be of benefit to the region.

The law provides for a "clarification" of the division of responsibilities, and for the introduction of "lead" authorities. On the first point, Article 65 provides only for a return to the principle of "grouped" functions, and for its implementation in practice; a law is to be adopted, within a time limit of one year, to supplement the laws of 7 January and 22 July 1983 on this question:

> "1. The division of responsibilities between the state and local authorities will be clarified in the framework of a law ... This law will allocate functions in such a manner that local authorities of every category enjoy the same powers.
>
> The law will provide that where powers are transferred, there is an accompanying transfer of the corresponding staff and resources".

The aim of grouping similar functions is to guarantee the autonomy of the local authority with the competence to exercise them. It does not give the region any priority over the other local authorities. However, it is doubtful whether these groupings can be made in the most important areas. If it were possible to do so, public activities might well lack coherence, since the above-quoted Article 3 of the Law of 7 January 1983 specifically states that a local authority with grouped functions cannot thereby acquire "any power of supervision" over another authority.

The "lead" function seems to be intended to overcome this contradiction. The future law is to "define the circumstances in which a local authority may assume a leading role in exercising a function or a group of functions belonging to several local authorities" (Art. 65-II). This innovation, which was brought into the law on the initiative of the special Senate committee, is however subject to the restriction that no local authority may control the activities of another, as well as by the responsibilities of the state.

Finally, the future law is to spell out "the circumstances in which, while complying with the guidelines in the outline national and regional development plan, a local authority may on request be entrusted with a function to be exercised on behalf of another authority" (Art. 65-III). This would be another case of altering the exercise of local powers, this time in order to implement the guidelines of the national scheme. Apparently this would not apply to the implementation of regional plans to be adopted by the regional councils. The changes may be made for the benefit of any local authority, no special priority being given to the region.

The only case in which regional competence may have an impact on the powers of other local authorities is covered by Article 67, which provides for the organisation and financing of regional public transport facilities to be transferred to the regions (which in fact means regional rail passenger traffic). An experimental phase will begin in 1996, in regions which have volunteered for the purpose (very few at the moment).

If the experiment is conclusive, the law effecting the transfer "will have to take into account the co-ordinated development of all modes of transport, and ensure coordination among all the authorities which organise public transport" (para. 2). This will affect the functions of the department and those of the authorities which organise urban transport.

It seems to follow from the foregoing that probable future reforms concerning the division of responsibilities among local authorities are unlikely to detract from the principles laid down in 1982 and 1983, or from the equal status of all local authorities in the Republic and their statutory and functional autonomy towards one another and towards those at a higher level.

2. Prospects for regional leadership

Although the French system of local government does not give the region any superiority over the other local authorities, this does not mean that the region cannot take a lead in certain areas in which it has a legitimate role, such as economic development, regional planning and public facilities. For this purpose, it has a number of possibilities: a planning function, now exercised in many areas, and which enables the region to set planning guidelines and allocate funds; contracting, as a method of agreeing with other local authorities and with the state on joint targets and reciprocal commitments; and finally, more substantial funds than are available at other local levels, and which are reflected in the size of the regional investment budget. However, the extent to which this lead role is actually practised depends on the ability of elected regional representatives to mobilise resources, and therefore on political factors.

2.1. Planning

The region is the only local authority to enjoy non-specific legal competence, that is, the ability to act in very broadly defined fields, in co-operation with the state or other local authorities.

Consider, for instance, Article 59 of the Law of 2 March 1982; the regional council "is empowered to promote the economic, social, health, cultural and scientific development of the region, to plan the development of its territory and to ensure the preservation of its identity, while respecting the integrity, the autonomy and the functions of the departments and municipalities"; "it may carry out activities complementary to those of the state, of other local authorities and public corporations located in the region, in those fields and in such circumstances as may be defined by the law which defines the allocation of powers ..."This text enables the region to intervene in virtually any field, if the purpose of its intervention is to contribute in some way to the development of the region, and therefore to involve the local authorities within its boundaries in the same cooperative fashion as the state.

A similar text is the new Article L. 110 of the urban development code (introduced by the Law of 7 January 1983): "The French territory is the common heritage of the nation. Every local authority plays a role in its management and acts as its guarantor, within the limits of its competence (...) public authorities shall, while respecting one another's autonomy, harmonise their plans and decisions for the use of the territory". This text authorises the region to play a role in land use in respect of every function entrusted to it. Here the orientation Law of 4 February 1995 gives the region an additional resource, in the form of regional schemes for land use planning and development (Art. 6).

Thus apart from a small number of specific, exclusive areas, the region may play a role in a number of diverse fields, in the light of its own political priorities and the resources available to it, hence also in the light of such agreements on the raising of funds as it may reach with the state and with local authorities.

As already pointed out, the regulatory powers of the region are very limited. It cannot promote its own development, or only to a small extent, by formulating legal rules to govern the conduct of local authorities or of economic players. However, its regulatory function should not be ignored. Firstly, the Constitution endows it with a broader rule-making capacity for the purpose of executing laws. Secondly, in addition to very specific texts which require the regional council to exercise a rule-making function (for instance, in defining the conditions and arrangements for economic subsidies), the planning instruments to be adopted by the region may have some normative significance.

Nevertheless, there is a striking contrast between the weakness of the regulatory function and the wide range of planning instruments. They will simply be listed hereafter: the regional plan (L. 5 July 1972, Art. 8, para. 2, as amended by the Law of 7 January 1983); the provisional training schedule (secondary education, L. no. 83-663, 22 July 1983, Art. 13-II, as amended by L. 85-97, 25 January 1985); the regional plan for vocational training development for young people (incorporating a previous apprenticeship plan; L. 22 July 1983, Art. 83, as amended by L. no. 93-1313, 20 December 1993); the multi-year regional research programme (L. no. 82-610, 15 July 1982, Art. 11; L. 22 July 1983, Art. 13-VI); the regional plan for the development of training in higher education (L. 22 July 1983, Art. 13-VI); the regional transport plan (L. no. 82-1153, 30 December 1982, Arts. 22 and 29); the regional development plan for tourism and leisure (L. no. 87-10, 3 January 1987, Art. 3), the regional scheme for the national development plan referred to above, and the regional or interregional plan for the disposal of special industrial waste, where the regional council asks for this function to be transferred (L. 2 February 1995, Art. 60-II).

The significance of these planning instruments is by no means identical. In fact, the most important one is not even in the list; this is the state-region planning contract, to be considered below. However, all these instruments empower the region, together with the institutions and groups concerned, to engage in the task of defining shared medium term prospects, devising projects in line with these guidelines, and making funds available to carry them out. From this point of view, the planning process is sometimes more meaningful than the resulting piece of paper; but the value of the planning process also depends, to a considerable degree, on what it is expected to cover, and this in turn decides who will participate.

Having the capacity to draw up a planning document enables the region to take the initiative in a consultation procedure involving all those concerned, to take charge of the procedure and to apply the results.

It therefore represents a significant basis for the development of a regional leadership role, and this is normally reflected in policy-making. The wide variety of regional plans and schemes therefore seems to reflect a gradual institutionalisation of regional "government", whereby the region, as a local authority unit, may take the lead over other local authorities in some areas at least, even if this leadership will in the nature of things be challenged, as is often the case, by the large towns or the chairmen of the general councils. Some of these planning instruments have legal effects, and can be enforced. For instance, the state authorities which draw up the general pedagogical structure for secondary or vocational schools must take account of the provisional training plan issued by the regional council (L. of 22 July 1983, Art. 13-IV).

2.2. Contracting

Even where the planning instruments have no regulatory force, they can provide a basis, or a shared point of reference, for the conclusion of agreements which may be given legal force, and to which the parties attribute great importance because of the financial commitments they contain. In this system, contracts seem an appropriate method of stabilising the major points of interdependence.

The Constitutional Council has recognised that the state and a local authority are free to enter into a binding agreement to harmonise the exercise of their respective functions, provided they do not encroach upon the competence of the legislators (decision of 19 July 1983, no.83-160 DC); but the legislators cannot leave it to local authorities to agree upon provisions which themselves derive from the fundamental principles of self-government of local authorities and their competence (decision of 26 January 1995, no. 94-358 DC). The administrative courts tend to recognise the contractual nature of these agreements when faced with a dispute in which the issue arises, as they did for the planning contracts between the state and the region.

Certain statutes also provide for contracts to be concluded between public authorities, quite apart from any planning instruments; contracts of this kind include the agreements for the delegation of works supervision which the state may conclude with local authorities, especially the regions, in respect of certain university buildings, and which set the amount of the financial contribution to be made by the authorities concerned (L. no. 90-487, 4 July 1990). Some contracts, however, relate particularly to the relations between the regions and other local authorities: regional planning contracts for the implementation of the regional plan (L. no. 82-653, 29 July 1982, Arts. 14 to 16); agreements with municipalities holding an inter-communal development charter, for financing the necessary equipment (L. no. 83-8, 7 January 1983, Art. 29, para. 5); agreements with the municipalities for the implementation of the annual regional programme on apprenticeship and continuing vocational training (Law of 7 January 1983, Art. 84).

These contracts vary as to content, and their scope depends largely on what they contain. However, the planning contract between the state and the region has become a highly complex and detailed document, specifying for every planning function the financial commitments of the state and the region for the period covered by the plan, even if, as is presently the case, no national plan has been adopted. The methodology has developed since the first generation of these contracts (1984-1988).

The planning contracts for 1994-1998 were prepared on the basis of three broad principles: contracting by objectives, i.e., on the basis of the joint priorities of the state and the region; selectivity of the projects included in the contract; and reducing "overlapping funding".

The state-region planning contract is increasingly becoming a tool of integration, in so far as it provides for other local authorities to contribute to the performance of the contract, though without naming the amount of their contribution, and also specifies the implementing agreements to be signed for this purpose. In this way, various contractual instruments already in existence can be brought within the state-region planning contract, and co-ordinated with it.

The process of drawing up the planning contract has thus become a matter for complex political and technical negotiation between the region and the regional prefecture, and with the various devolved state services, and the contract itself involves setting up institutional machinery for monitoring and evaluating the policies set out in it, sometimes with the participation of the local authorities concerned.

A certain number of contracts are concluded by the region with other local authorities, in the context of policies which the region has not been able to reflect, or only to a degree, in the state-region planning contract. For instance, alongside the urban policy priorities implemented by the state and in which it plays a role through the planning contract, the Nord-Pas-de-Calais region is pursuing a policy of "urban area contracts" which is formally part of the contract, but which applies to urban areas not designated by the state (Cambrai, Arras, Saint-Omer). As far as the region is concerned, this extension is justified because it is a means of executing "thematic policies" on the ground, and imposing a logical planning framework on the beneficiary authorities.

Other regions have also adopted an urban area policy (for instance, Picardy and Midi-Pyrénées). These urban area contracts can be regarded as regional planning contracts.

From the point of view of relationships between the region and the other local authorities, there is a certain ambivalence in the state-region planning contract. On the one hand the regions, without contesting this procedure, complain that the state uses the contracts to make them finance operations for which it is itself responsible. It is relevant to note, however, that the negotiation process for the planning contract enables the region to exercise an influence concerning the activities and decisions for which the state is responsible; hence the state-region planning contract represents an indirect extension of regional competence into new areas of shared competence.

On the other hand, the state-region planning contract reflects all the state policies which call for co-operation with the local authorities, or which are reflected in activities from which the latter derive benefit, and the contract operations are jointly financed by the state and the region. The result is that as far as the other local authorities are concerned, the region seems to endorse central government policies while representing regional interests. Hence the state-region planning contract bolsters the regional institution vis-a-vis the municipalities and departments, defining and legitimising it as an intermediary between local and national organs.

2.3. Financial capacity of the regions, public investment

The investment function has always been associated with the French concept of the region (see above). The invention of the region as a local authority, soon followed by giving it the power to raise taxes, (see below) have speeded up the growth in regional spending for investment. From 1980 to 1990, regional investment multiplied (in current franc values) by 6.7, as compared with 2.7 for the municipalities, 2.5 for groups of municipalities, and 4.1 for the departments.

In spite of the increase in operating expenditure for the regions, resulting from the transfer of the services of the regional prefecture and the transfer of functions, the share of investment spending in the overall expenditure of the regions is nearly two thirds (more than 65.8% in 1992).

Gross capital spending by the regions is relatively insignificant; on average, it does not exceed 31.4% of total investment spending. However, it is the latter category of expenditure which has grown most rapidly, since it represented only 2% of total investment spending in 1982. The increase is due almost entirely to the transferred responsibility for equipping the lycees, which took effect in 1986. In 1992, in all the metropolitan regions, the lycees represented 10.2 billion francs of gross capital expenditure, out of a total figure of 11.4 billion.

As a result, apart from the lycees and debt repayments, almost all investment spending consists of investment subsidies to third parties, the greater portion of which are intended for other local authorities, or for the state in the form of contributions. In 1992, subsidies for capital outlays represented 45.4% of the investment expenditure of the regions, being distributed among the following main sectors: transport and telecommunications (43.3%), economic activities (15.9%), training (11%), town planning and housing (10.7%).

These transfers are the chief instrument whereby the regions are enabled to carry out their policies and to exercise an impact on the spending patterns, and therefore the policies, of the other local authorities, although it is impossible to gain an overall picture of the influence they exert. Sometimes the regions are essential to the financing of an operation, but more often they try to achieve a multiplier effect, making relatively small contributions themselves.

However, the capacity of the regions to intervene in the form of public expenditure, especially through investment subsidies, is limited by three factors.

The first is the low overall level of regional budgets, in comparison with other local authorities. In 1992, investment spending by the regions amounted to 38.5 billion francs, the comparable figure for the municipalities being 135 billion and for the departments 75 billion; in 1990 spending by the grouped authorities amounted to 43 billion.

Secondly, the regional budget is heavily committed to financing the state-region planning contract, although there are significant differences from one region to another. For contracts for the period 1989-1993, regional contract loans represented 35.5% of the total regional budget in Ile-de-France, and 25% in Alsace, but only 10% in Auvergne; in 1995, approximately 50% of the resources of the Nord-Pas-de-Calais region fell under the contract. This tends to detract from the autonomy of regional policies vis-a-vis the state.

Finally, it should be remembered that on the legal plane, a decision to grant or to refuse financial assistance to another local authority cannot legally result in any power of supervision over that authority (Law of 6 February 1992, supplementing Article 3 of the Law of 7 January 1983). Some departments, and some regions, have made the siting of a college or a lycee on the territory of a municipality conditional upon the municipality paying a contribution to the investment costs, or entering into a maintenance agreement, even though the law has put an end in principle to this form of participation. Cases of tied aid have been identified in other instances as well.

The regions have considerable room for manoeuvre in using their resources; they also command a large portion of the funds themselves. They derive 48.7% of their resources from fiscal receipts (1992), of which 54.6% (59.5% in metropolitan France) comes from the yield of four direct taxes which are paid into local budgets (professional tax, resident tax, estate taxes on real estate, moveable and immoveable) the level of which they set themselves, subject to the rules governing the rise in tax levels.

Since regional tax rates are relatively low in comparison with municipality and department taxes, and since all local authorities have the same tax base structure for the purpose of direct taxation, the regional councils have been able to vote through a significant increase in tax rates every year (2 to 4 times more than the increases which the municipalities set between 1980 and 1990) but without fear of political repercussions, since their share of the individual's tax burden counts for relatively little. In recent years, from 1988 to 1994, the share of the regions in the voted yield of the four local direct taxes has risen from 5 to 8%.

Indirect taxes represent the other half of the fiscal receipts of the regions. Here the tax base is independent of the current economic situation and of its impact on the car market and on house sales. But the regional councils are empowered to fix rates for these taxes too.

2.4. The regions and financial solidarity

Although the financial autonomy of the regions is thus guaranteed, there is no explicit mechanism for balancing out the finances between them and the other local authorities. Under the French system of local finance, it is chiefly the state which has to attempt to correct local inequalities in resourcing, through the grant aid which it pays to the departments and municipalities, or through the equalising mechanism of the professional tax.

Horizontal equalisation has only recently made an appearance, as between the regions, on the one hand, and between the municipalities of Ile-de-France on the other. But existing plans to reform local finance are based on an equalisation of resources between the regional units which seems to be mainly a vertical counterbalancing exercise carried out by the state.

Horizontal equalisation between the regions was introduced, following the German example, under the Law of 6 February 1992, which set up an adjustment fund for regional imbalances (Art. 64). This fund is supplied by a levy on the direct fiscal receipts of the regions, whose tax potential per inhabitant, calculated on the basis of these four taxes, is higher than the average direct fiscal potential per inhabitant of all the regions taken together.

These resources are redistributed among the regions in which the direct fiscal potential per inhabitant is at least 15% below the average of all the regions together. The levy is progressive, and is calculated as a percentage of the sum of total expenditure (between 1 and 2%). Contributions are shared out according to the fiscal potential per inhabitant and the fiscal potential per square kilometre, and in proportion to the relative disparities from the average.

In 1994, this mechanism made it possible to redistribute 314.6 million francs, levied on three regions (Ile-de-France, Alsace and Rhône-Alpes) for the benefit of all the others. The figure rose to 352 million in 1995, following a change in the method of calculating the fiscal potential. The levy is not made in regions which would otherwise pay it but which have unemployment rates above the average (Haute-Normandie, Provence-Côte-d'Azur).

The system of equalisation introduced in Ile-de-France under the Law of 13 May 1991 is the only one operating within a single region. It involves a solidarity fund among the municipalities of the region of Ile-de-France, supplied by contributions levied on the richer municipalities, namely those with a fiscal potential per inhabitant which is 1.5 times the regional average.

This contribution is progressive, and is set at a ceiling of 5% of the sum of real operating expenditure by the municipality which pays it. The beneficiary municipalities are defined according to their fiscal potential (lower than the regional average) and the percentage of social housing on their territory. The fund may also be used to reimburse interest-free loans to these municipalities from the Caisse des dépôts et consignations.

In 1991, this arrangement resulted in 94 beneficiary municipalities and 52 contributing municipalities, and involved the transfer of 547 million francs - 2% of the fiscal product of all the municipalities of the region - of which 411 million came from the city of Paris. The Constitutional Council stated its finding on this occasion that "the principle of national solidarity upheld in paragraph 12 of the preamble to the 1946 Constitution (...) does not constitute a bar to the introduction by law of a solidarity mechanism among the inhabitants of any particular region". (Decision no 91-291 DC, 6 May 1991).

In any event, equalisation procedures have existed for a long time in the departmental framework, although the sums involved remain modest. This is the case with the departmental funds for equalising the professional tax, supplied by deductions from the communal professional tax on establishments of "exceptional" importance, and the departmental equalisation funds for the extra tax levied on registration duties, which affects municipalities with fewer than 5 000 inhabitants.

However, the Orientation Law of 4 February 1995 on National and Regional Development defines the basis of an overall reform of local finance, introducing the equalisation of local finance as between "regional areas" in metropolitan France (art. 68 et seq.). Article 1 of the law also defines the aim of national and regional development policy as "reducing the inequality in resources between local authorities in the light of their commitments" (para. 3).

In principle, equalisation between regional units will affect all the financial resources apart fom borrowings (Government contributions of any kind, fiscal resources reflected as the tax yield from average national taxation, land taxes, etc.) of all local authorities. The total amount of these resources, corrected to take account of the commitments of the authorities concerned, and calculated per inhabitant, must not be below 80% or above 120% of the national average.

Equalisation is to be introduced from 1 January 1997 and become effective in 2010. It will be carried out primarily through a joint reform of the rules for distributing all state aids, including those awarded for planning contracts, and of the redistribution machinery for the professional tax.

The law does not refer to regions, but rather to "regional units", and this gives the legislators some room for manoeuvre in defining the relevant units for the purposes of equalisation, which may in fact comprise several regions, as well as subdivisions of one large region.

The financial solidarity mechanisms at the European level are based on the use of structural funds. Some French regions receive sizeable payments from these funds.

For the period 1994-1999, France's share of the Community population benefiting under Objectives 2 and 5b went up to 28%, by comparison with 22% in the preceding period, which actually represents an increase of about 50% in the number of eligible areas.

France will receive 83.1 billion francs from the structural funds during the period under consideration, of which 43.6 will be committed for state-region planning contracts for 1994-1998. In fact, Community contributions are now incorporated in the formulation of development targets at the regional level, and in the evaluation of available resources. They are calculated in ahead of time when state-region planning contracts are being negotiated.

Community intervention through the structural funds has no significant impact on the relationship between the regions and the other local authorities. The areas which benefit from these funds do not necessarily match regional or departmental boundaries; for instance, France benefited under Objective 1 for the districts of Avesnes, Douai and Valenciennes, which are only a part of the Nord department.

The programming of the operations which are to benefit from the funds is done by the General Secretaries for Regional Affairs (SGAR), who are answerable to the regional prefects; the projects are transmitted to Brussels by DATAR after examination, and are then negotiated directly between the Commission's services and the SGARs.

The region is involved in this procedure by means of a regional monitoring committee, and this fulfils Community requirements for monitoring "Community support frameworks" (regulation no. 2082/93 of 20 July 1993); however, a DATAR circular has reminded regional prefects that the chairmen of the general councils must also be represented on the monitoring committee. The regional executive does not have exclusive rights of representation for the interests of the region. Finally, the financial execution of projects which receive Community funding is the responsibility of the state, not of the region.

3. The frequency of special status

Generally speaking, special status implies an extension of regional competence to the detriment of the other local authorities, or regulatory restrictions which are new to the latter.

The Ile-de-France region is still different in some respects from the other regions, although the effect of the Laws of 2 March 1982 and 6 January 1986 is to bring it closer to the ordinary law. It still has certain special areas of competence[1] inherited from the former district of the Paris region, which took shape under a law of 2 August 1961. The Ile-de-France region may, for instance, acquire real estate for retrocession to other local authorities, in order to carry out operations of direct relevance to the region. It also has the power to define regional policy on recreational areas and on woods and rambling routes, and may share in the investment or maintenance costs involved; for this purpose, it has an agency of its own, the Agence des Espaces Verts, which is a regional public corporation.

1 Law No. 76-394 of 6 May 1976, Arts. 4 and 5, amended by law no. 86-16 of 6 January 1986, and Art. 6.

The region also has competence to define the regional policy for passenger transport, and is responsible for the Institut d'Amenagement et d'Urbanisme de la Region d'Ile-de-France. However, the organisation of passenger transport, according to Order no. 59-151 of 7 January 1959, is the responsibility of a transport syndicate set up by a decree of 23 September 1959, and to which the departments in the region belong; and the actual transport services are provided chiefly by two national public bodies, the SNCF and the RATP, both under state control.

The region also has its own sources of funding. It continues to levy the special equipment tax (more than 1.7 billion francs in 1990), the supplementary tax to the local equipment tax (83 million francs), and the office building levy (1.4 billion francs) as well as the money from police fines, which is now a municipality resource (70 million francs); all these were introduced for the benefit of the Paris region.

The purpose of the special equipment tax is to finance work under the equipment programmes for the Ile-de-France region. Since 1989, this tax has been added to each of the four local taxes, and the regional council fixes the amount for each of the four taxes. Unlike other regions, the Ile-de-France does not levy these taxes, so that the regional council in fact enjoys the same fiscal authority as in the other regions. Finally, although the regions do not receive the global operating subsidy (DGF), the Ile-de-France region receives from the departments a sum levied on the total amount allocated to the DGF of the departments and a portion of the development fund receipts for the Ile-de-France region. This situation is a temporary one.

Because of its size, and also because of the scale of the problems which arise there and the functions it fulfils in the national and European framework, the Ile-de-France region "is unlike all the others" and the state therefore has a special responsibility for it. Land use planning at the regional level has long taken place in Ile-de-France, even before the region was introduced. The planning system resulted in the 1965 master plan, devised and implemented by the state.

This state responsibility in the development and equipping of the Ile-de-France region was given new legal backing with the Law of 7 January 1983, which was rendered necessary by the decentralisation reform and the transfer to the municipalities of town planning functions.

The master development plan for the Ile-de-France was given the status of a special regional planning instrument, and the town planning schemes drawn up by the local authorities in the region (other master plans, sectoral plans, land use plans and documents substituting for them) had to be compatible with its provisions.

On this basis, a new master plan was approved by decree in April 1994. The orientation law of 4 February 1995 provides that in future, responsibility for the master plan will be divided between the state and the region; it will be compiled and verified by the region "in association" with the state. The planning initiative may be taken by either the state or the region. The plan (or its revised version) will be adopted by the regional council, but must be approved by decree in the Conseil d'Etat.

It is defined as the equivalent of both the regional development plan and a local development directive, and must therefore be followed by local town planners; but it is itself subject to any planning directive introduced by all or part of the region[1].

From the foregoing, it is evident that in Ile-de-France municipality-level competence in town planning matters is encompassed by the master plan of the Ile-de-France region, which is not within the sole responsibility of the region, but is a divided responsibility between the region and the state. Moreover, the state retains an ultimate power of intervention, through planning directives.

The responsibility of the departments, and that of the municipalities or groups of municipalities, for organising urban or non-urban public transport is handed over to the transport syndicate of the Paris region, and the region is given responsibility for defining a policy for passenger transport. The competence of the region for implementing a regional open space policy encompasses the powers of the departments in respect of protected open spaces (town planning code, Art. L. 142-1s).

The regions of the four overseas departments (Guadeloupe, Martinique, Guyane and Reunion) form an upper tier to the department-level institutions, and have their own sphere of competence: health promotion, the regional plan, the preparation and execution of the mining inventory, and participation in the exploitation of energy and mineral resources. They also receive special funds (maritime tolls, duties on alcoholic beverages produced and consumed locally, a special tax on fuel consumption).

As a result of the Law of 13 May 1991, Corsica is no longer a region, in the legal sense, but a local authority with a special status under law. The withdrawal of regional status was intended to enable Corsica to be given greater autonomy, without raising the objection that the regions must be treated equally. The cultural identity of Corsica is preserved by means of certain cultural functions and a consultative council; in particular, the full range of decentralised powers relating to secondary education are exercised by the Corsican local authority as a whole, instead of being shared with the departments.

The Corsican assembly adopts a regional plan which then embraces all other planning schemes. The Corsican local authority is substituted for the state as regards the operation of the railway network and sea connections with the mainland. It performs other specific functions in the areas of economic development, agriculture and energy. Finally, Corsica receives special subsidies from the state (a "territorial continuity" grant, or contributions to offset the cost of its extra responsibilities) as well as tax relief under various headings. As for the regions of the overseas departments, action to bolster the regional unit has tended to detracted from the role of the departments.

1 Code de l'Urbanisme, art. L. 141-1, derived from Article 40 of the law of 4 February 1995.

III. CONCLUDING REMARKS

1. Summary

The results of regionalisation are generally viewed as positive, and the regional system has few challengers. This system has made it possible to improve standards of capital equipment, especially in secondary and higher education and in transport and communications. The regions also play a positive role in economic development and culture. Apart from the lycees, the regions have few management functions.

This situation has enabled them to develop their investment capacity with room for manoeuvre, as well as their capacity for investigation and innovation. Their initiatives have stimulated economic and cultural activities well beyond the regional capitals.

Although the region does not enjoy any special priority under the Constitution and the law, the powers of the regions in relation to planning, and their investment capacity, enable them to establish their leadership in the areas they are designed to serve: economic development, regional development and public facilities.

The French regional system can be regarded as a model of regionalisation in a unitary state; it may be seen as extending decentralisation down to the regional level, without altering its essential features. It is frequently asked whether the region and the department can coexist, but there seem to be no immediate doubts on that score. As for the departments, they are now well-established local authorities; the Law of 2 March 1982 declined to choose between the region and the department, and the latter received significant transfers of competence.

The reorganisation of certain government services within larger units might eventually jeopardise the position of the department, but for the moment all this remains at the experimental and planning level.

Because of the economic, demographic and geographic diversity of the country, relations between the region and the departments vary considerably. Some regions appear to be dominated by the departments (for instance, Brittany or Languedoc-Roussillon); others seem to have established their autonomy vis-a-vis the departments (for instance, Alsace, Ile-de-France, Rhone-Alpes, Nord-Pas-de-Calais).

2. Perceptions

Although, each year, a number of changes of greater or lesser significance are made to the legislative framework for decentralisation, the system itself is scarcely challenged. One of the criticisms most frequently voiced is that there is no clear division of functions between the various tiers of local government. But it is far from clear that such a division is really wanted. Undeniably, the system is far from clear, but from the local point of view it has the advantage of offering a number of different possibilities to those in search of either support

or partners. What is seen as a competitive advantage in economic matters is perhaps also an advantage in institutional and administrative affairs; at any rate, this is a point worth careful consideration.

Moreover, what appears to dilute responsibilities may also favour risk taking; the much-decried overlapping funding is not merely a means of raising money, but also a way of sharing political risk. This practice therefore seems to bear out existing views on the merits and weaknesses of the French system of decentralisation. It is likely that the splitting up of the municipalities will prove to be a more significant problem that the duality between the region and the department.

The question of extending regional competence excites the same reservations. It will be seen that when the legislators are contemplating an extension of regional powers, they show extreme caution, and there is no unanimity on the matter among the chairmen of the regions. When the regions were given by statute powers relating to inland waterways (1983), plans for the disposal of special industrial wastes (1995) or regional rail transport (1995), few regions spoke in favour of exploiting these new opportunities. Apparently, the only significant transfer of powers which received unanimous approval was the granting of regional competence for vocational training, under the Law of 20 December 1993, and this related to an area of activity already well known to the regions, one which formed part of their economic functions.

Some chairmen of regions were prepared to take over the universities under the same conditions as the lycees, and said so at the time of the Law of 4 July 1990 and the Universities 2000 plan, in which all the regions participated, indeed more actively than the government had anticipated; however, most of their colleagues failed to follow suit, and the proposal excited distrust in the university world, in spite of the close and beneficial relationships formed by the universities with the regions. In fact, it is not certain that the region would benefit from an extension of its powers; its image might suffer, and its activities might be fragmented as a result, whereas at present it enjoys a degree of consistency as well as the symbolic benefits of being a partner in the planning contract.

The opinion survey carried out in 1994 by the Observatoire interrégional du politique (OIP) yields some valuable information about public attitudes towards the regional system. In a question asking people to choose among six descriptive labels for the region, the answer most frequently chosen was "a place of history and culture" (43%), ahead of "a territory" (18%), "an area for economic development" (15%). Only 11% chose "a community" as the first answer. The image of an "area for economic development" predominates only in Ile-de-France and in Rhone-Alpes, which are the most dynamic of the regions in an economic sense.

According to the Observatoire interrégional du politique (OIP), 53% of French people are optimistic about the future of the region, whose image has not suffered from the negative opinions presently felt about the government and about Europe (survey dating from April-May 1994). 55% take the view that the region is close to them, and this percentage is higher than the corresponding one for the government (20%) or for Europe (15%), but lower than for the department (67%) or the municipality (86%). 55% believe that in ten years, their way of life will depend on decisions taken at the regional level rather than at the national level (34%)[1].

However, the findings of this survey should be compared with those of a survey carried out in 1991. Although more than half the French people think there are too many tiers of local government, 78% were in favour of the departments (70% for the regions) and only 14% were hostile. Moreover, in answer to the question "In which two local officials have you the most confidence?" the prefects (26%) were seen to be more popular than the chairmen of the general councils (22%) or of the regional councils (10%); and the mayors are by far the most popular of all elected representatives, with 65% in favour[2].

1 OIP survey 1994 "Le fait régional".

2 SOFRES survey "Les Français et la décentralisation", Pouvoirs locaux, June 1991.

GERMANY

I. INTRODUCTION

The *Länder* were established in 1945 by order of the occupation forces. In this context, the interests of the occupation powers were the decisive criterion, not so much historical, socio-economic or regional policy aspects. A reorganisation of the *Länder* was only possible within the respective occupation zones.

Later on there were efforts to alter the borders of the *Länder* in a way so as to take into account historical and cultural traditions or economic factors and to create equally strong *Länder* in terms of territory or number of inhabitants. Various studies and expert opinions were prepared on these questions, which came to most different conclusions. With the exception of the foundation in 1951 of the *Land* Baden-Württemberg as a result of the union of three *Länder* (Baden, Württemberg-Baden and Württemberg-Hohenzollern) and apart from minor border corrections, however, there was no comprehensive reorganisation because, in the final analysis, the *Länder* as they were set up in 1945 have stood the test. In the meantime they have got their own historical and political traditions, and their populations have developed a sense of civic pride in respect of their *Land*.

In 1945, five *Länder* were initially set up in the Soviet occupation zone, which only in part upheld historical traditions. But then the tasks of these *Länder* were more and more centralised until they were finally dissolved in 1952. The organisational structure below *Land* level was maintained, though. In the wake of Germany's reunification various internal studies on the alteration of regional borders were undertaken, but finally the five *Länder* were newly established based on the historical administrative structures.

The Basic Law (*Grundgesetz*) of 23 May 1949 constitutes the basis of the legal and political order of the Federal Republic of Germany. Furthermore, the constitution also largely lays down the structure of government and administration. The following principles are characteristic of the organisation of Germany:

- the principle of federalism, which means that the *Länder* are independent members of the Federation vested with their own state sovereignty;

- the principle of local self-government which guarantees the rights of the cities and local authorities;

- the principle of the division of power, which assigns legislation, execution and jurisdiction to different bodies.

Federalism and local government are supporting elements of the Basic Law. Federalism allows public tasks to be performed independently by regional bodies whose inhabitants have been united in a peculiar way by historical and cultural bonds, sometimes for centuries.

The consequence of the federal structures consists in a multi-membered structure of the state and the administration. The organisation of public administration in the Federal Republic of Germany is mainly subdivided into three tiers which on principle are organised horizontally and form three independent levels:

- the administration of the Federation;
- the administration of the *Länder*;
- the administration of the local authorities.

Owing to the great differences in the size and the number of inhabitants of the *Länder* (while Land North Rhine-Westphalia has almost 18 million inhabitants, Land Bremen only has some 700 000), it has turned out to be expedient to supplement this fundamental structure in part by setting up two additional levels of administration between the level of *Land* administration and the local government level. The large territorial states (such as North Rhine-Westphalia, Bavaria and Saxony) are divided into *Land* administrative districts (*Regierungsbezirke*), which are subdivided into *Kreise* or towns not belonging to a *Kreis*, respectively.

All in all, this means that the organisation of the administration in the Federal Republic of Germany comprises five levels and the situation as in 1993 is the following:

1st level:	1	Federation
2nd level:	16	*Länder*
3rd level:	32	*Land* administrative districts
4th level:	426	*Kreise* and 117 towns not belonging to a *Kreis*
5th level:	16 068 local authorities	

There are deviations from this basic structure in the case of the city states (Berlin, Hamburg, Bremen), which at the same time are *Länder* and towns not belonging to a *Kreis*, as well as in the case of the smaller territorial states (such as Saarland and Mecklenburg-Western Pomerania), which do not have *Land* administrative districts.

The following example is to illustrate this: North Rhine-Westphalia is a federated state (*Land*) of the Federal Republic of Germany. It is composed of five *Land* administrative districts.

The administrative district of Düsseldorf comprises ten towns not belonging to a *Kreis* (e.g. Düsseldorf and Essen) and five *Kreise*. *Kreis* Neuss consists of eight local authorities (e.g. the towns of Neuss and Dormagen) which can handle their affairs on their own responsibility.

Regarding the structure of administration within the individual *Länder*, there have been numerous studies on reorganisation since the sixties. In North Rhine-Westphalia, for instance, they resulted in the amalgamation of two administrative districts and in a thorough-going territorial reform at local government level. At present, studies are being undertaken on the reorganisation of the governmental and local working levels between the *Land* government and the towns and *Kreise*.

II. REGION AND *LAND*

The term "region" is not used in the Basic Law for the Federal Republic of Germany. At the level of the European Union or the Council of Europe, the *Länder* rightly see themselves as regional representatives in an international context.

In the terminology of administrative organisation in Germany it is customary to use the terms *Land* administrative district (*Regierungsbezirk*) and *Kreis* for the corresponding regional levels of administration.

As it has seen said, the government of the *Land* administrative districts have supervisory powers over the towns not belonging to a *Kreis*, whereas the *Kreise* have supervisory powers over the municipalities forming part of a *Kreis*.

Nevertheless there is a process of "regionalisation" of structural policy going on in the territorial states. This means above all the participation of the various representations and territorial authorities in a region in order to identify the targets of future development and to draft regional guidance and a catalogue of concrete action and measures.

This type of structural policy promotes co-operation among the bodies involved without restricting local self-government.

To the extent that the term "region" means regionalisation in the sense described above, i. e. not in a constitutional, but rather in an administrative and political sense, it stands for neighbouring towns, municipalities and *Kreise* which have things in common as regards their economic, structural, historical, political, social and/or geographical background.

As a rule there are about 1 million inhabitants in *Land* administrative districts (*Regierungsbezirk*) in its capacity as a major regional authority (up to more than 5 million inhabitants in the administrative district of Düsseldorf), while a *Kreis* in its capacity as a smaller regional authority normally has several hundred thousand inhabitants. The territorial size of the administrative districts and *Kreise* is dependent on the population density, i. e. in areas with high population density, the territory of an administration district may be smaller.

The *Land* district administrations (*Bezirksregierungen/Regierungspräsidien*) are intermediate level authorities between the ministries of the respective *Land* and the local authorities. They represent and safeguard the unity of state administration and see themselves as mediators between the different levels and institutions of the federated state and local government. In North Rhine-Westphalia the commissioner of a *Land* administrative district (*Regierungspräsident*) at the same time is the general representative of the *Land* government in this district.

Relations between the Federation and the *Länder*

Pursuant to Art. 20 para 1 of the Basic Law Germany is a federal state. The Federal Republic of Germany was established from the *Länder* that already existed in 1946. Federalism is such an essential tenet of the constitution that the Basic Law lays down its organisation in *Länder* and the uncontested right of the *Länder* to participate in the legislation of the Federation.

Under the constitution, the relationship of the Federation and the *Länder* is characterised by:

- the sovereignty of the Federation and the sixteen *Länder*;

- the mutual rights of exerting influence and participation;

- the constitutional distribution of competence between the Federation and the *Länder*.

One of the typical elements of the principle of federalism as embodied in the Basic Law is that both the Federation and the *Länder* are sovereign states. This means that they are both vested with constitutional autonomy, i. e. the right to define their constitutional order on their own responsibility and to determine their organisational structures independently. The Basic Law leaves the shaping of their constitutions to the discretion of the *Länder*. In order to safeguard the degree of homogeneity which is indispensable for a federal state, Art. 28 para 1 of the Basic Law provides the fundamental rules for the political order in the *Länder* ("homogeneity principle"). Accordingly, the constitutional order in the *Länder* must conform to the principles of republican, democratic and social government based on the rule of law within the meaning of the Basic Law.

Furthermore, the people must be represented in a body chosen in general, direct, free, equal and secret elections.

The Federation must guarantee that the constitutional order of the *Länder* complies with the principle of homogeneity.

The relationship between the Federation and the *Länder* is governed by the Basic Law provision which says that the *Länder*, both among each other and vis-à-vis the Federation, are obliged to co-operate and to co-ordinate their activities.

The Basic Law provides for possibilities of mutual intervention and participation which allow to exert influence on how tasks at the federal and *Land* levels are performed. One has to distinguish between the way in which the Federation may intervene in the *Länder* and the participation of the *Länder* in federal matters.

The *Länder* participate in the preparation of federal policies and in the implementation of federal laws. It is above all through the Bundesrat that the *Länder* participate in the legislation and administration of the Federation. The Bundesrat has the right to introduce its own bills in the Bundestag, to call in the mediation committee to settle disputes between the Bundestag and the Bundesrat and to enter an objection against bills adopted by the Bundestag.

In addition, the Bundesrat must give its consent to bills concerning the federated states.

In the field of legislation, the majority of competences de facto rests with the Federation. The Basic Law clearly indicates in which specific matters the Federation has exclusive power to legislate. The *Länder* have power to legislate in the field of their *Land* constitution, in educational and cultural matters as well as in the law governing local authority statutes and local government.

As regards competences in the field of administration, the emphasis is on the *Länder*. The *Länder* are on principle competent while direct federal administration only exists where the Basic Law so provides explicitly. The *Länder* are responsible for implementing their own *Land* legislation, for executing federal laws as agents of the Federation (*Bundesaufsichtsverwaltung*) and managing delegated matters on behalf of the Federation (*Bundesauftragsverwaltung*).

The Federation has been vested with jurisdiction competences only where this is necessary to maintain uniformity of jurisdiction throughout the Federal territory. The Federation has established the Federal Constitutional Court (*Bundesverfassungsgericht*) and the supreme court. For the rest, jurisdiction falls within the competence of the *Länder*.

Supervisory powers

When looking at the question of how supervisory powers are exercised, a distinction has to be made between the powers of the Federation to exert influence on the *Länder* on the one hand, and the powers of the *Länder* to intervene in local matters on the other hand in accordance with the structure of the Federal Republic of Germany.

Federation – Länder

The Federation is vested with supervisory powers only where the *Länder* manage delegated matters on behalf of the Federation (*Bundesauftragsverwaltung*). The establishment of authorities or agencies for this purpose on principle remains a concern of the *Länder*. However, the Federation has the following possibilities of exerting influence in the framework of the execution of laws by the *Länder* as agents of the Federation:

The Federation may settle the question of the establishment of the requisite authorities by passing federal laws requiring the consent of the *Länder*. The administrative procedure to be followed when executing federal laws may be regulated by a federal law. With the consent of the Bundesrat, the Federal Government may issue pertinent general administrative rules. Furthermore, it may regulate the uniform training of civil servants and salaried public employees. Where the *Länder* execute laws as agents of the Federation, the Federal Ministers have a far-reaching power to give instructions to the Land authorities. Federal supervision extends to conformity with law and appropriateness of execution. The Basic Law identifies areas in which it is mandatory for the *Länder* to act as agents of the Federation. In addition, the Basic Law lists fields for which this type of administration may be introduced. Beyond this fields, an amendment of the constitution would be necessary if additional tasks were to be delegated to the *Länder*. One example for the execution of a federal law by the *Länder* is the Federal Law on Support for Education and Training through which assistance is granted to pupils and students (*Bundesausbildungsförderungsgesetz - BAföG*).

Apart from this, the *Länder* execute federal laws as matters of their own concern unless the Basic Law provides otherwise. Execution of federal laws by the *Länder* means that the *Länder* put these laws into practice on their own responsibility without instructions by the Federation. The Federation only supervises their action exclusively under legal aspects, i. e. whether it conforms with law, but not with regard to appropriateness of execution or political opportunity.

However, the Federation may exert influence on the execution of federal laws by the *Länder* as matters of their own concern in that federal laws - which require the consent of the Bundesrat - may regulate the establishment of pertinent authorities and the administrative procedure. With the consent of the Bundesrat the Federal Government may issue pertinent general administrative rules, which shall guarantee the uniform execution of federal law. The Federal Government is only entitled to give instructions in individual cases if this right is explicitly mentioned in a federal law consented to by the Bundesrat. Such instructions may only be given to the highest *Land* authorities. The Federal Government must not give instructions to the commissioner of a *Land* administrative district or a lower *Land* authority or a local authority, since the structure and organisation of the administration exclusively are the responsibility of the *Länder* and local authorities and these are not subordinate to federal bodies.

Another possibility of how the Federation can exert influence on the *Länder* is the so-called "federal enforcement". This instrument may be applied if a *Land* fails to meet its federal obligations under the Basic Law or another federal act.

In this case, the Federal Government - with the consent of the Bundesrat - can take the measures necessary to enforce the federal obligations owed by the *Land*. For instance, these may take the form of instructions of the Federal Government to the *Länder* and their authorities. For the sake of completeness it should be mentioned that the Federation is vested with further-reaching rights to issue instructions in the event of war or disasters.

The execution of Land legislation e. g. the field of schools and education, is the exclusive responsibility of the *Länder*. The Federation has no possibility of intervention in this respect.

Länder - Local Authorities

More important to the Federal Republic of Germany is the question of how the *Länder* exercise supervision over the local authorities.

To the extent that the law does not expressly provide otherwise, the local authorities are exclusively competent in their purviews and in regard to public administration act on their own responsibility. This means that the local authorities' general competences comprise tasks from a wide range of categories. With regard to the categories of tasks, a distinction is made between voluntary and mandatory matters of self-government, statutory duties to be performed "as directed" and delegated tasks to be performed as agents of the *Länder*. Against the background of the fact that the intensity of supervision varies from category to category, it is first of all necessary to supply more detailed information on the above-mentioned categories.

The term "matters of self-government" means affairs within the competence of a local authority which are derived from its general competence and which the local authority performs in its own right. They give the local administration its typical characteristics and are an expression of local individuality. They comprise a rich variety of activities which cannot be provided for by law in full detail and which are geared to local requirements and the municipality's financial capacity.

Within the matters of local self-government, a distinction is made between voluntary and mandatory matters of local self-government.

As regards the voluntary matters of local self-government, the local authority decided both on "whether" and "how" tasks are carried out. Examples such as the organisation of musical events or other cultural institutions may illustrate this. As regards mandatory matters of bcal self-government, there is no choice of whether or not the local authority will carry out the task, but it decides on the way in which this is done. Examples are the provision of schools, or street cleansing.

In some *Länder*, e. g. North Rhine-Westphalia, a new category of tasks was introduced. They are called "statutory duties" to be carried out as directed by the *Land*. Specific characteristics of statutory duties include the fact that the law charges the local authorities with these duties, the power of state authorities the existence of a specific supervision by a state authority and the power of the supervisory authority to decide on objections to administrative acts taken by local authorities.

Then there is the category of delegated tasks which the local authority performs independently as agent of the *Land* or the state. These tasks may be delegated to the local authorities either by federal law or by the *Länder*.

As already stated briefly, supervisory control over the local authorities is of different intensity for the individual categories of duties described above.

North Rhine-Westphalia distinguishes between the general supervisory control over matters of local self-government and specific supervision of statutory duties performed as directed. In addition to this repressive control, local government law also gives the supervisory authority other possibilities of preventive intervention by passing regulations on duties to notify and duties to obtain a permit or authorisation. These are meant to subject local government activities at an early stage to preventive control and, if need be, state intervention.

The objective of general supervisory control over matters of local self-government is to protect the rights of local authorities and to safeguard the performance of their duties. Accordingly, the general supervision only aims at guaranteeing that local authority administration complies with the laws. Instruments for exercising such supervision include the right of information, the right to object to and making null and void unlawful decisions of the local council or the head of administration, the right to give directives and the exercise of default powers, the appointment of a state commissioner and finally the dissolution of the local council as ultima ratio. The last-mentioned measure is only admissible in the event of continued lack of a quorum in the local council and similar discontinuation of functions. However, the democratic principle embodied in the constitution requires new elections to be organised as soon as possible to remedy such extreme exceptional situations.

As becomes clear from the wording of the conditions of the application of the various tools of supervisory control in law of North Rhine-Westphalia, the supervisory authority "may" intervene, but is not obliged to do so; this means it is a matter of discretion whether or not the supervisory authority intervenes.

The specific supervisory control over statutory duties performed as directed is subject to the provisions of the relevant law.

If the local authorities consider their rights to be violated by measures of the supervisory authorities, they may have recourse to the administrative court to settle the matter, and appeal to the constitutional courts of the *Länder* or the Federal Constitutional Court, respectively.

Equality between *Länder* and between Local Authorities

Again, a distinction has to be made between the competences which the Basic Law confers upon the *Länder*, and the rights which the Basic Law and the provisions of the constitutions of various *Länder* assign to the local authorities.

Pursuant to the provisions of the constitution all *Länder* have the same participation and decision-making competences irrespective of their size. A difference is only made in that the number of votes of a *Land* in the Bundesrat is dependent on the number of its inhabitants.

On the other hand, federal law does on principle not interfere with the design of local self-government, but leaves this to the law of the respective *Land*. However, *Land* legislation cannot define the scope of self-government wider than the guarantee of self-government laid down in Art. 28 para 2 of the Basic Law, while on the other hand it must not restrict these constitutionally guaranteed rights either. It follows from this that the fundamental competences of the local authorities in the *Länder* are the same and that differences only exist with regard to the concrete allocation of tasks.

Decentralised services of the state

The Basic Law allows the Federation to establish its own institutions and authorities in a few specific fields such as the foreign service, the federal finance administration, the administration of the Federal Armed Forces, the administration of air traffic and the Bundesbank (Federal bank). But apart from the fields of administration listed above, the Federation can only set up autonomous federal authorities for matters in which the Federation has the power to legislate by virtue of the Basic Law.

However, owing to the clear distribution of competences pursuant to the Basic Law, the federal authorities are not entitled to intervene directly in the matters of the *Länder* or local authorities.

III. FINANCIAL RELATIONS

Local authorities' degree of financial dependence on the Federation and the *Länder*

The Basic Law and the *Land* constitutions guarantee self-government of the local authorities. Financial sovereignty poses an essential part of self-government. Financial sovereignty refers both to budget management and to procuring revenues, with the apportionment of taxes being regulated mainly by the provisions of Articles 106 seq. of the Basic Law, so that it is guaranteed by the constitution that the local authorities get an appropriate share of tax revenues.

However, budget management by the local authorities is also subject to restrictions. In spite of the federative state structure, the "top state" is bound to outweigh the other partners because a minimum of equal living conditions and uniform legal basis can only be achieved if the Federation has the most important legislative powers. Thus, as regards budget management, federal statutes requiring Bundesrat consent establish principles applying jointly to the Federation and the *Länder* for budget law, budget management in line with the economic

situation, and for budgetary planning covering several years. Furthermore, the Federation and the *Länder*, when managing their budgets, have to take into account the requirements of the overall economic equilibrium as defined by the "magic square" - stability of the price level with a high level of employment at the same time, equilibrium of the balance of payments and, finally, sustained and adequate economic growth. So as to achieve this goal, the local authorities are guaranteed a certain share of the tax revenue. For instance, the Basic Law provides that the revenue from taxes on objects (taxes on land and buildings, trade taxes, etc.) accrues to the local authorities. These taxes account for approximately 55% of all tax revenues of local authorities.

Pursuant to Article 106, paragraph 5 of the Basic Law, local authorities are immediately entitled to 15% of income tax revenues, which is one of the major common taxes, along with corporation tax and turnover tax. Common taxes account for the bigger part of tax revenue in the Federal Republic of Germany, namely 90% in the Federation and the *Länder*. Furthermore, local authorities receive a percentage of the *Land* share of all common taxes, which is laid down individually by *Land* legislation (in North Rhine-Westphalia the percentage is currently 23%). The local authorities are also entitled to the revenues from various other taxes, such as the dogs tax; or they may receive a share of the revenue from certain *Land* taxes. Finally, local authorities have the right to create new taxes, such as the secondary home tax and the tax on packaging, the collection of which is governed by the local corpora of bye-laws.

According to the general principle of burden sharing, everybody, i.e. the Federation, the *Länder*, and the local authorities, must cover the expenses incurred by making use of its or their own rights. However, the tax revenues and the revenues from fees and contributions do not suffice to cover the expenses given the fact that more than 80% of public sector investment come within the sphere of tasks of the *Länder* and the local authorities. Therefore the Basic Law permits the Federation to give the *Länder*, or the local authorities via the *Länder*, financial assistance towards particularly important *Land* or local authority investments which are of particular importance for the effects on employment and sustained growth and structure. This is true above all for the following projects: projects to improve the transport situation within the local authority, urban development and redevelopment projects, programmes to boost the economy, and public local transport projects.

In this context the Federation can use its discretion as to take on considerable shares of the expenses incurred for joint tasks. Joint tasks are tasks of an overall importance affecting more than just one region and requiring joint planning and financing, such as building new universities, improving the regional economic or agrarian structure, coastal protection.

The EU, too, has launched assistance programmes affecting local authority funds, for instance Rechar II, Resider II, EFRE, ESF. At *Land* level there are various assistance programmes granting the local authorities subsidies for major local projects on the same conditions as federal programmes. For instance, considerable subsidies are granted towards building local leisure or cultural facilities and towards inner-urban transport projects. All assistance programmes have in common, though, that the local authorities' room for decision-making is restricted in that the granting of subsidies is subject to certain conditions.

The fact that the economy has been sluggish in the past few years has led to a decrease in local authority revenues, above all from trade tax. Also, local authority expenditure has soared, above all in the field of social security benefits. As a result, the financial capacity of a great number of local authorities has been stretched too far so that they have come to rely on *Land* contributions.

Financial equalisation

The Länder

Articles 106 and 107 of the Basic Law provide that there must be a vertical financial equalisation, i.e. an equalisation between the Federation and the *Länder*, and also a horizontal financial equalisation, i.e. an equalisation among the *Länder*.

The vertical financial equalisation between the Federation and the *Länder* is characterised by a mix of a separate and a joint system. In the separate system the individual types of taxes with their total revenue are allocated either to the Federation, the *Länder*, or to the local authorities. Thus, most of the excise taxes and the surcharge on income tax (corporation tax) are assigned to the Federation, the net worth tax, the inheritance tax, the motor vehicle tax and most of the taxes on transactions are assigned to the *Länder*, and the taxes on objects are assigned to the local authorities. In the joint system, individual or several taxes are pooled which are apportioned by certain rules. This applies to the biggest part of tax revenues in the Federal Republic of Germany, namely the major taxes like income tax, corporation tax and turnover tax.

Furthermore, the Federation may grant the *Länder* financial assistance towards investments which are of particular importance for the effects on employment and sustained growth and structure, and for joint tasks. Where, in the case of financially weak *Länder*, the financial assistance by the Federation and the horizontal financial equalisation among the *Länder* do not suffice, grants may be made by the Federation from federal funds in order to complement the coverage of their general financial requirements (supplementary grants).

As *Länder* with low tax revenues have to fulfil the same tasks as *Länder* with higher revenues, Article 107 of the Basic Law provides for an adequate horizontal financial equalisation between financially weak and financially strong *Länder*. It is true that the constitution makes the equalisation compulsory, but the regulations implementing such obligation are based on the self-co-ordination of the *Länder*. The financial capability of a *Land* is calculated on the basis of its financial strength and its financial needs. By way of compensation, financially weak *Länder* may for instance be given a bigger share of turnover tax revenues.

A further compensation measure ensures that the financial equalisation amounts to 95% of the tax revenues in Deutschmarks per inhabitant, averaged out for all *Länder*.

The local authorities

Local financial equalisation is designed to allocate to the bodies and agencies performing public tasks the funds necessary to perform such tasks in order to enable all local authorities to offer approximately the same services and to avoid a major prosperity gap between poorer and richer local authorities.

Local financial equalisation is governed by the *Land* Acts on Financing Local Authorities (*Gemeindefinanzierungsgesetze*). They do not provide for an immediate horizontal equalisation among the local authorities of a *Land*. However, the vertical financial equalisation by the *Land* has a horizontal effect in that it brings about an equalisation between financially strong local authorities and financially weak ones. The vertical financial equalisation between the *Land* and the local authority falls into two main groups of financial allocations, that is "general" allocations and allocations which are "tied to special purposes".

The local authorities and associations of local authorities are free as to how to spend the general financial allocations accruing to them. These allocations are so-called "quota allocations of funds" and "other general allocations".

Quota allocations are computed on the basis of a standardised factor, the so-called quota. According to this quota local authorities are granted amounts which equal a given percentage of the difference between the standardised financial requirements and the imputed taxable capacity. Local authorities whose imputed taxable capacity is at least as high as their standardised financial requirements are not given any quota allocations.

The allocations-on-demand, the amounts of which are relatively insignificant, come under the heading of "other general allocations". They are in aid of local authorities in special financial need and are paid to the local authorities upon their application and following case-by-case examinations. Allocations which are "tied to special purposes" are granted by the *Länder* to fund or co-fund certain tasks and measures. They cover the reimbursement of costs incurred for certain tasks, refunding services rendered by the local authorities as agents of the Federation or the *Länder*, as well as allocations towards object-related measures of the local authorities. Funds "tied to special purposes" may only be used for the approved purpose. The local authorities do not have a right to such funds. Rather, the *Länder* can use their discretion whether or not to grant such funds.

The influence of the EU programmes

It is above all the programmes relating to structural and labour market policy conducted jointly with the particular Bundesland which are of special importance to the local authorities. The programmes to improve the economic structure are mainly those covered by "objectives" 2 and 5b: Objective 2: re-organisation of the economic structure in regions or sub-regions badly hit by the decrease in industrial development; Objective 5b: developing rural areas. Assistance is given above all in the following areas: settlement of industries which promise to boom in the future, improving the quality of the environment and of the infrastructure, qualification and employment projects; in rural areas it is in particular the orientation towards industry and tourism and in border regions cross-border co-operation.

As has been explained above, the assistance concept of the Federal Republic of Germany presents a balanced system. European financial assistance complements the national assistance concept. It is for this reason that EU assistance is not added to federal or *Land* assistance. Instead, it is integrated into the overall organisation and planning. The local authorities benefit from this procedure in that the funds are complemented by *Land* assistance funds and that application procedures are harmonised.

Equalisation of living conditions

The federal system and particularly the Basic Law provides for instruments in important areas which ensure that living conditions develop in a uniform way. This is also true in the area of concurrent legislation, which empowers the Federation to legislate where this is necessary to maintain the legal and economic unity, and above all to maintain the unity of living conditions beyond the territory of one *Land*.

The legal unity, which is established by federal statutes, is not jeopardised by the fact that it is mainly the *Länder* that execute the federal statutes, most of them even as matters of their own concern. The Federation brings to bear the influence given to it by the Basic Law so as to ensure that the law is enforced in a uniform way. The citizens concerned enjoy legal protection to bring about the uniform application of the law. Furthermore, the administrations of Federation and the *Länder* seek to pass uniform rules and standards. For instance, the acts governing administrative procedures of the *Länder* and the Federation are worded in more or less the same way. Sometimes the *Länder* co-ordinate their legislation to establish overall German *Land* law through mutually concerted norms which contributes to the unity of law throughout Germany. The police laws of the *Länder*, for instance, have been modelled on a uniform specimen law, so that they accord with one another.

Furthermore the Basic Law provides that the Federation may grant the *Länder* financial assistance to avert a disturbance of the overall economic equilibrium, to equalise differences of economic capacities within the federal territory, or to promote economic growth. Finally, the financial equalisation among the *Länder* provides that their diverging financial strength, resulting from tax revenues, is adequately equalised, taking into account the financial strength and the financial requirements of the *Länder*.

In conclusion: not only is federalism not an obstacle to an equalisation of living conditions, but it makes possible to a special extent competition, control, the development of alternatives, and the interaction of majority and minority in the political responsibility, the containment of power abuse, and it contributes to the trend of more rationality and responsibility in the performance of public tasks. Economic prosperity and the stability of the democratic state under the rule of law in Germany owe much to the federal structure.

IV. FINAL REMARKS

The federal system differentiates and delimits the power of the state. As legislative and administrative powers are distributed between the Federation and the *Länder*, regional peculiarities can be taken into account very efficiently. It is above all the federal principle which ensures that the dreary uniformity of the social, economic and political forces which an industrialised state with its need for regulations threatens to bring about, can be avoided. Also, the federal structure of the administration is closer to the citizens and their problems and permits citizens to participate in the administration.

The above said shows the complexity of the national administrative and organisation structures of the Federal Republic of Germany. All representatives of the Federal Republic are agreed that the federal model concretises and intensifies the idea of democracy in that control is shared by the central state and the constituent states, that the citizens have more opportunities to take part in the decision-making process, and that there are more control instances. It is above all against the background of this century's German history that this fundamental consensus is not called into question neither by representatives of the Federal Government nor by *Land* or local authority representatives. The constitution of the Federal Republic of Germany does not make it possible to give up federalism and establish a central state and, more important still, the concrete design of the federal state and its effects are mainly seen as a success.

It is true that under mere efficiency aspects it is considered time and again whether the administrative units could be re-organised and thus enabled to work more economically and cost-effectively. These considerations, though, come up against the understandable wish by the citizens for comprehensible administrative units which reflect their own identity.

In the Federal Republic of Germany, the policy-makers and the general public are agreed that the administrative structure successfully reconciles these two aspects and that a structural change of the system is not required.

The principle of subsidiarity is reflected in the guarantee of local self-government, enshrined in the Basic Law and in the *Land* constitutions, which provide that local authorities must be guaranteed the right to regulate, on their own responsibility, all the affairs of the local community within the limits set by statute. This right is put into practice through the bodies of *Land* law concerning the position of local authorities (*Kommunalverfassungsrecht*). For instance, the corresponding provision in the North-Rhine/Westphalian body of law on the position of local authorities prohibits any interference with the rights of the local authorities in the absence of a legal basis or the imposition of duties on the local authorities without regulating the raising of funds at the same time.

Thus, it is above all the federal system which ensures respect of and compliance with the principle of subsidiarity.

Current trends

A basic change in the federal state structure is not under discussion. All current moves and proposals to reform this structure are designed to give even more weight to the principles of federalism, the local authorities' right to self-determination, and to the citizens' democratic right to co-determination.

Within the individual *Länder*, there is a trend towards regionalising the economic and structural policies. The *Land* governments supports efforts of neighbouring towns and *Kreise* which have social, economic, demographic or geographic features in common to step up their voluntary co-operation in structural policies.

So as to strengthen the capability of the administrations without changing the basic state structures, an intensive debate is currently going on at all levels about the reform of the administration structure. The state and the local authorities are modernising their administrations. For instance, public administrations are to increasingly apply aspects of business economics; more importance is to be attached especially to the cost/benefit principle - not least due to the difficult financial situation of the public sector. For example, fixed contracts are to be concluded between the council (*Rat*) - the body representing the citizens - and the administration, laying down the particular responsibilities (so-called contract management). At the same time the administrative staff are given more responsibilities and hierarchical levels are being reduced. Thus, the decision-making process is simplified. So as to facilitate the modernisation process in the town administrations, so-called experiment clauses have been introduced in almost all the *Länder* into the statutes enacted by them concerning the organisation and powers of local authorities (*Gemeindeordnung*) which explicitly permit deviations above all from legal provisions on the accounting and budgeting system.

One important trend is to give citizens more rights to participate and make decisions at the local level. This applies to being involved in decisions on questions of substance as well as to directly electing mayors and *Landräte* (chairmen of the council of *Kreise*). There is an ongoing discussion on introducing the unrestricted right for EU citizens to vote and stand for election in local government elections, for which some *Länder* have already adopted or submitted laws.

All proposals for changes are designed to:

- give the *Länder* more possibilities to act and to develop their affairs;
- step up the local authorities' right to self-government;
- increase the citizens' right to co-determination.

and thus to consolidate the democratic and federal system as a whole.

HUNGARY

I. FRAMEWORK

Historical, political and social backgrounds

The territorial division (i. e. the meso structure) of the Hungarian Republic finds its origin in the Middle Ages, from the beginning of the 10th century when the first Hungarian king, Stephen I divided the country into royal counties (*comitatus*).

During the following centuries, this territorial structure remained more or less unchanged. However, the size and the functioning of the counties was gradually modernised. The only fundamental change happened after the First World War, when the country was deprived of two-thirds of its historical territory and this fact naturally reduced the number of the counties considerably.

During the first capitalist period of Hungary, 1867-1948, the decentralised tasks of public administration were divided and exercised by both deconcentrated, locally situated, state administrative branches under the vertical control of different central state departments and local government units under the horizontal control of locally elected representative bodies.

The local government did not constitute a genuine self-government system. It had however, many elements typical to self-governance; thus it could regulate for instance the local relations, could elect most of its officeholders and could determine its own functioning processes.

On the other hand, it was subject to a strong central government supervision, in some cases its decisions would become valid only after a central approval and the head (the so-called *"comes"*) of the county local government - which was the core of the system - was appointed by the head of state on the ground of a recommendation by the central government.

In order to co-ordinate the two types of territorial public administration (the local governments and the deconcentrated state organs) and also to take some important decisions the so-called county public administration committee was established in 1876. This committee, headed by the *comes*, consisted of the most important officeholders of the county local government, of some deconcentrated organs and of members delegated by local government. It strengthened the hierarchical features of public administration.

In addition to these hierarchical elements, the central government often sought for the opportunities of centralisation. In 1891, the central government attempted to centralise the whole county public administration in the form of deconcentrated organs, but the bill was refused by parliament and that was a great failure for the advocates of centralisation. Conversely, the Cabinet had some success in centralisation in some less relevant and less overall fields, such as transforming the public health authorities into a deconcentrated form.

Thus, in this period the devolution or political decentralisation, though restrained by some hierarchical elements, always played a significant role as a determinant factor in administering the local levels. It can also be stated that the deconcentration or administrative decentralisation (which, compared with devolution, from the local governments point of view means a sort of centralisation) gradually strengthened its position, enhanced its scope of competences, however never really endangered the substance of local government.

From 1948 to 1990, during the so-called socialist era, the philosophy of public administration, changed considerably. The principle of public administration unity, which was the leading political and administrative principle of socialist public administration, led to the situation in which almost every branch of public administration was organised into the soviet-type council structure.

Although from the point of view of legal rules the councils were popularly elected bodies and they controlled the local public administration activities in the first place, yet the reality was different to a large extent for various reasons.

Firstly, the elections in a communist country were means of pseudo-democracy; for instance, the local council election was guided and influenced fundamentally by hierarchical factors.

Secondly, the state hierarchy existed in a strict and strong way; the councils were subject to the upper tier council's control (in the case of the county councils to the central department's control) what covered a very large and wide competence area: from the appointment, dismissal or remuneration of council high-rank officeholders to the nullification or alteration of council decisions.

The character and the strength of these hierarchical legal means were diverse in the different periods of socialism. In the period of hard-communism (until the mid-sixties), the councils were in fact a sort of deconcentrated state (and Communist Party) organs, while in the period of soft-communism (during the seventies and eighties) many elements of self-government type were built into the council machinery. Unfortunately, these elements could not dominated the system, even a few of them remained a dead letter.

Thirdly, and it is the most determinant factor of the socialist public administration, all the system was over-ideologised and over-politicised. It meant that local councils were guided not only by upper council or state organs, but - and this sort of guidance could be evaluated as the most important and most determinant feature - also by Communist Party organs. In the communist one-party system, the state (including both central government together with its territorial branches and local governments) and the Communist Party structures were intertwined with the undisputable dominance of the latter; consequently the councils had to exist in a dual hierarchy.

Summing up the period, it can be laid down as a fact that a real political decentralisation, with the exception of a short pre-transitional period, between 1985 and 1989, did never functioned in this era. Instead of devolution, some administrative decentralisation happened mainly during the seventies, so the soviet-type council remained all over the socialism a sort of special multi-purpose deconcentrated organ and was never able to operate as real local self-government.

In 1990 Hungary moved socialism (communism) to parliamentary democracy. The change of regime brought about a whole series of fundamental changes in the field of public administration, namely: decentralisation, horizontal differentiation, division of powers on local and territorial levels and especially the local government system.

The basic principles and regulations concerning the local government system can be found in the Constitution and in the Local Self- Government Act 1990.

The Hungarian MPs tried to establish a rather non-hierarchical and decentralised system of local government, similar to the British or Scandinavian experiences (but not so decentralised and independent as it is in the United States). To this end, the legislators invoked some liberal sources from the international scene, e. g. the thoughts of Alexis de Tocqueville or the European Charter of Local Self-Government passed by the Council of Europe. It resulted in a very liberal local government legal framework, some experts deem it as one of the most liberals in Europe in its theory and thoughts.

The Local Self-government Act 1990 established a local system consisting of two main types of local government, namely municipal local governments (the number of which has continuously grown up to around 3 200) and county local governments (constant number of 19).

The county and the municipality, though their special tasks and competences are naturally different, are on the same legal rank in the public administration system. The former county powers of administrative tutelage over municipal local governments (what characterised both the former capitalist and the socialist era) were abolished.

Instead of administrative tutelage, the Hungarian local governments, (municipalities and counties alike) became subjects to a so-called legal control exercised by a brand-new legal institution: the Commissioners of the Republic. In a number of eight they were appointed by the President of the Republic of Hungary in 1990. Seven of the Commissioners worked in regions - one region comprised of two or three counties - while the remaining commissioner was placed in the capital, Budapest.

The Commissioners' legal control over county and municipal governments in terms of competences and powers fully differed from the former types of state control (tutelage), since in the exercise of legal control the Commissioner of the Republic could scrutinise the functioning of local governments from one point of view only, i. e. whether the decision making process, the resolutions and other formal operations of the local government at issue were in compliance with the law or not.

In the case of violation of the law by the local government the Commissioner of the Republic had very limited legal means not including direct intervention. He could only notify the local government concerned of the law violation and fix a deadline for its termination. If the local government in question ignored the notification, the Commissioner could only appeal to the court in certain cases to the Constitutional Court).

The Commissioner of the Republic could also convene the representative body of the local government concerned and ask for terminating the violation. However the influence and effectiveness of this initiative was more than uncertain and the final solution in this case could also be the appeal to the court.

In 1994, when the conservative governmental coalition was followed by a new, social democrat (the Hungarian Socialist Party) and liberal (the Alliance of Free Democrats) governmental coalition, the new parliament abolished the system of the Commissioners of the Republic. Their tasks and functions including the legal control over local governments was re-located to the newly organised organs called county public administrative offices, the heads of which are appointed by the Minister of the Interior.

The recent territorial division

According to the Constitution, Hungary is divided in the capital, Budapest - which is sub-divided into capital districts - counties, towns which can be sub-divided in town districts and villages[1]. The constitutional framework forms the base for the establishment of elected local governments. Accordingly, local governments exist in Budapest as a whole, in 23 capital districts, in 19 counties, in 193 towns and in 2 920 villages[2]. Therefore the Constitution - and similarly the amended 1990 Local Government Act - contains only one sort of meso division, the traditional and historical county. The number and the name of the counties and the county seats are determined in an act of parliament[3].

There were no special conditions and circumstances which had been taken into consideration prior to or after the creation and establishment of the recent Hungarian county structure. As it has been indicated above, only the historical, political and social background determined the recent structure, so it can be said that the country's county system was inherited - with some slight territorial alterations - directly from the past.

1 The Constitution of the Republic of Hungary, Chapter IX, Section 41 (1)-(2).

2 Source: Local Governments 1990-1994. (Ministy of Interior, Budapest, 1994) Appendix I.

3 68/1990. (VIII. 14.).

Besides the above-mentioned local self-governments which constitute the decentralisation line of the public administration there are a lot of centrally subordinated territorial public administrative organs which constitute the deconcentration line of the public administration. The greater part of the state deconcentrated public administrative organs exist and operate on a county scale and some of them (*) have also county subdivisions. These organs are:

- statistical offices;
- sport offices;
- county headquarters of fire services *;
- state budget and information services;
- compensation (for losses during communism) offices;
- agriculture offices;
- county offices of veterinaries;
- county offices for plants and land protection*;
- land and site registration offices*;
- consumer protection offices;
- transport authorities;
- public health authorities*;
- labour protection authorities;
- unemployment offices *;
- taxation authorities;
- county headquarters of police*;
- customs offices;
- county public administrative offices.

Other state deconcentrated public administrative organs have got greater territory than the county, or have a special territorial jurisdiction. They are:

- water authorities (in this case hydro-geological reasons are taken into account);
- environmental authorities (their territories are the same as that of the water authorities);
- nature protection and national park offices (formed on a natural-geographical base);
- forest authorities (adjusted to the forest locations);
- forest planning offices (adjusted to the forest locations);
- the offices of the territorial architects (comprises of two or three counties);
- mine authorities (adjusted to the mine locations);
- geological offices (formed on geological conditions);
- measure authorities (comprises of two or three counties);
- telecommunication authorities (comprises of two or three counties);
- offices for refugees (on the eastern and southern borders of the country).

Special attention should be put on the county public administrative offices which already existed between 1990 and 1994. These offices (similarly to their predecessors) have general jurisdiction unlike the other deconcentrated state organs and are entitled to exercise the state legal control over county and municipal local governments.

The core of meso structure in Hungary

Apart from the numerous specialised state deconcentrated organs, the recent Hungarian meso structure counts two organisations which constitute the core of the country's meso structure: the County Local Government and the County Public Administrative Office. There are nineteen County Local Governments[1]. They count an assembly whose members are elected by the population of the county in a direct way. The main officeholder (the county president) is elected by the assembly members; the mandate of both the assembly members and the county president is four years. The top civil servant in the county, the chief executive, is appointed by the county assembly for an indefinite service period. The main task of county local governments is the maintenance of some public services, for instance hospitals or homes for social care. The County Local Governments are not parts of the state hierarchy, they are relatively autonomous and subject only to a state legal control exercised by the County Public Administrative offices.

There are also nineteen County Public Administrative Offices[2] which were founded in 1994. These offices are parts of the state hierarchy and constitute deconcentrated organs. The heads of these offices are appointed by the Minister of the Interior for an indefinite period; and the main functions of these offices are to perform public administrative tasks in both first and second degree jurisdiction and to exercise legal control over county and municipal local governments.

II. RELATIONS BETWEEN THE UPPER (CENTRAL OR MESO) AUTHORITIES AND LOCAL GOVERNMENTS

Local governments' autonomy and dependence on the intermediate or central authorities in general

Since the change of regime in 1990, the establishment of political pluralism and democratic institutions, the local self-government system undoubtedly positions itself at the core of the Hungarian democracy. Its outstanding importance can be well presented by the fact that the Constitution devotes a separate chapter[3] to local government.

1 Budapest as the capital of Hungary has got a special local government status outside the county structure not included here.

2 The same type of public administrative office operates in Budapest.

3 The Constitution of the Republic of Hungary, Chapter IX.

As a fundamental element of the Hungarian democracy, the Constitution states that the right of local self-governance is granted to the citizenship of every individual settlements of the country as well as of the counties. The principle of self-governance is defined in the Constitution as the autonomous and democratic management of local public matters and the exercise of local authority power in the interest of the community's citizenship[1].

The outstanding relevance of local governments can also be drawn from the constitutional rule requiring a qualified two-thirds parliamentary majority in order to enact or amend any local government act. The same parliamentary majority is required to pass an act restricting in any way local governments' basic rights[2].

According to the 1990 Local Government Act the term "local government" refers to both tiers of local authorities[3], that is 19 county self-governments and 3 200 municipal (towns and villages) self-governments. All Hungarian local governments can act independently in public matters of local significance within its competencies, i. e. the so-called local public affairs. The term of local public affairs relate to:

- the provision of public services (such as health care services, primary and secondary education, etc.) to the population of the locality;

- the exercise of the executive power (e. g. granting building licences or judging some petty offence affairs) on a locality scale in accordance with self-government;

- the local establishment of the organisational, personal and material conditions in relation to the realisation of the above-mentioned[4].

The main elements of the autonomy of local governments are the following:

a. Within the limits established by law all local governments are allowed to regulate independently and, in the sphere of individual administrative cases, to administer freely the local public affairs allocated to the local governments' scope of authority. A local government's decision - whether it is a local regulation (i. e. a local ordinance by-law) or a decision in an individual case - may be overruled only by the courts and on the condition that it is in breach of law or governmental decrees[5].

1 The Constitution of the Republic of Hungary, Chapter IX, Section 42

2 The Constitution of the Republic of Hungary, Chapter IX, Section 44/C

3 1990 Local Government Act, Section 1 (1)

4 1990 Local Government Act, Section 1 (1)-(2)

5 The Constitution of the Republic of Hungary, Chapter IX, Section 44/A (1); 1990 Local Government Act, Section 1 (3)

b. Within the limits established by law local governments can in general:

- set up independently their organisation as well as their standing orders (working process);
- create local government symbols, local honours and honorary titles;
- dispose autonomously of the assets of local government;
- decide how to spend its revenues;
- enter into different contracts at its own responsibility;
- have their own revenues as to perform and exercise their tasks and functions in a proper way;
- receive grants and subsidies from the central state government as to perform and exercise their mandatory tasks and functions;
- establish and levy one or more types of local taxes established by law;
- associate and co-operate freely both from Hungary and abroad;
- have a membership in a local government association both in Hungary and abroad[1].

c. On the basis of a local decision every Hungarian local government is allowed to undertake any local public affairs on the conditions that it does not fall under the jurisdiction of other administrative organs (e.g. a deconcentrated state organ), and it does not hinder nor jeopardise the performance of local governments' mandatory tasks[2]. Consequently the Hungarian local government regulation do not apply the principle of ultra vires.

d. As a whole, the Hungarian local governments have tasks and functions, both compulsory and optional ones, arise from the parliamentary regulations and/or from the needs of the local population. They can be performed and executed in a way which the local governments are entitled to freely choose. Thus local governments may choose establishing an own public institution, contracting out other institutions or companies, purchasing services or any other forms through which they are able to perform their tasks and duties. The local governments in accordance with their tasks and duties can choose the forms of management and, within the frame of the financial regulations, can autonomously decide upon the schemes of interest[3].

e. All the Hungarian local governments are allowed to express their opinions and to make initiatives on matters that do not belong to their competencies but affect the local community. It is the statutory duty of the state organ (e. g. a ministry) to be in the authority to decide the issue concerned to give an answer of merit to the local government[4].

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1 The Constitution of the Republic of Hungary, Chapter IX, Section 44/A (1); 1990 Local Government Act, Section 1 (6)

2 1990 Local Government Act, Section 1 (4)

3 1990 Local Government Act, Section 81 (1)

4 The Constitution of the Republic of Hungary, Chapter IX, Section 44/A (1) 1990 Local Government Act, Section 2 (3)

f. The Constitution empowers local governments to create and enact local regulation which contents, however, shall not be contradictory to legal rules with a higher rank, such as parliamentary acts, governmental and ministerial decrees[1].

g. The key elements of local self governance are protected by the Constitution, meaning that every local government is entitled to be protected and defended by the courts. Especially important is the provision of the Constitution which allows the Hungarian local governments to apply directly to the Constitutional Court for the protection of their basic rights[2].

h. According to the Local Government Act, there is no dependence relationship between the county and the municipality. In general, they can co-operate on the basis of mutual interests[3]. The main difference between the two can be observed in relation to their tasks and functions. As a general rule, the tasks and functions which can be treated at a municipality scale are allocated to municipal local governments, whilst the tasks and functions needing a larger scale are allocated to county local governments. Moreover, concerning the division of tasks between the two forms of local government, the law applies the principle of subsidiarity, i.e.: in the case a municipal local government is not able to perform a local governmental (non-mandatory) function laid down by a law the county local government has the duty to perform it[4].

Besides the autonomous elements of local governance, however, some legal means guarantee the unity of the state and safeguard a general standard performed by any local government throughout the country. These guarantee elements can be summarised as follows:

a. The local government structure exists as an integral part of Hungary (a unitary state) and its representative bodies and administration can accomplish the autonomous elements secured enacted in the Local Government Act merely within the limits established by law. Accordingly the Parliament of Hungary is entitled to limit the local autonomy in a normative way through statutory regulation. This regulative power - as it has been fixed in the 1990 Local Government Act[5] - affects especially the following elements of local governance:

- the legal status of local governments;
- the group of tasks and functions exercised and performed exclusively by local governments;
- the group of tasks and functions mandatorily exercised and performanced by local governments;

1 The Constitution of the Republic of Hungary, Chapter IX, Section 44/A (2)

2 The Constitution of the Republic of Hungary, Chapter IX, Section 43 (2)

3 1990 Local Government Act, Section 6 (3)

4 1990 Local Government Act, Section 69 (1)

5 1990 Local Government Act, Section 93 (1)

- the organs of locality which the local government has to establish;
- the guarantees of local government operation;
- the financial means of local governments with special relation to the various state grants and subsidies or the taxation power of local governments;
- the basic rules of the economic management of local governments;
- the legal status of local representatives, the election procedure to the local government's representative body.

b. Any parliamentary acts may lay down mandatory tasks and functions for the local governments. However, simultaneously to the enactment of the obligation, the parliament has to ensure the financial conditions necessary for the execution and performance of the future local mandatory task[1]. The most important mandatory tasks of the municipal local governments are:

- the guarantee of healthy drinking water supply;
- kindergarten service;
- primary education;
- basic health care;
- basic social care;
- public lighting;
- maintenance of public roads;
- maintenance of public cemeteries;
- the guarantee the rights, recognised by other parliamentary acts, of national and ethnic minorities living in the settlement[2].

c. In the case of a local government operation in breach of the Constitution and the constitutional acts the parliament can dissolve the local government's representative body concerned on the basis of a Cabinet proposal and of the opinion of the Constitutional Court. The mayor of the local government concerned has to be invited to the parliamentary discussion concerning the dissolution and is entitled to express the local government's point of view and opinion.

If the parliament decides the dissolution of the local representative body it is a duty for the MPs to call up within sixty days an election in the municipality concerned[3]. Between the dissolution and the establishment of the new local government representative body upon the results of the election, a commissary of the republic appointed by the President of the Republic exercises the local tasks which can not be delayed, especially in urgency cases[4].

1 1990 Local Government Act, Section 1 (5)

2 1990 Local Government Act, Section 8 (4)

3 1990 Local Government Act, Section 93 (2)-(3)

4 1990 Local Government Act, Section 94

d. Every local government in Hungary is subject to a state legal control in order to verify the compliance with the law in the different local government activities, a state task exercised recently by the county public administrative offices[1].

e. The state Audit Office (an organ of the Parliament of Hungary) can exercise the financial control over county and municipal governments, i. e. is entitled to check the economic management of local self-governments[2]. The reason of this financial control stems from the fact that approximately three-quarters to four-fifths of the Hungarian local governments' total revenue comes from central organs either in a direct or an indirect way.

This financial control is not fully efficient due to two negative circumstances. Firstly, the State Audit Office, which has jurisdiction over a lot of different organisation, from the ministries to the political parties, lacks the necessary staff and territorial branches, consequently it can only supervise a small part of the Hungarian local governments. Secondly the country's legal system does not have already some necessary legislation concerning the local governments' economic management; as an example, there is no legislation as local government bankruptcy.

f. The central government (the Cabinet) disposes of some important legal means to influence the local governments' operation and activity. In particular:

- in case that local government's operation breaches the Constitution, the Cabinet proposes to the parliament the dissolution of the local government's representative body;
- by decree, the Cabinet establishes the qualification required for local authorities' staff;
- the Cabinet is entitled to settle disputes between a local government and a state public administrative organ provided that the case does not fall under the jurisdiction of any courts or other organs;
- through the Minister of the Interior, the Cabinet guarantees the state legal control over local governments' activities.

g. The Minister of the Interior plays an outstanding role concerning the relationship between state and local governments. According to the 1990 Local Government Act[3] the Minister of the Interior:

- prepares the issues on territorial organisation belonging under the authority of the parliament or of the President of the Republic;
- takes initiative for the Cabinet's proposal to the parliament to dissolve a local government representative body in breach of the Constitution;

1 1990 Local Government Act, Section 98 (2) - as altered by the 1994 Local Government Amendment Act

2 1990 Local Government Act, Section 92 (1)

3 1990 Local Government Act, Section 96

- takes part in the preparation of the drafts and bills concerning the local governments;
- co-ordinates the governmental tasks concerning the municipal development and the county development, planning and management, respectively;
- guides the legal control activity of the county public administrative offices.

h. In order to safeguard a country standard in local government performance the minister concerned may regulate in a ministerial decree the professional and vocational rules of the public service performance at issue. Concerning the rules regulated in the ministerial decree the competent ministry can exercise supervisory powers over local government activity as to scrutiny the compliance with their regulations[1].

State legal control over local governments

After the re-emergence of the local government system in Hungary, state's legal control on local governments activities was exercised by the eight commissioners of the republic (between 1990 and 1994). This control is now exercised by the County Public Administrative Offices.

a. As far as the legal status of the County Public Administrative Offices is concerned these offices are typical state deconcentrated organs with general competence entirely financed by the central state budget through the Ministry of the Interior, from which they depend.

b. According to the 1990 Local Government Act and its governmental executive decree[2], the County Public Administrative Offices have a number of legal means to safeguard the compliance of local government activities with the law. Their jurisdiction covers all types of local government decisions (local government by laws, resolutions of the local representative body, the sub-municipal governments, the local government committees, the president of county assembly or the mayor), the organisation and the functioning of local governments[3].

In case of breach of law, the head of the county public administrative office can call upon the responsible body or official to terminate the breach within a given time.

In case of no-compliance, the head of county office can lodge an appeal for the revision and annulment of the local government decision before the Constitutional Court or before the Civil Courts if it is a resolution local governments representative body.

1 1990 Local Government Act, Section 97

2 161/1994. (XII. 2.) Decree of Government

3 1990 Local Government Act, Section 98 (3)

If the breach of law concerns the organisation or functioning of the local government, he or she can ask the local government to convene a meeting of the representative body's in order to terminate the violation and/or to establish the accountability of the local government official responsible for the violation. If this is not done by the local government within fifteen days, the head of the County Public Administrative Office can himself convene the meeting of local government body concerned[1].

As it has been mentioned before, the right of state control over local governments from a financial point of view comes to the jurisdiction of the State Audit Office. In case the head of the county public administrative office be confronted with financial irregularities, he or she can request a financial inquiry concerning the economic management of the local government by the State Audit Office[2].

Financial aspects of local governments' autonomy and dependence

Regards to the performance of local public services, the local budget plays a significant role. The local governments' total annual budget constitutes an integral but separated part of the general government balances united by the entire fiscal turnover[3].

The autonomy and/or the dependence of local government depends in a large measure on their budgetary opportunities, on the composition of their annual budgets and on the financial regulations concerning how they can spend their money, therefore, the survey of local government budgets is of outstanding relevance.

The structure of Hungarian local governments' annual budget comprises of four main parts: own revenues, transfers, state grants and subsidies, and the revenues resulting from the social security sector and other central funds[4].

The average annual volume of local governments' own revenue amounts to approximately 17-18 %[5] of the total local budgets. Among these revenues there are:

- different institutional fees (e. g. fees paid for meals-on-wheels services or parking facilities);
- rental revenues (from local government houses and shopping facilities);
- the dues of local authority procedures;
- the profits, the dividends and the interests of the local government's entrepreneurial activity (which is generally of minor importance);

1 1990 Local Government Act, Section 98 (2)

2 1990 Local Government Act, Section 98 (2)

3 1990 Local Government Act, Section 77 (2)

4 1990 Local Government Act, Section 81 (2)

5 The exact proportions of local government budgetary items can be altered year by year. The source of the proportions disclosed in this study is a book published by the Ministry of the Interior titled *Four years of local governments 1990-1994*.

- the selling of some local government properties;
- the local taxes[1].

The types of local government taxes are determined by a parliamentary act[2], which differentiates five choices of taxation for local authorities. According to this act the local government's representative body levy and assess one or more from the following five taxes:

- building tax;
- land site tax;
- communal tax;
- tourism tax;
- local business turnover tax.

It must be emphasised, however, that the local taxation is not an obligation but only a possibility for the local governments. In fact, owing to the general and well-known difficulties of the economy and the living standards throughout the country, the local governments are very cautious to introduce local taxes. This is the reason why the local tax revenues recently amount to a small percentage (an average of 3 %) of the local government budget. However, it is widely expected that in an economically prosperous era the proportion of local government taxes will be a sharply increasing part in local budgets.

Approximately 15% of the local government budgetary revenues comes from the so-called transferred revenues[3]. This means that resources from some central taxes - the most important ones being the personal income tax and the motor car tax - are partially re-distributed, in accordance with the annual State Budget Act, to local governments. Nowadays, 35 % of the personal income tax and 50 % of the motor car tax are ceded to local government budgets.

Concerning the partial re-distribution of personal income tax a financial equalisation system is to be determined by the State Budget Act every year. This equalisation system works as it follows:

- the municipality where the income tax comes from benefits of re-distribution;
- however, part of the total amount subject to re-distribution is to be separated and distributed among the nineteen county local governments every year;
- in addition, part of the total amount subject to re-distribution is to be separated and distributed among the disadvantage municipalities in order to reduce the differences resulting from this (a municipality in a depressed area of the country or with a greater part of passive, pension age local community would have got much smaller volume of tax re-distribution per capita than an other municipality located in a more prosperous area of the country).

1 1990 Local Government Act, Section 82 (1)

2 1990 Local Government Taxes Act

3 1990 Local Government Act, Section 83

The central state grants and subsidies amount near to the 50% of local government budgets. The most significant components of this state grant system are the following:

In the first place, the so-called "normative budgetary subsidy" represents the bulk of the grant system. It is a block grant determined every year in the State Budget Act by the parliament regarding to the diverse compositions (e. g. age, employment) of the localities' population, the functioning local public institutions (schools, hospitals, etc.) and other indexes. As a grant without special purposes, the normative budgetary subsidy can be used without restrictions by the local government concerned[1]. It is worth stressing that the normative budgetary subsidy which is transferred monthly to the local governments can not be reduced during the budgetary year, even not by the parliament itself[2].

Secondly, there are specific grants for the accomplishment of some salient social priorities (such as housing, water system, sewage system, hospital reconstruction) determined by the parliament. On the ground of these priorities and the conditions added also by the parliament every Hungarian local government is entitled to compete for one or more specific grants. If the demands of the competing local government exceeds the quantity of specific grants available (which in practice happens in every year) the parliament decides the local governments gaining the grants. These sort of state grants, contrary to the normative budgetary subsidies, are earmarked ones, i. e. the local government can use it only for the specific purpose determined by the parliament[3].

It is interesting to compare the proportions of block and earmarked grants in local government budgets. Though the partition of the numerous earmarked grants has been slightly growing (for instance between 1991 and 1992 from 7% to 10%), the block grants dominate the state grant system, consequently the Hungarian local government have got a relatively high autonomy on how to spend their budgets, how to manage their performances.

Finally, the so-called "supplementary state grant" established by law is granted to local governments in disadvantageous situation for which they are not responsible in order to protect the autonomy and the functioning ability of the local government[4].

About an average of 17-18% of local government annual budgets comes from the sphere of social security (in order to maintain the local government health care facilities) and from some state financial funds (among them the most important is the Employment Fund), respectively.

1 1990 Local Government Act, Section 84 (1)-(2)

2 1990 Local Government Act, Section 87 (3)

3 1990 Local Government Act, Section 85 (1)-(3)

4 1990 Local Government Act, Section 87 (1)

III. CONCLUDING REMARKS

Global assessment

While evaluating the independent elements and the statutory limits of local government operation and their financial resources, it has to be stressed that the Hungarian local governments are a special blend of dependence and autonomy.

The substance of the Rhodes' inter-dependence theory is that both the central state government and the locally elected government have their autonomous organisation, political power, legal means, economic resources and revenues in order to achieve their different goals; their relationship, consequently their real *Lebensraum*, is to be determined mainly by these circumstances, the fundamental decisions are bargained usually along these lines.

The present situation of Hungary may be described following R. A. W. Rhodes'[1] "inter-dependence or bargaining model" and J. A. Chandler's[2] "stewardship model".

The stewardship theory, created ten years later the Rhodes' one, debates the acceptability of the interdependence theory in relation to the Thatcherite and post-Thatcherite England. It is depicted by its author in a very colourful way: "the policy makers in central government whether party politicians or bureaucrats, use local authorities as their stewards in much the same way as the aristocratic owner of a large eighteenth century estate would have employed a steward to manage his country estates. The steward was given a measure of discretion to manage his lord's estate as efficiently as possible, but this discretion is always constrained by rules determined at the whim of the aristocrat. Free from detailed managerial duties, many landed gentlemen could absent themselves from their estates in order to indulge in the pleasures of luxury, politics, war or religion. Such landowners would allow their stewards a very free hand. Some landed gentry, however, chose to interest themselves in the day to day management of their estates and constantly plagued their stewards with rules, regulations, advice and arbitrary caprice. Should the landowner learn that the steward was acting contrary to his principles or instructions he had the means to admonish the false steward or remove him from office".

The short period from the 1990 beginning of the re-emergence of local government system in the country shows that the Hungarian local authorities have got undoubtedly a relatively wide autonomy, a large scale of tasks and functions to be performed, that is a great portion of local power on their own. However, it is beyond dispute who is the "landowner" and who is the "steward" in the power system. The central state authorities have got all the legal means to be able to present and enforce the higher interests of the country as a whole, and it is undoubtedly a necessity for a unitary state.

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1 R.A.W. Rhodes, *Control and power in central-local government relations* (Farnborough, Gower, 1981).

2 J.A.Chandler, *Local Government Today* (Manchester University Press, 1991., pp. 99-100).

As it directly follows from the previous parts of this study, in Hungary there are no regions, there is no regionalism in the sense that some Western European countries (e. g. Spain, Italy, France, Belgium) use this term. For the sake of entirety and clarity, however, some more circumstances have to be taken into account.

Firstly the region as a greater territory than the average county has not got any roots in the Hungarian history. There have been only three very short periods in Hungary's history when it had some sort of general regional system. The first two periods took place under a de facto subordination to the Austrian Habsbourg Empire in the 1780s and in the 1850s, when the Austrian rulers attempted to force Hungary to some sort of regional system, such as that existing in that Empire (*Bezirk*). However both efforts failed.

The third case was the already mentioned experience of the Commissioners of the Republic between 1990 and 1994. The circumstances of the creation of the commissioners' regions were very specific in a political sense. The governing conservative coalition (the Hungarian Democratic Forum, the Hungarian Christian Democratic Party, the Smallholders' Party) wanted to re-organise a strong county system as it had existed before the communist era. However, the liberal opposition (the Alliance of Free Democrats and the Alliance of Young Democrats) fearing of some county predominance sharply opposed the plan[1], willing to maintain the county only as an association of the municipal local self-governments.

For the passing of the Local Government Act needed a two-third parliamentary majority voting and the governing conservative coalition had got just 54% of the parliamentary mandates, a political compromise was made. The substance of this compromise was that the governing conservatives gave up their conception on the rebirth of the strong county local government and accepted the liberals' proposal on the establishment a brand-new organ however not on a county, but on a larger regional scale.

So the 1990 Local Government Act established this new institute in regions (determined in a parliamentary resolution[2]); all regions, with the exception of Budapest, covered two or three counties. In practice, however, the Commissioners of the Republic organised their offices in each counties, so that the real public administrative activity was performed rather on a county, and not on a regional scale.

After the 1994 election the circumstances were changed in a large measure: a new coalition having a 72% parliamentary majority came into power, the former liberal unity was split up, the liberal fears of more county scale administration reduced or stopped. Consequently the 1990 political compromise has no more verification to maintain, and this new situation led to the abolishment of the commissioners of the republic and their regions.

1 The sixth parliamentary party, the Hungarian Socialist Party (that time in opposition and, as a contrary to its communist predecessor party in a very weak political position) had got no consequent and clear platform in this question.

2 67/1990. (VIII. 14.) Resolution of Parliament

Summing up these short regional intermezzos in the Hungarian state history, it can be stated that the two or three county-size regional territories were and are very untraditional and there were and are no real and verifiable (ethnical, cultural, geographical, economical, etc.) reasons for creating them. Therefore the former experiments for creating regions were bound to fail.

Secondly it has to be noted that some kind of regions, quasi-regions, can be found sporadically in today's Hungarian public administration. On one hand half a dozen so-called state deconcentrated organs (such as water authorities or telecommunication authorities) operate on a greater-than-a-county scale. On the other hand, some informal and non-institutionalised "regions" both historical and actual; exist e. g. the six central planning regions in the socialist era, or recently the four statistical regions.

However, both the deconcentrated state organs with special territories and the non-institutionalised and informal quasi-regions have been created and serve for only one special purpose (such as water affairs or planning considerations), consequently they can not be treated as real region governments or authorities at all.

As far as the meso structure as a whole is concerned, owing to the lack of the regional tradition and history it can be emphasised that there are no real *Lebensraum* for the establishment of regions in Hungary. The meso government, the county, has so deep origins in Hungary's history that there is no necessity or practical consideration to alter that. Neither can the changing of the county system be underpinned from the point of view of European integration.

The realisation of a modern meso structure in a unitary state can be performed in two ways[1], such as creating greater-than-a-county new level, a region (e. g. France or Italy have chosen this way) or strengthening the already existing intermediate level, the county system (for instance in Sweden or Norway). It seems to be sure that the Hungarian meso choice follows the latter solution.

Actual trends

Recently concerning the Hungarian meso level, there are two different central governmental restructuring conception under preparation: the establishment of united government territorial offices in the nineteen counties (plus one seated in Budapest) on the one hand, and the foundation of the county territorial planning councils on the other.

a. By recently the Cabinet has expressed its opinion that the country's meso structure of state deconcentrated organs is too fragmented for implementing a modern public administrative activity; the fragmentation causes a lot of difficulties both to the civil servants and the ordinary citizens. In order to eliminate the fragmentation of state administrative organs at county level, the Cabinet passed a governmental resolution[2] intended to merge the state deconcentrated organs (at least most of them) into new county offices on the basis of today's county public administrative offices in the near future (expected mid 1996).

1 L. J. Sharpe: The European Meso: An Appraisal; in.: The Rise of Meso Government in Europe (edited by L. J. Sharpe), SAGE Publications, 1993.

2 1105/1995. (XI. 1.) Resolution of Government

b. As far as the county territorial planning councils are concerned the central government has prepared a parliamentary bill recently submitted to the parliament. This bill proposes the creation of the planning councils in close connection with county local governments (e. g. the bill suggests the president of the planning council is to be the president of the county local government).

POLAND

I. FRAMEWORK

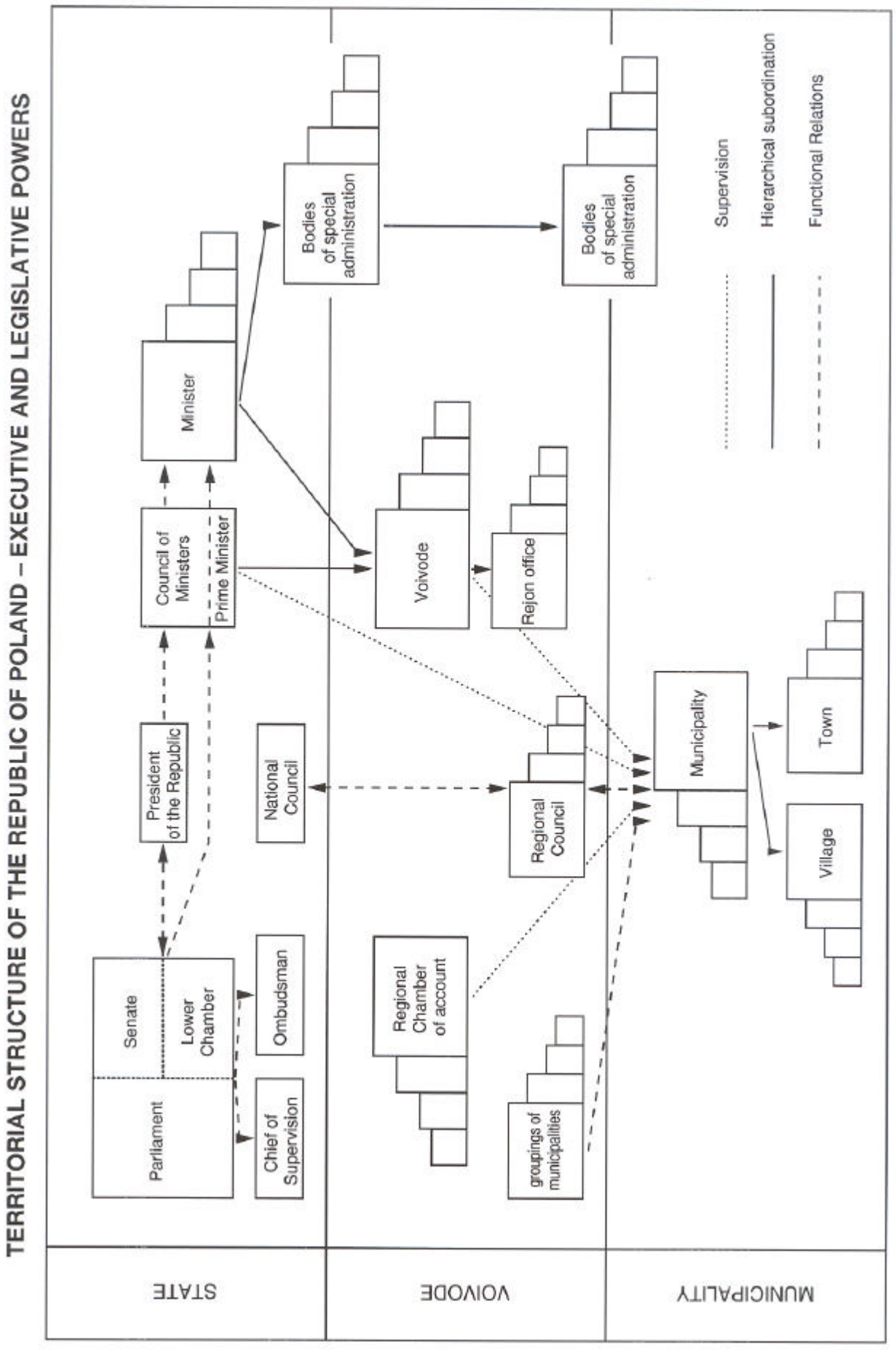
The origins of territorial organisation in modern Poland date back to the Middle Ages or even earlier. However, it was the 19th century which had a decisive influence on the administrative organisation of the Third Republic. This period in Europe, including in the territories of Poland, which was then divided between the three neighbouring powers of Russia, Prussia and Austria, saw the development of public administration in the modern sense of the term and a division into state administration and territorial authorities.

Different European countries shaped their respective structures by adapting to the constraints of this dualistic system, and when Poland regained its independence in 1918, it inherited from the three occupying countries three different models of administrative structure and its major concern was to standardise them as soon as possible. The main impact on the unification of the Polish administrative bodies came, on the one hand, from the existing territorial authorities (municipalities and districts) and, on the other, from political factors which resulted from the need to allow a certain level of self-government to the territories annexed to Poland (part of Upper Silesia and Cieszyn Silesia).

The above factors, together with the traditional organisation of Poland, whose model can be traced back to the Middle Ages, i.e. the division into regions (*województwa*), are responsible for the fact that during the Second Republic (1918-1939) there was a three-tier division of the country into regions, districts and urban or rural municipalities, with the last-named sub-divided into smaller entities called "villages" (units of the territorial organisation) which enjoyed a relatively high degree of self-government.

The municipalities and districts were units of territorial self-government, whose inhabitants had the status of local communities with a legal status distinct from that of the state. Unlike municipalities and districts, the regions (with the exception of Pomerania and Silesia) were not territorial authorities. Demographic and economic factors had also played an unquestionable role in the establishment of these regions. Usually, the industrialised, densely populated regions occupied smaller territories, whereas the surface-areas of less industrialised and less densely populated regions were greater.

While demographic and economic factors played a role in determining the boundaries of Polish regions at this time, the same cannot be said of the demarcation of the districts and municipalities, as these were the result of links forged throughout Polish history and their chief-towns were located on the sites of former local service centres. These population centres were sufficiently far from each other to obviate any problem due their rivalry for the status of chief-towns of a district or a municipality. For the same reasons, factors linked to the cultural influence of different urban centres were not particularly important in the definition of the territorial organisation of Poland. These centres were far enough apart and evenly


TERRITORIAL STRUCTURE OF THE REPUBLIC OF POLAND – EXECUTIVE AND LEGISLATIVE POWERS
STATE
VOIVODE
MUNICIPALITY
Parliament
Senate
Lower Chamber
President of the Republic
Chief of Supervision
Ombudsman
National Council
Minister
Council of Ministers
Prime Minister
Bodies of special administration
Voivode
Rejon office
Regional Council
Regional Chamber of account
groupings of municipalities
Bodies of special administration
Municipality
Town
Village
Supervision
Hierarchical subordination
Functional Relations

enough distributed throughout the country for there to be no competition between them to be appointed the seat of regional or district authorities. These centres were given such status openly and without opposition. Geographical factors played only a very limited role in Poland, owing to the relatively flat nature of the country and the lack of major geographical barriers.

The territorial structure of the Second Republic (1918-1939) was due principally to historical, demographic and economic factors and secondly to political factors. The bases of this structure were self-governing authorities, the municipalities and districts.

The change of political regime in Poland after the Second World War and the fact that the country remained under the influence of the former Soviet Union produced a new situation where political factors became essential for a new territorial division of its territory. Two events, the westward movement of Polish borders after the Yalta agreements in 1945, followed by the abolition of territorial self-government and the establishment of "uniform state bodies" (in 1950), showed the need to modify the territorial structures of the country. As a result - while conserving at first the three-tier division into regions, districts and municipalities - the last-named two structures were deprived of their legal status and transformed into *sui generis* central administration services. At the same time, seventeen new regions were established. Then, in 1954, the former municipalities were replaced by *gromadas* (entities without legal status, carrying out the functions of the state) but were restored in 1972, followed by the abolition of districts (in 1975), the whole process resulting in a two-tier territorial structure of regions and municipalities.

As a result Poland, which regained its freedom in 1989-1990, had to face the problem of radically restructuring its territorial organisation while adapting to new conditions produced by the decentralisation of state power and a market economy. The reform of public administration began with the restoration of the status of self-governing authority to the local communities whose inhabitants lived within the boundaries of former municipalities. This was to be followed by systemic and territorial reforms which would mean the return of districts as self-governing units (district authorities) and the transformation of former regions into larger regional units. As the major political forces could not reach agreement on the territorial structure of Poland, these reforms have been held up and the model of a system of public administration and territorial structure, a model which Poland would like to achieve, is still the subject of specialist deliberations and public debate. This means that Poland still has a two-tier territorial structure of 2 459 rural and urban municipalities and 49 regions. The latter are not self-governing authorities, unlike municipalities, and are assisted in their operations by 267 *rejon* (auxiliary administrative areas, without legal status), which were created in 1990 to conduct the individual affairs of the citizens (make administrative decisions within the purview of the central administrations).

The territorial structure and administrative organisation of Poland are a result neither of deliberate decisions by the new democratic authorities in Poland nor of studies and analyses carried out previously. They are a legacy of the previous system, with significant modifications, namely the attribution of legal status to local communities of the inhabitants of current municipalities, i.e. of relatively large units. Such studies and analyses are currently being carried out and their results have already been made public. However, what is needed is the political will to take clear-cut decisions. This has created a situation in which it is impossible to begin to create the definitive territorial structure of the country.

In this context the region, a unit totally under the supervision of the state, could be said to be the Polish equivalent of the regional level. This means that the local community at regional level, unlike that at communal level, is not a subject of law and does not constitute a self-governing territorial authority. Nor does it elect its own bodies. The voivode (prefect), who represents central administrations in the region, is its only spokesman. Although regional councils (dietines) still exist at regional level, these only represent the municipalities of the region, whose decision-making powers are very limited.

By virtue of the provisions of the law of 22 March 1990 on the external bodies of the general state administration (Off. J. No. 21/123, amended), the voivode is the governmental representative in the provinces and has the authority to take administrative decisions (in principle, at second instance) in those individual affairs of the citizens which have not been reserved for the bodies of the municipalities or of the special administrations. He is also responsible for the legal supervision of the municipalities and ensures co-ordination with the external bodies of the special administrations (e.g. services without national structures such as health inspection, national parks, territorial inspection of energy management, etc.). He also draws up and validates programmes and studies on the development of the region. In addition to all these prerogatives, the voivode is above all responsible for defining and carrying out the social and economic policy of the region on behalf of the state.

This definition of its powers means that the region as a unit of territorial organisation becomes an element in a devolved but not decentralised state structure. As a result, the region in Poland is an "outpost" of the state at regional level.

The role of the region is thus reduced to organising and implementing the duties and powers of the state, with no possibility of significantly or independently influencing the development of the region concerned. This raises the need to change the current state of affairs by granting legal status to the regions, limiting the power of the state in favour of the regions and extending the surface-area of the regions so that they can become self-governing social and economic bodies able to promote and implement regional development. This was the purport of the results of the studies and expert works presented to the public. They were visible in the draft government law on the reform of the managing centre and also in the expert proposal to create 12, 17 or 22 regional units to replace the 49 regions which currently act as state outpost in the provinces.

As there is still no political agreement on the above matters, it should be noted that the public administrations will continue to function in their current systemic and territorial forms and, as a result, two diametrically opposed territorial units will co-exist: on the one hand, the regions as regional units of the centralised state structures and, on the other, the municipalities with legal status as local self-governing authorities. These are the only self-governing units at the moment as the decision to create district authorities has been deferred.

II. RELATIONS BETWEEN THE INTERMEDIATE TERRITORIAL AUTHORITY (REGION) AND THE LOCAL AUTHORITIES (MUNICIPALITIES)

The relationship between these two types of territorial units is rather unusual in Poland. They belong to two different blocks of public administration - that of the state and that of the territorial authorities - and they carry out their functions separately. They have their own spheres of activity and their own prerogatives; the region works within the monolithic machinery of the state according to the principle of devolution, and the municipality bases its operations on the principle of decentralisation. Although they act separately, both units are obliged to work together, but independently of this informal obligation to co-operate, they are connected by the legal link of supervision, as in Poland it is the voivode, not the Minister of the Interior, who is responsible for supervising the municipalities.

The major aim of co-operation between a region and the municipalities is to ensure harmonisation between the actions of the central administrations and those of the territorial authorities to allow the implementation of state policies. The sphere of co-operation defined by law is vast and includes social and economic development and town planning. The parties legally obliged to co-operate are, on the one hand, the region and, on the other, the regional dietine (regional assembly), which represents the interests of the municipalities of the region in question. In view of the fact that co-operation excludes relationships of subordination, the voivode cannot have recourse to instruments of power in his relations with the regional councils, but must limit himself to "non-binding" means such as incentives for certain initiatives or position-taking. The same applies to regional councils, which, while still co-operating with the region, use only "non-binding" measures such as expressing their views on the appointment of a particular person to the position of voivode, giving their opinions on draft normative texts drawn up by the voivode or discussing the reports of the voivode describing his activities, including his supervision of the municipalities.

In addition to the operations managed jointly with the municipalities, the voivode also acts, as stated above, as their hierarchical supervisor. The law distinguishes between two types of supervision: firstly, the voivode observes the implementation of the work of the municipalities and, secondly, he supervises the carrying out of duties delegated to the municipalities by the central administration. In the first case, the voivode relies on criteria of legality (compliance with legal provisions) and in the second case he also takes into consideration the purpose of the actions undertaken. The range of problems covered by

the voivode's supervision of the municipalities is vast and includes practically all their activities apart from affairs reserved for the direct supervision of the Chairman of the Council of Ministers (appointment of legal administrators) or of the regional chambers of accounts (budgetary affairs). In his capacity as the person responsible for supervision, the voivode may only intervene in the activities of the municipalities in cases provided for by law[1]. The law defines the arsenal of legal means at the disposal of the voivode for the supervision of the activities of the municipalities. There are various types of means, such as measures of communication (right to be informed, right to attend debates of communal bodies), warnings (reminders to bodies to stop breaking the law), repressive means (right of the voivode to question decisions taken by the communal bodies; possibility and at the same time obligation to declare null and void any decision which breaks the law).

In a situation where the communal bodies have to carry out the duties which entrusted to them and which are within the purview of the central administrations, the voivode has recourse to radically more stringent supervisory measures. As already noted, the voivode is not restricted to examining the compliance of their activities with legal provisions (criterion of legality); he also supervises the validity of these actions. In this respect, he is authorised to use more severe control measures, including the possibility of cancelling the decision taken by the communal body and having it re-examined in the light of the instructions given. If these are not taken into consideration, the voivode may make a substitute decision (he takes over the inquiry into the matter). In view of the relatively wide range of problems in the domain of public administration at local level which are always the responsibility of the external services of the central administrations, the voivode has wider scope for intervening in communal activities than might be believed from a study of his function as supervisor of communal affairs, especially as the municipalities carry out duties which are in the purview of the central administration and which are entrusted to them on the basis of a voluntary agreement, as well as duties which they are legally obliged to carry out. In this latter case, the municipalities have no influence on the scope of their activities and are obliged to submit to a considerable degree of intervention from the voivode. Two examples of this type of situation are the registering of military conscripts and the running of the registry office, including the conduct of general population censuses.

From the point of view of the self-government of the municipalities, it is important to note that the region has a supervisory body for budgetary affairs, a regional chamber of accounts which, although a quasi-organism of financial jurisdiction, can be influenced or pressurised by the governmental apparatus for the simple reason that it is financed from the state budget.

Furthermore, it should be noted that in Poland, decision-making in the area of the individual affairs of the citizens (administrative decisions) is divided between the external services of the central administration and the territorial authorities in such a way that sometimes the initial decision is made by a body of the territorial authority, while the final decision, which concludes the affair, is made by an external service of the central administration. The following is an example of such a situation. It is the

1 Law of 8 March 1990 on Local Self-Government (Official Journal no. 16/95) amended.

mayor of the municipality (burgomaster) who defines the conditions for the right to build on a plot of land, but it is the deconcentrated central administration (the head of the administrative *rejon*) who grants the definitive planning permission. Although these are two independent administrative decisions, the system adopted places the central administration services in a privileged position vis-à-vis the territorial authorities.

All these factors together are responsible for the fact that in Poland the bodies of the intermediate level, although formally limited in their powers, can in practice become more involved in communal affairs than is foreseen in their prerogatives as a supervisory body to the municipalities.

The fact that in Poland the intermediate level remains within the structure of the governmental administration plays an essential role in the definition of the field of activity and powers of a municipality. The centralising tendencies perpetuated in Poland can be seen in the refusal of the external bodies of the central administration to give up their duties and powers. These administrative bodies, carrying great weight in sectorial and territorial terms, take refuge in their old positions. While still maintaining their influence on the creation of law, they effectively block the decentralising processes and continue to carry out duties which by their nature should be transferred to the municipalities, such as the issuing of driving licences.

The structure of territorial public administration in Poland is not limited to two principal levels, the "governmental" region and the self-governing communal authority. Between the region and the municipality there are the *rejon* services of the general or special state administration. This function is entrusted to the heads of the *rejon* offices, who are appointed to make first-instance administrative rulings in affairs outside the purview of the state administrations, as well as to carry out[1], other duties and powers defined in particular laws, including the obligation to take ecological measures to protect forests under threat. The territorial scope of a *rejon* office's activity is determined by the head of the Council of Ministers Office, as the Minister responsible for affairs concerning public administration, after consulting the voivode concerned. This scope covers several municipalities and usually the territory of the former district (that of before 1975). There are currently 267 *rejon* in Poland. The head of the *rejon* office is appointed and dismissed by the voivode, who also has to supervise the activities of the head of the *rejon* office. In view of this definition of the legal status of the *rejon*, it can be stated that they constitute the internal structure of the region with devolved powers under the responsibility of the general state administration, also called "integrated administration".

1 In conforming with Article 26 of the law of 22 March 1990 on the external services of the general central administrations (Official Journal No. 123/21).

The bodies of the special administration, also situated between the region and the municipality, are in a rather different legal situation. Unlike the general administration, these bodies have specific powers and their areas of activity are in principle included in the framework of a single administration. Although they have a separate organisational system, they operate within the ministerial structures and are hierarchically subordinate to the higher level bodies. Their areas of activity are diversified and differ from those of the *rejon* offices.

A further legacy of the previous regime is the highly developed structures of the special state administration. These encompass not only military administrations and the internal security of the country (intelligence service, border police, civilian rescue organisation, fire brigade etc.), but also other administrations, those responsible for transport (Department of Public Roads), taxation (tax collection offices) or even social affairs (employment agencies). According to estimates, there are currently twenty-nine special administrations at the supra-communal level in Poland[1]. In spite of the fact that neither the services of the general state administration nor those of the special administrations have any direct influence on the activities of the municipalities, they largely "devour" powers which could and should be the responsibility of the local authorities. As a result, they hinder the implementation of the constitutional principle of the transfer of a large number of public duties to the local authorities[2]. They also further complicate the decision-making processes in the provinces.

From a formal point of view, the local authorities in Poland are not financially dependent on the intermediate level services. This is mainly due to the fact that most of the communal budgets consists of proceeds from taxes and charges and property owned by the municipalities, as well as to the fact that global subsidies, which play a smaller role, are allocated by the Finance Minister to the municipalities concerned directly from the state budget, without the intervention of the intermediate level. On the other hand, it is the intermediate level, the regions, which finances the carrying out of the duties entrusted to the municipalities, and in this respect it is legally obliged to provide the municipalities with the financial means needed for this activity. In view of the relatively wide range of duties delegated to the municipalities by the intermediate level and the fact that the grants do not in practice cover the real costs of the work required, it could be said that in spite of a formally "objectivistic" process of transmitting financial means, the voivode does in fact have considerable influence on the financial situation of the municipalities.

1 See Report on the Current State of the Special Territorial Divisions, Institute of National and Regional Development and Communal Economy, 1995, p. 73.

2 Art. 71, par. 1 of the "Small Constitution" of the Republic of Poland of 17 October 1992, Official Journal No. 84/426.

As regards the financial relations between the state and the intermediate level (the region) and in view of the fact that the services at this level are "incorporated" into the structure of the state administrations, it could be said that the activities of the regions are financed from the state budget. The region, which is not a self-governing authority, does not have its own property or an independent budget. The budget placed at the disposal of a voivode is only a devolved part of the state budget. In this context, it would be difficult to speak of solidarity arrangements or financial equalisation between a region defined in this way, on the one hand, and the state, on the other hand.

It would, however, be justifiable to examine these systems at state/local authorities level. On this subject, the impact of the state (of its central structures and region) on the finances of the municipalities could be said to be decidedly greater than the influence of the latter on the financial situation of the state. In order to carry out its work, the state has recourse to the following procedures:

- establishment of the amount of the global subsidy allocated to the municipalities (currently 0.9% of the estimated revenue of the state budget) and of the subsidy for the needs of public education, then division of the total amount of the subsidy between the municipalities, following the impartial criteria provided for by law;

- fixing, for the given financial year, of the municipalities contribution to the revenue of the state budget (in respect of last year, 15% of the proceeds from income tax for individuals and 5% from tax for companies);

- fixing, for the given financial year, of the amount of the subsidies allocated to carry out their own duties and those ordered by the state administrations;

- division of the means of the equalisation subsidy based on objective criteria;

- division of the reserve fund of the global subsidy (1%) as aid to the municipalities in "force majeure" cases.

It should be noted that the effect of the state on the financial situation is weakened by the division of the budgetary means (but not their fixing) based on objective criteria. Where this division is not "objectivistic", Polish law provides for the participation of the representatives of the local authorities in the taking of concrete decisions and, in addition, the possibility to apply to a court in order to defend the rights of the municipalities in question.

Furthermore, the influence of the municipalities on the financial policies of the state could be described as having been reduced to political pressure exerted by the national and regional representatives of the local authorities. Polish legislation contains no provisions on financial support of the state by the municipalities. However, in practice there is a tendency to provide

financial support for the work of the state in the municipalities. This takes the form of initiatives taken by different urban municipalities, firstly, to provide financial backing for law-enforcement services, in particular the national police. This tendency is no doubt a result of the need to take certain measures to counter attacks on public security.

In the same way as in the relationship between the state and the local authorities, the law has not established any solidarity and horizontal financial equalisation arrangements between municipalities. In Poland there is no obligation for rich municipalities to assist poor municipalities, as is in the case of certain countries. Nor is there a legal obligation to jointly finance investments undertaken by a municipality, such as a shopping centre, which could be of benefit to the inhabitants of small border municipalities. Nevertheless, such situations do arise in practice. This means that, in the near future, Polish law will be obliged to study the problems of the solidarity of financial equalisation systems on both the horizontal (inter-communal) and the vertical (between municipalities and the state) levels.

It is true that the solidarity and financial equalisation arrangements between the different levels of the administrative structure in Poland are currently being established and that Poland has begun the process of integration with European structures. For the moment, however, the influence of existing European solidarity systems on national systems cannot really be felt.

The fact that there is an intermediate level in the territorial division of Poland, namely the regions (voivode), presupposes as it were its favourable impact on the balanced development of the whole territory. However, this is not the case.

Firstly, the region (voivode) does not have a legal status distinct from that of the state. As a result, there is no organ of territorial self-government that could represent the local population at this level of the territorial organisation of the country. In no event can it be considered that this function is carried out, as has already been said, by the regional council (dietine) of the region, which is only a representative of the municipalities of the region in question. This absence of a representative body means the loss of one player who, equipped with a social mandate, could build a regional development policy. It is true that such action is undertaken by the voivode, but it is financed by the state, and the regional policy which he manages is in fact only government policy in the provinces.

Secondly, the regions (voivode) in their current geographical form are territorial units which are too small for a self-governing regional policy. In this matter, they are limited to an inter-regional policy, and this does not have good traditions in Poland.

Thirdly, the area of activity and the scope of the powers of the regions are very limited owing to the continuing tendency to maintain the importance of the external services of the central administrations with considerable centralisation of powers within the ministries (the strong position of the ministers). All this means the disintegration of the activities of the Polish public administration, especially in the provinces, and the fact that the voivodes, in their relations with the external services of the central administrations, have only "non-binding" powers of co-ordination does not seem sufficient to ensure the coherence of administrative actions in the provinces.

As a result, instead of creating a regional development policy, the region becomes a simple cog in the wheel, receiving decisions taken at the central level, and as an element of transmission it has only limited influence on the balanced development of the whole of the country.

A region, constituted in this way at the geographical level and with such powers, is unable to create a sufficient basis to satisfy anything other than the ordinary needs of the public. It cannot meet the hopes of local society, which wants access to specialised health establishments (clinics), higher education, cultural establishments, theatres, operas, etc. At the moment, only one-third of Polish regions are able to fulfil such hopes and these all have large surface areas and their chief-towns are situated in large urban centres.

III. CONCLUDING REMARKS

In principle, there is unanimous agreement that the current territorial organisation of Poland is unsuited to the new regime and requires radical modifications[1]. Most authors raise the need for a return to a three-tier territorial organisation, by introducing firstly the district as the second level of local self-government and secondly a more or less self-governing region, with legal status, carrying out its duties at the regional level[2]. Others propose to maintain the two-tier organisation, with the current municipalities and with regions whose surface-areas and powers would be modified[3]. But whatever the concept of the reform of public administration in Poland, nobody is questioning the need to modify the scope of the powers and the surface-areas of the regions.

1 See R. Domanski, E. Elzunowski, H. Goik, A. Kuklinski, M. Kulesza, L. Kieres, Z. Leonski, W. Chruscielewski, A. Piekara, T. Rabska.

2 See, for example, M. Kulesza, *On territorial reform*, Samorzad Terytorialny /Territorial self-government/, 1991 No. 7-8.

3 See A. Piekara, *Functions of Territorial Self-government and Quality of Life at the Local Level*, Warsaw University Press, Warsaw, 1995, p. 25.

Regional reform is for many reasons the most difficult element of the transformation of the whole state administration system. As concerns the decision-making centre, it is essential and indispensable to separate the government from administrative functions. As concerns the territorial system, it is necessary to create districts and define their character and the extent of their activities. There are no major political opponents to this reform. It is not the same for regional reforms. Several issues are raised: firstly, the nature of the regions, secondly their number and boundaries and, thirdly, the responsibilities of the regional powers (of the regions) are not always clear[1].

The former minister of local and regional authorities from 1992 to 1994 considers that any transformation of the state structure, directed at the creation of self-governing regions (policy), requires an immense amount of planning which has not yet begun. It is not a matter of the geographical extent of future regions, as work of this kind is already advanced and will be useful, whatever the model of reform chosen. What is more important is the scope of the duties and powers of a self-governing region, which will mainly be taken from the powers of the state. The major problem is not knowing how to divide up these powers, but what is more serious is a sudden transformation of the operational principles of the state, a reorganisation for which this state is not at all prepared[2].

Other authors[3] consider that the regionalisation will take place in two stages. First of all, districts will be created as a form of supra-communal self-government. On the other hand, a region as a territorial authority will cover the area demarcated by the boundaries of districts, which does not mean that it will be a federation of districts. On the other hand, the creation of districts will reduce disputes between communal authorities and regional powers concerning belonging to one region or another.

The territorial organisation will either be transformed in a uniform way throughout the country or there could be a plan to differentiate the situation of the regions.

A group of experts, under the auspices of the Minister responsible for the reform of the public administration, drew up in 1993 a plan with several variants of the administrative organisation of the country into regions.

According to this position, the territorial divisions are the subject of cyclic modifications which accompany political transformations in the country. The systemic restructuring is followed by the reform of public administration and the new territorial organisation. Based on studies carried out and on a public debate, three plans have been put forward for the new territorial organisation of the country:

1 See M. Kulesza, *On territorial reform*, Samorzad Terytorialny /Territorial self-government/, 1991, No. 7-8, p. 51-52.

2 See M. Kulesza: idem, p. 53.

3 See L. Kières, *Organisation of state administration at regional level*, Samorzad Terytorialny /Territorial self-government/, 1992 No. 11, p. 55.

- **Plan I "conservative":** modification of the existing organisation, which foresees the creation of twenty-five regions,

- **Plan II "traditional":** return to the seventeen regions of before 1975,

- **Plan III "prospective":** proposal to organise the country into twelve large regions.

These three plans constitute three concepts which provide all the necessary elements for the decisive choices. Proposals which planned organisation into more than twenty-five or less than twelve regions were deliberately not considered because having more than twenty-five regions would call into question the validity of modifying the current state and establishing districts. On the other hand, there are no basic arguments for a lower number of regions in the functional and spatial structure of the country[1].

It appears that in the debates on regionalisation in Poland the main problems are those linked to the spatial form of the regions (new regions). The fixing of the scope of their powers is relegated to second position and will require more detailed studies. Until now, the powers of the regions have been the subject of general discussions and are reduced to spatial planning, the initiation and promotion of economic development and the setting up of technical services on a regional scale. The separation of structures and powers causes objections. Unlike the notion of creating districts, the idea of the regionalisation of the country does not yet seem to have been finalised. Although the powers of the regions will encompass everything not included in the powers of the local authorities (municipalities and districts) and the management centre, it seems that this is a rather passive method of setting up regions which in its current form should be critically appraised. The reforms of the territorial organisation of the country should be prepared exhaustively, and the structures and powers should not be separated.

Taking into account the particular legal status of the region as described above, it would be difficult to acknowledge that it supports the actions of the local authorities in the literal sense of the term. There are two types of public administration independent of each other, viz governmental administration and territorial authorities. The latter, in reaction against the highly centralised system of the state administration inherited from the Polish People's Republic, do everything to show their independence of and separation from the governmental administration. This is clear from the fact that the municipalities do not consider the governmental administration as a player able to assist them in their activities. As a result, the Polish system of public administration resembles more a system of balance or even competition between the governmental administration and the territorial authorities than a system of two bodies assisting each other. The actual Polish situation is a long way from such a system, but the decisive step in this direction would be taken if the regions were granted legal status, thus creating the opportunity to establish the principle of subsidiary in relations between the municipality and the region.

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[1] Alternative Plans for the Territorial Organisation of the Country into Regions, under the supervision of E. Wysocka, 1993, typed text, p. 41.

In the light of the previous observations, it is clear that the current territorial organisation of Poland requires reforms. It is the region which must be reformed first of all. It seems that the main aspects of these reforms have already been adopted. A small region with few powers should develop towards a stronger regional unit capable of autonomously defining a regional policy. The definitive form of the region is a tributary of previous political decisions concerning the establishment of self-governing districts. The spatial form and the extent of the powers of a region should be shaped differently if the current single-tier territorial self-government (municipality) is maintained. They will be different if a two-tier structure of municipality and district is created.

The efficient regionalisation of Poland is more likely to take place if one implements this second plan, which would result in the implementation of a three-tier territorial organisation of the country (municipality, district and region). Such a territorial organisation of Poland, which is a large country (312 000 km^2), would allow the creation of large regions with sufficient powers to create a self-governing regional policy. This opinion has become predominant both in the studies of specialists and among experts[1].

On the other hand, there remains the question of the legal status of new regions carrying out regional functions. Will they be territorial authorities or will they, as up to now, remain within the structure of governmental administration? Opinions are divided on this subject, both in theory and in practice, although for some time one opinion has been dominating, according to which it would be wise to grant legal status gradually to the new regions, which would at the outset remain within the structures of state administration[2].

Poland is confronted with the need to carry out systemic reforms of its public administration and then to adapt the territorial organisation of the country to current circumstances. Considerable decentralising actions should be implemented, targeting both the centralised system of public administration, whose origins date back to the previous political system, and the country's territorial structure determined by political factors. The first step in this direction was taken in 1990, when municipalities became self-governing authorities. However, other measures should follow, such as the reinforcement of the powers of territorial authorities by the creation of district authorities, complementary to the municipalities, the reform of the "all-powerful" state, and the setting up of regions whose physical size and scope of powers would allow them to create a self-governing regional policy.

1 See, for example, M. Kulesza, op. cit.

2 See, for example, L. Kieres, op. cit.

PORTUGAL

I. FRAMEWORK

1. Outline presentation of the territorial organisation

The Constitution of the Portuguese Republic provides for the existence on the mainland of three tiers of local government: the administrative region, the municipality (a total of 275, plus 30 in the islands) and the parish (of which there are 4200). There are also two autonomous island regions and, in mainland Portugal, two metropolitan areas and 18 administrative districts.

The basic elected local authority is the parish *(freguesia)*. This is a specific feature of Portuguese local government in the European context, since the basic local authority in most European countries is the municipality. Present-day administrative parishes date back to the old church parishes which came into existence in the Middle Ages. Owing to a lack of institutional structures, staff and independent financial resources, this level of local administration plays a limited role, largely operating in association with the municipalities.

The municipalities have been, and still are, the most significant of Portugal's local authorities. Although their predecessors date back to Roman rule, municipal institutions were shaped during the Middle Ages.

Pending the setting up of administrative regions, the eighteen administrative districts of mainland Portugal (created in 1835) are to continue; however, they have already been abolished in the Azores and Madeira. They are decentralised state structures which do not have the status of local authorities and host the authorities which supervise the municipalities and parishes. There are also other services which come under a number of sectoral ministries.

The districts were set up in 1835 with local authority status and were based on the Napoleonic model of French departments. Their size is between that of the provinces and cantons *(comarcas)* of the time, both subsequently removed from the Portuguese administrative system.

The choice of administrative centres for the 19th century districts shows that preference was given to the larger urban centres with the status of administrative centres of cantons *(comarcas)*. Almost all were already towns and, above all, they had large populations and/or were better located at the sub-regional level.

In 1975-76 when the aim of regionalisation was adopted and enshrined in the Constitution, the district was deprived of its status and functions as a local authority in view of its small size and population) and its past as a highly centralising unit controlling local authorities. According to 1991 data, today the 18 districts, have an average of 520 000 inhabitants, with a maximum of 2 048 000 (Lisbon) and a minimum of 134 000 (Portalegre).

REGIONAL DIVISION

PROJET MPCE - 1976

PROJET MAI - 1976

DISTRICTS ACTUELS

CCR ACTUELLES

Two metropolitan areas exist, around Lisbon and Oporto, with specific bodies to administer a number of important urban matters in the most urbanised areas of the country, by means of an institutional arrangement involving considerable municipal participation.

The future administrative regions on the mainland will only have administrative powers, with elected regional authorities.

The Azores and Madeira are autonomous regions with legislative and political powers.

This specific type of organisation was due to the geographical, cultural, social and economic conditions in these island regions, not to mention their historical aspirations to self-government, recognised by the Portuguese Constitution in 1976.

2. Criteria for territorial division

In Portugal no general and abstract prior studies have been carried out of the most appropriate scale for the regions. Nevertheless, the two main regionalisation models made public in 1976 and still under study include a clear basis for the criteria adopted.

Ministry of the Interior plan (1976)

In 1975, the Ministry of the Interior drew up a regional administration plan made public in January 1976, when preparatory work was still in progress on the new Portuguese Constitution.

Among the criteria to be adopted for territorial organisation, the plan mentioned the following:

- internal accessibility in relation to a centre able (or with potential) to play the leading role in the region;

- ecological coherence in the broadest sense of the term resulting from environmental, physical, social and economic conditions, emphasis laid on the need to take account of the physical features of the territory and its history, and particular importance had to be attached to functional aspects and to the way of life of the population concerned;

- regions had to be sufficiently large, in terms of area and population, to justify the introduction of a material and human infrastructure which then existed only at national level;

- groups of sub-regions with common interests and those with specific problems which could be dealt with together and include areas which were complementary, not only in type of economy but also in the extent of their development; with respecting the trend to coastal/inland slant.

Ministry of the Plan and Economic Co-ordination plan (1976)

After promulgation of the Portuguese Constitution, the Ministry of the Plan and Economic Co-ordination formally approved the publication of a "study for the division of the regions of the plan" in December 1976, advocating that mainland Portugal should be divided into the following seven regions: Northern Coastal; Northern Inland; Coastal Beira; Inland Beira; Lisbon; Alentejo and Algarve".

This proposal was based on the following criteria:

- definition of homogeneous areas of activities and functions (structured areas);

- definition of a spatial system, shaped according to the nature and intensity of social and economic inter-relationships;

- appropriateness of spatial system for the purposes of planning and administration.

Under the method followed, great importance was attached to ensuring that the region had instruments suited to its problems and to creating areas which were very similar economically in terms of regional specialisation, so that the regions had a high level of internal consistency resulting from major social, political and economic links among their inhabitants.

This proposal for division, drawn up at a time when the Portuguese Constitution provided that the mainland was to have administrative regions (with local authority status and coming under the Ministry for the Interior) and regions of the plan, decentralised bodies of the Ministry for the Plan, with corresponding boundaries. This latter concept of regions of the plan - disappeared from the Portuguese Constitution a few years later.

Regional Co-ordination Commissions (CCRs)

Since the planned administrative regions do not yet exist in mainland Portugal, the solution adopted for the purpose of regional development relates to the Regional Co-ordination Commissions in each of the five areas at NUTS II level (nomenclature used by the EU).

The CCRs carry out some of the functions which, in future, will be allocated to the administrative regions.

CCRs are decentralised state structures under the Ministry for Territorial Planning and Management. Their geographical boundaries correspond, subject to some adjustments, as those presented in 1976 by the Ministry for the Interior and include the metropolitan areas of Oporto and Lisbon, which are in the Northern CCR and the Lisbon CCR respectively.

The CCRs are responsible for the co-ordination and ensuring the compatibility of technical, financial and administrative support for local authorities. They are also responsible for implementing programmes designed to develop their regions.

These bodies are also required to institutionalise forms of co-operation and dialogue concerning the sectoral activities of the various ministries, in the context of relations with local authorities.

Autonomous regions

As island territories, the Azores and Madeira have the status of autonomous regions, having political powers and a number of features comparable to those of the federated states, because they have some legislative powers and a specific government system.

Consequently, the autonomy granted to them is wider than that enjoyed by mainland administrative regions.

Their political powers consist of the right to legislate, subject to the Constitution and the general laws of the Republic, on matters which specifically concern these territories, in so far as they are not exclusively reserved for sovereign bodies.

They have both legislative power (through regional legislative assemblies) and executive power (exercised by regional governments), but they hold no independent judicial power.

Furthermore, in their own right, they have power to make regulations and initiate legislation, as well as the opportunity to participate in various bodies and structures at national level.

In each autonomous region, the state is represented by a Minister of the Republic appointed by the President of the Republic, on a proposal from the government and after consultation of the Council of State. The Minister of the Republic is responsible for co-ordinating the activities of the state's central departments relating to the region's interests. He is also required to sign and have published regional legislation and regulations.

The autonomous regions naturally have independent finances and property. They exercise their own fiscal powers, in accordance with national legislation, and may make use of the tax revenue thus obtained and of the financial resources transferred to them. These regions can also adjust the national tax system to specific regional characteristics, in accordance with the General Principles Act of the Assembly of the Republic (the Portuguese Parliament).

The Azores and Madeira have specific political and administrative statutes, drawn up by the regional legislative assemblies and referred to the national parliament for debate and approval.

Administrative regions

The future regions of mainland Portugal will perform only administrative tasks. In accordance with the Constitution of the Portuguese Republic, each region may have a different status.

Under the General Principles Act (Act 56/91 of 13 August) each of the future administrative regions will have a deliberative body in the form of a regional assembly, comprising members representing the municipal assemblies and members directly elected by the citizens registered in the region.

The constitutional provision concerning the presence of municipalities in the deliberative bodies of the regions has been unanimously described as very positive, because it constitutes a formula for municipal participation and a means of defending local self-government itself. Moreover the Portuguese Constitution lays down that regional responsibilities are to be exercised with due respect for the autonomy of municipalities and without restricting their powers. Thus, regionalisation should effectively help to consolidate municipalities.

The executive body will be the regional committee *(junta regional)*, which will consist of a chairman and the other members, elected from the members of the regional deliberative assembly.

As for their remit, the regions will have administrative powers in the following areas:

- economic and social development;
- regional planning;
- the environment, the protection of nature and water resources;
- public facilities and roads;
- education and vocational training;
- culture and heritage;
- youth, sport and leisure activities;
- tourism;
- public supplies;
- support for productive activities;
- support for municipal activities.

In accordance with the law, these regional authorities will also have financial autonomy, power to make regulations and their own staff.

The institutionalisation of administrative regions depends on the political will. There has been some controversy concerning the territorial frontiers to be adopted. In any case, when the regional authorities are introduced, the CCR districts should be adjusted for the sake of mutual harmonisation.

II. RELATION BETWEEN LOCAL AUTHORITIES AND THE OTHER TIERS OF GOVERNMENT

In the absence of a regional tier in mainland Portugal, this reply will examine here the relations already referred to above in respect of the regional/municipal tiers and, above all, the institutional and financial relations between municipalities and the state.

1. Co-ordination and supervisory powers in relation to local authorities

Local self-government is enshrined in the Portuguese Constitution, by means of:

a. the recognition of their own powers defined on the basis of the principle of administrative decentralisation;

b. the grants of the power to make regulations, to be exercised in accordance with the Constitution, laws and the regulations issued by the government or higher authorities;

c. the election of membership of (local and regional) authorities by direct, secret and periodical suffrage. In the event of the dissolution of authorities, new elections have to be held within ninety days;

d. the absolute preservation of the national parliament legislative power in respect of local elections and referendums and the system governing the setting up, abolition or territorial reorganisation of local authorities;

e. the integration into the specific preserve of the legislative power of the national parliament (thus making them potential subjects of authorisations to the government) matters concerning the general system for the drawing up and approval of local authority budgets, their status (including the local finance system) and the participation of citizens' organisations in the exercise of local power;

f. the setting of material limits of universal, direct, secret and periodical suffrage for the election of members of local bodies and the underlying principles of local self-government itself to the legislation on revision of the Constitution;

g. the restricted supervision of local authorities to the monitoring of legality of the acts of local bodies and departments, exercised exclusively in cases and in the manner provided for by-law.

By granting decentralisation to local authorities and making supervision mainly legal, in 1974, the Portuguese administrative system has made a very clear distinction between local and state administration, but without seeking to set up appropriate machinery in their mutual relations. Actually, adequate provision needed to be made for mutual information, co-operation and co-ordination, and for the forwarding to the supervisory authorities of the most important decisions taken by local authorities, as provided for in the legislation of other countries.

Since public administration is a matter for many sectoral structures at different levels, it is essential for it to be so organised as to enable the tasks performed by all these structures to be done with the desirable efficiently.

It should be pointed out that the Portuguese local government system, currently consisting almost exclusively of municipalities, has a high degree of independence from central government. It has greater independence *vis-à-vis* the state than its counterparts in most European countries.

Portuguese municipalities manage their own financial resources - i.e. their tax revenue and state transfers. They do so freely in the light of local priorities. Local authority budgets are not subject to approval by any state body. Taxation is a matter for the Court of Audit and the only monitoring as concerns compliance with legal provisions. There is no supervision of the desirability or merits of action taken.

Local decisions are not subject to approval by state departments, nor do they have to be reported to governmental bodies. Unlawful municipal decisions can be revoked only by the administrative courts. The municipalities are free to form associations and set up municipal or inter-municipal enterprises, as well as to license private firms to provide local services.

The supervision in force is governed by Act 27/96 of 1st August 1996, which is in accordance with the principles enshrined in the Constitution.

It must be emphasised that the sanctions applicable to elected representatives are typical, and the cases to which they apply are defined.

In accordance with Act 27/96, supervision is confined to monitoring, defined as verification of the implementation of laws and regulations, as well as the application of sanctions in the cases provided for. Supervision includes, in particular, inspections, inquiries and investigations.

Non-judicial supervision is a matter for the government and, provisionally, until the district is abolished, for their civil governors.

Supervision is carried out by the ministries responsible for finance and local government. The former checks the lawfulness of the property and financial management of local authorities and groupings of municipalities. The latter monitors local activity in general, *ex officio* on its own initiative, following a request by the civil governor of the district or by local and official bodies, or following duly substantiated complaints by private citizens.

Action taken by the Ministry for Finance relates to the rules on public accounting and budgetary control, compliance with legal provisions on national and Community financial transfers.

The civil governor is responsible for initiating inquiries at the request of the deliberative bodies of local authorities and the groupings of municipalities, as well as for referring alleged irregularities in local management to the courts.

Sanctions include the dismissal from office of members of local bodies and the dissolution of the latter. In all cases the persons concerned may be declared temporarily ineligible.

Dismissal from office, where applicable, (e.g. serious breaches of the law, a sequence of defects, etc.) is a matter for the courts.

The dissolution of local bodies is ordered by the courts.

Typical grounds for dissolution can only be ordered on the grounds established by law, namely: obstruction of inspection, unacceptability of management accounts or budget, and exceeding of the statutory levels of indebtedness or staff expenditure.

As soon as administrative regions are set up, the district will be abolished. Some powers of the civil governor will be transferred to the regional governors (central government representative in every region) who will also have powers in respect of the local authorities within the region.

It can also be noted that in each CCR district, at sub-regional level, there are forty-three technical support offices (GATs). These are funded by central government, while operationally reporting to the municipalities.

2. The situation of the local authorities in the Azores and Madeira

Because of the autonomous region status of the Azores and Madeira, the local authorities (municipalities and parishes) answer to autonomous regional bodies and not to the central government. In fact, according to the Portuguese Constitution, the local authorities sector is a matter of interest to the islands.

Although, as a rule, the general standards which apply to island local authorities are the same as those in force and applicable in mainland Portugal, the parliaments of the Azores and Madeira may adjust these standards to the situation in their territories, in accordance with the law.

3. Local authorities' degree of financial dependence

There are no financial transfers from municipalities to higher authorities, and nor will local authorities be financially dependent on the future administrative regions. Nevertheless, the Regions Act stipulates that municipalities may exercise powers delegated and financed by the respective region. In any case, there will be no general, but only a specific, dependence in relation to each power delegated with the agreement of the municipality concerned.

At present, the parishes *(freguesias)* and the municipalities have their own revenues which constitute the greater part of their budgetary resources. They also have revenue from the state budget or from the European Union, the latter destined for investments.

For their part, municipalities are required to finance the exercise powers delegated to the parishes, generally for small-scale investments.

It should be noted that the municipalities are not involved in the apportionment of the Financial Equalisation Fund (FEF). Nor has provision been made enabling the administrative regions to intervene in that matter.

In the autonomous regions of the Azores and Madeira, local authorities have the same autonomy as those in mainland Portugal. The role of the state (central government) in respect of subsidies relating to extraordinary expenditure or the implementation of selected tasks is taken on by the autonomous region.

The parliaments of autonomous regions may submit to the national parliament proposals for the alteration of the criteria for FEF distribution among their municipalities. Nevertheless, it must be stressed that the final decision lies with the national parliament.

The metropolitan areas of Lisbon and Oporto are financed from their own revenue, by the state budget and mainly by their member municipalities.

4. Solidarity and financial equalisation systems

No provision is made for solidarity and financial equalisation systems between the future administrative regions. Provision is made for a state financial equalisation fund for the regions, as well as for specific subsidies for the arrangement of investments based on programme contracts.

The state financial equalisation fund for the administrative regions will be managed in accordance with the principle of national solidarity and take account of the financial effort by each region. There are no specific rules and machinery yet for establishing the fund. The funding system will be drawn up by the Administrative Regions Act.

The Local Finance Act (Act No. 1/87, of 6 January 1987) stipulates that the total amount of the financial equalisation fund for the municipalities shall be set in accordance with the increase in VAT provided for in the state budget. This budget, approved by parliament, establishes the total amount of the FEF annually.

The criteria for the apportionment of the FEF have altered since 1979 (the year it was set up). They are intended to overcome existing socio-economic imbalances and inequalities resulting from the varying potential of municipalities to generate income.

Today and after the publication in 1992 of Act No. 2/92 of 9 March 1992, the municipal FEF is apportioned in two stages.

The first operation is the distribution of funds to three territorial units, mainland Portugal and the two autonomous regions of the Azores and Madeira, on the basis of the following criteria:

- 50% according to population;
- 30% according to the number of municipalities;
- 20% according to the size of the area.

The second stage involves apportionment among the municipalities of each territorial unit, based on the following criteria:

- 15% equally to each municipality;
- 40% based on population and the average number of overnight stays at hotels and camp sites;
- 5% based on the population under the age of 15;
- 15% based on the surface area of the municipality, weighted according to the municipal territory's height above sea level;
- 5% based on the fiscal compensation index (ICF) determined by the negative difference between each municipality's tax per capita and the average per capita tax from the local tax (land tax), the municipal tax on vehicles and the *"sisa"* (tax on the transfer for a fee or consideration of ownership of real estate) weighted according to the population of the municipality;
- 10% based on the size of the municipal road network;
- 5% based on the number of parishes;
- 5% based on a variable reflecting accessibility.

The parishes benefit from their municipality's FEF, at least 9% of which is earmarked for them. In each municipality, the criteria for apportionment among the parishes are as follows:

- 10% equally to each parish;
- 45% based on the population of the parish;
- 45% based on the surface area of the parish.

Regulations concerning the equalisation fund for local authorities are a matter for parliament or for the government as authorised by parliament.

5. Influence of the regional level on a balanced development

The setting up of the regional level will meet one of the comprehensive objectives of the reform of the Portuguese administration. The aim is to put into practice the principles of decentralisation of decision-making, citizen participation, improvement of administrative efficiency, modernisation and "debureaucratisation". Another aim is to reduce territorial imbalances which profoundly affect the country's socio-economic development.

In that context, regionalisation represents a decisive instrument for achieving a harmonious synthesis of the various factors concerned, such as territory, population, administration and development. Nevertheless the aim is to adopt a more rational approach, improve services to the population, fully mobilise existing resources, improve living standards and guarantee equal opportunities to all the regions of the country.

It is generally believed that regionalisation will be a very important factor in promoting regional development, the quality of life of the population, the exploitation of potential and resources and the preservation of historical and cultural values. It will also encourage the local population to remain and help to solve social and economic problems.

III. CONCLUDING REMARKS

1. Opinion of the various authorities about the regional and local system

Several issues raised by the setting up of administrative regions are the cause of strong controversy due to the absence of a meeting point for the different solutions envisaged.

Among these aspects are the following:

A. The rule of simultaneousness:

In accordance with the Constitution, the legal creation of all the regions will take place simultaneously under legislation enacted by the national parliament.

That rule is often called into question on the grounds that it would be preferable to conduct pilot experiments. The region most frequently referred to for a possible model experiment is the Algarve in the southernmost area of mainland Portugal because of its unique characteristics and the unquestionable harmony of its geographical situation.

Under the Constitution the actual creation of each regional authority depends on a favourable vote by the majority of the municipal assemblies representing the larger portion of the population of the regional area concerned.

B. Territorial division and setting up of administrative capitals:

These latter aspects have been the subject of much controversy, with many projects published over the past 20 years. The two main models, presented in 1976, which either combine or separate coastal and inland areas, present advantages and disadvantages.

Since the division into regions is one of the essential elements of regionalisation, and taking into account the difficulties involved, it is a sensitive part of the process and must be given due consideration.

It is also a delicate matter because of the need to reconcile requirements concerning local authorities and those relating to viability.

It is essential to closely involve the population or their representative bodies in defining regional units so as not to disturb the socio-cultural identity of their communities. Nevertheless, practical implementation will be a delicate matter, because it will inevitably lead to rivalries.

It is desirable that the populations concerned had a regional feeling; the region must be thus defined in accordance withe the socio-geographical features of the territory and the socio-cultural features of the population. It is also true that this definition should not neglect the efficiency criteria; the solution should be suited both for each region and for the regional system as a whole.

The efficiency of the administrative regions depends, in particular, on their size, which, in turn, is connected with their competencies and financial resources.

Small size regions in terms of area and population may have the advantages of better suiting the social and cultural existing structures. But their action would be limited by the weak importance of their own resources and an excessive dependence on state transfers. Therefore, there is a risk of reducing regional authorities to a decorative role.

On the contrary, it would be possible to provide the regions with larger powers and means. The local antagonisms could be overcome by giving regions a larger sphere of influence than the one they actually have as district capitals. Nevertheless, considerable obstacles may arise if regional areas are rejected as perhaps failing to meet the aspirations of the respective populations, either with a view to efficiency or because of a desire to overcome certain local sensitivities.

It should be noted that the Portuguese geography has regional differences characterised more by successive transitions that by abrupt contrasts. Internal differences, with gradual changes which relativise the contrasts and distinguish territories, which have a less marked geographical character.

It is sufficiently clear from this that the regional units established by different parties do not correspond to geographical forms or other or geographical aspects. Administrative regionalisation is a difficult subject, because of the complexity of the territory, which cannot easily be circumscribed by simplifying criteria.

Any territorial division will always be subject to controversy. These difficulties will naturally be added to the inevitable disputes over precedence between urban centres. Moreover, those in favour of regional system provided for under the Constitution of the Republic are confronted with those who defend the districts, especially in towns which are the administrative centres of these entities and where there are fears of loosing prerogatives if they are not given the status of regional capital.

Finally, in view of the important issues that regionalisation raises, there are also those, albeit a minority, who argue that the regionalisation process should start by making the sub-regional groupings of municipalities more dynamic or that it should be preceded by a national referendum.

C. Powers:

Various institutions have unanimously come out in favour that the regionalisation process should be accompanied by a reinforcement of municipal authorities.

Actually there has always been support for the principle that the powers and financial resources of administrative regions should originate at central level, rather than coming from municipalities.

Furthermore, the 1982 constitutional amendment upheld municipal autonomy, ensuring that municipal authorities were not affected by the introduction of the regional tier. It is also widely agreed that regional decentralisation should prevail over a straightforward process of dispersal of state powers.

Some have, however, concluded in support of the need to bring into play a new institutional dynamism, with a redefinition of powers according to the profile of each administrative level and a clear division of practical responsibilities between each of them without jeopardising the setting up of consultation machinery.

D. Financial system:

The existence of a close relationship between powers, the amount of financing and the size of the territory of regional authorities has been recognised.

In this context, the common view is in favour of autonomy for the financial systems of regions and those of municipalities, thus rejecting the idea whereby municipal authorities would have to subsidise the future regions. A system of financing by the state has been called for, essentially consisting of two parts: one being taxes, with all revenue going to the regions where the taxes are levied. The other part would comprise transfers in the form of financial compensation, determined through the application of equalisation criteria and centred (particularly on objectively defined indicators of shortfalls).

E. Possible "bureaucratisation" and increase of operational expenditure:

The regionalisation process should offer the occasion to take advantage of it in order to restructure public administration and to reduce bureaucracy and ensure a more efficient operation of services at several levels, without making them more expensive.

It has already been stated that it is vital to define a new kind of relationship between the different bodies and services of local authorities and state, so as to prevent the setting up of new regional structures, involving a more complex public administration, from resulting in an unworkable and conflict-ridden system.

2. Global assessment of the actual situation in relation to the principle of subsidiarity

It is generally believed that the state, regions and municipalities should dispose of powers more appropriate to their scale and their territorial level and the system established by the Constitution is in conformity with the principle of subsidiarity.

From the legal point of view, the criteria for the apportionment of powers is that of general competence of the local authorities are able to deal with all the matters concerning the common and specific interests of their populations.

The list of powers set out in the Act is merely intended to serve as an example. Nevertheless, local authorities are required to comply with the principle of state unity and with the system established for assigning practical responsibilities to central, regional and local administrations in respect of public investment activities. Furthermore, Portuguese legislation fully encompasses the principles of autonomy for local authorities and of democratic decentralisation of public administration.

3. Trends

The majority government resulting from the elections of October 1995 is in favour of the pursuit of the regionalisation process, which indicates its introduction in the near future. That aim is clearly set out in the government's programme approved in November, in which it appears as a "political priority". Moreover, regionalisation was one of the central issues during the election campaign.

Concerning the regionalisation process, the present socialist majority is in favour of the model proposed by the Ministry for the Plan and Economic Co-ordination, with seven regions of an average population, of 1 338 000, with 341 000 in the Algarve and 3 457 000 in Lisbon.

Some political forces (including the majority which has just lost power) advocate the CCR model, based on five regions with an average population of 1 874 000, with 3 472 000 in the North Regions and 341 000 in Algarve Region.

Some voices favour giving the metropolitan areas of Lisbon and Oporto administrative region status.

Some sectors believe that the absence of mainland regions in Portugal has been prejudicial to the development of those regions which are less favoured. In fact the creation of region would have allowed an internal apportionment of European Union assistance which would benefit more these area. It must not be forgotten that, for Community purposes, and especially in respect of regional development, Portugal is regarded as a "single region".

The Regions (General Principles) Act (Act 56/91) may be amended in respect of the regional powers.

Similarly, it can be foreseen that municipal powers may be extended and the corresponding funds transferred.

A bill on municipal financing and a bill on new outline legislation on the powers of municipalities are currently before the national parliament.

On 3 September 1997, the parliament formally adopted the revision of the Portuguese constitutional provision that henceforth provides for a referendum on regionalisation. The referendum will concern both regionalisation itself and division of the territory into regions, and is scheduled to take place in 1998.

After consulting the municipal assemblies, the parliament has already approved the map to be submitted to the referendum, showing the division of mainland Portugal into eight regions. In the main, these correspond to the divisions proposed in the MPCE-1976 plan:

1) between Douro e Minho (= Norte Litoral, 1976);
2) Trás-os-Montes e Alto Douro (= Norte Interior, 1976);
3) Beira Litoral (= 1976);
4) Beira Interior (= 1976);
5) Estremadura e Ribatejo (= "Lisboa e Vale do Tejo" 1976, minus the territory of "Lisboa e Setúbal";
6) Lisboa e Setúbal (a somewhat larger region than the current metropolitan area);
7) Alentejo (= 1976);
8) Algarve (= 1976).

SPAIN

I. TERRITORIAL ORGANISATION: ORIGINS AND CURRENT SITUATION

Any summary of the historical, geographical and socio-political conditions that have resulted in the current territorial organisation of Spain should not overpass the long standing federalist tradition in the Iberian peninsula before and after nation-state building. The peninsula was organised from the Middle Ages under charter laws (*fueros*) allowing local governments with non-feudal and autonomous institutions to encourage resettlement in the lands previously dominated by Islamic kingdoms. The unification of Castille and Aragon under a multiple monarchy at the end of the XVth century left most of these federal elements intact for more than two centuries, during the Habsbourg dynasty in the Spanish crown.

A major shift took place with the establishment of the Bourbon dynasty at the beginning of the XVIII century: contrary to the former Hispanic and Habsbourg traditions a highly centralised system of civil and military administration was imposed, consolidated in 1833 with a French-inspired uniform territorial division in 50 provinces and some 8 000 municipalities which still remain today. Only the Basque Provinces and Navarre preserved their historic rights called *fueros* as those in the Middle Ages. The geographical singularity of the Canary Islands was also recognised with its special economic-fiscal regime also existing nowadays with various reforms.

A subjacent or quasi-federalism was even surviving all over Spain with main revival during the First and Second Republics (1872-74 and 1931-39). Franco's victory in the Civil War (1936-39) meant the abolition of the Basque and Catalan governments of the republican period as well as the silencing of any regional autonomy. But even before the end of the dictatorship, regional awareness and demands for decentralisation spread throughout Spain, mainly with the economic boom of the 60s and early 70s.

Contemporary to several devolution pressures in other parts of Western Europe and North-America and after the first free elections in June 1977, the Centre (UCD) government granted "provisional autonomy" to the regions, beginning with Catalonia and the Basque Country. At the end, a complex intermediate system emerged, involving the formation of a "regional state" (*El Estado de las Autonomías*) differing in some aspects from unitary and from federalist structures. The nature of this compromise was reflected in the rather ambiguous wording of the 1978 Constitution: "The Constitution is based on the indissoluble unity of the Spanish nation, common and indivisible fatherland of all Spaniards, and recognises and guarantees the right to autonomy of the nationalities and regions that make it up and the solidarity among them all" (Article 2). This solution has since

attracted much criticism from constitutional experts as confusing and impractical, but in political terms it was perhaps the only operational alternative: as a matter of fact all the political parties voted in favour, with exception of the far Right and the Basque nationalists.

The distinction between nationalities and regions is not explicit in the Constitution, but generally although not unanimously are recognised as "historical nationalities" those areas with another languages besides the Spanish (Castilian) one, i.e. Basque, Catalan and Galician (Article 3 of the Constitution).

Current Spain is composed by seventeen regional governments, called Autonomous Communities (CA), invested with administrative and legislative powers under their own Basic Laws (*Estatutos de Autonomía*).

During the transitional period at the end of the 70s and early 80s many studies and researches, both public and private, serve as the basis for discussion and action towards a deep and rapid process of fiscal and political decentralisation. Many scholars and academic institutions were committed to study the experiences and doctrines of federal countries such as Germany, the US and Canada as well as the "state of the art" in other complex decentralising states as Italy, Belgium and others.

Federal debate has once again emerged with the triumph of the Socialist Party (PSOE) in the 1982 polls. Nevertheless the subsequent absolute majority of the successive Socialist governments until 1993 clearly smoothed the decentralisation process. In the last two years the non-majority Socialist government received the support of the Nationalist Catalan Party (CiU) and the Catalan regional government (Generalitat). The net effect of these recent events are very complex institutional interrelations of the different jurisdictional levels of public administrations in Spain.

II. REGIONAL GOVERNMENTS: THE AUTONOMOUS COMMUNITIES (CA)

The seventeen regions, called Autonomous Communities (CA) in the most debated Title VIII of the 1978 Constitution, have large differences according to their heterogeneous historical experiences, cultural identities and aspirations, development level and social cohesion. Accordingly they have a differentiated assumption of administrative responsibilities, political powers and speed in their autonomous evolution (see the following table).

Autonomous Communities (CA) and provinces in Spain

CAs + PROVINCES	AREA (km²)	POPULATION IN 1993 (x 1000)
Charter CAs:		
BASQUE COUNTRY Alava, Biscay, Guipuzcoa	7 261	2 109
NAVARRE	10 421	520
Article 151 CAs:		
ANDALUSIA Almería, Cádiz, Cordoba, Granada, Huelva, Jaén, Málaga, Séville	87 238	7 002
CANARY ISLANDS Las Palmas, Santa Cruz de Tenerife	7 242	1 510
CATALONIA Barcelona, Gerona, Lérida, Tarragona	31 930	6 090
VALENCIA Alicante, Castellón, Valencia	23 305	3 874
GALICIA Coruña, Lugo, Orense, Pontevedra	29 434	2 727
Article 143 CAs:		
ARAGON Huesca, Saragossa, Teruel	47 650	1 187
ASTURIAS	10 565	1 089
BALEARIC ISLANDS	5 014	713
CANTABRIA	5 289	528
CASTILLA Y LEON Avial, Burgos, León, Palencia, Salamanca, Segovia, Soria, Valladolid, Zamora	94 193	2 548
CASTILLA-LA MANCHA Albacete, Ciudad Real, Cuenca, Guadalajara, Toledo	79 230	1 667
EXTREMADURA Badajoz, Cáceres	41 602	1 066
MADRID	7 995	4 986
MURCIA	11 317	1 056
LA RIOJA	5 034	264
+ Ceuta and Melilla	30	125
TOTAL	**504 750**	**39 061**

1. Charter CAs

The Basque Country and Navarre, because of their tradition of autonomy under Charter rights were promptly accorded wide economic and political status. Between the two there are also differences starting with the fact that the former is composed by the three Basque Provinces whereas Navarre is one of the seven uniprovincial regions in current Spain.

As against the above two *foral* CAs, all the other Spanish regions are under a common regime but with a different pace of assumption of competencies and functions.

2. CAs under Article 151 of the Constitution

Five regions - Andalusia, Catalonia, Canary Islands, Galicia and Valencia - are entitled to obtain the widest competencies and functions in the shortest possible time, although the number of responsibilities transferred to each of them still is in a different process of assumption.

3. CAs under Article 143

The remaining ten regions - four multiprovincial: Aragón, Castilla y León, Castilla-La Mancha, and six uniprovincial: Asturias, Balearic Islands, Cantabria, Madrid, Murcia and La Rioja - have a more gradual process of assuming competencies functions, although at the end of the process it seems they all will have the same level of competencies transferred from the central government.

Differentiation exists even inside the above three groups provoking a wide complexity of the financing systems. Excluding the peculiar cases of the cities of Ceuta and Melilla in Northern African territory, there are seven different financing systems:

a. Under the charter system (*sistema foral*), the Basque Country and Navarre remain both with full administrative autonomy in all revenue raising, except for custom duties and revenues from state monopolies. In the special regime of the Basque Country, called "*Concierto económico*", the taxes are collected by the three provincial administrations, called Historical Territories, which then transfer the funds to their municipalities and to the Basque and central governments. There is a fixed sum (*cupo*) which serves firstly, to cover expenditures for equalisation activities not falling in the domain of the autonomous community, secondly, to finance the solidarity expenditure destined for the less well-off regions, and, thirdly, to finance the servicing of the debt contracted with the Treasury department of the central government.

b. In Navarre, being a uniprovincial CA, its charter system, called Convenio económico, is less complex than the Basque one. A lump sum is transferred to the central government. The amount is periodically negotiated with central officials. Therefore, the system allows for the maximum degree of financial autonomy in Spain and probably in the Western world.

c. Four of the CAs under Article 151 (all five except the Canary Islands) have a specific financing system for public health expenditure besides the common system established by the LOFCA (Law for the Financing of the Autonomous Communities, established in September 1980) for most functions and education.

d. The Canary Islands represents a middle way between the two CA charter systems and the common system of the remaining CAs: in addition to the LOFCA system, there is a special system of financing education and health and own indirect taxation called *Impuesto General Indirecto Canario* which is different from the common value added tax, as well as a tax on oil fuels.

e. Among the CAs with a lesser degree of autonomy, four (Aragón, Castilla y León, Castilla-La Mancha and Extremadura) are under the LOFCA system but no specific health financing exists.

f. Other five CAs (Asturias, Cantabria, Madrid, Murcia and La Rioja), being uniprovincial, consolidate regional and provincial finances, i.e. the LOFCA system applies in addition to provincial revenues.

g. Finally, the Balearic Islands are one special case of uniprovincial CA because the regional finances are separated from the financing of each island.

The competencies transferred to the CAs are both economic and social. The most important competencies in the economic field include industry, agriculture, fishing, forestry, tourism, economic development in general, land use planning and public works - although the central government has an overall co-ordinating and monitoring role.

Social competencies are: social welfare, housing and town planning, environment, culture and community services (including sports). Health and education responsibilities are the basic differences between CAs under Article 151 and Article 143: regions under Article 151 have competencies for those two important functions, whereas in Article 143, those competencies are held by the central administration.

III. LOCAL GOVERNMENT (CL): NO DIRECT FUNCTIONS TRANSFERRED

The complexity of the current process of the regional administrative level in Spain today is also present at the lower levels of government, i.e. Local Administrations (*Corporaciones Locales* or CLs) which comprise 50 provinces and 8 094 municipalities. The 1978 Constitution gave new strength to these traditional levels of government but until now priority has been given to the development of the institutional novelty represented by the Autonomous Communities (CAs).

Article 137 of the Constitution recognises the autonomy in the management of their own interests not only to the CAs but also to the municipalities and provinces. Article 140 even guarantees the autonomy of municipalities. This article also prescribes the democratic character of the municipal governments (*Ayuntamientos*). The government and administration of the provinces called (*Diputaciones*, and *Cabildos* in the Canary Islands) is set out on Article 141. However, this local autonomy - provincial and municipal - is not comparable to that of the regional governments since CLs depend legally from either the central government or the CAs.

A very relevant characteristic of local administrations(CLs) as compared with the central and regional governments is that neither the provinces nor the municipalities have a list of competencies of their own.

Another crucial distinction is the multiplicity of CLs not to speak of the local public sector as a whole. This covers not only provincial and municipal governments but also almost four thousands of minor local entities, many cluster of municipalities (metropolitan areas, communities, *comarcas*, *mancomunidades*), and hundreds of autonomous administrative and commercial bodies as well as trade companies.

Such a wide diversity is also present inside the same category of local entities as it is the case of municipalities which largely differ in size and economic development. As a consequence, it is extremely difficult to undertake a uniform normative treatment of Local Administrations.

The following table gives some idea of such a diversity showing the distribution of population according to the size of municipalities. A first remark is that whereas 86% of municipalities have less than 5 000 inhabitants, 42% of the Spanish population lives on cities of 100 000 people and over. Therefore, an important number of small size-municipalities coexists with an important degree of urbanisation.

Municipal distribution of population
(1991 Census)

Intervals	Number of municipalities	Population (thous.)
1 to 5 000	6 978	5 247
5 001 to 20 000	830	7 642
20 001 to 50 000	176	5 012
50 001 to 100 000	55	3 602
over 100 000	55	16 370
Total	**8 094**	**38 872**

Source: Ministry of Public Administrations (MAP).

The competencies assigned to the CLs are mentioned not in the Constitution but in the Law Regulating the Basis of the Local Regime (LRBRL) of 1985. This permits to the municipalities "in conformity with State and Autonomous Communities' legislation" to assume a number of listed competencies which represents a minimum but not a closed list. These functions are listed in Article 25. Article 26 of the LRBRL prescribes the obligation for the municipalities to provide a series of services as their own competencies depending of the municipal circumstances. Municipalities could also have competencies delegated from the central or regional governments. They have the possibility to provide better services than the legal minimum as complementary activities to those provided by other public administrations, mainly in social fields such as education, housing, health, culture, etc.

As far as the provinces are concerned, they are conceived by the LRBRL as a guaranty for solidarity and intermunicipal balance in the economic and social policy. This means some specific competencies set up by state and CAs' laws. These competencies include mainly the co-ordination of municipal services and the provision of public services of supra-municipal character; legal, economic and technical assistance and co-operation to municipalities mainly to the smallest ones; economic promotion in general and management of the provincial interests.

Provinces can also receive delegated competencies from both the central government and the Autonomous Communities. The latter can also entrust the provincial administrations with the ordinary management of their own services.

It is worth noting that in Spain provincial and municipal responsibilities in education (pre-school, primary and secondary) are still reduced if compared with other European countries. Adding these functions and the subsequent expenditures, the level of public expenditure under the Local Administrations decision could reach around 16.5% of total public administration expenditure, as in federal countries. The following table shows the current level of local expenditure, 12-13%, whereas the weight of regional expending has dramatically increased from zero in 1980 to almost 23% in 1993 and 1994.

Participation of the three levels of government in public administration expenditure (excluding financial burden)

	Central Government	CA	CLs
1980	89,9	-	10,0
1982	84,6	6,1	9,3
1984	75,6	12,2	12,1
1987	71,3	16,2	12,5
1989	66,4	19,7	13,8
1992	63,4	22,6	14,0
1993	64,1	22,7	13,1
1994	65,4	22,7	11,9

Source: MAP

The same does not occur in relation to staff as it is shown by the following table.

Estimates of personnel evolution in public administrations

Public Administration	1982 (December)	1994 (June)
Central government*	81,4	38,6
Autonomous Communities	3,9	39,1
Local Administrations	14,7	22,2
Total**	**1 137 571**	**1 652 645**

*: Excluding defence and security forces.
**: University personnel is allocated to the CAs budgets if such competencies is transferred.

Source: MAP

Whereas many central government employees have been transferred to the functions now managed by the regional administrations, the bulk in the increase in public personnel is mainly in employees of municipalities and other local administrations which almost doubled during the 80s. As remarked by the OECD, Spanish government employment grew by about 50% between 1981 and 1991, probably the largest increase in the OECD countries.

Although the central government has a supervisory and co-ordinating role for competencies transferred to CAs and to a lesser extent to CLs, the importance of local authorities' staff in 1994 compared with the 1982 figures suggests that general overmanning in Spanish public administrations is even more serious at provincial and municipal levels. This is most striking when considering, as the previous table does, that the percentage of local public expenditure is rather stable from 1984 to 1994.

IV. AUTONOMY VERSUS FINANCIAL INSUFFICIENCY IN CLS

Before analysing the contradiction between the constitutionally declared autonomy of local governments (especially municipalities, as emphasised by Article 140 of the Constitution) and their chronic lack of financial resources, a summary of the financing of the CAs must be made not only to be compared with the poor situation of the CLs but also to assess the difficulties to solve such a contradiction in the near future.

The Spanish process of decentralisation has been extremely rapid in relinquish most of the spending powers related to the competencies transferred to the CAs from the central government, but this has been obviously prudent in retaining most of the taxing powers, in particular direct taxation and VAT useful both for business cycle monitoring and for overall medium-term budgetary management. Few taxes, rather inelastic to inflation and general economic conditions, have been transferred to CAs. They are the taxes on inheritages and donations, wealth, property economic transactions, legal acts and gambling. However, the central government still has the right to regulate the conditions and rates of these taxes so that they should discourage any kind of interregional fiscal conflict. Other own sources of CAs' revenues are: property income tax, user fees and fines, but the corresponding revenue is small. Furthermore, the CAs could put a tax surcharge both on taxes directly administered by the central government and those transferred to them. But both taxing powers are mere possibilities up to now because of the hostility of regional public opinions.

After the five-year period 1987-91 of the "first definitive model" of financing the Autonomous Communities, in 1992, the weight of the regional own resources represents only 10% of total financing, according to the estimations published by the Ministry of Economy and Finances in 1994. Only 0.8% of regional financing resulted from their own taxation and 0.2% from tax surcharges. The most important part (9%) resulted from borrowing which is dramatically increasing.

As a result, the greater part of regional financial resources - not less than 90% in the official estimate for 1992 - comes from central government transfers. This implies a still important dependence of regional financial autonomy from central finance. The weight of conditional versus unconditional financial resources is rather similar (44.5% versus 45.5% respectively), the most important part of the unconditional resources being the share in state tax revenues, called "participation in state revenues" (24%), followed by the "ceded taxes" (11%) in the CAs of common system and the "agreed taxes" in the two Charter CAs (9%).

The total sums transferred from central financing are determined on the basis of the estimated cost of the competencies taken over by the CAs. This amount is distributed among regions on the basis of two types of criteria: the distributive variables - population, geographical and administrative dispersion, area, and insularity (applying to the islands) - and the redistributive variables - income and fiscal effort per capita - which are aimed at favouring less-developed regions and those with the highest tax yields.

The conditional resources include all central government subsidies and capital transfers to regional governments for specific programmes (mainly for social welfare and health for the CAs that have taken over the health system) and investment assistance for projects of national interest. But after the grants for health and welfare programs which cover almost 24% of total regional financing, the main conditional resource coming from central government is the "participation of Local Administrations in the state's revenue" reaching almost 9% in 1992. For these and other operations, the CAs act essentially as intermediaries between the Central government and the CLs or public and private entities responsible for the activities.

Another source of revenue under conditional financing is the so-called "Interterritorial Compensation Fund" (FCI) financed by the central government to help the less-developed regions mainly through investments in infrastructure. It amounted to 2% of the total CAs budget in 1992, a little less than another important source of conditional financing: the European financing (mainly ERDF) (2.7%).

The distinction between unconditional and conditional financing is becoming increasingly fuzzy since regional governments enjoy wide discretion to use conditional financing receipts to cover expenditures not falling strictly in this category. Increasingly, the aims is to dissociate the costs of the transferred services and financial resources, so that resources are essentially oriented towards meeting the self-established needs of the CAs. When conditional financing revenues - over which they have large discretionary powers - are included, the Autonomous Communities are able enough to dispose of more than 80% of their revenues as they wish.

In order to clarify the complexity of the financing of the Autonomous Communities, the following table gives a summary of the latest published official records.

Financing of the Autonomous Communities in 1992

	Billion pesetas	Percentages
A) Own resources	639,0	10,0
- Taxes	63,5	1,0
. own taxes	53,8	0,8
. tax surcharges	9,7	0,2
- Financing (credit operations)	575,6	9,0
B) Resources coming from the central state	5 748,5	90,0
- Unconditional	2 907,0	45,5
. participation in state receipts	1 515,1	23,7
. resources under own management	1 309,3	20,5
. common system CAs	744,7	11,6
. ceded taxes	685,3	10,7
. fees for transferred services	59,4	0,9
. charter system CAs (concerted taxes)	564,6	8,8
. transfers to uniprovincial CAs	71,5	1,1
. transfers for effective cost	10,1	0,2
- Conditional	2 841,4	44,5
. health and welfare programs	1 529,7	23,9
. participation of CLs in state receipts	553,3	8,7
. self-managed grants	479,5	7,5
. from the state	306,7	4,8
. from the European Community	172,8	2,7
. interterritorial compensation fund	128,8	2,0
. investment agreements	108,2	1,7
. program-contracts	41,8	0,7
Total financing of CAs en 1992	**6 387,5**	**100,0**

Source: Ministry of Economics and Finance, 1994.

The table shows that the current fiscal decentralisation process in Spain is characterised by a regional financial autonomy's strong dependence on central finances: only 10% of the Autonomous Communities' (CAs) total financing results from their own resources, representing 639 billion pesetas in 1992, of which 9% (576 billion pts.) resulted from borrowing) as compared with 0.8% (54 billion pts.) of their own taxation and 0.2% (less tan 10 billion pts.) from tax surcharges. Even adding the resources coming from the ceded taxes, around 11% (685 billion pts.), one can conclude that only 20% of total regional financing results from their receipts. The outlook is different if the expenditure side is considered: if the distinction between unconditional and conditional financing is assumed as blurred, regional administrations could claim as freely disposing of more than 80% of their revenues.

A second important aspect in the Spanish fiscal decentralisation picture is that Local Administrations (CLs) participate in the central revenues through the upper level authorities this meaning a double dependence - the central and the regional - and with a not too important share: less than 9% (553 billion pts.) in 1992.

A crucial first conclusion concerning the financial situation of the CLs is the following one: local financing is linked to the level of competencies assumed by the Local Administrations; since those competencies are not formulated in the Constitution but related to their own interests and not excluding those of the state or the Autonomous Communities, the CLs have to regard their allocation of competencies as a continuous and hard attempt to introduce with different intensity their presence in the packages of public functions and services.

Such a subtle intricacy is assumed by the already mentioned law of April 1985, the LRBRL, and more specifically by the Law on Local Finances (LRHL) of 28 December 1988, which regulates systematically the principle of sufficient local finances, a question exceeding the own taxation possibilities of Local Administrations. The agreed emphasis put onto the CAs during the last two decades (starting from the historical milestone of the 1978 Constitution) has neglected the need for a second decentralisation round now going from the Autonomous Communities to the Local Administrations, mainly to the municipalities.

Nowadays, in Spain, the problem for obtaining local resources is a hard political bargaining with the upper levels of government, central and regional, both under the fire of a very active public lobby, the Spanish Federation of Municipalities and Provinces (Federación Española de Municipios y Provincias, FEMP). Given the increasing deficits of local financing, municipal governments consider that resource insufficiency should be solved by means of enlarged receipts.

The arguments in favour and against could be summarised as follows:

1) Despite its heterogenous complexity, the Spanish local public sector is small. It requires therefore more precise competencies and financial resources.

It is true that Spanish local public sector is small if compared with that of unitary states, such as the UK or the Scandinavian countries, but in federal countries local sector is much more reduced because of the importance of the first subcentral jurisdictional level (*Länder*, region...): as a consequence the current 12-13% of weighting local sector in the general Spanish public sector could not increase to the 25% of the unitary states but to the 16.5% average of the federal countries.

2) Even for the current level of competencies the resources of local financing is clearly insufficient. Therefore, in order to cover the deficit between receipts and expenses, a substantial amount of transfers from upper jurisdictional levels is needed.

The Program of Local Economic Cooperation of the state, CEL, managed by the Ministry of Public Administrations, although stimulating the local finances, mainly of municipalities of less than 20 000 people, only amounted to 100.6 billion pts. in 1993.

3) The fiscal burden of municipalities on their citizens has considerably increased in the last few years, as well as citizens' resistance to further increases in fiscal pressure. The only solution envisaged by local authorities has been to push for new financial transfers from upper levels or even from the European Union.

This is a much full-fledged way to ameliorate the efficiency of public local expenditures. A uniform and more detailed local accounting rules and definitions are needed. Only in 1992 the settlement of municipal budgets has been arranged to permit a functional breakdown of expenditures but still the information and data are too aggregated to be comparable).

From the above said it can be concluded that local administrations' financing needs less of a continuous bargaining with other public administrations in order to dispose of more resources, and they also need to decide on increased expenditure and more of a responsible self-consciousness of how to improve their receipts and expenses.

For the moment, self-consciousness of local authorities has derived towards an important increase in public debt as shown in the following table. From 1984 to 1994 total debt of CLs has increased by 4 or 5. The great bulk of the burden goes to municipalities rather than provinces, but the heterogeneous public or semi-public enterprises and bodies have relatively increased much more dramatically: from around 680 million pts. in 1984 to more than 90 000 in 1994. As a corollary, total public debt of CLs as a percentage of GDP has almost doubled: from 2.4% in 1984 to 4.4% in 1993 and 1994.

Debt of local administrations
(in million pesetas)

Year	Total	Municipalities	Provinces	Entrep./Bodies
1984	615,0	422,1	192,4	0,7
1986	901,7	611,8	285,6	8,0
1988	1 259,3	852,9	395,4	11,0
1990	1 774,4	1 249,9	482,4	42,1
1992	2 511,6	1 780,7	661,9	69,0
1994	2 869,2	2 041,2	740,1	87,9

Source: Bank of Spain and Dirección general de Coordinación con las Haciendas territoriales, Ministry of Economy and Finance.

Neither in the CLs nor in the CAs the borrowing limits (defined by a ceiling of 25% on debt-servicing costs in relation to current receipts) have not been the intended restriction: in the case of the CAs, the zero indebtedness of regions at the start of the decentralisation process means that sizeable deficits can be incurred for some years before reaching that limit. Furthermore, because transfers from the central government which are immediately passed on to the local administrations are included in current receipts, the base for calculating debt-servicing ratios is artificially high and, therefore, understates the financial risks of spending decisions by the Autonomous Communities themselves.

Therefore, the CAs give a bad example to CLs: because of their easy access to borrowing, they react slowly to expansive expenditures, but they are also reluctant to use their fiscal autonomy for raising additional taxes or surcharges on the rates of others. Only two new taxes have been introduced - a surtax on fuel in the Canary Islands and a tax on bingo in five regions. The Andalusia and Extremadura Regional Governments tried to establish a tax on unused land in their large territories but failed. The president of Madrid region also battled for an income-tax surcharge but public opinion reached to withdraw it. In brief, since both tax surcharges and autonomous taxation face strong popular opposition, regional or local administrations prefer to escape from such an exemplar autonomous power and leave the costs of new or reinforced taxes to central government.

In general, central government has been more responsible with the targets of the European Convergence Programme of reducing budget deficit than regional governments. Although both public administrations have increased their deficits in absolute terms (Central government deficit run from 974 billion pts. in 1982 up to 1 836 billion pts. in 1991 whereas CAs' deficit increased from 35 billion pts. in 1982 to 792 billion pts. in 1991), the weight as a percentage of GDP changed drastically: whereas the central deficit was 4.9% of GDP in 1982 and decreased to 3.4% in 1991, Regional deficit was 0.2% in 1982 and increased up to 1.4% in 1991. Surprisingly enough deficits of local administrations have decreased during the 80s: from 91 billion pts. in 1982 to 81 billion pts. in 1991, representing 0.5% of the GDP in 1982 versus 0.1% in 1991.

As a consequence, share in total deficit of the three public administrations has changed, at the expense of central and local governments, during those years, as shown in the following table.

Share in total budget deficit by government level

	1982	**1985**	**1991**
Central	88,5	90,7	67,7
Regional	3,2	5,5	29,2
Local	8,3	3,8	3,0

Source: Ministry of Economy and Finance and OECD estimates.

Deficit and debt vary considerably from one regional administration to another not to speak of the multiplicity of local administrations. As decentralisation consolidates and derives from regions to lower local authorities, there is an increasing need to reinforce financial discipline in all kind of governments. For that reason, the financial arrangements for the 1992-96 period seem quite necessary as well as a better co-ordination between the central and regional governments and among these latter themselves. The latter agreed to participate in the required fiscal adjustments to meet the EU convergence targets. Their budgets for 1993 foster a clear deceleration in spending in line with the own squeezed budget of central government. This made it clear that it will not bail out CAs facing financial constraints which seems to have influenced both regional authorities and lenders to be more cautious in their medium and long term financial policies.

Although figures are not very transparent, it seems that municipalities have also run high deficits in the last few years, mainly from 1986. Their pressures for new competencies and increasing resources - the already mentioned "second decentralisation round" - could run to expanding deficits during the 90s as this has been the case of the Autonomous Communities during the 80s.

V. SOLIDARITY FINANCING AND EQUALISATION INSTRUMENTS

Reducing secular economic disparities among the very distinctive territorial areas of Spain has been a difficult goal for all kind of governments at least from the 30s (with pioneer programs of transfers between hydraulic basins) and specially in the 60s and early 70s with the French-inspired development plans. More recently regional solidarity is explicitly mentioned in Article 2 of the Constitution and from here becomes a continuous leitmotiv for the Spanish politics and the current process of a regional or quasi-federal state. Under this strong fiscal and political decentralisation of the 80s and 90s, things are more complex than the previous dictates from technocratic planning methods. The redistributive criteria for the allocation of resources through the share in state tax revenues, which has been mentioned as "participation in state revenues" (the most important of the unconditional resources coming from central government) was partially intended for solidarity purposes.

More clearly oriented to solidarity criteria is the also mentioned "Interterritorial Compensation Fund" (FCI), established in the 1978 Constitution, developed in the 1980 LOFCA and with its specific law in 1984.

The FCI is a system of capital transfers from the central finance to the Autonomous Communities and eventually to the provinces (Article 158.2/Constitution) for financing investment projects in infrastructures, mainly public works, water supply, rural housing, transport and communications. Although reducing regional imbalances in income and wealth was the reason for creating the FCI, its rather ambiguous history along twelve years shows the difficulties of solidarity regional policies in a decentralised state. Three periods can be distinguished:

1) 1983 - 1986

FCI played a positive role in correcting interterritorial imbalances. Around 70% of FCI transfers went to the seven less developed regions (Extremadura, Andalusia, Castilla-La Mancha, Galicia, Castilla y León, Murcia and the Canary Islands), accounting for 45% of the Spanish population and 35% of the national income. The redistribution criteria was inversely related to the per capita income of each region and directly related to net emigration variables as well as employment rates and size and possible insularity factors of the regions.

2) 1987 - 1989

The former levelling trend was reversed and the seven less developed regions received only 65% of FCI resources, whereas the share in the FCI of some of the richest areas arose significantly. That was the case of Catalonia and mainly the Basque Country (which in 1989 received a larger FCI per capita than that of Andalusia, Castilla y León and Murcia). This resulted from the FCI's original ambiguity not only at regional redistribution of public investment but also as a way to finance investment projects linked to services transferred to regional authorities and excluded from the "effective" cost concept. As

a consequence the FCI was not only a redistributive instrument of regional policy but also a way to guide the sufficiency of financing investment projects. According to redistribution criteria, the distribution of FCI funds was inversely related to the economic level of regions but according to the sufficiency criteria, FCI funds could benefit those areas, usually the richest ones, with most services transferred. Another reason for this perverse anti-equalisation effect was the complexity of the redistribution formula and specifically the high weight (20%) given to net migration variables and the change of migratory flows inside Spain after the 1979 second oil shock. Indeed, throughout the early 80s a lot of migrants in high income regions or in other European countries returned to their own regions and, at the same time, many developed regions, such as the Basque Country and Cantabria, because the decline of steel and naval industries, had net migratory outflows.

3) From 1990

To solve the above problems, the FCI was largely reformed in 1990 so to be a more effective instrument of equalisation policy: firstly, the number of regions to receive FCI funds was reduced from the total of 17 to 9 with an average income per capita lower than 75% of the EC average (i.e. regions under the Objective 1 of EC Structural Funds, also object of reform in 1989). Extremadura, Andalusia, Castilla-La Mancha, Galicia, Murcia, Canary' Islands, Castilla y Leon, Valencia and Asturias); secondly, the total level of the new FCI was redefined as 30% (then 40%) of central government investment, adjusted by the relative size of each region's population and its gross value added per capita; thirdly, the redistribution criteria were set in two steps - the fund was first distributed across the nine regions selected so that each received the same FCI per capita grants and, then, among the selected regions, adjustments were made to redistribute funds from the richest regions to the poorest ones.

The new FCI regulations were in line with the EC Structural Funds, specially the Regional Development Fund (ERDF), which benefited the Spanish regions to a considerable extent. A quantitative summary of both kind of funds, the internal one from the FCI and the external coming from the EC funds, is shown in the following table. The improvement in the FCI redistribution criteria can be seen by comparing the percentages devoted to the less developed regions in the 1984-91 period (58.5%, including 31% for Andalusia and 13% for Galicia) and in 1992 (75.6%, with almost 40% for Andalusia and 17% for Galicia). The percentages of the other five poor regions are similar (around 24%) whereas the share of the most developed regions (18% in 1984-91) was reduced to nothing in 1992. The same table also indicates the percentages of the EC funds whose redistribution effect in the 1984-91 period was more consistent than that of FCI funds.

Solidarity and financial equalisation

	FCI: % 1984-1991	% 1992	Fonds CE: % 1984-1991
Less developed CAs Extremadura, Andalusia, Galicia, Castilla-La Mancha	58,5	75,6	53,4
Other poor CAs Asturias, Valencia, Canarias, Castilla y León, Murcia	23,5	24,4	33,7
Rich CAs Baleares, Basque Country, Navarre, Madrid, Catalonia	15,7	-	9,3
Other CAs Aragón, Cantabria, La Rioja	2,3	-	3,6
Total (billions pesetas)	1 135,5 = 100,0	100,0	583,5 = 100,0

Source: Data from Ministry of Economy and Finance.

VI. EQUITY AND EFFICIENCY IN SPAIN'S DECENTRALISATION PROCESS

After more than fifteen years of a rather rapid decentralisation process in Spain only a tentative assessments can be made, mainly on the general grounds of the equity and efficiency trade-off of such an historical process. The goal for territorial equity is to build a more balanced socio-economic development, which is only partially due to solidarity instruments such as those mentioned before. The need for territorial efficiency tries to encourage a financially more responsible public sector in all jurisdictional government levels. Both the territorial equity and efficiency will be a helpful stimulus for the private sectors and the whole civil society. Some very relevant aspects of the equity/efficiency tissue fall into the very deepest aspirations of free societies, i.e. in the case of Spain today, the consolidation of autonomous political institutions and the promotion of cultural identities and distinctive values compatible with the increasing integration in Europe and in the global economy.

As regards the first issue, territorial equity or the convergence among the levels of development, wealth, infrastructures and employment opportunities of the very different Spanish regions, the balance is still unsettled. According to OECD estimates, comparisons using nominal data show that the dispersion was greater in 1990 than in 1985 and 1980. Since nominal data are misleading (differences among regions in average per capita incomes in real terms, i.e. on the basis of purchasing power parities, are much smaller than in nominal terms, and inflation rates diverge largely from one region to

another), purchasing power parities are most suitable for time comparisons. Then, using p.p.p. the dispersion in real per capita income levels decreased between 1985 and 1990, although the differences among less developed and rich regions continued to remain significant. As detailed in the following table, Madrid, Navarre and Catalonia improve clearly their relative position in the second half of the 80s. Other rich CAs, such as the Basque Country and its surroundings Rioja and Cantabria fell relatively. In the less developed regions the most successful CAs between 1985 and 1990 were the Canary Islands, Castilla-La Mancha, Murcia and Extremadura, whereas a descending trend was noticeable in Galicia, Asturias, Valencia and Castilla y Leon. The two remaining CAs, Andalusia and Aragon, increased slightly in that period.

Relative per capita income levels
Real per capita GDP (Spain = 100)

	1985*	1990*	1993**
Less developed CAs			
Extremadura	67,9	69,4	66,0
Andalusia	74,8	75,1	69,2
Galicia	80,2	76,8	84,0
Castilla-La Mancha	78,5	88,4	79,5
Other poor CAs			
Asturias	101,3	93,5	88,0
Valencia	100,0	94,5	103,6
Canary Islands	89,9	101,1	99,1
Castilla y León	96,6	91,0	91,5
Murcia	91,7	98,2	81,3
Rich CAs			
Balearic Islands	121,6	121,9	142,1
Basque Country	121,0	112,0	108,0
Navarre	117,6	122,5	116,4
Madrid	114,6	121,3	129,8
Catalonia	110,2	112,7	126,9
Other CAs			
Aragón	109,7	111,3	107,6
Cantabria	97,6	96,5	92,1
La Rioja	121,3	107,3	110,7

* Real per capita GDP is nominal GDP deflated by regional price indices.
Source: OECD estimates with Ministry of Economy and Finance.

** Non homogeneous series with the other two columns.
Source: FIES estimates and data.

Results for the following years, from 1991 to 1993, are much influenced by the overall depressive trend in the international economy than for any kind of internal policies. Therefore, the last column of the table is shown as a mere indication not being homogeneous with the other two. After the estimates of the FIES Foundation, during that three years period, a larger homogeneity in the regional GDP evolution took place but several particularities should be noted:

- CAs in the Mediterranean area, the most expansive area in Spain in economic terms, had a lower growth than the national average (0.7%), especially Catalonia.

- Other expansive area, the Ebro valley, offered a satisfactory evolution in Navarre and Rioja (0.9%) and to a lesser extent in Aragon (0.5%).

- The declining areas of the Cantabric coast were bellow national average, with a similar growth in Asturias and lower in Cantabria and the Basque Country. Galicia had a yearly 1.2% growth placing this region among the less touched by the general economic crisis.

- The two groups of islands benefit from the tourism recovery with strong growth in Baleares (2%) and more moderate in Canary' Islands (1.3%).

- Andalusia has only grown at 0.5% rate. So modest growth in this region after considerable public investments and transfers around the 1992 events adds a much critical question-mark on the ability to transform the structures of a developing society.

- Finally, the recession of Madrid demands a deep analysis. Delocalisation of its industries and much weaker foreign investment are perhaps in the origin of such a recession.

The second question mentioned earlier, concerning the territorial efficiency of the Spanish decentralisation process must be placed under the urgent need for all public administrations to improve substantially their own public sector efficiency and reduce their deficits not only because of the future monetary EU convergence but for internal financial discipline. The extremely rapid growing weight of CAs (and likely in the next future of CLs) in general government expenditures must be accompanied by budget retrenchments in all segments of public sector as well as much efficiency in the spending of all jurisdictional levels.

As already mentioned, the transfer of competencies from central government to the CAs was accompanied by a marked increase in employment in the latter without a corresponding decline at the central level. Investment in non-priority projects could be interpreted as a necessary cost for rather inexperienced regional administrations with relatively larger funds at their disposal.

Therefore, the lack of financial constraints and the lack of normalised rules for spending controls had inevitably derived towards dangerous increases in indebtedness which could be an important burden for medium and long terms.

On the revenue side, both regional and local governments were rather reluctant to use their autonomous taxation powers at their disposal preferring to rely rather on central budgets. For that reason, efficiency in the collection of ceded taxes from central finance improved: between 1986 and 1990 receipts coming from these taxes, which are assessed and collected by the CAs, increased nearly by one-fifth compared to when managed directly by the central government. Greater revenues derived from transaction and inheritance taxes, also administered by regional finances, perhaps due to a sizeable rise in real estate prices in the second half of the 80s.

Briefly, the increase in the revenues not only from ceded taxes but also from the "participation in state revenues" suggests that regional finances have made effort to manage theses taxes as efficiently as possible. Nevertheless fiscal effort of individual CAs differs substantially due to a lack of normalisation rules and co-ordination. With common taxation regulations and rates and in the framework of European directives, some kind of general optimising exercise could be made on the decentralised revenue side of Spain today. Such a task is much easier than the increasing differentiation of the expenditure side. The very needed financial arrangements for the 1992-96 period referred to in the following pages aim at improving co-ordination in all jurisdictional levels - not only between the central and regional governments but among the latter themselves and with the Local Administration.

VII. CONCLUDING REMARKS: MAIN ITEMS FOR THE NEXT FUTURE

The best way to know which is the opinion of the various authorities - central, regional and local - concerned with Spain's decentralisation process as well as the global assessment of current situation and trends is to review the main chronological events of the last four years, from 1992 up to now.

These recent events have, and will continue to have, a crucial importance in the second half of the 90s. As in the rest of this report, the emphasis is on the financial crystallisation of the political evolution since a mere normative approach may avoid the difficulties and rigidities of the factual implementation of, firstly, institutional negotiations and, secondly, of legal agreements. Another emphasis is the larger attention given to the CAs than to CLs for two reasons - the former are more important than the latter, and there is more transparency and analysis on regional affairs than on local ones. Future debates will probably concentrate on Local Administrations just as much as those on the Autonomous Communities today.

1. Agreement on Regional Financing for 1992-96 (January 20, 1992)

This agreement was concluded in the framework of an intergovernmental institution whose importance is likely to increase in the near future, the Council of Fiscal and Financial Policy (Consejo de Política Fiscal y Financiera, CPFF) composed by the Minister of Economy and Finance and the corresponding highest officials in the CAs. The agreement between central and regional finance authorities focused on two aspects: fiscal consolidation at both levels and improved co-ordination.

In order to attain regional financial discipline, an agreement on budget consolidation scenario, relating to the convergence goals, for the individual CAs was reached. It provides for a phased decline in their combined deficit from 1.4% of GDP in 1991 to 0.2% in 1996; regional spending increases of 8-9%, about half that in 1992, with all items decelerating markedly; near-freeze on employment and small wage increases; investment projects severely curtailed; etc.

As far as better co-ordination is concerned, CAs should present an annual debt schedule and financing plans; the CPFF must meet every six months to assess the situation and receive all pertinent regional information and data and checking annual targets of regional budgets consolidation scenarios and proposing ways to correct deviations; on the revenue side, before presenting draft-laws on ceded taxes, the central government had to inform the CPFF of the effects on each region with quantitative estimates if possible.

2. Law for Transfer of Competencies to some CAs (December 23, 1992)

On 28 February 1992, the central government and the two main political parties, PSOE and PP, agree to reduce the differences in competencies between two kind of CAs, those of first speed (under Article 151 of the Constitution) and those of second speed (under Article 143).

The former agreement became a law at the end of 1992 providing for CAs under Article 143 to receive the following competencies, already granted to the other CAs: university and non-university education; social welfare; judicial bodies, some other minor competencies on working regulations, co-operatives, employment support, foundations, agriculture and food quality, public works, international fairs, etc. As a consequence of this law, the only competencies remaining exclusively with the CAs under Article 151 were the health services (INSALUD), penitentiary institutions and autonomous police.

That was the legal situation, but in practice the situation was rather different. Three years after the law, very few competencies were negotiated and entrusted to very few CAs, specifically university functions for Extremadura, social welfare for Murcia and some of the minor items for several regions.

3. Protocol between the FEMP and the Ministry of Economy and Finance (1, August 1994)

The Spanish Federation of Municipalities and Provinces (FEMP) subscribed a protocol of intentions with the central economic authorities on "local administrations' participation in state receipts for the five-year period of 1994-98". This will largely reinforce local financing system, starting with an increase of 8.4% of the participation on state receipts as well as with the creation of two funds for infrastructural investments, one with resources from the EC Structural Funds and the Cohesion Fund and other supplementing the local economic co-operation programmes of the Ministry of Public Administrations. This protocol has been already incorporated to the state general budget for 1995 and to other legal instruments.

4. Survey on the autonomous financing system and their problems

In October 1993, a working group of the CPFF charged a group of experts with drafting a survey on the current situation and problems of the financing of Spain's decentralisation process. Published on March 1995, the survey is now been discussed in many circles and it will serve as a discussion guide for next reforms on CAs financing and on the need for better central-regional co-ordination. Unfortunately, this survey is not entering into local administrations' problems and aspirations.

5. Next coming institutional events

Some other relevant events will take place in the near future: with the refusal by all the opposition parties of the State General Budget for 1996, general elections have been announced for March 1996. After that, negotiations are likely to begin in the framework of the CPFF to revise the regional autonomous financing for the period 1997-2001. Also, in 1996, an intergovernmental conference will take place to evaluate the work of Spanish regions and municipalities in the UE Committee of Regions. Last but not least, pressure of the FEMP to reinforce the competencies of Local Administrations will probably achieve to vote in the parliament the need for a "Local Agreement" aiming at defining the local competencies on their own and those delegated from other jurisdictions. A second decentralisation process will emerge from it, flowing basically from the CAs to the CLs especially to municipalities, allowing the formulation of better local policies in several fields such as security, social services, employment, education, urbanism, and others.

SWEDEN

I. FRAMEWORK

It is often said that Sweden is a homogenous and unitary state, socially, culturally and politically. The hallmarks of the Scandinavian model are strong national government and a high degree of territorial integration. This led to the emergence of a state administration largely independent of the church. More recently the institutional setting has paved the way for the evolution of a professionalised structure for service delivery[1]. Municipalities have grown out of former ecclesiastical parishes. As a consequence, self-governing localities have been able to act on their own and not merely as agents of the central government.

Nature of the system

The system of territorial organisation is dual. Sweden has three basic politico-administrative levels beneath the central government: the central state county administration (*länstyrelse*), county councils (*landsting*) and municipalities (*kommuner*). It is, however, commonplace to consider the two latter as branches of local self-government while it is appropriate to consider the state county administration, which is part of the state administration, as distinct from the county councils which is appointed by an elected assembly. Consequently the Swedish system consists of a two tier system: a central level and two layers of local self-government. In order to be more precise about the relation between local government units and the intermediate level it is necessary to display the characteristics of the Swedish system more in depth. There is considerable debate about the function of the intermediate level and its relations to other layers of government.

The Swedish system is neither fused hierarchial nor dual[2] in character. The former is predominant in most of western Europe, France in particular, the latter is predominant in Britain. In the British model the local and central levels are expected to function quite independently of each other. There are extensive rights of appeal to the courts. Local government is subject to *ad hoc* supervision by central departments. The Scandinavian countries have in common the extensive use of administrative committees and in this respect they are similar to the British model. Unlike the British system,

1 Bennet, R.J (1993), "European local government systems", *Local Government in the New Europe*, London: Belhaven Press.

2 It has been characterised as a split-hierachial system because of the mixture of fused hierachial and dual principles. Bennet, R. J. (1993), "European local government systems", in Bennet, R. J *Local Government in the New Europe*, London: Belhaven Press.

however, Swedish local self-government has gained formal constitutional recognition in statue and has been granted a general competence[1]. It differs from the dual system by having a provincial governor, *the landshövding*, who presides the state administrative board which in part consists of representatives of the county council. The board, co-ordinates, supervises and plays a major role in strategic planning. It also serves as a tribunal of first instance for citizen complaints against municipal decisions (*kommunalbesvär*).

Although provincial governors serve an important function in Scandinavia (in Sweden *landshövding*) it would be misleading to compare their role with that of for instance the French prefects. They are appointed by the central government, but unlike the fused hierarchial system the authority to interfere at local level is circumscribed. Localities have their own councils and considerable autonomy with collective responsibility. On this point the Swedish system is again more similar to the British dual system.

As of yet no major regional reform has taken place in Sweden. Instead the link between central state authorities and local self-government has been strengthened. It is, therefore, not surprising that regionalisation so far has taken place at the local level whereas the intermediate, so-called meso level, has essentially retained its form.

History

Swedish local self-government has deep roots. Its formal recognition and responsibilities today were preceded by a largely unbroken democratic tradition. Contrary to the majority of other west European states the peasants possessed far-reaching personal, economic and political rights and were involved in provincial assemblies at an early point. Peasants, the King and council were bound together by mutual obligations, which led to a fairly peaceful coexistence. The Constitution of 1809 turned Sweden into a constitutional democracy by placing political constraints on the King. Since 1975, although still formal head of state, the King no longer enjoys any formal political powers. Following the introduction of parliamentarism as the guiding principle for government formation around 1917, Sweden has been a stable parliamentary democracy both in practice and in principle.

1 Art. 1 in the Instrument of Government says: "All public power in Sweden proceeds from the people. Swedish democracy is founded on freedom of opinion and on universal and equal suffrage. It shall be realised through a representative and parliamentary polity *and through local self-government* (italics of the author). Public power shall be exercised under the law".

Local self-government first included social welfare, later, care of the poor was added and, subsequently it was also made responsible for basic education. Local self-government in the parishes (the *socken*) appeared to thrive so much that many more functions during the course of the eighteenth and nineteenth centuries were adopted. It is no exaggeration to consider the parishes the back-bone of Swedish local government together with the early forms of *landsting*, the origins of which have been traced back to the Middle Ages. Provincial assemblies obtained responsibility for public services already in the 1760s.

In 1862, the local government ordinances established 2 500 municipalities and self-governing provincial and city councils. There were separate laws for cities and rural municipalities. The rural municipalities coincided with the former parishes[1]. Local authorities were given the right to decide on issues within their own territories and to levy their own taxes.

After the abolishment of rural municipalities and city boroughs, uniform and equal sub-national bodies were introduced in 1971. At present, there are two layers of local government specifically mentioned in the Instrument of Government in the Basic law of 1974 - municipalities and county councils. These have the freedom to take initiatives until successfully challenged by a local resident through a legal process. The state provides guidance and supervision to local governments through ordinances, regulations and control of the legality of local decisions through the Administrative Court of Appeal and the Supreme Administrative Court[2]. Local government has, however, considerable discretion in relation to central government.

Both types of local authorities (municipalities and counties) have their own right to decide on the rate of the local income tax[3]. An additional indication of the degree of self-government in Sweden is the localities right to elect their own assemblies every fourth year. Furthermore, the provision of the 1977 Local Government Act states that local councils "shall conduct their own affairs".

Relations between the state and the sub-national actors

Local rather than regional government is, in a European comparison, the most significant sub-national level in Sweden. The intermediate level appears considerably weaker both in terms of popular attention and the scope of its functions. County councils are responsible for a limited number of issues. They concentrate heavily on health and medical care and, to a much lesser extent, education and regional development. Among the responsibilities of the municipalities are social welfare, housing, education and extensive service provision. Municipalities spend about two-thirds and the counties one-third of total local government expenditures.

1 The parishes still exist within the State Church organisations as its smallest unit.

2 See Häggroth, S. (1993), *Swedish Local Government: Traditions and Reforms*, Stockholm: Swedish Institute.

3 *The Instrument of Government*, The Basic principles of the Constitution, Chapter 1, art. 7.

At the intermediate level, the state administrative body (*länsstyrelse*), is delimited by territorial borders that also determine[1] the borders of the county councils. The origins of the state administrative bodies are considerably older than the counties. Their geographical delimitation for instance does not, in fact, differ much from the boundaries drawn at the original constitutional reforms of 1634[2]. The reforms grafted on to the state county administrations gave them status as a central royal agency.

Their boundaries reflected, but did not correspond to, the prime territorial division at that time - the *landskap*. In effect, the traditional regional division of *landskap* was deprived of all administrative functions already by 1718. Their importance as the basis for regional identity has, however, never disappeared entirely. During the 1960s and 1970s several state commission reports looked more closely at the possibility of introducing stronger forms of government at the intermediate level. In the end, they did not result in any major changes. All twenty-four state county administrations have survived the 20th century with small boundary revisions.

The consensus model that has characterised Swedish democracy, at least since the Second World War, has led to the generally cordial relationship maintained between central government and local authorities. This is also reflected in the mediating role of the two Swedish local authority associations, SALA (Swedish Association of Local Authorities) and FCC (Federation of County Councils). They are normally consulted by the central government on practically all matters concerning local government. This relationship makes them relatively strong *vis à vis* the central administration.

The direct powers of the state have seldom been used in times of economic expansion to interfere in local government. However, these powers have been exercised recently to make large budget cuts throughout the public sector. In the beginning of the 1980s, local government consumption continued to rise rapidly even after the national government consumption had started to slow down. The local capacity to raise revenue was stretched. The expansion of services brought local authorities more discretion within the implementation process due to the extensive use of broad framework-laws which gave them better opportunities to set their own priorities. This development was justified by the argument that the central government had imposed heavy costs particularly on the municipalities. The unprecedented freeze on tax increases imposed in 1991 was an extraordinary measure to stop any further increase in expenditures. The discretion given to local government had not contributed to any reduction of expenditures.

1 With the exception of Gothenburg, Malmö, populationwise the second and third largest cities in Sweden and the island of Gotland. These are effectively municipalities that can exercise county powers.

2 More precisely the first Instrument of Government in 1634.

II. INTERGOVERNMENTAL RELATIONS

Counties as state administrative bodies

It is reasonable to perceive the state administrative regions as the prime representative of the central state at the sub-national level. The county as a state administrative region is directly subordinated to the central government, more precisely the Civil Department, and has traditionally both supervisory and control functions in relation to local government - the municipalities and county councils. The twenty-four state county administrations have been the regional arm of central government. They are responsible for the administration of centrally provided services. Supervision of municipalities and counties has always been among their major tasks. The reforms of territorial organisation in the 1960s and 1970s strongly emphasised the planning function of the state county administration. In recent years the emphasis on control and legality has shifted in favour of framework-laws, statutory and development and application of planning strategies. As a consequence there has been much less interference in individual decisions.

The functions of the state county administrative board include the adoption of site development plans, nature- and water conservation, environmental protection, health protection, social care, civil defence and infrastructure planning. It is also responsible for population registration for census purposes. Each county has functional boards with expertise in particular sectors. This expertise constitutes a form of human capital, which in fact is, one of the state county administrations most valuable resources.

The state county administration serves as the chief co-ordinator particularly in fields where resources or expertise at the local level are insufficient. The main emphasis has increasingly been on its comprehensive planning role, bringing together and co-ordinating regional policies and physical and sectoral planning in co-operation with the local authorities. Its role as regional spokesperson has been growing at the expense, some would argue, of its role as the regional representative of the state. Instead of regarding themselves as representatives of the central administration imposing discipline on the locality, they have increasingly appeared as a channel for the localities to seek influence in central decision-making.

The double-edged role of the state county administrations has frequently been a source of debate. The 1971 reform was the result of strong demands for more political influence by giving elected representatives, appointed by the county councils, seats on the board of the state county administration. No major reform was carried out. Instead a piecemeal compromise was adopted. The board was reorganised into a hybrid in terms of power-sharing. Representatives of the county councils have

fourteen seats on the board[1], elected for a four year period[2] while its chairman, the county governor (*landshövding*) is appointed directly by the central government for a six-year term. Thus the state administrative boards are made responsible both to the central government and to the county council.

Local self-government in municipalities and counties

The activities of the county councils have increased significantly in terms of budget resources, but remains limited in scope. Their main task is to provide for health and medical care services, which together account for about four-fifths of their spending. Unlike the boards of state county administration, the county council appoints its own executive. Although the services provided by the counties are well known and elections take place every fourth year, the elected members of the county councils are not particularly well-known to the public. Previously County councils formed the basis for elections of the first chamber of the national parliament (1867-1970). This arrangement was abolished with the unicameral reform of the Swedish national parliament (the *Riksdag*) in 1971. Since then there is no formal link between sub-national and national political representation except that the elections are taking place on the same day.

An intensive debate similar to that preceding the introduction of the hybrid reform of the state administrative boards reemerged in the beginning of the 1990s. It has, however, turned out to be as difficult as it was then to redraw the geographical boundaries of the counties. It has not been easier to revitalise the intermediate level of government by, for instance, the introduction of stronger political representation. Wider county democracy through the creation of regional parliaments and full integration of the regional administration under the authority of one political institution is still a controversial issue. County councillors are demanding a more influential role in several sectors of policy-making, particularly infrastructure, education, environmental planning, regional development and culture. One of the arguments put forward is that the county councils are the only body at the intermediate level with an elected assembly.

The municipalities have a monopoly on decision-making rights at sub-national level in town and country planning, housing, public utilities and social welfare. Like the county council, the municipal council (*fullmäktige*) is directly elected and appoints all its committees in proportion to party strengths without interference from other layers of government. Committees or boards carry out most of the authorities tasks. In most cases they have a department or office at their disposal.

1 In two cases by cities independently of the local county councils.

2 Four year election periods were introduced at the elections in 1994.

Municipality reforms

In 1952 the total number of municipalities was reduced from 2 500 to 1 006. By 1974 numbers had been reduced even further, down to 278. At the outset the amalgamations were voluntary. In order to speed up the process the amalgamations eventually became compulsory.
Consequently the size of municipalities has increased in all senses - geographically, size of the population, volume of the budget, number of employees, etc. The main reason behind the increasing size has been the rapid expansion of the welfare state, particularly greater demands directed toward the social sector. In the mid 1940s, it was argued that the size and function of the units would have to be adjusted to what the provision of public services required. A number of amalgamations reduced the number of municipalities dramatically, particularly from the 1950s and onwards. It was seen as reflecting the need to "bring about a more rational municipal division"[1].

This was the beginning of what was to become perhaps the most 'scientific' structural reform in Western Europe[2]. A second wave of amalgamations took place in the 1960s. It was based on similar assumptions as the previous reforms. However, an element of regionalisation was added solely by the magnitude of the changes. It is uncontestable that the territorial reorganisation was connected to the introduction of a more extensive planning system in the localities. However, the regionalisation process was top-down in character, as there was no regionalist movement pushing for enlarged municipalities on this scale.

The reforms of 1962 were based on the principle that each municipality should be a coherent economic and geographical unit consisting of a natural region bound together by different sorts of human activities. Daily commuting was the most important determinant for the definition of functional regions. Efforts to determine the size of regions were dominated by planners and geographers who sought to centre the new areas on growth centres. These were perceived as the crucial element for a balanced economic and occupational development, because of expected spread effects.

After the completion of the reforms in 1974, the trend towards larger entities came to a halt.

1 SOU 1945:38, *Riktlinjer för en revision av rikets indelningar i borgerliga primärkommuner*, p. 7.

2 Kjellberg, F. (1988), Local Government and the Welfare State: Reorganization in Scandinavia, *The Dynamics of Institutional Change: Local Government Reorganization in Western Democracies*, London: SAGE.

In fact, the number of municipalities has increased in recent years. At present there are 286 municipalities. To a considerable extent this has been the result of a will of the communities to break up from larger units. Local politicians as well as citizens have claimed that municipalities have been swallowed up by the larger units and their social and cultural identities have been in danger of being overwhelmed. Amalgamations were apparently enforced without due respect to the diversity of cultural identities among the inhabitants. Occasionally the issue of whether or not a municipality should be redivided into its original communities is decided by popular referendums.

Part of the same trend are the attempts to form sub-communal decentralisation for certain selected services through advisory procedures by the establishment of neighbourhood-councils between 1980 and 1993. The main argument for these experiments was the need to achieve more citizen participation. Thus efforts were made to combine the advantages of large and small scale respectively.

Conflict over which town should be the main administrative centre for the municipality has also occurred in several cases. Centre-building is important since centres are supposed to provide the main services to the rest of the region. Municipalities obtaining sufficient capacity to handle the administration of different welfare programmes. The aim was to achieve "functionally connected" regions[1] and thereby a better match between administrative divisions and the "spontaneous regions" created by intensified interaction, mobility and urbanisation.

The assumption of the existence of a minimum size for the municipalities was of great importance for policy-makers. Comprehensive schools were, at that time, considered to need a population base of 6 500 to 7 500 inhabitants. Social welfare services required 5 000 to
6 000 people, health administration 8 000 to 10 000, and employment policies 7 000 to 8 000. The amalgamation reform was supported by arguments put forward by geographers. They suggested that larger cities had already developed functional connections through daily commuting within a radius of about 30-40 kilometres[2] from the inner core of the administrative centre[3]. Extended public service provision in the centres thereby merely confirmed a development under way.

The guiding principle was based on the assumption that coherent units in terms of economic, social, cultural or any other interaction, formed natural regions. It was argued that socio-economic interaction leads to the emergence of functional regional systems which link centres to a surrounding area through mutual dependencies.

The same arguments were put forward in proposals in favour of boundary revisions of the counties. It was argued that the blocks of municipalities that were about to merge would be an applicable starting point for reforms. It seemed unreasonable that these blocks should be separated by the county

1 SOU 1961:9, *Principer för en ny kommunindelning*.

2 SOU 1966:1, *Svensk ekonomi 1966-70 med utblick mot 1980*.

3 In location theory they are usually called central places.

boundaries. If the pull effect of central places transcended county boundaries, it would be necessary to consider boundary revisions. It was not recommendable that county borders should separate a centre from its hinterland[1]. However, it proved to be far more problematic to revise county boundaries than it had been to alter municipal boundaries.

Effects of the reforms

The implications of the reforms on self-government are mixed. Local government has gained functions: it has acquired responsibility for schools, social welfare, health and medical care, and training. At the county level, one of the effects has been a larger scale for the development of commerce and industry, transport, cultural and recreation and certain special education services. The transfer of functions to local government has followed as a consequence of the immense increase in service provision. Municipalities have increased their financial resources and their dependence on state grants has diminished[2]. Nevertheless, state grants still account for approximately one-fourth of the municipal income and, slightly less, one-fifth, of the counties income.

The significance of local autonomy has also increased because of parliament's trend to rely on framework laws, which leave decisions on the means of implementation to local councils. In the 1980s, general grants increased while specific grants earmarked to finance mandatory services were reduced. This resulted in additional leeway for the municipalities to set their own priorities. General grants primarily consist of tax equalisation subsidies, the main objective of which is to achieve equality between municipalities.

As much as about 70% of municipal expenditure is spent on mandatory functions, the corresponding figure for the counties is even higher, around 85%. Thus, the Swedish system by no means precludes central government from issuing numerous directives which specify how services should be administered within the general framework of national legislation or through directives from national boards. There are plenty of general enactments with accompanying legal instruments for particular fields of activity[3], from soft guidelines to detailed requirements.

How did the reform affect democratic principles? It has been noted that voters' knowledge of the major issues in elections grew stronger during the period 1966-1979. Voters knew more about the activities of parties and they were more familiar with the candidates in elections.

1 SOU 1967:23, *Ny länsindelning, Betänkande av länsindelningsutredningen*.

2 See Gustafsson, G. (1980), *Local Government Reform in Sweden*, Lund: CWK Gleerup.

3 Including education, building, fire protection, public sanitation, enviromental protection, social services, health and medical care.

The overall impression is that parties have strengthened their grip on local politics partly at the expense of the personal contacts with local politicians. The residents acquaintance with individual politicians has actually decreased[1].

Recent developments have, once again, highlighted the need for boundary revisions, but for other reasons than in the 1960s and 1970s. In an inquiry presented in 1992 by a public commission, it was argued that the territorial division would have to be reconsidered in order to meet competition[2]. This time the investigators left the question of boundary revisions open. Possibly with previous experiences in mind, the authors denied that there was any neutral concept which could be used to determine an optimal scale for the design of politico-administrative entities. In spite of this, they noted that all counties in Sweden were small in terms of population and density and in most cases also in terms of their competence compared with their European counterparts. Against this background it was argued that if one wished to decrease the number of counties, their number could be brought down from the present 24 to anything between 6 and 12 regions.

III. THE RELATIONSHIP BETWEEN REGIONAL AND LOCAL AUTHORITIES

Several public commissions on local democracy and legislation during the post-war period have dealt with questions relating to the distribution of powers. The county commission report presented 1974[3] opted for further co-operation between the central administration and local government rather than a sharp distinction between layers of government. Three aspects were elaborated in greater detail - democratic values, distance between decision-makers and the public and issues related to efficiency.

Further decentralisation[4] was recommended without drawing a clear separation between central and local tiers of government in the 1960s. On the contrary it was argued that the division of responsibilities and competence must remain flexible to render possible better adjustment to the changing needs of society.

1 Häggroth, S. *The 1974 Local Government Boundary Reform, motives and consequences*, Ministry of Public Administration, 1993.

2 SOU 1992:63, *Regional roller: en perspektivstudie*.

3 SOU 1974:84, *Stat och kommun i samverkan*.

4 SOU 1978:52, *Lägg besluten närmare människorna!*.

The commission of 1968[1] strongly supported further decentralisation of functions to county and municipality councils, but was not very precise about the allocation of powers. The report could not provide any guiding principles for reforms of the territorial organisation at large, distribution of competence between the intermediate state and county levels or the relationship between the state and the municipalities. In general, it was underscored that the principal constituent paying the costs also ought to influence the execution of decisions.

The overall impression of the investigations just cited is that the conditions for local self-government are largely dependent on the willingness at the central level to decentralise functions. This is reflected in the constitution. Its formulations on local self-government remain vague and insufficiently binding to hinder flexible adjustment. Local self-government appears to be defined by delegation. One has to conclude that the investigations do not provide us with a clear definition of what local self-government actually is or should be[2].

Debate on democratic reforms at the intermediate level

The county system is squeezed between a strong national administration and well developed local self-government[3]. It is apparent that the division into state administrative counties does not reflect the functional linkages that have developed merely on an *ad hoc* basis. The rationalising process within the central state organisation has led to new regional divisions which do not coincide with the county divisions. The national road and school agencies are among the authorities that have altered their regional organisation without following the boundaries of the counties. In a way this has made the county divisions increasingly obsolete.

Pressure for enhanced democracy through the introduction of regional parliaments grew strongly in the mid 1960s. The commission set up in 1968 came as a response[4] to demands for more democratic institutions at the intermediate level. Democratic reforms of the county level were suggested in its final report. Both efficiency and popular influence arguments seemed to favour proposals for a democratic

1 SOU 1968:47, *Förvaltning och folkstyre*.

2 SOU 1995:27, *Regional framtid, Slutbetänkande av Regionberedningen*.

3 See Gidlund, J. (1994), *Demos och makten i den politiska demokratin*, in Sannerstedt, A. & Jerneck, M. Den moderna demokratins problem, Lund: Studentlitteratur.

4 SOU 1968:47, *Förvaltning och folkstyre*.

reform of the state administrative counties. It was suggested that this could be achieved by transferring administrative functions from the state county administration boards to the elected county councils. It was argued that such reform would not challenge the unitary character of the state[1].

As expected, the remittance procedure showed that the vast majority were in favour of continued state responsibility at the intermediate level and were therefore opposed to the suggested reform. There was, however, a willingness to extend citizen representation by granting seats to laymen on the board of the state county administration. This proposal had not been recommended by the commission, but gained political support. Members of the board would, according to the proposal, represent labour organisations, employer organisations as well as members appointed by the counties and municipalities. This would have given it a corporative structure. In the end all laymen on the board were appointed by the county councils. Apart from this, the public inquires did not result in any proposals for a major reform of either the division of responsibility or the allocation of competence at the intermediate level. Those who supported the reform carried out in 1971 saw it as a first step on the way towards increased regional democracy.

Improving democracy was the main argument in favour of a reform and was therefore, of an ideological nature. The strongest argument against the reform was, however, no less ideological in character. It was stressed that major reforms to promote equality required a strong central administration. The final report with the somewhat misleading title 'broadened county democracy'[2] did not suggest any further transfer of functions from the state administrative bodies to the county councils. Particularly the Center Party, and to some extent, the Liberal Party had been in favour of broader county democracy (*länsdemokrati*), while the Social Democrats were against any major reform.

The responsibility for regional planning was another crucial factor behind the outcome. It was concluded that the state administrative county bodies should retain their responsibility in this sphere. Spatial planning was not considered an appropriate task for the county councils. It was argued that decentralising reforms would require more state regulation in order to be carried out effectively. Another argument put forward was that enhanced county democracy would transform the county

1 See the expert report written by Pär-Erik Back in SOU 1982:24 *Vidgad länsdemokrati*.

2 SOU 1982:24 *Vidgad länsdemokrati*.

councils into "supercommunes" which would have a negative impact on self-government in the municipalities. It is no exaggeration to conclude that any change in favour of greater county democracy was interpreted as a negative form of regionalisation. There has been a reluctance to touch the political authority of the national parliament and the central government. In addition, it was argued that the position of the municipalities must not be challenged[1].

With regard to the competences at local level, it has been stressed that counties and municipalities complement each other within different jurisdictions. Only in the case of public transportation there has been a mandatory transfer of responsibilities from municipal to county level. The state-municipal relation has received most of the attention. The organisation of the state county administration does not reflect the expansion of the public sector as much as the transformation of local self-government. In fact, the state county administration has lost some of its functions over the years. The county councils, for their part, seem to anticipate receiving increased responsibilities, partly at the expense of the state county administration.

None of the commission reports referred to has suggested a sharp formal distinction between different layers of government. On the contrary, they reflect a widely shared willingness to leave leeway for informal arrangements in order to allow boundary adjustments and redistribution of competence. The overall view seems to be that local self-government is determined by how much the state is willing to delegate. It is, therefore, not surprising that the concept of self-government should remain vague. Pragmatism, rather than formal principles, has determined the degree of autonomy.

The nature of the state-local relationship has, however, in practice been guided by some unofficial principles[2];

- the general interest to guarantee all citizens a certain minimum standard regarding protection in terms of legal rights, standard of living and social security;

- responsibilities should not be held at a higher level than necessary in relation to those affected by decisions;

- the state should take the responsibility whenever tasks require a large degree of uniformity or a general view covering the entire country;

- functions that require a certain amount of acquaintance with local circumstances and detailed knowledge ought to be decentralised; and

1 SOU 1995:27, *Regional framtid*, p. 83.

2 SOU 1974:84 *Stat och kommun i samverkan*.

- closely related functions ought to be carried out at the same layer of government and handled by the same authority, if greater efficiency thereby is achieved.

It is reasonable to consider these principles as a functional Swedish version of the subsidiarity principle, although the term is not explicitly mentioned. Despite pressure for a firm legal definition, pragmatism prevails.

Application of the subsidiarity principle

In practice, subsidiarity applies solely within those areas in which both the EU and its member states are competent to act, in essence areas of shared competencies. It has been pointed out that it does not apply to those policy-areas where the EU has exclusive competence (for example agriculture, fisheries, transport, competition and trade). In Sweden subsidiarity has been interpreted as a political rather than a legal concept. One reason might be that it is closely associated with Catholic social theory[1].

It is correct that subsidiarity also may include a remote dimension. Larger units should be allowed to act when actions at the supranational level make better provision for the objectives of integration than could be achieved at any other level. This points out a fundamental difference between the view of the Council of Europe and the usage of the concept within the framework of the Maastricht-treaty of 1991. The application of the concept within the EU seems to be far more state-centric than the view taken in the Council of Europe.

The distribution of seats in the EU Committee of Regions can be seen as a test on the practical application of subsidiarity. From what has been said about the domestic situation it is likely that the Swedish municipalities will play a more important role than the county councils in the committee. However, the twelve Swedish delegates to the Committee of Regions are appointed by both municipalities and county councils. There are no reasons to believe that the role of the municipalities will suddenly weaken on the domestic scene due to the integration process. In 1994, a group of specialists unanimously concluded that the subsidiarity principle has to be seen as a way to strengthen local democracy, and not as a means to diminish the importance of the local level in favour of the regional, or for that matter the regional in favour of the central level[2].

1 SOU 1994:2, *The municipalities, the county councils and Europe*, Summary.

2 Council of Europe, (1994), *Definition and limits of the principle of subsidiarity*, Local and Regional Authorities in Europe, No. 55.

Different pathways for regionalisation

In 1991 a public commission was set up with the task of analysing the regional base for public activities. Its prime task was to point out alternative models on how to organise the intermediate level of government. The revival of the regional debate should be seen against the background of concepts for community-building other than the administrative: for example functional socio-economic relationships in the case of the Gothenburg-region on the westcoast, and at least partly in terms of identity in the case of Scania in the south[1]. In these two cases the boundaries seems dysfunctional. In the commissions directives, the need for co-ordination in certain fields was pointed out explicitly - e.g transport projects, environmental issues, defence, restructuring of health care systems and internationalisation.

There are at least three different pathways[2] which have been pointed out that could be followed in the case of a firm reorganisation of the intermediate level; strengthened state responsibility, co-operation among municipalities; and more regional public power. The different models for regionalisation reflect the historical background of the political institutions in Sweden.

1) Strengthened state responsibility

The state county administration would according to this model, first and foremost implement national goals at the county level. The 1971 county reform emphasised the state administration´s role at the regional arena. It was suggested that it should act on behalf of its citizens, as well as being a representative of the central administration. In fact, its co-ordinating role has increased through the transfer of functions from other state authorities under the catch-word "co-ordinated county administration" (*samordnad länsförvaltning*), which first appeared in the 1970s and was later introduced as an experiment[3]. Co-ordinated county administration is an argument for continued regional integration of policy sectors, for instance, in favour of more involvement in the labour market and implementation of housing policies. More functions could easily be transferred to the county administration in order to make the presence of the state at the regional level more integrated. This would probably strengthen its function as a partner in negotiations with both municipalities, county councils and regional business interests.

1 The historical region of Scania in the very south of Sweden has been subdivided into two artificial counties for centuries - *Kristianstads län* and *Malmöhus län*. In terms of functional interaction the metropolitan region of Gothenburg stretches beyond its administrative borders which causes coordinating problems among municipalities and counties in the region.

2 SOU 1992:63, *Regionala roller en perspektiv studie*.

3 Co-ordinated county administration was introduced in the county of *Norrbotten*, the geographically largest of the twenty-four state county administrations, in 1991. It was introduced more generally by the county administrative reform in 1991.

Strengthened state responsibility at the county level would hardly lead to any political regionalisation. It is, on the contrary, likely that the central state would increase its role in relation to sub-national territorial units. It would, in other words, be a first step towards a top-down model for regionalisation, in part replacing the current sectoral organisation of the state administration. This would on the other hand make the territorial organisation both more fused and distinctly hierarchial, which is somewhat at odds with the Swedish tradition of self-government.

2) Co-operation among municipalities

In this model for regionalisation, the county councils are expected to be replaced by extensive, voluntary or state sanctioned co-operation between municipalities. In a way it corresponds closely to a strict interpretation of the principle of subsidiarity. The proximity aspect of the subsidiarity principle would, in this scenario, favour the preservation of municipal self-government. The municipalities would be made responsible for some tasks presently within the constituency of the county councils and the state county administration boards would be affected. In practice, this model would in a way create "supercommunes".

The municipalities are already organised into the Swedish Association of Local Authorities (SALA), the internal organisational structure of which follows the territorial division into counties. Within the framework of the county associations, municipalities share information, co-operate on internal education and suggest new policies. Sectoral co-operation on single issues is frequent in the fields of water management, energy, fire fighting, training and public transport, etc.

There are already several legal frameworks available for the creation of supercommunal organisations. Most important is the right to form municipal associations which are given status under public law. There are also several forms of association possible under private law, for instance the establishment of joint companies, and private associations. Most common, however, is co-operation legally supported by contracts.

Despite the immense restructuring undertaken through amalgamations, the scale of the municipalities is still too small for a number of functions. In these sectors, co-operation across territorial boundaries has good prospects. There are plenty of cost-sharing and buy-sell arrangements among the municipalities. Insufficient resources and fiscal austerity might trigger further co-operation in a number of sectors. As already mentioned, however, the municipalities appear, in some cases, to be remote from citizens. Hence, any systematic reform that enlarges the local units further is running the risk of weakening the links between professionalised administrative units and the local inhabitants to a point where their legitimacy is undermined. The current pattern of cross-border contracts is not necessarily the best guiding principle for institutionalised relationships. There is no reason to believe that larger units will be more efficient if they are not provided with sufficient resources and a tax base of their own.

3) More regional public power

The creation of directly elected regional parliaments with an executive regional council remains controversial. Such a reform assumes that the state county administration would play only a modest role in the future, relating to traditional functions such as supervision, monitoring and population registration. During the 1980s, the development was the reverse. The idea of "co-ordinated county administration" was developed to bring functions together under one umbrella.

The introduction of regional councils would, almost certainly, require a larger geographic scale than the current counties. Regional councils would open opportunities for delegation from central government. Higher education, research and infrastructure investments are tasks which could be transferred to regional councils. As was stressed by the commission on territorial politics in 1968, the introduction of regional parliaments would probably reduce the number of units to such an extent that they could constitute a challenge to the internal sovereignty of the state[1]. The reform would also require the transfer of a number of tasks not only from the national parliament and the central government, but above all from the state county administration, state authorities and probably from the county councils and municipalities as well. However, it has been suggested that regional parliaments are likely to improve citizen's participation and encourage party mobilisation. The mobilising effect of the creation of regional councils would require active involvement of organisations, business interests and municipalities. It has been argued[2] that any future regional reform will have to accommodate patterns of social, cultural but above all socio-economic exchange and mobility.

Current developments

Some modest reforms of the territorial organisation at the intermediate level were proposed in 1993. The suggested reforms were supposed to transform Sweden in the direction of regionalisation mainly through the second model - tighter regional co-operation between municipalities. There were also elements of the third model - increased regional public power, but only in a longer perspective. Within the frame of the regional commission, one report complied with the demands from two parts of the country in particular - West Sweden, made up of four counties (Halland, Älvsborg, Skaraborg and Gothenburg/Bohus) and Scania, which includes two counties (Kristianstad and Malmöhus)[3].

1 SOU 1992:63, *Regionala roller- en perspektivstudie*, Betänkande av regionberedningen.

2 Ibid, p. 17.

3 SOU 1993:97, *Västsverige och Skåne - regioner i förändring*.

In preparation for a thorough regional reform, some ideas of how to reorganise the intermediate level were suggested for West Sweden and Scania. After a trial period, the experiences will be evaluated before any further steps are taken towards regionalisation. In order to avoid "white spots", support from the vast majority of the municipalities and county councils in the affected regions is required. All regions that can achieve strong support and wish further regionalisation should apply for permission to set up regional councils. It was suggested that the members - municipality and county councils - should appoint its representatives at the regional councils through indirect elections.

Legislative changes necessary for the experiment to be implemented were made in the beginning of 1995. Some sectors suitable for extended co-operation within this legal framework were specified - health and medical care, public transport, planning, housing, regional development, development of industry, education, culture, environment and public communications. The regional commission did not see any contradiction between national and regional responsibility for the development of regions. The state will continue to be accountable for interregional equalisation[1], less through compensating transfers of resources than through the provision of, for instance, infrastructure. In its final report, the regional commission argued that the responsibility for the issues mentioned above are expected to be transferred to the county councils before 1999[2]. According to the commission the county councils are suitable as regional spokespersons. They possess democratic legitimacy and are well acquainted with local conditions. The future development of regional politics is pending on the evaluation of the regional experiments.

New constellations

West Sweden and Scania, along with the Stockholm-region, known as the *Mälarregion*, have been among the most active regions in promoting cross-border contacts with foreign countries. Better capacity for international co-operation was one of the main arguments presented to the regional commission. The basic idea seems to be that stronger regional institutions have a positive real impact on the opportunities to make contacts and for the development of regions in the broadest sense. West Sweden has established its own representation in Brussels through joint efforts by the participation of approximately sixty municipalities in the surrounding area. These municipalities are co-financing an office for representation and share the costs of a consultancy bureau which aim is to promote their common interests.

Scania has been fairly active in the Baltic Sea region which has lead to the establishment of cross-border partnerships, for instance with the city of Copenhagen (Denmark) and the *Land* of Schleswig-Holstein (Germany). In collaboration, with the later, a joint co-ordinating office has been established in Brussels.

1 SOU 1992:63, *Regionala roller - en perspektivstudie*, p. 63.

2 SOU 1995:27, *Regional framtid*.

The outcome of the referendum on whether Sweden should join the EU or not made evident that the perception of the opportunities that membership would bring was highly dependent on which part of the country people lived in. Geographically the outcome of the referendum reflected a centre-periphery pattern, strong support in the south and in major cities, weak support in the north, minor cities and in the countryside. The local and regional elites in West Sweden, Scania and in the Mälar region apparently perceived themselves as winners in the integration process, while peripheral regions without major cities were less enthusiastic about EU membership. A considerable number of them have previously been targets of various forms of regional policy support schemes. The referendum brought attention to old cleavages in the country.

The city-regions are most active in demanding more influence. They also wish to regionalise some of the regional development issues, arguing that there is an actual connection between competitiveness in global markets and institutionalised forms of regional co-operation. Peripheral regions do not see the same potential for cross-border co-operation synergies as the metropolitan regions. They have serious doubts about their ability to compete effectively on the internal market. After the entrance of Sweden into the EU, however, these regions have been far from passive in relation to Brussels. On the contrary, they have discovered that there are considerable opportunities to grasp. Prospects for EU funding, as well as cuts in the national budget, are factors which create incentives for regional co-operation.

It remains to be seen if the supranational - sub-national partnership is strong enough to pave the ground for a more thorough regional reform in Sweden. According to the principle of additionality, the regional and structural policies of the EU should not replace state funding and are not likely to do so in the near future. However, it is likely that the future development of territorial politics will continue to be influenced by the internationalisation process. Internationalisation strengthens the incentives to form new regional constellations on both central and sub-national levels. It also leads to comparisons with other EU-countries, which are used as arguments for regional reforms.

IV. CONCLUDING REMARKS

In a wider European context the Swedish system is an odd fellow, distinct as it is from both the dual system and the fused hierarchial system. Federal principles are even more foreign to Sweden. The regionalisation process is reflected in the status and resources of the municipalities instead of the intermediate level. Although the term "region" is not formally used as a label on any layer of government, it is appropriate to consider the counties as the regional level. What makes things complicated are the shared responsibilities between the county councils and the state county

administrative units. Under the presidency of the provincial governor the joint county board has been created. This has somewhat blurred the separation between different constituencies at the intermediate level. The changes were introduced instead of a larger parliamentary reform of the counties. Formally, the county councils have the same status as municipality councils.

During the 1970s and 1980s the state administrative county boards have in fact widened their responsibilities. In the meantime the county councils, which enjoys the same constitutional status as municipalities, have become heavily concentrated on health and medical care. Successively they have been stripped of functions which, in most cases, have been transferred to the municipalities. Against this background it is not surprising that the county councils wish to play a more significant role in regional politics. Indeed they have been particularly active in articulating their interests in the more recent regional debate.

However, the state county administration perceives the municipalities, rather than the county councils, as its natural partner. In particular, the expansion of the welfare programmes deeply involved the localities. Local self-government has mostly been defined on an *ad hoc* basis through delegation from the central government. Although municipalities levy their own taxes they remain highly dependent on state grants which have been handed out as compensation for the steady increase in expenditures, of which the lion's share is caused by mandatory tasks. With cuts in the overall public budget this trend has finally come to an end. At present, there are no specific proposals for further regionalisation through additional amalgamations. Instead there are increasing demands for a revision of the intermediate level. Major boundary and functional changes at the county level appear more controversial now than during the revisions of the municipal boundaries in the 1960s. For over 350 years the boundaries of the counties have been fairly stable.

As a matter of fact none of the outlined pathways for regionalisation imply that radical changes are under way. However, the proposed solutions for West Sweden and Scania presented in 1992 may be seen as a first step towards a major reform. Regional development, higher education and infrastructure seem to be among the issues that attract most attention. The final commission report, "Regional Future"[1], did not exclude the possibility that the county councils might take over some tasks from the state county administration.

Just as during the 1960s and 1970s, only minor boundary revisions are likely to follow in the near future. Nevertheless, state administrative counties are likely to focus more on strictly defined objectives. In this process, the traditional functions: registration, supervision and administration, are likely to be re-emphasised. Nevertheless, the state county administration board in its present form is likely to be questioned.

1 SOU 1995:27, *Regional framtid*.

The effects of regionalisation are double-edged. Regionalisation may weaken the coherence of the state by reducing its functional capacity, resources and decision-making autonomy. On the other hand, it may enhance the autonomy and effective power of state elites by off-loading the more burdensome and less gratifying tasks[1]. Sub-national influence in a wider context is not merely a matter of penetrating the central state but of gaining leverage also in an international context.

Self-government capacity for sub-national collective action is, thus, not solely the product of the interplay between political institutions. Therefore, it is not easy to predict what impact differences in institutional design will have in terms of the capacity for deliberate actions. Networks of co-operation among sub-national units are likely to have a real impact on the chances for independent action. The central government may react to these challenges and play a more or less active role in the regionalisation process.

In relation to European institutions, there is so far no evidence that strengthening the intermediate (meso) level is a more successful measure than retaining strong municipalities. Diminishing financial resources in combination with further internationalisation of the economy, however, is likely to continue to provide strong arguments in favour of regionalisation. For instance, the organised business-community, particularly chambers of commerce have shown a growing interest in stronger regional institutions, West Sweden, Scania and the Stockholm-region are good examples of this trend. Actors in those regions have embraced the concept of "Europe of the regions" and are demanding institutions for governance that are strong enough to allow them to compete effectively with other regions in Europe. A basic argument is to achieve a better match between formal institutions and existing patterns of socio-economic interaction.

Regional mobilisation may start in defence of threatened sectors of the economy and subsequently develop to a modernising project. In the past a weak regional resource base could be compensated by obtaining resources through the intergovernmental system. Recently both the local and the intermediate tiers of government have been strained by fiscal hardship. This situation creates incentives for increased co-operation among politico-administrative units in order to reduce their costs. However, sub-national actors are also competing in order to retain or possibly expand their functions and resources. Therefore it is reasonable to believe that they want to create constellations of co-operation which strengthens their position in intergovernmental negotiations. This phenomenon is particularly evident around the major cities of Sweden.

1 Keating, M. (1992), *Regional autonomy in the changing state order*, Regional Politics & Policy, vol. 2, no. 3.

Multilevel networks of influence are gradually evolving towards institutionalisation. Currently the dilemma is that there is no widely accepted principle that could serve as a guideline for territorial reforms. On this point, the situation is quite different from the circumstances at the time of the massive amalgamations between 1952 and 1974. However, the still relatively homogenous socio-cultural structure of the country makes it fairly easy to sustain harmonious relationships between different areas. It has been possible to carry out considerable boundary changes without strong resistance. Territorial politics in Sweden have been both functional and informal in character.

In summary, national politicians seem to treat territorial politics with more caution than during the last three decades. They seem to realise that it is impossible to satisfy cultural, social, and economic demands simultaneously solely by the revision of boundaries and functions. Internationalisation and budget cuts are the most important factors which have been added to the range of arguments for a regional reform. Over the years the central government has been hesitant to provide the intermediate level with increased tax powers. It has also been reluctant to introduce regional elections with direct representation.

It is not surprising that the central government has chosen a gradual reform strategy where regions are expected to take form through horizontal co-operation and networking without an immediate formalisation of the emerging pattern of cross-boundary interaction. Thus Sweden is going through a regionalisation process without a widesweeping territorial reorganisation. So far the subsidiarity principle has no precise legal meaning within the Swedish context. It seems too general to be interpreted as a regulatory principle and too politised to be adopted as a legal principle. Subsidiarity is, however, a strong argument for regionalisation if it is extended to imply multi-level governance rather than retained state sovereignty *vis à vis* supranational institutions. It is safe to predict that the debate is likely to continue for some time to come.

SWITZERLAND

I. GENERAL INTRODUCTION

1. Territorial organisation

The Swiss federal system, whose origins and development is discussed in this report, comprises three levels of government: the Confederation; twenty-six cantons and half-cantons[1] (actually twenty-three cantons, three of which are divided into half-cantons), with power to decide how much autonomy their constituent units are to have; and finally the municipalities, almost 3 000 in number, which are the basic units.

In the beginning, power in Switzerland was exercised by the municipalities. At present, the powers of the Confederation and the cantons have a constitutional basis. Since 1848, when the federal state was founded, the Confederation's powers have steadily increased, reducing the autonomy of the cantons and municipalities. Although the constitutional amendments introduced for this purpose in the past were mainly intended to promote social justice and economic prosperity, and not simply to reduce the cantons' autonomy, the present tendency is to check centralisation and even to return certain powers to the cantons and municipalities.

In the Swiss federal system, all the public authorities control their own finances, and are guaranteed a certain independence. As a result, public affairs are managed more efficiently than they would be in a centralised system. Like the political parties and the voters, the municipalities play a part in the decision-making process, where their incomparable know-how allows them to make a special contribution. Being smaller than the cantons and the Confederation, they have to discharge their tasks flexibly and rapidly.

Swiss federalism rests on historical foundations which give it a solid base in the community. Though it has always had a three-tier institutional structure, its top (federal) level has changed considerably in the last few centuries.

There are two ways of creating a federal state: by bringing existing entities together to form a larger whole (e.g. Switzerland) or by dividing a given structure into smaller components.

1 Federated states.

Since the cantons were historical entities, their borders were not determined scientifically. Although many authors[1] favour a certain levelling of differences between federated states, allowing for variations in their size and power, the diversity found in Switzerland makes for some interesting contrasts. The half-canton of Appenzell Inner-Rhoden (Appenzell Inner-Rhodes) is a good example. It enjoys all the prerogatives of a canton, though it has a population of only 13 500.

Territorial adjustments between cantons are still very rare. In the past, such changes were made when an existing canton was divided or a new one created. Appenzell was divided into Catholic and Protestant parts at the Reformation; and Basel into "urban" and "rural" sections in 1833. Since then, many unsuccessful attempts have been made to reunite the two half-cantons of Basel.

Jura was separated from the canton of Bern in the late 1970s. The seven Jura districts, formerly the property of the Prince-Bishop of Bern, were "given" to the canton of Bern in compensation for the loss of other territories at the Congress of Vienna in 1815. The fact that Jura, a Catholic and French-speaking canton, was part of the Protestant and German-speaking canton of Bern, was a constant source of tension until the new canton of Jura was created in 1979. Before this step was taken, numerous plebiscites were organised in the territories concerned, and constitutional referendums held at Bern-cantonal and federal levels, to ensure that the the new canton would be accepted locally and nationally. In spite of these precautions, there is still some controversy - which shows how delicate an issue the modification of cantonal borders is.

2. Historical development

Swiss federalism is the product of pragmatism. In fact, the original cantons' main reason for uniting in 1291 was to protect their liberties against the Habsbourgs. They were gradually joined by neighbouring cantons, who saw the union as a means of strengthening their own positions. This was how the old Confederation - an association of thirteen cantons, three federations and various allies - came into being. It lasted until the end of the eighteenth century, when Napoleon occupied the country and founded the one and indivisible Helvetic Republic, modelled on the French Republic.

After five years of the Helvetic Republic, of which instability was the keynote, Napoleon enacted a constitutional charter, the Mediation Act, turning Switzerland into a federal state of nineteen cantons. After his fall, the cantons brought back most of the pre-1798 structures, thus inaugurating the Restoration. But this association of microstates, cocooned in its own sovereignty, proved incapable of weathering the structural changes that followed, particularly industrialisation.

1 See Uwe Leonardy, *German Federalism toward 2000: to be reformed or deformed*, to be published in Charlie Jeffery, ed., The Challenges of Unification: German Federalism in the 1990s (Pinter: London, forthcoming, 1996); see also the studies published by the South African border demarcation commission (1994).

As time went on, political dysfunction led to economic problems. For instance, there were so many customs checks and controls on the road from Geneva to Zurich that it made better economic sense to travel via France or Germany than through the Swiss cantons. For these reasons, and also in response to the July Revolution of 1830 in France, some cantons embarked on the process of political democratisation and economic liberalisation that became known as the Regeneration.

Opposition developed between two groups of cantons, one progressive, the other conservative. Generally, the progressive cantons were Protestant, liberal and in favour of a modern federal state inspired by the principles of the French Revolution. The conservative cantons were Catholic, oligarchic and anxious to preserve existing structures. They concluded a mutual defence pact known as the *Sonderbund* (Separatist League). The progressive cantons, which were in the majority, insisted on the minority's denouncing the pact. Their refusal to do so triggered the Sonderbund War of 1847.

The progressives' victory put an end to a long period of instability and disunity and led, in 1848, to the drafting of the first Swiss federal constitution, which was inspired by the Constitution of the United States and remains largely in force to this day.[1]

3. The constitutional equality of the cantons

Constitutionally, there is a remarkable degree of equality between the Swiss cantons.[2] This equality can be absolute or relative and, if relative, either commutative or distributive.[3]

Absolute equality, regardless of size and population, exists only at institutional level. This applies to cantonal voting on constitutional issues, exercise of the cantonal right of initiative, exercise of the cantonal right of referendum (eight cantons may call for a referendum, but this provision has never been applied), and the composition of the Council of States, on which each canton has two seats. The only exception is the half-cantons, which have only one representative on the Council of States (as compared with two for the cantons) and have only a half-vote in constitutional referendums.

1 The "Swiss Confederation" remains Switzerland's official name, although the country has not been a confederation since 1848.

2 Cf. Dietrich Schindler, *Die Gleichheit der Kantone* (The equality of the cantons), in *Recht, Staat, Gemeinschaft* (Law, state, community) (Zurich, 1948), pp. 147-162.

3 Relative equality can be commutative, when it contains an element of proportionality to the population of the cantons. This applies to all economic spheres (in the broad sense), where the differences between cantons can be considerable. Relative equality can also be distributive, i.e. try to correct economic inequalities through the instruments of financial equalisation (see below). On this issue, see Jean-François Aubert, *Traité de droit constitutionnel suisse* (A study of Swiss constitutional law), Idées et calendes (Neuchâtel, 1967), No. 564.

There is also absolute equality with respect to the (institutional) determination of the cantons' powers. The authorities of even the smallest cantons have the same prerogatives as those of the largest.

4. De facto inequality between cantons

Institutionally equal, the cantons are not all equal in physical and economic terms (size, population, income, taxation, etc.).

For example, their size varies from 7 105 km^2 (Graubünden) to 207 km^2 (Zug), i.e. the largest is 34 times bigger than the smallest (or 192 times, if one includes the half-canton of Basel-Stadt, which has an area of 37 km^2). Population density varies from 5 315.5 inhab./km^2 (Basel-Stadt) to 25.2 inhab./km^2 (Graubünden), i.e. by a factor of 212.

Cantonal revenue also varies considerably. In 1991, the canton of Zurich had revenues of 65 billion Swiss francs, while Appenzell-Inner Rhodes had 444 million (146 times less).[1] But these differences are also subject to change. As shown below, by comparison with other cantons, Neuchâtel went in a few years from being a "rich" to being a "poor" canton. The statistics also show income growth differentials between cantons from 1990 to 1991, ranging from 8.7% growth for Lucerne to only 4.2% for Ticino. In spite of financial equalisation (see below), the economic differences between cantons continue to grow.

II. DIVISION OF FUNCTIONS BETWEEN THE FEDERAL AND CANTONAL LEVELS

The division of powers between the central state and its federated constituents is an essential element in all federations. In Switzerland, this division has always followed pragmatic lines. There are numerous shared powers, which are exercised both by the Confederation and the cantons. Article 3 of the Federal Constitution states that "the cantons shall be sovereign, insofar as their sovereignty is not limited by the Federal Constitution and, as such, shall exercise all rights which are not delegated to the federation". This means that the federation may legislate only in areas explicitly mentioned in the Constitution; areas of activity which are not mentioned in the Constitution are the responsibility of the cantons. In other words, the cantons have both primary and residual powers. They have power in all areas where the Confederation does not. In simple terms, there are five types of division of powers, ranging from "all to the cantons" to "all to the Confederation". Thus, there are areas where:

- The Confederation has no powers, and the cantons have exclusive legislative authority.

1 Provisional figures. See *Annuaire statistique de la Suisse 1994* (Statistical yearbook for Switzerland, 1994) (Zurich, 1993), p. 133.

- The Confederation and the cantons have parallel powers (e.g. taxation, civil and criminal procedure, state organisation), and both may legislate.

- The Confederation has parallel legislative powers, but these are restricted to laying down principles. It has power to pass outline laws; e.g. on forestry (Art. 24 of the Constitution), hunting and fishing (Art. 25), and land zoning (Art. 22 quater). In these areas, the cantons still have power to legislate, but this is subject to restrictions.

- The Confederation has parallel powers which are not restricted to principles, when it legislates comprehensively in certain areas: civil law, copyright, prosecution and bankruptcy (Art. 64), criminal law (Art. 64bis), and labour law (Art. 34ter). In these areas, the cantons have no independent powers, once the Confederation has legislated "comprehensively" and, in effect, dealt fully with the question. Nevertheless, they retain some limited legislative powers, being free to legislate on questions which have not been comprehensively dealt with by the Confederation.

- The Confederation has exclusive powers in matters of national defence (Arts. 18-22), customs (Arts. 28-29), railways (Art. 26), postal, telegraph and telephone services (Art. 36), money (38-39), and foreign relations.[1]

1. The cantons' legislative powers

The cantons' legislative powers vary from slight to exclusive.

- **Civil law** illustrates the transfer of powers from the cantons to the Confederation. The Confederation adopted the Civil Code in 1907 and the Code of Obligations in 1911. The matters on which the cantons may legislate are extremely limited. In a very few cases, the Civil Code and the Code of Obligations delegate certain powers to them. For example, Article 52, para. 1, of the final chapter of the Civil Code states that "the cantons shall issue the additional regulations required for implementation of the Civil Code, particularly concerning the powers of public authorities, and organisation of the services responsible for civil status registration, guardianship and land registration"; and Art. 55, para. 1, states that "the cantons shall determine details of the requirements for correct procedure on their own territory". In the field of **criminal**

1 This last point is not explicitly covered in the Constitution, but theory - and practice - agree that the Confederation's power to conclude international treaties gives it authority in the matter of foreign relations.

law, which was unified when the Criminal Code was adopted in 1937, the cantons have delegated power to prosecute for certain crimes to the Confederation.[1] Both in civil and criminal law, procedure remains a matter for the cantons, and so varies from one to another.

- It is in matters of **public law** that the cantons have been able to keep a measure of legislative independence, which varies greatly from one sphere to another. In areas of public law where the Confederation has merely passed outline laws, the cantons have some legislative powers, for example concerning regional planning, forestry, hunting, fishing and the procedure for naturalising aliens. They may also legislate in areas where the Confederation has parallel powers, such as their own political organisation, recognition of political rights at cantonal level, organisation of the courts, civil, criminal, and administrative procedure, and tax law.

- The cantons have exclusive power to legislate in certain areas: public policy, church-state relations, public education, culture and the arts, building law, public works, public health, and fire services.[2]

2. Executory Federalism

Swiss theory and practice both recognise that the federal legislator may delegate power to enforce federal law to the cantons even when this is not explicitly provided for in the Constitution. This system is known as "executory federalism" (*fédéralisme d'exécution*) and has become a basic feature of Swiss federalism. It gives the cantons a certain independence, even in areas where federal law applies. The actual scope of this autonomy depends on how detailed and how precisely worded the federal law is.

In areas where the Confederation is responsible for legislating, it shares judicial powers with the cantons, especially in matters of civil and criminal law. Since procedure is a matter for the cantons - and despite the fact that the Civil and Criminal Codes were established by the Confederation - civil and criminal cases go first to the cantonal courts. The Federal Court ensures that federal law is uniformly applied, but application itself is the cantons' responsibility.

The same applies to application of the law by administrative authorities. In some areas (e.g. customs duties, railways, postal services), the Confederation legislates, takes decisions and implements them (through federal officials). In others, laws passed by the Confederation are enforced by the cantons

1 The only exception is provided for under Art. 335, para. 1, which states that "the cantons shall retain power to legislate on minor offences which are not covered by federal law". This article has allowed the cantons to legislate on punishing such offences as fraud, throwing dangerous objects, and the defacing of (official and other) public notices. Cf. *Code pénal du canton de Neuchâtel* (Criminal Code of the canton of Neuchâtel), 20.11.1940, RSN 312.20.

2 The situation is often very complex. Public education may be a cantonal matter, but primary schools are essentially the responsibility of the communes, while end-of-school exams are regulated by the Federation.

(executory federalism). In certain cases, the Constitution explicitly instructs the cantons to enforce federal law: civil defence (Art. 22bis, para. 2), nature conservation (Art. 24septies, para. 2), animal welfare (Art. 25bis, para. 3), or national highways (Art. 36bis, para. 2).

3. Co-operative federalism

It would nevertheless be wrong to assume that executory federalism ("downward phase") totally excludes the cantons from the decision-making process at federal level ("upward phase"). The cantons have a voice through so-called co-operative federalism, which is embodied in agreements (i.), consultation procedures (ii.) and horizontal relations between cantons (iii.).

i. **Agreements**: Under Art. 7, para. 2 of the Constitution "the cantons shall have the right to conclude among themselves agreements concerning matters of legislation, justice and administration [...]". These agreements are considered the main instruments of co-operative federalism. They are still relatively rare, but are becoming commoner as problems calling for intercantonal co-operation increase. They enable the cantons to solve certain problems among themselves without involving the federal authorities. The drawback is that they require a complex procedure. Negotiating and signing an agreement between up to twenty-six parties is anything but easy. Obviously, when the cantons cannot reach a solution on their own, the Confederation may propose uniform and centralised regulations.

ii. **Consultation procedures**: All federal bills have to go through a consultation procedure (*Vernehmlassung*) which allows the cantons to voice their opinions. The results are taken into account when the bill is being finalised for submission to parliament.

iii. **Horizontal relations between cantons**: Mention should be made here of the Conferences of Cantonal Directors (Conférences des directeurs cantonaux) of specific administrative departments (e.g. health, public education, justice and police, finance). The directors are the policy-makers (ministers) at cantonal level. There are some ten Conferences, and they also enable the cantons to co-ordinate their positions *vis-à-vis* the Confederation. Noteworthy here is the establishment of the Conference of Cantonal Governments (for which the "Swiss Foundation for Confederal Co-operation" acts as secretariat) in 1993. The new financial equalisation measures which are now being prepared are intended to intensify inter-cantonal relations (see section 6 below).

4. Changes in the division of powers

The division of powers between the Confederation and the cantons is constantly changing, and has been the subject of 80 out of a total of 116 constitutional amendments. The main effect of these amendments has been to confer new powers on the Confederation.[1]

These new powers have concerned such questions as social security: health and accident insurance (1890); old-age and survivors' insurance and disability insurance (1925 and 1972); maternity insurance (1945, but still not fully implemented in 1996); unemployment insurance (1947 and 1976); protection of workers (1908 and 1947); tenants' rights (1972) and consumer protection (1981 and 1982).

The trend has been exactly the same in the transport field. The Confederation has had certain powers concerning railways since 1848. Others were conferred on it later, concerning river, lake, and maritime navigation (1919), air travel (1921), motor cars (1921) and, finally, motorway construction (1958).

In the Federation's early years, it proved necessary (since this was not an automatic process, as it is in many other countries) to transfer to it two essential monopolies: alcohol (1885) and the issuing of banknotes (1891). Later, federal action was needed to guarantee national wheat supplies (in 1929, but without a monopoly) and to cope with the economic crisis of the 1930s. These powers of economic intervention opened the way to similar powers in the tax field. In fact, power to levy taxes was granted to the Confederation during the two world wars, first by emergency decree and then through ordinary legislation.

The pragmatic nature of this trend is evident in the tendency to give the Federation parallel powers in a steadily growing number of areas. Federal powers in the matter of forestry are a good example: initially, these were restricted to high-altitude forests, but they were extended to the entire national territory in 1897, and were afterwards seen as a first step towards giving the Federation powers relating to inland waters (1908, 1953 and 1975), regional planning (1969), and protection of the environment (1971).

The transfer of powers to the Confederation has sometimes been rejected, notably when further centralisation of the army (1895) or the creation of an integrated school system for the whole country (1973) were the issues. Powers concerning energy were denied the federal government on several occasions (particularly in 1983 and 1984), but were finally approved by referendum in 1990.

1 So much so that J.F. Aubert was able to write in 1967: "the cantons are a mere shadow of what they were in 1848".

This brief outline makes it clear that the transfer of cantonal powers to the Confederation is not politically motivated, but simply the product of circumstance. The cantons were pragmatically willing to delegate some of their authority when they considered that they could no longer manage certain matters themselves, and when the need for sound legislation and effective management made it necessary to transfer certain powers to a higher authority. However, when a proposal that naturalisation be made easier for young foreigners was rejected in a referendum, some cantons which had supported the measure suggested that certain powers be returned to the cantons. Had it been accepted, this proposal would have affected the current trend towards the centralisation of powers substantially.

III. THE STATUS AND SITUATION OF LOCAL AUTHORITIES

The smallest political entity is responsible for such fundamental questions as housing, training and education, employment, leisure, health and social insurance. Nevertheless, the ways in which the municipalities are organised differ considerably (concerning the delegation of powers, procedures, funding plans and even local autonomy).

1. Guaranteeing local autonomy

Local autonomy is not guaranteed by the Federal Constitution or even mentioned in it. As far as the Confederation is concerned, the municipalities are entirely answerable to the cantons. Only in exceptional cases are they the direct object of federal laws, decrees or programmes. This perfectly illustrates the dual nature of Swiss federalism: the strict separation between federal and local government underlines the cantons' cardinal role, both as centres of social and cultural pluralism within cantonal democracy, and as bridges between national and local government.

Nowadays, the Confederation's powers may be growing at the cantons' expense, which may also affect the municipalities, but the Federal Court protects their powers.[1] Thus neither the federal nor the cantonal governments have the right to interfere with the municipalities' local autonomy unless they have a constitutional or legal basis for so doing.

2. Organisation of the municipalities

There are almost 3 000 municipalities in Switzerland, with some considerable differences between them. Zurich is the largest, with a population of more than 300 000, while the smallest, La Magne, in the canton of Fribourg has a population of 35. Yet all the municipalities have their own institutions, which are subject to cantonal control. Most have two bodies: an executive body, usually called the communal council (*Conseil communal*, though the name can vary), which is elected by the citizens and has between 5 and 10 members; and the citizens' assembly (*assemblée des citoyens*) or communal assembly (*assemblée communale*).

1 In a 1963 case, it guaranteed local autonomy, as granted by the Constitution or cantonal laws, ie the communes' power to act in the legislative and executive fields, provided that they actually used this power and that the matter at issue did not require state supervision. This case law was added to in 1967.

Large municipalities normally have an elected communal parliament, known as the general council (*conseil général*) instead. When a parliamentary body of this kind exists, the institutions of direct democracy (initiative and referendum) must still be maintained.

3. Powers of the municipalities

Functions which are not explicitly assigned to the Confederation or the cantons fall to the municipalities. They are also responsible for managing their financial and administrative assets. For this purpose, they prepare accounts in accordance with the general rules laid down by the cantons. They also prepare budgets and submit them to the supreme local authority, usually the communal assembly. Financial control is first exercised by the local finance committee, and the accounts are then examined by the relevant cantonal authorities. The municipalities have their own resources and may dispose of them as they see fit. Most of their revenue comes from taxes and levies, and they use it to build local roads, public facilities, water-treatment plants, primary schools, and so on. They are now taking on new responsibilities relating to social work, education, regional development, environmental protection, sport, leisure, culture and health. Their autonomy rests on cantonal constitutional law, on specific cantonal laws and statutes, and even on customary law. Nevertheless, their situations still vary widely. Some cantons, particularly German-speaking cantons, give their municipalities considerable autonomy, while others, mostly French-speaking, prefer a more centralised approach.

4. Solidarity and co-operation between municipalities

Traditionally Swiss municipalities are small, usually too small to provide local public services efficiently and cheaply, as a comparison of the population thresholds for certain benefits makes clear.[1] Co-operation between municipalities is the only way of overcoming these weaknesses, unless there is enough political determination and money to make this unnecessary. Intercommunal co-operation has not so far led to a system of financial equalisation: this still applies only between cantons, and between cantons and the Confederation.

IV. REGIONALISATION AND THE SUBSIDIARITY PRINCIPLE

Although the organisation and distribution of functions and funds varies from canton to canton, it is safe to say that the division of powers between the three levels of government follows the subsidiarity principle. For pragmatic and historical reasons, functions are transferred to the next level of government only when the lower level is not, or is no longer, able to discharge them. Some Swiss observers also claim that differences in size and capacity make it impossible to apply the principle to the division of responsibilities overall. Attempts to incorporate it formally have failed.

1 Swiss local government areas have an average population of 2 100. This is one of the smallest in the OECD countries, after France (1 500 inhabitants) and Greece (1 700 inhabitants).

V. THE VIEWPOINT OF THE MUNICIPALITIES

It is hard to express the municipalities' viewpoint in a general sense, since their status varies significantly from one canton to the next. However, one common feature does stand out: they cling to their existence, a point made abundantly clear by the problems encountered whenever a merger is attempted.

The canton of Fribourg comprises 254 municipalities, many of them very small. The great majority have between 100 and 1 000 inhabitants. There is some doubt as to whether the smallest are viable, since - unless they have a large taxpayer - their tax revenues are insufficient to cover their infrastructure expenses. None the less, it is extremely difficult to persuade the citizens to accept a merger for reasons of efficiency. They are deeply attached to their municipalities.

In 1995, after twenty-five years of discussion, a bill aimed at securing a large-scale merger of four municipalities was presented in the canton of Fribourg.

VI. INTERCANTONAL FINANCIAL EQUALISATION

1. Intercantonal financial equalisation

The system of financial equalisation works relatively well, but it has weaknesses, and the present stagnation of the economy aggravates them. Some inequality is inevitable in any federal system. For all sorts of reasons, some regions are more favoured than others. This raises a question: to what extent can these inequalities be accepted and, conversely, to what extent can they be corrected without encroaching on the independence of the federated states?

1.1. Essence and concept of financial equalisation in the strict sense

Financial equalisation is essentially based on the principles of solidarity between cantons, especially rich and poor cantons, and equal opportunity. It embraces all transfers of funds - vertical and horizontal - between public authorities, and also the division of the corresponding functions.

Both functions and funds may be allocated in three different ways:

- by dividing powers: the authority which exercises power also meets the costs involved. When a new power is assigned to the Confederation, the cantons are relieved of financial responsibility in this area, but also lose some of their sovereignty;

- by sharing revenue;

- by using fund transfers between territorial authorities to reduce the differences. Financial equalisation in the strict sense corresponds to this third method. It includes transfers between public authorities - both vertical, between the Federation and the cantons, and horizontal, between cantons - and other measures to equalise resources. The implications of financial equalisation go well beyond the merely economic and financial. Achieving a fair division of powers, which is the ultimate goal of federalism, is above all a political and legal problem.

1.2. Implementation

If one looks at cantonal revenue trends in the decade from 1986 to 1996, one finds that income rose gradually up to 1987, was stable from 1988 to 1989, and has plunged spectacularly since 1990. It should be noted that cantonal expenditure rose from 27.7 thousand million Swiss francs in 1984 to 48.3 thousand million in 1992, an increase of 57%, with no corresponding rise in the consumer price index, while taxation's contribution to revenue fell steadily, from 55% in 1984 to just 51% in 1992. In the 1980s, many cantons eased the tax burden, especially by increasing allowable deductions and correcting defects in the tax-bracket indexing system. Overall income has not kept pace with overall expenditure. Dick Marty maintains that the financial crisis is structural and due both to a rise in expenditure and to the introduction of new functions in the 1980s.[1] The economic situation in 1996 bodes ill for a recovery in the near future. New requirements in the social security field, resulting from unemployment and a rise in life expectancy, are another factor which needs to be considered. The fact that the unfavourable financial situation hits the Confederation, the cantons and most municipalities equally hard, makes the whole question of federal solidarity and financial equalisation between cantons even more vital.

- ***The division of financial powers***

Art. 42ter of the Constitution states that "The Confederation shall encourage financial equalisation between the cantons. In particular, the financial capacity of the cantons and the situation of mountain regions shall be given special consideration when federal subsidies are being granted".[2] The equalisation system was above all developed in response to transport problems in the alpine cantons.

1 Dick Marty, *Problemi della compensazione intercantonale* (Problems of intercantonal compensation), in Archiv für Schweizerisches Abgaberecht, Vol. 62, No. 3 (September 1993), p. 101.

2 This article is supplemented by the Federal Act on Financial Equalisation between the Cantons of 19 June 1959, RS 613.1.

This provision applies not only to direct financial equalisation between cantons, but also to proper distribution of subsidies, in accordance with the financial capacity of the cantons. Nevertheless, this principle only holds when the relevant federal laws do not dispose otherwise, which means that it does not apply to some important federal subsidies.

- ***Assessing the cantons' financial capacity***

The index used to calculate the cantons' financial capacity plays an important role. However, measuring the financial capacity of a given authority raises a number of fundamental problems.[1]

Between 1959, when it was introduced, and 1990, the cantonal financial capacity index was modified six times[2], and used sixteen different indicators. The present method relies on four indicators:[3]

- *cantonal income* per inhabitant;

- *fiscal strength*, i.e. the cantons' and municipalities' tax receipts per inhabitant weighted by each canton's overall tax burden index;

- *tax burden*, i.e. the inversely proportional tax burden index, covering all cantonal and communal taxes, and including ancillary taxes (on real estate, inheritance and donations, and property transfers), as well as income variations resulting from price increases;

- *mountain zones*, i.e. the average between non-mountainous cultivable land as a percentage of the total cultivable area and the number of inhabitants per km² of total area, not including uncultivated or inaccessible land, lakes and rivers. Concerning population density, index figures exceeding the Swiss average are rated at 100.

- ***The instruments of federal financial equalisation***

Financial equalisation in Switzerland relies on three types of transfer.

1 See Bernard Dafflon, *Intergovernmental Equalization in Switzerland*, University of Fribourg, Faculty of Economics, Working Paper No. 162, 1990; see also Jack Wiseman, "Principles of Political economy: An Outline Proposal, illustrated by Application to Fiscal Federalism", in *Constitutional Political Economy* (Fairfax, 1990), p. 101.

2 In 1966, 1970, 1972, 1974, 1978 and 1986.

3 Regulation on the cantons' financial capacity for 1994 and 1995, of 29 November 1993, RS.

a) *The cantons' share of federal revenue*:

These shares are allocations made to the cantons from federal income, and particularly tax income. They are the cantons' by right and are not earmarked for specific purposes. The main funds to which the cantons are entitled are: the proceeds of the national defence tax (now a direct federal tax), net proceeds from anticipated tax, fuel import duties, the military service exemption tax, and income from the federal monopoly on alcohol. A share of the net profits of the Swiss National Bank also goes to the cantons. Allocations are determined by financial capacity.

Direct federal tax (DFT):

The cantons receive 30% of the gross yield on DFT; 13% is distributed in accordance with financial capacity, with the canton's population as the multiplying factor.

Anticipated tax (AT):

The cantons receive 10% of the gross yield on AT; 5% is shared out in accordance with financial capacity if this is below 100 points, with the canton's population as the multiplying factor.

Fuel import duties:

A 50% share of standard duties is first of all allocated to the Confederation's general reserve. The remaining 50% and all ancillary taxes are used to finance road construction. Of this latter total, 12% is earmarked for non-technical measures, with 7% of this being used for international alpine roads and cantons without national highways, and 93% for general repayments. Equalisation affects 42% of this 93%. Funds are allocated in accordance with the financial capacity of cantons with an index rating of less than 100 points. The cantons' expenditure on roads and the length of its road network are used as the multiplying factor.

b) Cantonal contributions (or repayments) to certain federal social outgoings[1]

- *Old-age and survivors' insurance (OAI), disability insurance (DI):* the cantons contribute 3% of total expenditure on OAI. They also contribute 12.5% of total expenditure on DI. In both cases, the contribution is scaled down in accordance with the financial capacity index (the index scale being previously adjusted to a minimum of 50 instead of 30 points). The total sum spent on pensions by the canton is used as the multiplying factor.

1 Refunds or rebates offset expenses incurred by the cantons under federal law.

- *Agricultural family allowances (child benefit) (AFA)*: The cantons cover a third of the annual AFA deficit. Cantonal contributions are reduced proportionately if the per capita DFT yield is less than 80% of the Swiss average and if the average contribution per farm in a given canton exceeds the average contribution per farm for all the cantons taken together.

c) Subsidies from the Confederation to the cantons: These are financial aid or allowances granted by the Confederation to parties other than federal authorities. The recipients may be individuals or public authorities, including cantons. Unlike share-quotas, these subsidies are usually granted for specific purposes and on certain conditions.

In their report, the experts studied twenty-nine functions, involving thirty-five subsidy systems. These functions include all subsidies paid to the cantons and established as theirs (apart from subsidies for universities and national highways). The law sets a base rate and an "equalisation supplement" rate for every subsidised function or task. The equalisation supplement is determined by the canton's financial capacity index rating.

1.3 A few figures

Funds transferred from the Confederation to the cantons and from the cantons to the Confederation for financial equalisation purposes amounted to 7 596 million francs in 1990. Subsidies and refunds are the principal instruments of the Confederation's financial equalisation policy. [1]

The "equalising" effects have been estimated at 1 235 million francs, or some 16% of the total. They can be broken down as follows: 46% for the cantons' share of federal revenue; 7% for their contributions to federal expenditure; and 47% for subsidies.

Since funds transferred from the Confederation to the cantons represent approximately 22% of the cantons' budget resources, equalisation accounts overall for less than 3.5% of total budgets. This is too small to compensate even partly for existing financial disparities between the cantons' public sectors. Added to this is the fact that cantonal per capita income differentials increased between 1965 and 1990.

1.4. Residual expenditure

A canton given the basic subsidy for a specific purpose gets an "equalisation supplement" as well. But it must also have the financial capacity to cover the balance or residual expenditure (in other words, the total amount, minus the subsidy and the "equalisation supplement").

1 A 1985 figure shows that funds transferred to the cantons totalled 5 947 thousand million Swiss francs, including 4 291 thousand million francs in subsidies and refunds.

Residual expenditure on subsidies carrying an equalisation component of 1 613 million francs came to 3 327 million francs. The Confederation thus covers approximately one-third of total subsidised expenditure, and the cantons two-thirds. There are, however, considerable variations between cantons.[1]

Moreover, it is the poorest cantons which have to spend most to obtain equalisation funds. This runs counter to the stated aims of the equalisation policy. Besides, the subsidy system encourages the cantons to focus their resources on tasks which are subsidised by the Confederation, and this distorts their allocation of funds.

2. Criticisms of the present system[2]

It must be recognised that not all fund transfers achieve their aim of reducing inequalities between the cantons. There are certain inherent flaws in the Confederation-cantons transfer system, which lacks a clear and coherent direction. Many isolated measures are taken with no co-ordination and contradict one another. The machinery is too complex and inflexible. Equalisation payments often come "with strings attached", whereas non-refundable subsidies are likelier facilitate a more rational allocation of funds. The present financial equalisation system is also very costly in administrative terms.

On the basis of a study prepared by the Federal Finance Authority, the Conference of Cantonal Finance Directors has identified the main weaknesses of the present intercantonal equalisation system, which unintentionally favours the cantons which are already strongest. It is the two main elements in the transfer system, the Confederation's contributions and the cantons' share in direct federal taxes, which run into redistribution problems.[3] Moreover, most of the Confederation's contributions are conditional on the cantons' undertaking to cover the residual expenditure.

1 Bernard Dafflon, Working Paper, pp. 38 ff.

2 Cf. the recent study by René Frey, Andréa Spillman, Bernard Dafflon, Claude Jeanrenaud and Alfred Meier, *La péréquation financière entre la Confédération et les cantons* (Financial equalisation between the Confederation and the cantons), commissioned by the Federal Finance Authority (Administration fédérale des finances) and the Conference of Cantonal Finance Directors, of 31 March 1994.

3 54% of all transfers are contributions from the Confederation. Surprisingly, however, barely 20% of contributions are apportioned with reference to the cantons' financial capacities.

3. Ways of improving the situation

It is highly desirable that the present system of tied transfers should be replaced by one in which funds can be used freely (grants). To make this possible, tasks would have to be better divided between the Confederation and the cantons. This was already adumbrated in the "First set of proposals for a redivision of functions between the Confederation and the cantons" (1979 to 1984).[1] These proposals led to no substantial reorganisation of powers, and tied subsidies to the cantons still play an important role in Switzerland. It remains to be seen how far they can also be used as instruments of horizontal financial equalisation.

Peter Saladin suggests that the cantons' share of federal tax revenue, which is not tied, should receive more attention than the many subsidies which are designed to relieve specific financial burdens.[2] Swiss financial experts are agreed that the Confederation should subsidise only cantonal activities that concern the whole country or at least a whole region (spillovers) and, in certain cases, functions which it has itself delegated to the cantons. Equalisation in its present form must be corrected and developed into a system of fixed, unconditional subsidies.[3]

Saladin argues that there should also be more horizontal equalisation, since the difference in financial capacity between strong and weak cantons is so great that it robs the principle of Confederal solidarity of all credibility in the long term, while unduly reducing the autonomy of the weakest cantons.

4. A new system of federal financial equalisation[4]

The proposed new equalisation system has two general aims: to disentangle the functions and powers of the Confederation and the cantons, and also to increase the cantons' financial capacity, thus giving them more room for manoeuvre. These general aims dictate the five main features of the new system:

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1 Premières propositions en vue d'une nouvelle répartition des tâches entre la Confédération et les cantons, Report of 31 July 1979 by the Study Commission, Federal Justice Bureau (Office fédéral de justice), Bern, 1979.

2 Peter Saladin, *Commentaire de la Constitution fédérale de la Confédération suisse* (Commentary on the Federal Constitution of the Swiss Confederation) (Basel, Zurich, Bern, April 1986 status), Vol. I, Art. 3, p. 23.

3 This argument matches the B. Dafflon's conclusion (Working Paper, p. 45), but overlooks the significant incentive function of federal subsidies, and so needs to be adjusted, at least to cover this point. The distribution formula advocated by Dafflon is that which applies to direct federal taxes.

4 *La nouvelle péréquation financière entre Confederation et cantons: Lignes directrices* (The new system of financial equalisation between the Confederation and the cantons: Guidelines), Report on organisation of the project jointly launched by the Federal Department of Finance and the Conference of Cantonal Finance Directors, Bern and Lucerne, 1996.

- Broad separation of federal and cantonal functions:

The intention (or proposal) is that functions currently exercised by both should, as far as possible, be entrusted either to the Confederation or to the cantons. Exclusive powers would stay with the Confederation in eight areas, and be given to the cantons in twenty-one (where the Confederation would have no authority to order or direct).

- Intercantonal co-operation coupled with cost-sharing:

Such co-operation would be compulsory in eight areas. The cantons would co-operate in providing certain services, with no direct contribution, financial or other, from the Confederation.

- Separation of federal and cantonal powers:

In cases where the Confederation and the cantons continue to exercise joint functions, their respective powers are to be clearly defined. The Confederation will be responsible for strategic, the cantons for practical management.

- Freely-disposable, rather than tied funds for the cantons:

The new equalisation system will give the cantons a stronger independent funding base. They are to dispose freely of much of the funds previously allocated for specific purposes.

- New arrangements for equalisation of resources between cantons:

These are intended to reduce disparities between cantons and guarantee them minimum funds of their own, provided by the Confederation. The new system will be more direct and transparent, and will be easier to monitor. It will be based on a new financial capacity index, exclusively determined by the cantons' funding potential. The basic idea behind the project is that each level of government is to take on the role which it is empowered and equipped to fulfil - the result being rational realisation of the subsidiarity principle. This will allow the cantons to show more responsibility in managing their own affairs. In general, the new equalisation system will open the way to substantial benefits and innovations for the various institutional and administrative authorities. It also answers the current demand for state intervention which is as "light" as possible, focused on clear objectives, and effective. This project is still in the early stages and needs to be worked out in greater detail before it goes to parliament.

VII. FINAL REMARKS

1. Present trends at municipality level: co-operation, mergers

Looking at recent laws in general terms, one notes a desire to legislate at municipality level, particularly on the various aspects of intercommunal co-operation and the division of functions. Of course, the powers of municipalities differ between cantons, which do not all have the same problems (e.g. the canton of Basel-Stadt, which has only three municipalities).

Co-operation between municipalities must be reinforced. In the canton of Fribourg, for example, a change made in the law on 1 November 1995 sets out to extend and strengthen co-operation between municipalities by making associations of municipalities more effective and transparent. The amended law provides, among other things, that associations of municipalities may pursue several aims, that delegates to them should in principle be members of communal councils, that substantial changes in their articles of association must be approved by two-thirds of their member municipalities, and that conditions for intervention by cantons to ensure co-operation are to be made more flexible.

The growth of intercommunal co-operation in Switzerland is the result of the excessive splitting up of municipalities. Its aim is effective management of certain local public services despite the small size of municipalities. At the same time, the proliferation of *ad hoc* co-operation bodies deprives direct democracy of some of its substance and makes the collection of information and taking of decisions more costly. Is this the birth of a fourth level in the federal structure, between municipality and canton, making the federal system even more complex?[1] The merging of municipalities may offer an alternative here, also in terms of democracy, provided that citizen proximity to the grass-roots political authorities is preserved.

2. Present trends at federal and cantonal level

When cantons are small, they find it hard to meet the challenges they are now facing. This is why new groupings of cantons, which have been set up all over the country, are taking in ever greater areas: an example is the Lake Geneva Grouping (Espace lémanique), comprising the cantons of Geneva and Vaud, whose fourteen representatives met for the first time in 1994, essentially for the purpose of discussing their differences.

The Mittelland Grouping comprises the cantons of Bern, Solothurn (Soleure), Fribourg, Neuchâtel and Jura. A governmental committee meets every three months, and senior civil servants also attend. The committee has a permanent secretariat and is funded in accordance with a scale on which Bern covers two-thirds of the costs. It scored its first major success when it was given the task of organising the National Exhibition in 2001.

1 The canton of Fribourg is heading in this direction with a proposed bill on towns, aimed at creating a sort of intermediate structure between the canton and the communes.

Since 1966, the Central Switzerland Grouping has brought together the cantons of Uri, Schwyz, Obwalden, Nidwalden and Zug. At international level, its members have decided to join the Assembly of European Regions as a group, with one canton representing all.

Since 1971, the Northwest Grouping has represented the cantons of Basel-Stadt, Basel-Land, Aargau and Solothurn. When joining the European Economic Area (EEA) was voted down in 1992, it issued a declaration of principle, advocating an open-door policy at regional and intercantonal level. Since then, it has tried to ease boundaries and bring its members closer together. Its being there already in no way hindered the emergence of the Mittelland Grouping, in which Bern and Solothurn are trying to generate an even more powerful regional dynamic.

The Eastern Switzerland Grouping comprises Sankt Gallen, Glarus, Thurgau, Schaffhausen, Appenzell (Inner- and Ausser-Rhoden) and Graubünden.

Co-operation between cantons often tends to extend beyond national boundaries and connect with transfrontier co-operation. For, while foreign policy proper is a matter for the Confederation, cantonal initiatives are welcome. "The cantons may conclude foreign treaties in all areas which fall within their competence". [1]

One might expect these transfrontier alliances to be internally divisive and to act as a centrifugal force. In fact, they also encourage the cantons to come closer together. Most cantonal governments have realised, for example, that they cannot face giants like Bavaria and Baden-Württemberg on their own. There are various overlapping co-operative bodies in the Lake Geneva area, the largest being the Lake Geneva Council (Conseil du Léman), followed by the Franco-Genevan Committee (Comité franco-genevois). Moreover, co-operation between the various entities in the greater Geneva area has resulted in a cross-border underground rail project. The Jura region has the Jura Working Community (Communauté de travail du Jura). The Upper Rhine region has the Franco-German-Swiss Commission (Commission franco-germano-suisse), the Upper Rhine Conference (Conférence du Rhin supérieur) and the Regio Basiliensis. The International Conference for Lake Constance (Conférence internationale du Lac de Constance) brings together the regions on the lake. In Switzerland south of the Alps, there is cross-border co-operation within the Insubrian Region (Région Insubrienne), which takes in the canton of Ticino and the Italian provinces of Varese and Como. Three Alpine associations have also been set up: the oldest is ARGE ALP (the Alpine Regions Working Community), followed by ALPEN ADRIA for the Eastern Alps, and COTRAO for the Western Alps.[2]

1 *Rapport sur la coopération transfrontalière et la participation des cantons à la politique étrangère* (Report on transfrontier co-operation and cantonal participation in foreign policy), 7 March 1994. Feuille fédérale (Federal Gazette) vol. II (1994), pp. 604-652.

2 For further details, see Feuille fédérale, vol. II (1994), pp. 620-629.

The most notable expression of the new desire for inter-cantonal dialogue is the Conference of Cantonal Governments. It was set up in October 1993, succeeding a cantons/Confederation contact group (which still functions) and reflecting the cantons' wish to have a bigger say on both domestic and international issues. This new co-operation body has already scored some successes - for example, the cantons are participating in the work at present being done on total revision of the Federal Constitution. At the Conference's request, a cantonal representative sat on the committee responsible for preparing the document, "Reform of the Federal Constitution: Results of the Consultation Process"[1]. Through the Conference, the cantons also hope to play a more active role in foreign relations, particularly with regard to European integration. In October 1994, an agreement was concluded, giving the cantons representation on the federal authority responsible for this question (the Integration Department/Bureau de l'Intégration). They now have an information delegate on this authority. Similarly, before giving the Federal Council their views on implementation of the Uruguay Round (GATT/WTO), the cantons co-ordinated their position within the Conference. The Conference is also supporting the Federal Council in its efforts to bring the authorities and the public closer together. These examples confirm the present trend in Swiss federalism, which is towards a pooling of effort at regional level for the sake of greater efficiency.

1 *Réforme de la Constitution fédérale. Résultats de la procédure de consultation*, published by the Federal Bureau of Justice and Police (Département fédéral de justice et de police), Bern, 1996.

UNITED KINGDOM

I. INTRODUCTION

The United Kingdom has over 55 million inhabitants. It is one of the most densely populated countries in Europe. Within the UK, England is in terms of population predominant, some 83% of the population live there. Scotland, Wales and Northern Ireland have respectively 9,5 and 3% of the UK population.

Since 1707 England, Wales and Scotland have been ruled by the same parliament and national government in Westminster and Whitehall, based in London. After the partition of Ireland in 1921, Northern Ireland had its own parliament (based at Stormont) until 1972, when the Northern Ireland Government resigned and direct rule by the UK Government began. Under the Northern Ireland Act 1974, the UK Parliament approves all laws for Northern Ireland with relevant functions being under the control of a UK Cabinet Minister, the Secretary of State for Northern Ireland. Since then Northern Ireland has been ruled directly through a Northern Ireland Office, headed by this Secretary of State.

The United Kingdom is a unitary state. Sovereignty is exclusively located in parliament. However the UK is also a multinational state. This fact is reflected in its system of government. A key aspect of territorial management is that, although the Westminster Parliament claims unlimited sovereignty over all parts of the UK, it has not chosen to enforce its claim through a uniform pattern of central administration. England and Wales share the same law. Wales however, has its own government office based in Cardiff. The Welsh Office deals with Welsh domestic affairs and there is a Secretary of State for Wales but no separate political assembly. Scotland has a separate legal system and an administration centred in Edinburgh which operates again with a Secretary of State but has no political assembly. The secretaries of state for Northern Ireland, Scotland and Wales all have seats in the Cabinet which is chosen from the majority party in parliament. They are thus part of the core executive of the governmental system. Within England various systems of regional administration exist; a recent initiative saw the establishment in 1994 of integrated regional offices bringing together the responsibilities for various central government programmes under a senior regional director, a civil servant. There is no formal ministerial or political head based in these government offices and no associated elected assembly. The territorial ministries in Scotland, Wales and Northern Ireland and the regional offices in England constitute an important adaptation to the usual principles of unitary government.

Local authorities constitute the key sub-national level of self-government in the United Kingdom. The development of local government is closely tied to the processes of industrialisation and urbanisation. The extension of the franchise through a series of progressive measures in the late nineteenth century was accompanied by legislation to establish multi-purpose and directly elected local authorities to meet the challenges posed by the rapid expansion of industry and towns and cities. A multi-level system of city, town and county local government was developed. These various reforms established the basic structure of local authorities that lasted until well past the Second World War.

The structure of local government may have been relatively stable in the early decades of the twentieth century but there was considerable change and development in the functions undertaken by local authorities. The concern with public health, highways and lighting, and law and order remained. Some responsibilities were transferred from existing *ad hoc* bodies. For example, in 1902 school boards were abolished and in their place local authorities took on the provision of education and set up separate committees to oversee the service. As new responsibilities were taken on by the state so many of these were placed in the hands of local authorities. These included town planning responsibilities, the building of low-cost housing and the provision of a range of welfare services. In addition, local authorities took on the development of public utilities such as gas, electricity, water and, in the case of Hull, a telephone system. Local authorities also had some responsibility for poor relief and were instrumental in the management and provision of hospital and other health services. Between 1900 and 1938 total local authority expenditure increased nearly four-fold in real terms.

The period after the Second World War saw elected local authorities lose some of their functions, with the establishment of the National Health Service and the nationalisation of gas and electricity services. Nevertheless local authorities were a prime vehicle in the drive to create the Welfare State. By 1975 local authority current expenditure was nearly three times larger in real terms than it has been in 1955. Local authorities provided improved services and also took on a range of new responsibilities.

Modernisation joins expansion as a dominant theme in the development of local government during this period. Reorganisation in London, 1963-5, led the way with an enlarged Greater London Council and thirty-two boroughs (plus the Inner London Education Authority and the City of London Corporation) replacing a total of eighty-seven authorities. The reform of London's local government helped to break down resistance to radical restructuring. There followed a series of reports and investigations examining the organisation and management of local authorities. The debate was conducted in terms of structure, efficiency, planning and the rational allocation of functions. However, what emerged was heavily influenced by party political considerations and other vested interests.

In the reform of 1972-1974 the multi-tiered nature of the previous system remained and was to some extent reinforced. In England and Wales, local government powers were shared between 53 counties (6 metropolitan and 47 non-metropolitan) and 369 districts (36 metropolitan and 333 non-metropolitan). In Scotland, most of local government became the responsibility of 9 regions and 53 districts.

The process of modernisation and reorganisation resulted in a considerable reduction in the overall number of local authorities, from around 1500 to just over 500. These authorities covered large areas and populations. Compared to other systems in Europe the scale of basic authorities in the UK is very large. In the late 1980s the average population size of an authority in England was 127 000. The figures for Scotland, Wales and Northern Ireland are respectively 91 620, 75 870 and 60 480. The reorganisations of the 1960s and 70s did not produce stable arrangements. The 1980s and 90s have seen further changes in structures which will be subsequently described. Nevertheless the scale of UK local government remains large and the most recent reorganisations have reduced rather than increased the number of local authorities.

Since the mid-1970s the growth in local spending has in general terms come to a standstill. Nevertheless local government remains a major spender of public money. By the mid-1970s local government spending constituted about 12% of gross domestic product (GDP). Despite two decades of public expenditure constraint total local government spending in the mid-1990s still accounts for about a quarter of all public expenditure and some 12% of GDP.

The scale and character of the UK local government undoubtedly reflects particular features of the broader system of government. The capacity to undertake fundamental change in the structure of government is enhanced by the absence of a formal written constitution. To undertake change all a government requires is to achieve a simple majority in both Houses of Parliament. Second the UK tradition of thinking about government has a strongly Utilitarian flavour which tends to place considerable emphasis on functional capacity and administrative efficiency. A third factor may explain, in particular, the scale of UK local government: it is the absence of a general intermediate tier of government between the localities and central government. The absence of a regional tier of government increased the pressure for the local government system to be of sufficient scale to meet the demands of effective service delivery.

The concept of region has had a rather uncertain status within UK public administration. Regional administrative structures exist in a great variety and profusion. The concept of a directly elected regional tier of government has at times been the focus of debate but has remained absent in practice. Taking region in a very broad sense to mean something smaller than the UK but larger than a local authority about 100 administrative regional structures have been identified in a 1995 study. These regional administrative structures vary widely in form, from sets of free-standing bodies whose status as public sector agencies is ambiguous, through regional structures of non-departmental public bodies, government agencies and individual departments to the inter-departmental Government Offices for the Regions in England.

Most regional systems - with the exception of those in Northern Ireland, Wales and Scotland - are concerned not with the management of territory but rather with the delivery of functions. The creation of regional structures is for the convenience of administering or managing a function rather than focusing on a territory. This is reflected by the fact that there is a great variety in the number of regions and the boundaries that are used. Within even one government department a number of boundaries may be used. Scotland, Wales and Northern Ireland have the most distinctive systems. Within England a regional unit based on the North East is common, as too is a unit based on the North West. Even these two areas, however, are divided up in a variety of ways. A South West region is also relatively common. The South East/Eastern England emerges as the area with the least shared pattern of boundaries in terms of existing government arrangements.

The complexity of governmental arrangements is confirmed in the UK context by the substantial presence of a whole array of single-purpose appointed bodies. For some the concern about rolling back the state is to a degree compromised by the willingness since 1979 to extend the range and competencies of various single purpose bodies or "quangos". Appointed single purpose bodies played a role in the UK system of government and administration for a considerable period before 1979, but a considerable number of such agencies has been created in a number of instances in functional and planning areas that were previously the responsibility of elected local authorities.

The discussion is divided into three sections. Firstly, the examination of the position of elected local authorities as the only expressions of local self-government in the UK context and their complex relationship with a whole array of local appointed boards of quangos. Secondly the distinctive multi-national character of intergovernmental relations in the UK is explored. In particular the roles of different "regional" or "national" intermediate organisations in England, Scotland, Wales and Northern Ireland are examined. A third section evaluates UK intergovernmental relations against two criteria: the operation of financial equalisation within the system and the capacity to respond to European Union interventions and funding.

II. THE CHANGING PATTERN OF INTERGOVERNMENTAL RELATIONS

From local government to local governance

In 1995 it is possible to argue that the institutional map of local government has been transformed since the Conservatives came to power in 1979. What has emerged is a system of "local governance" in which local authorities find themselves increasingly working alongside a range of other agencies in their localities. The system has become increasingly differentiated as new agencies and organisations have been given responsibilities which previously belonged to local authorities, or as existing institutions have been removed from the control of local authorities and of health authorities.

The rise of various appointed bodies will be explored below. It is necessary, firstly, to establish the pattern of institutional change within the formal structures of elected government. The two tier system of local authorities established following the reorganisations of the 1960s and 70s has not stood the test of time. The general shift has been towards a "unitary" or single tier system of local government. It is argued that such a system minimises the levels of wasteful bureaucracy and is easier for the public to understand. The process of reform began in the metropolitan areas of England with the abolition of the Greater London councils and the six metropolitan counties. This reform in effect created a unitary system of local government in main urban conurbations. However not all functions could be taken on by the London boroughs and metropolitan districts so a number of joint boards and committees - which group authorities together - had to be established.

The abolition of the metropolitan counties led to the creation of a series of joint boards covering police, fire, public transport and waste disposal. These boards consists of councillors appointed by the constituent authorities but they have their own identity and legal status. The abolition of the Greater London Council led to the creation of a joint board for fire, while London Transport had been removed from the control of the Greater London Council prior to abolition. The metropolitan police had always been directly accountable to the Home Secretary. In other fields of London government covering land-use planning and roads, central government has gained significantly greater powers than elsewhere.

The pattern of organisational restructuring has been further promoted by the process of local government reorganisation launched in the early 1990s for non-metropolitan areas. As well as creating a new pattern of authorities this process is also likely to result in the creation of various joint boards and committees. In Wales and Scotland the Government has created single-tier local authorities which are already in operation. When these plans go through cities such as Glasgow, Edinburgh and Cardiff

"unitary" local governments are given responsibility for a broad range of services. In England the reform is in the hands of a semi-independent Local Government Commission. Again when these proposals are followed through most big cities in the former county areas "unitary" status is achieved. This is so in Bristol, Leicester, Hull and Nottingham.

The new unitary authorities began to operate in Wales and Scotland in April 1996. The pattern of change is more complex in England not least because the Commission has been asked to go through a second round of deliberation about potential changes. The government's original purpose was widely believed to be the establishment of a single tier of unitary authorities throughout non-metropolitan England but a successful campaign against change was fought but many county councils. The first round of the Commission's investigations eventually produced the abolition of four county councils and the establishment of fourteen new unitary shire councils. The second round of deliberations may lead to the setting up of a further dozen or more unitary authorities. In broad terms the review of structures in non-metropolitan areas will deliver unitary local government in most major towns, cities and urban areas in England.

After April 1996 the basic structure of elected local authorities in Britain will be as follows:

The Structure of elected local government in Britain 1996

Single-Tier (Unitary)

36	English metropolitan districts
32	London boroughs
22	Welsh councils
32	Scottish councils
14	English non-metropolitan councils

Two-Tier (functions split between levels)

35	English county councils
283	English non-metropolitan authorities

The total number of authorities will be reduced from 520 in 1976 to 454 in 1996. The second round deliberations of the commission will lead to a further overall reduction. The unitary authorities will take responsibility for a wide range of services including education, social welfare, housing environmental protection, planning and economic development. In the two tier structure the county councils will retain their position as the dominant spenders taking responsibility for major services with the districts main functions remaining as housing and leisure services. The areas and populations covered by many county councils will be reduced given that in many cases the major county town or city will have gained unitary status.

Alongside the process of reorganising elected local authorities there has been a growth in the number of appointed bodies at the local level. Training and enterprise councils took over local authorities' responsibilities in further education for training. Institutions of further education along with sixth form colleges have been constituted as corporate bodies in their own right, following the previous removal of what were then polytechnics and are now universities. In specific areas, urban development corporations, housing action trusts and more broadly housing associations have assumed with the support of central government funds responsibilities for renewal and development. In Scotland, local enterprise companies have a broad role in training and regeneration. For other functions local authorities have been required to set up companies to take over responsibilities in public transport, airports and waste disposal, sometimes as a means towards privatisation. Provisions for opting out of the control of local authorities and health authorities have led to the creation of grant-maintained schools and hospital trusts as free-standing institutions. Free-standing police authorities were established in 1995.

In addition to these appointed bodies operating at a local level there are a range of quangos that have a regional or sub-regional focus. They include bodies dealing with arts, sport and tourism. Since 1979 there has been a trend for Scotland and to a lesser extent Wales to get their own appointed bodies in particular functional areas. Thus for example in 1991 the Nature Conservancy Council was split into three bodies for Scotland, Wales and England. The following year the Countryside Commission for Scotland and the Nature Conservancy Council were merged to form the Scottish National Heritage.

The prime mover behind this process of institutional fragmentation has been central government. It has been demonstrated that in England and Wales in 1992-1993 the non-elected sector sponsored by central government comprised nearly 5 000 agencies. It was in receipt of over £37 billion, that is almost two-thirds of the equivalent allocation of central government money to local authorities. It has also been estimated that these bodies are run by 50 000 appointed members compared to a local authority system with 23 000 elected local councillors.

Northern Ireland in many respects constitutes the extreme example of government by quango. Elected local authorities administer a small range of functions but most major services are in the hands of appointed boards or the Northern Ireland Office. There are twenty-six elected councils (elected uniquely for the local government in the UK on a system of proportional representation). They have direct responsibility for a limited range of functions including leisure services, street cleaning and refuse collection. However the major services of education, social services and housing are the

responsibility of boards appointed and funded by central government. Local authorities have some rights to representation to these boards but the control remains with the Northern Ireland office as the agent of central government. The small range of functions of elected local government in Northern Ireland is reflected in the fact that local spending is less than 3% of all public spending. Elsewhere in the UK, as noted earlier, it is closer to a quarter of the overall public total.

Few would dispute that the emerging structure of local governance in the UK marks out a lessening of the role of local authorities within that structure. Even after the local government reorganisations of the 1960s and 1970s local authorities remained the key institutional actors in their localities. This supremacy is now under challenge as local authorities share strategic decision-making and service provision in many policy areas with other institutions. In the past the range of responsibilities and legitimacy held by local authorities made them relatively dominant within the overall system, even though there were other agencies involved in providing local services. The increasing differentiation along with the weakening of the relative position of local authorities represents a fragmentation within the overall system.

From a traditional view, the lessening of the role of local authorities is seen as a weakening of local democracy throughout the UK. As the only agencies subject to local electoral control, the relative reduction in the dominance of local authorities might be seen as a loss for local democracy and more broadly for effective local government because of the increased fragmentation and complexity of the emerging system. On the other hand, the forms of direct participation offered through some of the new agencies of local governance and the capacity of these agencies to work together to tackle a range of social and economic needs in localities might be seen as a gain for local democracy and government.

The role of intermediate authorities

If the system of local governance is characterised by complexity and fragmentation, central government in the UK is characterised by its non-executant and fragmented nature. Policy-level civil servants and ministers are not responsible for day-to-day service delivery and policy implementation. Central government has sought for much of the post-war period to achieve its purposes through a range of central departments, quasi-governmental agencies, non-departmental bodies as well as through local government. A feature of the late 1980s and 90s is the rise of executive agencies under the "Next Steps" programme. As of October 1995 there were 110 such agencies operating with a chief executive and a substantial degree of managerial autonomy. They are established as a matter of departmental organisation at the discretion of the minister responsible for the function. They remain accountable to the relevant minister and department.

These developments combined with the declining powers of local authorities and the rise of various local and regional appointed bodies have heightened a challenge of control for central government. A more fragmented system of local and regional governance creates the demand for an organisational integrating capacity as a counter-balance. There is evidence to suggest that the centre is tentatively exploring ways in which intermediate authorities might enable it to exercise a controlling and integrative role on a territorial basis. No elected tier of regional government has emerged in the UK; rather central government has in England established a new system of integrated regional offices and in Scotland, Wales and Northern Ireland used the established territorial ministries to exercise its tutelage over government and administration.

a) England: Government Offices for the Regions

Up to mid 1993 the position of the government appeared to be one of acceptance of the need for an administrative tier for some infrastructure and regional industrial policy purposes, a recognition of some need for administrative co-ordination, but antagonism to regional government or regional councils reflecting regional interests and to regions as a focus for economic planning. However, in a little noticed reference in its 1992 general election manifesto, the Conservative Party did refer to the desirability of improved arrangements for regional offices of government departments.

From April 1994, the existing regional offices of the Department of Trade and Industry, the Training, Education and Enterprise Division of the Department of Employment and the Departments of the Environment and Transport were "brought together". These new integrated offices administer a single integrated budget for urban programmes and are responsible for other departmental programmes currently operated by individual departments. Each office is headed by a senior regional director.

The official specification of the role of the Government Offices for the Regions is as follow: "The government have given the Government Offices for the Regions the role of working in partnership with local people to maximise the competitiveness, prosperity and quality of life of each region".

The central objectives of the offices are to:

- meet the operational requirements of departments and ministers;

- contribute local views and experience to the formation and communication of government policy;

- promote a coherent approach to competitiveness, sustainable economic development and regeneration using public and private resources and through the exercise of its statutory responsibilities;

- develop the skills of staff and methods of working to achieve these objectives and to demonstrate their success in doing so;

- develop partnerships with and between all the local interests to promote and secure these objectives;

- provide a single point of contact for local people and deliver high quality services on citizens charter principles.

Although the term "integrated regional offices" was that originally used by government, since 1994 the term uniformly used by government is "Government Offices for the Regions" (GORs), which emphasises their role as offices of central government. In general there has been a down playing of expectations. The key findings from a research report reviewing developments are :

- GORs are primarily concerned with the implementation and monitoring of programmes and resources determined or allocated at national level and have very modest staffing levels;

- the boundaries of GORs are not suitable for all regional functions;

- GORs do not cover all government departments. Environment, Transport, Trade and Industry, and the Employment division of Education and Employment are the key players;

- not all of the work of the four core constituent departments is included under the ambit of GORs;

- broad standardised regional office boundaries in four core constituent departments has been achieved but not all staff are in the same location within regions;

- the challenges faced by different GORs vary considerably and so therefore does the role of the regional director;

- the experience of the first round bidding for the Single Regeneration Budget confirms the ambiguous status of Regional Offices. They do bring a regional dimension to decision-making but are not the locally-orientated integrating agencies hinted at in early ministerial statements.

The staffing of each government office varies in size from 389 in the North West to 155 in neighbouring Merseyside. With the exception of London, which has special transport responsibilities, the transport staffing is very small, emphasising their policy advice rather than programme delivery role. There is variation between regions in the balance of different staff. The North East has substantially more trade and industry staff than environment staff, but in London the position is substantially reversed.

These staffing figures compare with a total staff of the Scottish Office (excluding the prison service) of 5 570. The 360 staff of the West Midlands Government Office is only about 1% of the total non-industrial civil servants based in the region, though it should be stressed that that figure includes headquarters and specialist staff who happen to be based there. The Government Offices for the Regions are being operated by small staff teams and indeed since their establishment there has been some downward pressure on their staffing.

It has to be continually re-emphasised that the Government Offices for the Regions are primarily concerned with the implementation and monitoring of programmes and resources determined or allocated at national level. In the case of transport, the regional level programme budget (i.e. excluding running costs) in 1994/95 was £1.75m for all English regions. This compared with the £5.18m running costs budget for transport in Government Offices for the Regions and the total regionally identifiable expenditure of £6.4bn in 1992/93, the latest year for which such a breakdown is available.

The senior regional directors are accountable to the Secretary of State for the Environment for the Single Regeneration Budget (which only constitutes a small proportion of government funding targeted at regions and localities). The direct responsibility of the senior regional director for the Single Regeneration Budget is of considerable importance, since the past history of regional economic planning has been hampered by the lack of a stakeholder who has both direct responsibility for implementation and a role which is not confined to a single department. However, the line of responsibility is to the main participating department (the Department of the Environment) rather than to a separate ministry with regional responsibilities. Further, the formal accountability of the regional directors is problematic when part of the Single Regeneration Budget is allocated to a national non-departmental body - English Partnerships - which does not have a regional structure which fully corresponds to that of the Government Offices.

The senior regional directors are formally accountable to the relevant Secretaries of State for the other programmes carried out by each regional office. In practice, past experience would suggest that many of the lines of communication will continue to be between the individual departmental regional directors and their head offices. There continue to be separate directors for Trade and Industry and for Training, Enterprise and Education within the regional offices. However many of the major activities of the relevant departments are not in fact delivered through the regional offices.

Co-ordination of regional policy at a political level has changed by the incoming Labour government through the creation of a new cabinet post of Secretary of State for the Environment, Transport and the Regions. The new government intend, in particular, to establish regional development agencies whose functions will be to co-ordinate regional economic development, help small business and encourage inward investment.

The role of individual senior regional directors and their offices shows considerable variety. The London regional office is distinctive in a number of ways. Although many of the functions of the former Greater London Council and Inner London Education Authority, abolished in the mid 1980s and early 1990s respectively, were passed to London Boroughs or joint local authority bodies, transport, including London Transport (which is responsible for running publicly owned public transport), was taken on by central government. The new London regional office has taken over responsibility for the Traffic Director for London, a non-departmental public body which took over some former local authority functions. The Docklands Urban Development Corporation within London is by far the largest of the Urban Development Corporations set up by the Conservative government in terms of resources absorbed (and now part of the Single Regeneration Budget), and now also covers the Docklands Light Railway. London also has a concentration of designated urban areas under various government programmes, including those designed to assist ethnic minorities. Compared to other regional offices, the regional office for London has a relatively high amount of direct 'hands on' responsibilities. The new government intends to test by referendum popular demand for a new strategic authority and a mayor for London, each directly elected. If such demand is confirmed, they will take responsibility for London-wide issues, such as economic regeneration, planning, policing, transport and environmental protection.

London shares with Merseyside the distinction of being the only Government Office regions corresponding to former abolished local authority areas, and the only purely urban-based offices. Merseyside has the second highest spending Urban Development Corporation, as well as the activities associated with the Merseyside Task Force since the early 1980s. The Merseyside regional office corresponds with the only part of England to have European Union "Objective 1" status as one of the most deprived areas of Europe, and concerns with preparing or vetting proposals for maximising the uptake from EU funds is a distinctive feature of this regional office.

By contrast, some regions have very few national or European projects targeted at them. In particular, the Eastern and South Eastern regions have hardly any such projects. They have very low spending under programmes subsumed into the Single Regeneration Budget. In these two regions the senior regional directors will have very little direct budgetary responsibility, since there will be very little spending under the Single Regeneration Budget.

The original rhetoric around the establishment of Government Offices for the Regions suggested a concern with integrating the energies of a range of governmental forces to boost the competitiveness of the economies they cover. On their launch, the Government Offices were asked to work in partnership with local people and interests in order to maximise the prosperity and quality of life in their regions. The government has clearly tried to down play these original ambitious goals. The Regional Offices have come to behave, to a degree, much more as agents for the administration of central government programmes

Regarding the first round of the single regeneration budget, ministers took the key decisions on the allocation of funds on the basis of advice from the Government Offices for the Regions, who made a detailed assessment of the individual bids. Different Regional Offices managed the process in different ways with some displaying a stronger commitment to local partnership than others. The process in general was not open and transparent and fell into a normal pattern of complex and confused negotiation both between bidders and the government and within government. The process was in the opinion of many local authorities hindered by the lack of regional regeneration statements, as originally envisaged. The Regional Offices have made a contribution to government but they have not yet fully developed the local integrating capacity hinted at in the original ministerial statements.

b) The territorial ministries

The territorial ministries in Scotland, Wales and Northern Ireland share similar political arrangements. Each has a Secretary of State and associated ministerial teams. The work of each is subject to scrutiny from territorial committees within the House of Commons, composed primarily of MPs from the relevant area. The functional jurisdiction of the three ministries does, however, vary as shown in the following table.

Functional involvement of the territorial ministries

Degree of Involvement

Function	Scotland	Wales	N Ireland
Agriculture	Most	Some	Most
Civil Service	None	None	Most
Defence	None	None	None
Education and Science	Most	Most	Most
Employment	Some	Some	Some
Environment	Most	Most	Most
Foreign and Commonwealth	None	None	None
Health	Most	Most	Most
Home Office	Most	None	Some
Industry	Most	None	Most
Social Security	None	None	Some
Transport	Some	Some	Most
Treasury	None	None	Some

Adapted from R Levy "Governing Scotland, Wales and Northern Ireland" in R Pyper and L Robins "Governing the UK in the 1990s".

The Northern Ireland Office is the most recent of the three territorial ministries. It was created in 1972 following the suspension of the Stormont government. It sits alongside a separate Northern Ireland Civil Service and major Northern Ireland Departments. The fact that the ministry took over in effect a separate government machine explains the wider range of functions for which it is responsible.

The Welsh Office was established in 1964. Unlike Scotland and Northern Ireland, separate legislation is not normally required for policies affecting Wales. The Welsh Office has fewer functions than the Northern Ireland Office and generally fewer internal units. It is more than the other ministries involved in administering policies which apply equally in England. However a distinctive Welsh flavour is given to the system of administration by the range of appointed bodies that the Welsh Office sponsors. There are some 250 such agencies of which one of the most prominent is the Welsh Development Agency.

The Scottish Office is the largest territorial ministry in terms of the number of staff it employs. It was created in 1885. It operates through five large departments and covers a wider range of functions. Like the Northern Ireland and Welsh Offices it also operates through a substantial network of appointed bodies including Scottish Enterprise (formerly the Scottish Development Agency). As noted earlier since 1979 there has been some growth in the number of appointed bodies with a specifically Scottish structure and brief.

Each of the territorial ministries are responsible for a wide range of "domestic" policies. Consequently for local authorities in Scotland and Wales, they are not just one of many central departments but the prime port of call - "their centre". The relationship between local authorities and these territorial ministries is conditioned by the dual character of the ministries. They are simultaneously of the centre and for a territory.

According to some observers the territorial ministries are much more of Whitehall than they are part of Scotland or Wales. They act as agents of centre: monitoring, encouraging and facilitating the implementation of the national policies of Westminster and Whitehall. The Scottish Office, for example, pursued a policy of tough financial constraint for Scottish local authorities during the 1980s and in this way provided a test ground for legislative measures in England and Wales. Most notably the ill-fated poll tax that was introduced in Scotland in 1989, one year ahead of its introduction in England and Wales.

The territorial ministries also perform a lobbying/spokesperson function, in effect being the voice of their countries in Whitehall. This role, however, argues is less frequently adopted than might be expected, especially given the specific economic and social difficulties of Wales and Scotland. In general, neither Welsh or Scottish Secretaries of State frequently fight for or win concessions in Cabinet. Westminster and Whitehall produce policies and legislation for all parts of Britain and the task of territorial ministries is to implement these policies. The politicians and civil servants who manage the ministries are part of the national party and administrative systems.

Yet there is scope for discretion because the territorial ministries are expected to take responsibility for seeing through the policy process in their areas. There is a tradition for the centre to be most interested in the "high politics" of defence, international relations and economic management, leaving the "low politics" of domestic provision in housing, education, and so on to other agencies. This tradition has been eroded to a substantial degree in the last decade, but in the case of the territorial ministries there remains an expectation that they should get on and manage areas of domestic policy. The relatively weak take-off of grant maintained schools and compulsory competitive tendering in Scotland and Wales reflects the impact of a distinctive pattern of administration.

What emerges in Scotland and Wales is a style of central-local relations in contrast to that generated in England. The smaller scale of the networks makes them more informal. The people involved in the ministries and local authorities know each other well and are more likely to develop a mutual comprehension of policy preferences and constraints. Thus, although the territorial ministries generally seek compliance with national policies, they do so in the context of the room for manoeuvre which their territorial status provides and in the light of a more detailed sharing of knowledge and concerns than is often the case in central-local relations in England.

Assessing intergovernment arrangements

a) Financial equalisation

There is considerable debate about the territorial division of levels of public expenditure within the United Kingdom. Estimates suggest that public expenditure per head is above the UK average in Wales, Scotland and Northern Ireland. The figure for Wales is 10% above the UK average. The figures for Scotland and Northern Ireland are respectively 20 and 40% above the UK average. On the surface it would seem each of these areas receives favourable treatment in the distribution of public expenditure. However these figures need to be treated with caution. Firstly they focus on identifiable public expenditure and exclude spending on defence. They include spending on public housing of which there is a higher incidence in Scotland, Wales and Northern Ireland and exclude the income tax relief on mortgages given to owner-occupier which is predominant in England. Finally the figures reflect allocations made on criteria of social and economic advantage which are applied throughout the UK.

The relative advantage in public spending of Wales, Scotland and Northern Ireland corresponds to their differential needs and demographic and employment patterns. The figures for Northern Ireland also reflect to a degree the rectification of previous under-funding of services as well as the cost of security forces.

The Welsh and Scottish Offices can exercise some discretion over the allocation of funds to local authorities and health boards but such discretion is limited. The formula for allocating funds to local authorities, for example, can be adjusted by the Scottish and Welsh Offices. They also exercise discretion over some other chunks of public spending. The Northern Ireland Office has considerably more discretion over how to allocate funding within its territory. Spending through its departments and various appointed bodies is very much under its control. The Government Offices of the Region in England are not involved at all in allocating the main central government funding arrangements for local authorities and other agencies. As noted earlier they do play a part in advising Whitehall about special budgets - such as the Single Regeneration Budget. They are largely transmitters of spending flows rather than allocators.

Local authorities in Britain are heavily dependant on central government for their findings. Local taxation (the Council Tax) in 1995-96 in England accounts for only about 20% of total local authority income. The remainder of local authority income comes from central government and other nationally-distributed sources. In Wales only 14% of funding comes from local sources. The figure for Scotland is 15%. The bulk of the funding to local government comes in the form of a block grant to local authorities paid for from the nationally set business rate and other national taxes. The position in Northern Ireland is rather different. Local councils, as noted earlier, are responsible for a smaller percentage of public spending. The bulk of their spending is met out of local taxation. Indeed Northern Ireland never suffered the imposition and then withdrawal of the poll tax and has sustained a system of local rates.

Funding is allocated to local authorities in Britain in a manner that is aimed at achieving full equalisation. Central funding is distributed in a way that is intended to make the total flow of funds from central government adequate, with an assumed standard level of council tax to meet a standard level of spending. The standard level of spending contains elements which adjust it to local need. The block grant takes into account therefore both of local taxable capacity and special local requirements.

The process starts from a figure - agreed at a national level - for total standard spending. This figure emerges in the course of annual discussions on central government expenditure. Once various specific grants are removed and other adjustments are made a net total standard spending figure is established which provides the basis for allocation through the system of spending assessments. Figures are developed in turn for each of the main service areas. For each of these areas a formula reflecting proxy measures of need and disadvantage is used to determine the allocation of funds to individual local authorities.

The equalisation process is complex but not entirely convincing. The system is bound to fail to fully meet local views of need because it is a top-down process for determining how a pre-determined amount of money should be distributed. Beyond this inherent problem there are various practical problems. Some of the data used in calculations is out of date, for example, census data. Some of the proxy measures used are not adequate to the task. Yet the cost of developing more “realistic” indicators could be prohibitive.

There are undoubtedly improvements that could be made in the allocation system but attention can also be focused on a more general point. The funding regime has been developed to provide central government with a considerable level of control over local spending. The block grant could be allocated to local authorities and they then could be left to decide their own spending figures. What has happened however is that local authorities have found themselves constrained to spend at or close to their standard assessed spending figure by the holding of capping powers over local budgets to ensure that they do not rise above government approved levels. This system of tight supervision and the modest levels of local taxation has created control for the centre but at the cost of a situation where it is all too easy for local authorities and others to blame central government for every deficiency of service and resources.

b) The impact of the European Union (EU)

The EU has a sustained and established interest in regional issues and development. There is a core concern with ensuring that the process of greater integration does not widen regional disparities. A range of aid programmes are available. Large parts of the UK are eligible for EU regional assistance on one of three bases: *objective 1*: regions where development is lagging behind; *objective 2*: regions in industrial decline; *objective 3*: rural problem areas.

Getting access to funding is normally a process of regional or local partnership or collaboration among a range of public and private sector interests within an area.

A process is underway that is strengthening relationships between regions, transcending national boundaries. UK local authorities have been willing participants in these networks.

In terms of the sums of money involved in European regional policy although the amounts are substantial they are small in comparison with the amount spent by the British Government. Between 1994-2000 Britain will receive the equivalent of £1.1 billion per year from the EU, that is less than half of one per cent of the British Government annual spending. Northern Ireland may receive a substantial enhancement of its current European benefits as part of a package of benefits to cement the emerging peace process.

III. CONCLUSIONS

In the concluding section of the report a general assessment is made about developments in the UK system in relation to the principle of subsidiarity. Following this a review of the major proposals for change which are currently the focus of debate will be explored. A statement about the prospects for radical decentralising reform is provided.

At the extreme it could be argued that the British system rests on national democracy and a complex system of administration divided on functional lines. It is function not territory that explains the main character of the system. The representation of local and regional interest (or even national interests in the case of Scotland and Wales) is seen as ultimately subordinate to a range of networks that integrate national, regional and local actors into policy, service and functionally-defined communities. The needs of education, social care, health and transport drive the system rather than a concern for a particular locality or territory.

The concern with service efficiency and effectiveness also tends to override the case for local democracy and autonomy. The public, it is argued, expects a national (UK-wide) standard in policing, education, health care, welfare and housing. It will not tolerate the wider divergences of local autonomy. In the UK system it might be suggested that the focus is on the more practical benefits of good quality services rather than the more esoteric value of democratic discussion and debate. The debate of subsidiarity within the UK might in such a light be seen as irrelevant.

A positive assessment of the UK system would, then, emphasise the advantages of functional organisation and efficiency in service delivery. A more negative assessment would focus on the limited scope for self-government at local or other territorial levels within the system. It would also point to the problem of achieving integrated action and decision-making on those issues that cross functional boundaries, such as economic development, crime prevention, and environmental protection. The tension between the positive and negative assessments is reflected in the reform debates which are coming to a head in the mid-1990s.

A regional dimension to UK government has increasingly come to the fore. A key driving force behind this development is the rise of the Scottish and Welsh nationalism, and the renewed outbreak of sectarian conflict in Northern Ireland. The issue of constitutional change was addressed by the Kilbrandon Commission set up by the Labour government in the 1970s and specific devolution proposals for Scotland and Wales were the subject of referenda in 1979. These proposals came to nothing and the issue slid from the public agenda only to come back again with considerable force from the late 1980s onwards in Scotland and Wales. A complex of factors are involved in this development but an indication of the political potency of the issue is the fact that in the 1992 general election the Conservatives won a governing majority for a fourth term but succeeded in winning only 11 out of 72 seats in Scotland and 6 out of 38 seats in Wales.

For different reasons the search for a new political settlement in Northern Ireland has gained in prominence over the last few years. Following the formal establishment of a "cease fire" in 1994 the Conservative government announced in February 1995 an interest in establishing a regional assembly for Northern Ireland. The assembly would operate with built-in power sharing and be responsible for most domestic affairs but not, at least initially, for policing, law and order, and security.

Nevertheless, the Conservative government remained resolutely opposed to devolved government for Scotland and Wales. In contrast, the Labour party victory at the May 1997 election has resulted in specific proposals for regional devolution.

So far as England is concerned, the new Labour government proposes to increase regional decentralisation by building on existing arrangements for voluntary co-ordination between local authorities through the establishment of regional chambers. These chambers would consist of nominated representatives of local authorities. The chamber would be financed by and serviced by local authorities and would have no tax-raising or legislative powers. It would have two main tasks: strategic co-ordination and democratic oversight. The strategic responsibilities assigned to it include economic development, transport, European issues and land-use planning. The democratic oversight role would be provided for by formal right of consultation and scrutiny in relation to other public agencies, the privatised utilities and the new Regional Development Agencies, which the government intends to establish to co-ordinate regional economic development, help small business and encourage inward investment.

In the longer term, the government also intends to introduce legislation to allow the people of England, region by region, to decide whether they want directly elected regional government.

So far as Scotland and Wales are concerned, the new government proposes to meet the demand for decentralisation, if established in referenda, by the creation of directly elected assemblies. For Scotland, the proposal is for the creation of a parliament with law-making powers, including defined and limited financial powers to vary revenue and elected by an additional member system[1].

1 The additional member system allows a proportion of the available seats to be allocated on the basis of the first-past-the-post system (that is, the candidate with the highest number of votes would be elected) with the remainder of the seats allocated correctively on the basis of a list system (that is to say that account will be taken of the votes gained by each political party in each constituency, in order to achieve, on the whole, a proportional allocation).

In the Scottish referendum, held in September 1997, separate endorsement was sought of the proposal to create a parliament, and of the proposal to give it defined and limited powers to vary revenue. The outcome of the referendum was a majority vote in favour of both these proposals. The Scottish Parliament will extend democratic control over the responsibilities currently exercised administratively by the Scottish Office. The responsibilities of the UK Parliament will remain unchanged over UK policy on, for example, economic, defense and foreign policy.

A referendum, also held in September 1997, resulted in a majority vote in favour of the establishment of a Welsh assembly.

The Welsh assembly will provide democratic control of the existing Welsh office functions. It will have secondary legislative powers and will be elected by an additional member system.