



The working autonomies in Europe

Territorial autonomy as a means of minority protection and conflict solution in the European experience - An overview and schematic comparison

By Thomas Benedikter

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Chapter 1

General introduction

1.1. Why territorial autonomy? [[top](#)]

The ideal propagated by Europe's nation state builders in the 19th century was "One nation - one state". But in nearly none of these states this ideal has ever been achieved. All European states, excluding the microstates, host national minorities. The overwhelming majority of states is composed by a major number of peoples, featuring a majority (titular nation) and from 3 to 45 national minorities. Generally most national or ethnic minorities live in their traditional homelands and due to historic evolution, at a certain point of history, found themselves included in a state with a major "titular nation", a national majority which normally exerts a

cultural hegemony by the sheer effect of numbers, economic, social and political power. Minority ethnic groups are structurally disadvantaged and often excluded from power. How to redress this implicit bias? Are anti-discrimination provisions sufficient? How to ensure equal chances and opportunities for majority and minority identities?

By endowing a minority group in its own region with all necessary powers to ensure cultural survival and protection of collective rights, the imbalance between state majority and ethnic minorities can be redressed. This is a first simplistic approach to the very scope of territorial autonomy. On a theoretical basis the concept of autonomy derives from the existence and recognition of ethnic and national groups who are subjects of collective rights. In the post-war period the UN-system of human rights has stressed the individual dimension of human rights achieving to establish them as universal standard. But only after the decolonization period and the collapse of the Soviet bloc and the growing number of intra-state conflicts caused by the denial of the collective rights of minorities the international community came back to focus on the collective dimension of minority rights. Minority rights are a part of the fundamental human rights in defence of the human dignity against the state. But compared with the classical individual human rights there are specific minority rights which by definition can only be exercised collectively (e.g. religious activities, cultural and education facilities, language use in public sphere etc.).

Autonomy, as a compromise solution, provided for the possibility to share legislative and executive powers between the central states and national minorities safeguarding both aims: the preservation of the integrity of a state and its sovereign territory and self-government for the minority group in its specific region. The contemporary relevance of the autonomy issue has to be considered in both perspectives: as an efficient means of conflict prevention and resolution through accommodation of the fundamental needs of national minorities within the existing state boundaries and as a fundamental right of national or ethnic minorities to be considered in international law.

Claims to autonomy remain a serious issue for both, the Western Europe's and the EU's "old democracies", and the new democracies emerged from the collapse of the Eastern bloc in the 90ies. In contrast to Asia and Americas, much less a quest is territorial autonomy as a right of indigenous people, as only the Scandinavian countries recognize the very existence of an indigenous people on their territory, the Saami in Northern Scandinavia.

Which is the most sustainable way of solving ethnic conflicts? A school of "realist thinkers" asserts that territorial division and institutional segregation would be the optimum. On the opposite the "idealistic school" proposes the building of multiethnic societies based on democracy, rule of law and protection of human and minority rights. Common to both schools of thought is an increasing interest to forms of territorial and cultural autonomy as a means of solving and managing ethnic conflicts, protecting the identity of different ethnic groups living in the same states. Thus, territorial autonomy is seen as the most advanced device of minority protection, just short of independence. In other terms: it meets the fundamental right of national minorities to enjoy at least internal self-determination, without changing international borders and the integrity of the state they are living in. Very crucial implications of autonomy are the internal relationship between all ethnic groups living in a certain region and the procedural character: autonomy has to be interpreted as a dynamic process rather than a forever enshrined solution. Before briefly presenting 10 operating autonomies in Europe, representative examples for every European state which has established regional territorial autonomy, the link between minority protection and autonomy should be highlighted.

1.2 A "right to autonomy"? [[top](#)]

Generally under international and constitutional law the discrimination of a person on grounds of religious, ethnic, cultural, linguistic affiliation or gender is prohibited. Mostly a person is discriminated as a member of a specific group, in Europe - compared with Asia - less on features of religion or caste than on ethnic affiliation. Hence, a member of a national minority, feeling discriminated can involve his right to be protected against discrimination. But only granting "normal equality" regarding individual rights is not sufficient, because national or ethnic minorities suffer a structural disadvantage. The state has to grant effective equality and to set forth positive measures to preserve and promote minority cultures and group rights. National minorities can only enjoy their rights if the state with its public institutions and services actively intervenes. An ethnic community needs a particular legal and political framework to ensure equal rights in every field of life with the members of the national majority. In that institutional framework - e.g. in an autonomous area - the minority can assume responsibility for their own cultural survival and development as well as for the territorial community as a whole. Moreover, regarding political participation some special devices are needed to put minorities and majority on an equal footing. It has been widely acknowledged that a minority protection based on a pure individual human and civil rights approach is not enough.

In terms of international law a collective right means that a group is subject of the right. A minority as a whole is entitled with rights, not just their single members. The group rights are more than the simple sum-up of individual rights. Apart from the fundamental scope of minority protection - to grant them all human rights as the majority members have - three more scopes are on the agenda through the protection of national minorities: the prevention of conflicts, the preservation of a cultural group identity and the mutually enriching exchange process.

The classical protection of minorities is an example of the combination of collective and group rights. A member of a national minority can keep his identity only if his group has the possibility to exist and develop. On the other hand collective rights integrate individual rights and may not violate them. The concept of collective rights in the last two centuries has not been linear. The UN-declaration on the rights of persons belonging to ethnic, religious, linguistic minorities of 18 December 1992 is witnessing that. Although this is still not enshrined explicitly in no international covenant of minority protection, slowly the international community begins to recognize it.

The bulk of minority rights in Europe at the level of domestic or national law taking the form of constitutional, national or regional acts or regulations, according to the international conventions or charters or to bilateral treaties. This complex corpus of minority rights [1] was essential to provide for the recognition of ethnic or national minorities with their languages, cultures, traditions etc. and for the promotion and enhancement of their collective identity. On the other hand these general acts of national or regional law could not or not fully meet another need and claim: that of self-government in their own territory. It cannot be denied that the question of identity is strictly linked to a territory which has been inhabited by national minorities as a homogenous since ancient times. Keeping the question of personal or cultural autonomy separate, the protection of a minority is to be implemented in a precise geographical and cultural space. Differing from the issue of the new minorities which have migrated to Europe in the last decades, the traditional minority issue in Europe - as in most other continents - is linked to the historically inhabited geographical space of a group with a collective identity, also being a part of states with other ethnic-cultural majorities. This is the fundamental cause for the idea of territorial autonomy.

But no international convention accords ethnic minorities such a "right to autonomy" or a "right to self-determination". On contrary, still many states consider political autonomy as a first step towards self-determination and secession. In reality, various historical experiences of territorial autonomy in Europe have demonstrated that this concept not only can be an efficient mechanism of conflict

solution, but can also prevent secession. In other terms: the denial of autonomy has provoked some critical escalation of minority conflicts throughout the history of the last century, leading frequently to claims for independence and sometimes to violent resistance (Basque Country, Northern Ireland, South Tyrol, Albanians in Macedonia, Corsica) and factual secession (Albanians in Kosovo, Russians in Transnistria, Abchasians and South Ossetians in Georgia, Turks on Cyprus, Chechnyans in Russia). On the other hand, establishing territorial autonomy has enabled conflicting parties, central states and national minorities or smaller peoples, a compromise by power-sharing on their territory. Autonomy could bring about both, maintain territorial integrity and grant the minorities a high degree of "internal self-determination". Because of this general linking to the fundamental right many states reject autonomy as a first step towards destabilisation and secession. Nevertheless, today there is neither a right to autonomy nor a duty to grant autonomy to national minorities.

But how have the European autonomies been established? How are they working and how could they transform or solve the conflict between the central states and the concerned national minorities? How has the internal conflict between several ethnic groups living in same autonomous territories been accommodated? Have these models of autonomy been successful and why? Before proceeding to illustrate the single cases some clarification is needed regarding the concept of autonomy in international practice, being aware of the manifold difficulties surrounding the theoretical concept.

1.3 The concept of autonomy [[top](#)]

In the general legal discourse autonomy is generally taken to mean "self-government" or self rule, but the concept in the general political discourse remains highly ambiguous and problematic and academics too disagree on the precise content of autonomy, clearly distinct from related concepts as federalism, devolution and regionalism. In international law autonomy does not have any general accepted definition. Many applications of autonomy or self-government do not allow a firm definition of autonomy which is appropriate to all cases. The term autonomy derives from two Greek words: "auto" means self, and "nomos" which means law or rule. To make one's own laws is therefore the basic significance of "autonomy", whereas a mere local self-administration would not deserve to be labeled as "autonomy".

Generally in the field of minority rights autonomy denotes "limited self-rule", which can range from self-government in limited areas to complete self-rule just short of independence. A particular autonomous entity can enjoy a different degree of autonomy in its political decision making process. Autonomous areas in most cases are regions of a state which possess some ethnic or cultural distinctiveness, which have been granted separate powers of internal legislation and administration, without being detached from the state. This status can be granted by some international binding upon the central authorities, but must not. As a general rule autonomous territories do not possess any international personality and are not treated as states for the purposes of international law. Autonomy can be defined as a means of power sharing aimed to preserve the unity of a state, while respecting the differences among the population [[2](#)]. There are the three classical elements of the definition of a state although in a different manner: a territory (part of a state territory), a population (the resident inhabitants of that territory) and the exertion of state power (limited to a certain territory which remains a part of that state). Autonomy thus consists in transferring permanently as many powers as possible to a certain territory, giving their population the possibility of self-government, and leaving just some residual general competencies to the central state.

Distinction should be made between general or political autonomy and cultural autonomy. While the form of a autonomy is generally granted in response to the demands for political self-administration or self-government, the latter is granted

to enable an ethnic or cultural minority community to respect its customs, practices, languages, religion, social structures from interference on the part of the central or sovereign government.

Territorial autonomy in a proper sense not only encompasses administrative powers of local bodies, but requires the existence of a locally elected legislative body with a minimum power to legislate in some basic domains as well as an elected executive which implements this legislation in the given autonomous area. In practice not every form of autonomy, which carry this label is consistent with the criterion of "democratically elected autonomous bodies", as the concerned region is a part of a non democratic state. However the local population and national minorities have to be allowed to participate in the management of the affairs of the territory in which they live, although "autonomy" in a proper sense is not fulfilled (democratic legislation is not allowed). In these cases we can speak about "autonomy based sub-state arrangements", as it is the case, e.g., in China. According to Ruth Lapidoth and Christoph Pan/Beate S. Pfeil [3] three types of autonomy can be distinguished:

► a) **Territorial autonomy**

Territorial autonomy is an arrangement aimed at granting to a group that differs from the majority of the population in the state, but that constitute a majority or a significant part of a specific region, a means by which it can express its distinct identity. The powers transferred are exercised by locally elected representatives. Territorial autonomy is to be understood as a special status granted to a territorial unit which makes it possible for the residents of that territorial unit to regulate their own affairs by themselves through autonomous legislation, government, administration, and judiciary. A claim to sovereignty is not linked to it. The autonomous authorities are to be precisely established in the laws of each state. Territorial autonomy must fundamentally include those areas of competence which are necessary for the national minority to maintain its cultural identity, such as:

- an educational system, including higher education (such as universities), which respects the values and needs of the national minority in question;
- cultural institutions and programs;
- radio and television and other communication means;
- the display of their own emblems;
- participation in the settling of the issue of dual citizenship, where applicable;

A second field of powers needed to ensure the functioning and welfare of the autonomous entity refers to its social and economic regulations, such as:

- the use and control of natural resources;
- the licensing of professions and trades;
- taxation for the purposes of the autonomous area;
- health care and social services, including social welfare;
- transportation such as local roads, ports and airports;
- production of energy;
- environmental protection;
- control of commercial and savings banks and other financial institutions;
- local and regional police.

These standards have been formulated at a comparatively high level in accordance with some cases of currently existing autonomy, such as in Åland and in South Tyrol, and at first glance they are capable of evoking surprise. In this respect, however it should be taken into consideration that the minimum level of autonomy is that degree which is necessary for the preservation of the existence and identity of a national minority, while the optimum is represented by as much as autonomy as possible without endangering the territorial integrity of the state. In any case it has to be taken into consideration that in the case of territorial autonomy, those segments of the population which form a case of territorial autonomy, those segments of the

population which form a numerical minority within the area affected by the territorial autonomy are not discriminated against in the enjoyment in their generally recognized human rights and fundamental freedoms.

► **b) Cultural or personal autonomy.**

Cultural or personal autonomy is granted to the members of a specific community (ethnic, religious, linguistic). This model of autonomy, which provides for the members of an ethnic community to be governed through institutions and/or their own legislation, allows minorities a significant degree of autonomy and cohesion even when minorities are dispersed throughout the territory. In contrast to territorial autonomy, in cases of cultural autonomy the autonomous special status is granted not to a unit of area for the looking after of own matters, but rather to a group of persons which constitutes a form of union that is suitable as possible under public law. This form of autonomy, then, is appropriate when national minorities do not form the majority of the population in areas in which they reside or when national minorities, for whatever reasons, do not consider the claim for territorial autonomy to be of use.

It is important that an association of persons provided with cultural autonomy is sufficiently democratically representative, that is, that it concludes at least a substantial part of the persons belonging to an affected national minority and that the autonomous authorizations are carried out by freely-elected democratic organs. Autonomy by this concept is not necessarily linked to the protection of ethnic minorities. The spirit of autonomy provides for minorities and indigenous populations the possibility of moving towards "meaningful internal self-determination and control over their own affairs" [4].

► **c) Local autonomy (local self-administration)**

By means of local autonomy, residents of an administrative unit are guaranteed the possibility of looking after their own (national minority-related) matters themselves beyond the responsibilities that are normally legally assigned to the administration unit and in particular those matters which essentially lie exclusively or predominantly in the interest of the local community.

Whatever the nature of autonomy may be, there are no fixed rules in international law regulating the establishing and application of autonomy within the domestic framework. There is still no given or uniform pattern of how to design a territorial autonomy. Each operating autonomy has been created under specific political and social circumstances, evolving from a very specific historical background. The particular form of autonomy depends on various variables: the ethnic majority, the preparedness of the majority to grant autonomy, the presence of a kin-state, the size, the influence of the ethnic minority, the general international environment and some others. Although there is a wide range of constitutional arrangements and legal forms of autonomies, there are also some basic common features which define the presence of a "territorial autonomy", clearly distinct from other concepts like a federalist order or a simple administrative decentralization:

- Executive and legislative competencies transferred by law (international, constitutional or national law) to the autonomous entity (judicial powers are sometimes given, but not essential feature of a political autonomy).
- A clearly defined territory, whose population is subject of the autonomy
- The need of a negotiation process between the concerned autonomous subject and the central government, if the autonomy is to be modified. This means some legal forms of entrenchment of the autonomy and the ways how it can be changed.

In the comparative analysis we will define some basic criteria in order to evaluate the quality and performance of an autonomy which allows a critical view of the single working autonomies. There is a huge difference between the content and comprehensiveness of the autonomy of Corsica on the bottom and the Aland Islands, Greenland and the Faeroe on the other end of the

ranking. From a historical perspective the state practices with implementing autonomy solutions has been mostly reluctant and restrictive while ethnic minorities were pressing for an amount of power as complete as possible in the hand of the autonomous entity. The existing 10 European systems of territorial autonomy present some interesting and important examples which have been forerunners for similar arrangements in other continents. But even they are to be seen as works in progress rather than definitely and forever settled frameworks of political action.

1.4 Autonomy in Europe in a historical perspective [5] [[top](#)]

In the European history since the 16th century some forms of autonomy of religious communities have been sanctioned for different minorities as the Protestants in Catholic regions, Jews in different countries, Muslims in Christian areas, Catholic and Orthodox Christians and Jews in the Ottoman-Muslim areas. This latter system of religious and cultural autonomy, called Millet-system, was employed during the Ottoman Empire until 1918. Under this system Jews and Christians were allowed to maintain their own laws and customs in the personal realm, operate their own courts, run their schools and impose taxes on their own members. The abolition of these millets and the increasing repression of ethnic and religious minorities added substantially to the resistance of the local peoples of the Balkans against the Islamic rulers.

In the first half of the 20th century autonomy was established in various cases to contain political conflicts provoked by territorial readjustments after World War I. Certain national minorities in Central and Eastern Europe were accorded a territorial autonomy as a viable substitute to self-determination by the victorious powers of World War I as the Free City of Danzig and the Memel territory. But on the whole the solutions applied were defective and their inadequacies provided a pretext for aggressive nationalist neighbors or kin-states as Nazi-Germany to build up new threats.

In the post-World War II atmosphere of the Cold War there was an unfavorable environment for a broad political discussion on autonomy. Although the right of all peoples to self-determination had been enshrined as a fundamental principle of international law in the UN-Charter (1948) and in the International Covenant of Civil and Political Rights and Freedoms (ICCPR 1966), its application was limited to peoples colonized by the classical colonial powers (excluding the new forms of colonialism exercised by developing countries), whereas national minorities and indigenous peoples within independent states could not claim to be beneficiaries of the right to self-determination. Autonomy as a group-right in Europe was perceived rather as a threat to existing states, most of them based on a historical background of a "nation-state" (with some exceptions as Switzerland, Belgium and most recently Bosnia-Herzegovina). In presence of more than a hundred of national minorities a collective right to autonomy was not seen as a substitute to full statehood or a tool for "internal self-determination", but as an invitation to break up the existing state structures.

Europe, as well as Africa and Asia in particular, presents a complex mosaic of ethnic, cultural, linguistic variety with many different kinds of national minorities (cf. also Essay I on minority rights in Europe in this volume) with different aspirations. Many of them were facing serious difficulties to survive as a cultural group with a distinct collective identity. A general political approach to accommodate all this claims was not conceivable at that time, but many conflicts could have been solved with a clear international fundament of minority rights and autonomy concepts. Nevertheless some states in Western and Northern Europe found a way to politics of recognition and protection of national minorities through constitutional arrangements and special national laws. A growing trend to general decentralization or regionalization of state structures (Italy, France and Spain) and devolution (Great Britain) granted national minorities more cultural rights. Special forms of autonomy were established in Italy and Denmark, apart from Europe's

oldest working autonomy, that of the Åland Islands in Finland. Belgium offers an example how a previously unitary and centralized state transformed gradually into a federal state providing cultural and linguistic autonomy to the three historical ethnic communities, the Flemish (Dutch), the Walloons (French-speaking) and the German speaking minority in the East along the border with Germany.

Aiming to accommodate the strong political aspiration of their historical smaller nations Spain in its 1978 constitution recognized the "right to autonomy of the nationalities and regions which make up the Spanish state" (Art. 2). Hence, in the last decades Spain transformed from a highly centralized state under the Franco regime into a nearly federalist state today. This prevented the country to glide into an escalation of secessionist conflicts, in particular with Catalonia and the Basque Country. In Great Britain Northern Ireland had to wait until 1998 to find a viable, internationally agreed solution based on the devolution of most governmental powers to Belfast. Northern Ireland reflects the case of a deeply divided and highly segregated society with a history of discrimination, deprivation and exclusion of one community - the Catholic one - from political power. In France the claims of various national minorities as the Corsicans, the Bretons, the Basques and the Alsacians for being granted at least cultural autonomy were stubbornly rejected on the ground that the French constitution does not recognize any other national community than the French one. Italy, by its constitution of 1948 a regionalist state, due to historical reasons established also 5 autonomous regions to accommodate the respective national minorities (Aosta, South Tyrol, Sardinia, Friuli) or a strong regionalist movement (Sicily). Nevertheless it took 25 years to implement this complex structure, which is yielding results since the 70ies.

The minority question in Europe has gained a significant momentum during the 90ies in the aftermath of the breaking up of the former Yugoslavia. The following series of secessions and military rebellions of ethnic minorities on the one hand and of ethnic cleansing with a victim of the four recent Balkan wars (Croatia, Bosnia-Herzegovina, Kosovo, Macedonia) claimed over 200.000 lives and two million people were temporarily or definitely displaced. The repression and persecution of ethnic-linguistic minorities in many parts of Eastern Europe has provided further impetus for a reconsideration of the inadequacies of existing mechanisms. In the states of the former Eastern bloc the resurgence of nationalism and xenophobia has threatened the very cultural existence of many national minorities leading to violent reactions (Moldova, Georgia, Azerbaijan, Macedonia and in the Russian Caucasus). Finally the reshaping of the map of Europe has not produced national homogeneity within the new states, but with nearly no exception every 28 state of Central and Eastern Europe contains significant ethnic or linguistic minorities. It is against this background that autonomy is actually considered by both states and minority representatives.

It has to be acknowledged, however, that some experiences of autonomy and consociational arrangements in Europe bitterly failed. Cyprus and Kosovo reflect the cases of a deeply divided societies with a history of discrimination or even oppression and persecution (in the case of Kosovo) of the respective ethnic minority, the Albanians in Kosovo and the Turks in Cyprus. In the latter first the ethnic conflict between Turks and Greeks produced protracted constitutional crisis, later serious international tensions. In 1974 Turkey intervened with military force to protect the Turkish population and the island was divided in two ethnically homogenous parts in the North and South. There has not been any attempt to solve the crisis through an effective autonomy regulation, but only through half-hearted anti-discrimination provisions. In Cyprus, territorial autonomy was not given any chance.

In Kosovo in the same year 1974 a radical reform of the autonomy existing since 1948 for this region inhabited by a 90%-majority of ethnic Albanians, was launched which put the Kosovars nearly on an equal footing with the other constituent peoples of Yugoslavia. The multicultural region of Vojvodina in the North of Serbia enjoyed a similar extent of autonomy in the framework of the socialist and

federalist architecture of ex-Yugoslavia. But in 1989, while the rest of Eastern Europe celebrated the transition to democracy and freedom from dependency on the Soviet power, Serbia turned to a oppressive nationalist regime, starting with abolishing Kosovo's autonomy. Not the autonomy as such failed in Kosovo, but the policy of nationalist denial of fundamental rights to smaller nations inhabiting a part of the state's territory. Subsequently the whole Titoist construction of brotherhood of socialist federation of nations collapsed in a bloody mess which culminated in the wars of Bosnia 1992-95 and Kosovo 1998-99. The "ethnic cleansing" and civil war in the former Yugoslavia, the bloody repression of self-determination of a small Caucasian people, the Chechens, by Moscow since 1994 and the secessionist break away of some other smaller ethnically distinct regions in Eastern Europe as Transnistria (Moldova), Abchasia and South Ossetia (Georgia) and Nagorni Karabagh (Azerbaijan) has proved the inadequacies of existing mechanism of power sharing and minority protection.

The sensitivity with regard to autonomy in whatever form is still very strong in quite a number of member states of the Council of Europe. There is widespread fear of the spiral "cultural autonomy, self-government accession. It has to be seen in the light of the working historical and newly established autonomies whether this concept has indeed in Europe generated secessionism, or, on contrary autonomy has accommodated the legitimate claims and interests of national minorities within existing state boundaries. In this sense, international law, far from having accomplished with the minority rights, has to face the challenge to develop the internal aspect of self-determination, which, based on democratic representation and the rule of law, creates a political and legal space of "internal self-determination", confined to a territory, This more conciliatory approach to national minorities claim is enforced by ever more tighter cooperation in Europe in international organization or supranational institutions. And it can convince the state majorities that autonomy is in their own interest if peace and fundamental rights are to be preserved.

Chapter 2

Europe's working autonomies

2.1 The Aland Islands (Finland) [[top](#)]



Population (2005 estimated): 26.711

Land area: 6.784 km²

Capital: Mariehamn

Official language: Swedish

Autonomy since: 1920

<http://en.wikipedia.org/wiki/%C3%85land>

Not less than 6554 islands form the archipelago of the Aland Islands, only 50 of which are permanently inhabited. Although since ancient time part of the Swedish cultural area, these islands by historical coincidence in 1809 came to Russia. As a part of the Grand Duchy of Finland, dependent from the Zarist Russia, the Swedish Alanders enjoyed some cultural rights. Yet, at the end of the Zarist Empire in 1917 the Alanders were denied self-determination and became a part of the newly independent Republic of Finland. Sweden disputed this change in status and the issue was settled by the League of Nations in 1920, when Finland recognized the Alanders' right to maintain their culture, language and traditions and to enjoy a demilitarised and autonomous status. In 1920 the Finnish parliament approved the Law on self-administration of Aland, which established the first official territory with autonomous status in Europe. The Russians endorsed this arrangement as former "Protection power",

renewed this support in 1940 and again after 1945. Åland today is considered one of the most advanced forms of political autonomy in the world.

Åland's Self-Administration Law, called "Autonomy Act" in 1951, has been revised several times with its last version approved the 16 August 1991. Legislative power is vested in the 30-member, unicameral Landsting. Representatives are directly elected and serve a four years term. In addition to the islands' internal administration, the Åland Islands form a single electoral district for Finnish elections in which Åland citizens fully participate. The Landsting may legislate on all matters affecting the Åland Islands except those specifically reserved for the central state, namely constitutional law, foreign relations, general taxes and payments, criminal and most civil law, the judiciary, social insurance, navigation and aviation and communication. Åland is responsible for cultural affairs, health and hospital care, education, vocational education, and regulation of occupations, housing and social welfare, conservation, public entertainment and the maintenance of public order and security. The Landsting shares legislative powers with the parliament at Helsinki in that it has the power to directly propose legislation concerning the islands even in those functional areas reserved to the federal branch. However, the Finnish constitution reserves to the president of Finland the power to unconditionally veto laws enacted by the Åland government, after receiving an opinion from the Supreme Court or from the Åland Commission, if he believes that the legislation encroaches on matters reserved to the federal government or the internal or external security of the state. The Åland Commission serves as a liaison between the Åland government and the central government in Helsinki. The Finnish President also has the power to dissolve the Landsting and order new elections. On Åland the President of Finland is represented by a Governor, selected from the largest party in the Landsting. On the Ålands executive authority is vested in the Landtagsstyrelsen headed by the Landradskandidat, the chief minister.

Regarding the judiciary the Åland Islands do not have a separate judicial system and rely upon the Finnish system of municipal and district courts as well as the Supreme Court in Helsinki for the administration of justice in the country. The finances of the Åland Islands are managed by the Landsting and the joint Åland Island Commission. The autonomous islands bear most of the cost of self-government and possess the authority to levy taxes on income. The Landsting determines the annual budget and raised needed revenues through taxes and charges for the use of government facilities. The joint Åland Island Commission determines the amount of monetary transfer from Helsinki to the Åland government for its performance of services or functions carried out elsewhere by the Helsinki government. Finland levies usual national taxes and customs on Åland, but 0,45% of Finland's total revenues are drawn back to Åland. The Landsting can freely allocate the whole annual budget of the islands. Regularly expenditures for social assistance, health care, education and culture make up for the lion's share of the budget. Due to its autonomy and solid finance system Åland has a stable economy and high living standard.

As for the language policy already in 1899 a first "Language Act" Finland declared both Swedish and Finnish to official State languages, attributing to Swedish a privileged position. This led to an advanced system of bilingualism in many areas with Swedish speaking minority in Finland. On Åland, on contrary, the official language is Swedish and the administration monolingual Swedish. Åland's civil servants must by law be fluent in written and spoken Swedish. The schools use Swedish as medium and English as compulsory subject, Finnish, German and others are optional as "foreign languages". Åland Island citizenship or "native locality" is granted to Åland residents or non-Åland Finns who have resided in the island for 5 years. Non-Åland citizens may be denied the right to purchase land and the right to exercise a commercial activity. Åland Islands citizens possess dual, Åland and Finnish, citizenship, and are free to participate in Finnish politics and are subject to Finnish law, although they are exempt from compulsory Finnish military duty. The Åland "citizenship" is also required to exercise the active and passive franchise.

The citizenship can also be awarded by the Autonomous Government, provided the applicant can prove to know sufficiently Swedish.

Since 1975 Åland is a member to the Nordic Council on an equal footing with the Scandinavian states and the autonomous islands in Denmark. Åland could decide independently whether to join the EU in 1995 or not. Still some EU-provisions, e.g. the customs union is not in force on Åland, which can freely opt out from single regulations of the EU. The special rules for the regional membership had to be safeguarded in the Finnish EU-accession treaty. Åland's autonomy has been expanded step by step to a point where it can be qualified as a "state in the state", just short of independence. Åland since many decades is demilitarized: no military bases may be installed nor can any military personnel be stationed on the islands.

2.2 The Faeroe Islands and Greenland (Denmark) [[top](#)]

The Danes are the heirs to a tradition of local self-government that goes back to the days of the Vikings when every community within the kingdom was organised as a self-contained civil-military unit, an oath-society of equal subjects. Monarchic centralisation a millennium ago did not eliminate local self-government, but imposed a quasi-feudal hierarchy upon it which has substantially weakened local control. Still, it was not until the 19th century and the emergence of the centralised Danish state that a truly different constitutional order was imposed, one that has been partially reversed in the post-war period. The Danish constitution has been amended to place the administration of almost all domestic activities under local government control, with the state government setting general policy and providing the necessary revenues to the localities. Beyond that, Denmark has established very specific territorial autonomies with its two island territories - the Faroe Islands and Greenland.

2.2.1 The Faroe Islands



Population (2004): 44.228

Land area: 1.399 km²

Capital: Torshavn

Official language: Faroese, Danish

Autonomy since: 1948

http://en.wikipedia.org/wiki/Faroe_Islands

The Faroe Islands were first settled in the 9th century by the Vikings, came under Norwegian control in 1035, and became a province of the Danish Kingdom with the merging of the Danish and Norwegian crowns in 1360. The Napoleonic Wars dissolved the Norwegian-Danish union and brought the islands under Danish sovereignty. The Faroe remained a Danish county under Danish administration until April 1940 when the Nazis occupied Denmark and the British responded by taking control of the Faroes. After the war the British returned the islands to the Danes, and the Danish Folketing granted full internal self-government to the islands through the Home Rule Act of 1948. The Faroes remain an entity part of the Danish Crown. Which are the basic constitutional principles and design? Executive authority is vested in the Landsstyre, or Cabinet, headed by the Lagmadur, or Prime Minister. The government typically comprises between three and six ministers elected by and from the Lagting and has full administrative control over the island's affairs. The Danish government is represented in the Faroe Islands by a High Commissioner.

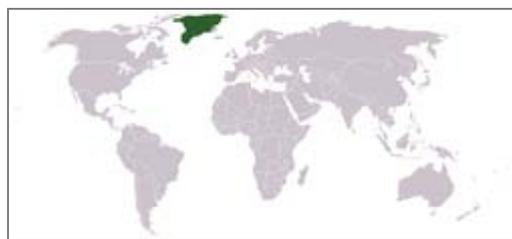
Legislative authority is vested in the 32-member Lagting, one of the oldest parliaments in the world. Its members are elected proportionally and serve a four years term. The Faroe Islands have also two representatives in the Danish Folketing who are directly elected. In 1948 the Faroe Islands government was granted the authority to administer "specified local matters", which today include electoral rules, municipal institutions, sanitation, local schools, social services, trade laws and local taxation. Furthermore, all Danish legislation must be submitted to the

Landsstyre before coming into force in the Faroe Islands. The Danish government retains control over defense, foreign affairs and the judicial and monetary systems. Foreign affairs of the Islands are within the domain of the Danish crown and government. But nevertheless, the Faroe Islands' government can conduct negotiations with foreign countries on trade and fishery agreements. Consequently the Faroe Islands did not join the EC with Denmark in 1973, but has since negotiated a series of favorable bilateral trade agreements with EC members. Along with Greenland the Faeroe are not a member in the EU, but have a separate membership to the Nordic Council. They formed a separate "Economic Union with Iceland on 1 August 2005.

The Faroe Islands maintains several local courts for hearing minor civil and criminal cases. More consequential cases of the first instance and appeals from the local courts may be made to the High Court in Torshavn. The court of final appeal is the Danish Superior Court in Copenhagen. With regard to language Faroese, which is derived from the Old Norse, is the official language along with Danish. Faroese developed from the old Nordic language and is the smallest Germanic language and one of three smallest European languages. Although Danish serves as a communication medium with the mainland, the Faroese language policy is actively committed to keep the pace with other languages with constant efforts to modernize its vocabulary.

Of the six parties that won seats in the November 2004 Lagting elections only the left-wing Republican Party (RP), which was established in 1948 in protest against the limited autonomy of the Islands, advocates outright secession. Of the 32 parliamentary seats the RP is holding ... Two other parties advocate greater political autonomy within the Danish State. Notwithstanding these demands for increased autonomy or even independence, in light of large annual subsidies flowing to the islands from Denmark, any change in their status is likely to bring about greater integration rather than autonomy.

2.2.2 Greenland



Population (2005 estimated): 56.375

Land area: 2.166.086 km²

Capital: Nuuk

Official language: Inuktitut, Danish

Autonomy since: 1979

<http://en.wikipedia.org/wiki/Greenland>

Greenland was originally settled by North American Inuit and Scandinavian Vikings in the 11th century. It came under the united Danish-Norwegian Crown in 1380 and under sole Danish sovereignty after the Napoleonic wars. The island remained under Danish control until the Nazi occupation of Denmark in April 1940 at which time the United States assumed responsibility for the island's defence and administration. After the war the island was returned to Denmark and incorporated as an integral part of the kingdom in the 1953 constitution. Nevertheless Greenland has been increasingly used as a military base, especially by the USA. They built up Thule Air base as a strategically important base being very close on the shortest flight route to the Soviet territory. Denmark and the USA signed a treaty in 1951 for the joint defence of the island. Since the end of the Cold War the military importance of Greenland has decreased, but the USA is still seeking to use their bases on Greenland for the planned anti-missiles shield.

After more than three decades of popular discontent with Danish rule in 1975 a commission for the consideration of greater autonomy for Greenland was appointed by the Danish Minister for Greenland. In 1979 Greenland approved the commission's proposals for home-rule by a margin of 3:1 in a referendum. Greenland's constitution had been drafted in 1978 by local political leaders and in April 1979 Greenland elected its first autonomous parliament. The constitution entered into

force in May 1979 with the Danish Folketing's ratification of the Greenland Home Rule Act. In October 1972 75% in the general Danish referendum on its membership in the European Community of Greenland's residents voted against EC membership, but as a result of mainland Danish support for the proposal Greenland was forced to join. After achieving internal self-rule in 1979 and under its powers regarding foreign trade relations Greenland held a referendum on its EC membership in February 1982. A total of 53% voted against membership, mainly due to the intensive exploitation of Greenland's fishing ground by EC-fishing fleets. With 1 January 1985 Greenland altered its link with the EC in that of an overseas territory.

Greenland's internal governing system is a parliamentary democracy with a structure nearly identical to that of the Faroe Islands. Legislative authority on Greenland is vested in the 27-member Landsting which is proportionally elected from three constituencies. Representatives serve four-year terms. The major parties are the Atassut (Brotherhood) supports close links with Denmark, the Inuit Brotherhood party (marxist) and the Nationalist Siumut party. Greenland also has two representatives in the Danish Folketing who are directly elected and serve four-year terms. The executive authority is vested in the Landsstyre, or Executive Council, which is headed by the Lagmadur, or Prime Minister. The Landsstyre comprises between three and six members, elected by and from the members of the Landsting. The Landsstyre has full administrative responsibility for Greenland's internal affairs.

Since 1979 Denmark has been represented on Greenland by a High Commissioner. The Danish government exercises control and authority over the foreign affairs, defence and the judicial and monetary systems of Greenland. As part of the devolution process Greenland's home-rule government has received full authority over local taxation, fisheries, planning, cultural affairs, nature conservation, education, religious affairs, social welfare and labour. Notwithstanding Denmark's power to rule the general foreign affairs Greenland has been given the right to negotiate its own foreign trade agreements. This right was exercised in February 1985 when the island opted out of Denmark's membership in the European Community. Regarding the judiciary the island is divided into 18 court districts which use lay assessors. For most cases these lower courts are for the first instance and appeal is to the Landsret, the higher Court in Nuuk, which is the only one with a professional judge. This court hears the more serious cases in the first instance and appeal in these cases is to the High Court in Copenhagen. The language in Greenland is Greenlandic or Inuktitut, an Inuit language, and Danish as a communication language.

2.3 The Spanish state of autonomous communities: the case of the Basque country [[top](#)]



Spain since the end of the Franco era (1975) embarked on a process of regionalization which has evolved into a quasi-federal political structure designed to accommodate historically-based demands of smaller nations as the Catalonians, the Galicians and the Basques. Spain today is divided in 17 regions or "autonomous communities", which enjoy a different degree of autonomy. The present constitution, promulgated in December 1978, recognizes the right to autonomy of the

nationalities and regions and contains provisions for the process of further regionalization. In the first years the Spanish state organized each autonomous region separately through a bilateral process which led to a constitutional agreement to established a specific autonomy. The Basque Country, Galicia,

Catalonia and Andalusia went through this entire process. Later Spain changed its policy to build up its internal structure and sought to complete the process of regionalization all at once. By May 1983 all the designated regions had acquired full autonomous status and the autonomy process was concluded.

The Basque Country [6] is located in South-western Europe, at the western corner of the Pyrenees Mountains. The concept and delimitation of the Basque Country is not a peaceful one. Traditionally, the term 'Basque Country' has referred to the Basque-speaking populations and, subsequently to the lands occupied by them. However, the influence of Latin languages has been reducing the Basque-speaking area for the last ten centuries. Today the Basque Country is considered to be formed by all the political or historical communities in which the Basque language (Euskera) and culture have remained alive in some way. In this sense, the Basque Country covers approximately 20,000 km², of which 18,000 are to the south of the Pyrenees and 2,000 to their north, within the French Republic. However it is necessary to clarify from the very beginning that there is a strong political opinion stating that Upper Navarra is not a Basque territory. In fact, the current Basque

Autonomous Community includes only the three provinces of Biscay (Bizkaia), Gipuzkoa and Alava, with a size of around 7,000 km². The current population of the Basque Country is around 2.8 million, with 2.1 million living inside the Basque Autonomous Community. One third of the actual population moved into the Basque Country from different Spanish regions, especially in the 1960s and 1970s. Only one third of the people have native grandparents. There are also very important Basque communities in Latin America and in the United States. Foreign immigrants represent today in the Basque Country no more than 2.5 % of the population and most of them are citizens of other European countries.

The Basque Country (Euzkadi)



Population (2005): 2.124.846

Land area: 7.234 km²

Capital: Vitoria-Gasteiz

Official language: Basque, Spanish

Autonomy since: 1979

http://en.wikipedia.org/wiki/Basque_Country

Spanish nationalism began to evolve during the nineteenth century following the French model. The attempts to politically unify the kingdom

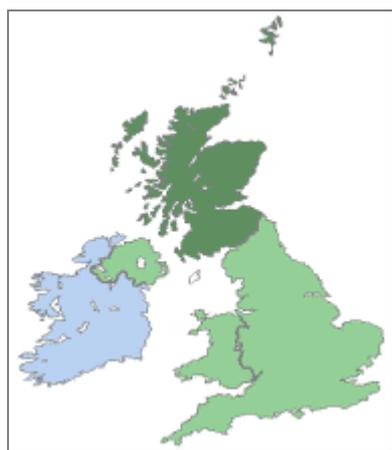
came into conflict with the special political regime of the Basque Provinces. Laws enacted in 1839 and 1876 suppressed the most important aspects of this semi-independent political system. In reaction, nationalism has also developed among the Basque in the late second half of the 19th century, creating a political party: Eusko Alderdi Jeltzalea-Partido Nacionalista Vasco (EAJ-PNV) [7], which gained ground rapidly. In 1931, following the proclamation in Spain of the Second Republic, a system was established in the Constitution to enable some regions to gain autonomy. The Basque Country (without Navarra) elected an autonomous government in 1936 that was suppressed a year later after the conquest of the whole territory by insurgent military forces in the Spanish Civil War. The Franco regime unleashed a savage repression of the Basque national and linguistic identity. As a counteraction to this repression, new left-leaning nationalist groups sprang up, including in some cases the use of armed struggle to combat the dictatorship. Amongst these groups, Euskadi Ta Askatasuna (ETA) [8] was founded in 1962 and carried out violent action against the State security forces and Spanish politicians for more than 40 years.

The current Basque conflict, however, has not to do directly with armed struggle, but with the political controversy about sovereignty and the right to self-determination. The present system of autonomy in force for the Southern Basque Country is based on the Spanish Constitution of 1978 and the historical rights of the

four historical territories (provinces). Today, Navarra is an Autonomous Community of its own, while the three provinces of Biscay, Gipuzkoa, and Alava have constituted the Basque Autonomous Community since 1979 based on an Act on Autonomy passed by the Spanish Parliament and approved by referendum by the Basque population.

The actual efforts of the major Basque political forces are focused to replace the existing autonomy statute strengthening the powers of the autonomous region to self-government in each policy sector, adding rights to a better representation on the national and international level and reiterating the right of the Basque people to self-determination. As expected, the Spanish parliament in Madrid has rejected the statute, previously approved by the Basque parliament, in January 2005.

2.4 Devolution in the United Kingdom: the case of Scotland [[top](#)]



Population (2001): 5.062.011

Land area: 78.782 km²

Capital: Edinburgh

Official language: English, Gaelic

Autonomy since: 1998

<http://en.wikipedia.org/wiki/Scotland>

The United Kingdom of Great Britain and Northern Ireland consists of England, Scotland, Wales and Northern Ireland. After a two decades long process of devolution of legislative and executive powers the UK today is a Union which extends considerable regional functional autonomy to two of its constituent countries, Scotland and Wales. Moreover it has established a quasi-federal relationship with Northern Ireland and specific power-sharing arrangement with minor islands like the Isle of Man. In this context due to reasons of space only the example of Scotland will be briefly considered. Scotland is a distinct state in the United Kingdom of Great Britain and Northern Ireland. It occupies the northernmost part of the British Isles, to the North of England and Wales. Scotland was united with England and Wales by the Act of Union 1707. Under the Act of Union Scotland retained a separate legal system, established his own church, national bank, a fixed percentage of representation in the British Parliament, home rule in respect of local government, education and social functions and its own flag and currency.

From 1939 the Scottish Office, based in Edinburgh and London, carried out the administration of Scotland. The Scottish Office is the Department of the Secretary of State for Scotland, the Scottish representatives in the United Kingdom parliament. Scotland maintained a separate justice system, education system and Scottish radio service under the Scottish office, although most matters of economic policy and major decisions were undertaken by the United Kingdom parliament. In July 1978 the Westminster parliament promulgated the Scotland Bill which provided for a Scottish referendum on a directly elected assembly in Edinburgh. The Scottish referendum was held concurrently with a referendum in Wales for a direct assembly in Cardiff. In March 1979, 33% of Scotland voters voted in favour of devolution. A minimum 40% vote in favour of devolution was required to pass the legislation. Only 20% voted in favour of devolution in Wales.

In 1987, Scottish and Welsh members of Parliament entered into parliamentary alliance to force the path of constitutional, economic and social reforms in Scotland and Wales. The representatives agreed to work together toward their constitutional demands: independence for Scotland and self-government for Wales. In October 1990 a constitutional convention was convened in Scotland to outline a general plan for a Scottish parliament within the United Kingdom, with exclusive control over defence, foreign affairs, social security and some monetary, fiscal and income tax matters. In 1997, under the Referendums Act 1997 (Scotland and

Wales), a referendum was held on the devolution of Scotland and Wales. 74,3% of Scottish voters voted in favour of the devolution and 25% against. Electors were also asked to decide whether or not the Scottish parliament should have tax varying powers. 63,5% voted for and 36,5% against that proposal.

Therefore in 1998 the Scotland Act was passed, paving the way for the establishment of a separate Scottish Parliament for the first time since 1707. At the same time, a Welsh Assembly was formed to give the people of Wales more control over their affairs with the United Kingdom. The Scotland Act makes provision for a Scottish parliament with law-making powers over a wide range of matters that affect Scotland. The Parliament is a unicameral legislature comprised of 129 members. The Queen appoints one of its members of the Parliament, on the nomination of the Parliament, to be the First Minister. The Scottish executive, headed by the First Minister, holds executive power and is accountable to the directly elected Scottish parliament. The government has responsibility for health, education, local government, social work, economic development, law and home affairs, including most civil and criminal law and criminal justice, environment, agriculture, sport and statistics. The United Kingdom reserves powers relating to foreign policy with Europe, defence and national security, economic stability, common markets of UK goods, employment legislation, social security and most aspects of transport safety regulations.

In the British House of Commons, Scotland is represented by 59 MPs in the Scottish Constituencies. A Secretary of State of Scotland sits in the UK cabinet and is responsible for the limited number of powers the office retained as well as relations with other London Ministers. The Scottish Parliament can refer devolved matters back to Westminster to be considered as part of UK-wide legislation if this is more appropriate for reserved Scottish affairs. Scotland remains an integral part of the United Kingdom and the Queen of England continues as its head of state. The Scottish parliament, for the first time directly elected in 1999, is fully operational since the year 2000. The devolution of Scotland is regarded positively by both the United Kingdom and Scotland, enabling to decentralise power, to open up government, to reform Parliament and to increase individual rights.

The main political debate in Scotland today tends to follow the traditional class based divides of left and right that exist in the rest of the UK. Devolution, which all the UK-wide parties have supported to some degree during their history (although Labour and Conservatives have also at times opposed it) dominated the Scottish political scene in the latter decades of the 20th century. Now that the devolution has occurred, the main argument about Scotland's constitutional status is over whether the Scottish Parliament should have additional powers or seek to obtain independence.

2.5 Italy's regions with special autonomy statute: the case of South Tyrol [[top](#)]



Population (2005): 481.133

Land area: 7.400 km²

Capital: Bozen/Bolzano

Official language: German, Italian, Ladin

Autonomy since: 1948

http://en.wikipedia.org/wiki/South_Tyrol

After World War II and the 20 years of fascist regime Italy changed its political system: in 1946 it replaced the monarchy with a democratic republic and in 1948, with the new constitution, it transformed from a unitary state into a regionalist state. However, it took the ruling political parties

more than 20 years until 1970, when the 15 "Regions with ordinary statute" were officially established as territorial entities with democratically elected legislative bodies and executive governments endowed with a number of autonomous powers. On the other hand Italy, besides its huge economic regional disparities and cultural

diversities, had to face some specific situations due to historical and ethnical-linguistic reasons. In the North three major regions with ethnic minorities were claiming self-determination or at least a special autonomy: the Aosta-Valley with its French-speaking population, Friuli-Venezia Giulia with a Rhaetoromanian and a Slovenian minority and South Tyrol, inhabited predominantly by German speaking Tyroleans. In the South, Sicily first claimed independence, later autonomy along with the second major island Sardinia, which linguistically again is considered a distinct culture from the Italian mainland. In this essay only the example of South Tyrol will be briefly presented.

South Tyrol is located in north-eastern Italy and shares border with Switzerland and Austria. South Tyrol belonged for centuries to the larger Tyrolean entity being part of Austrian Empire from the 13th century until 1919, excluding the years under the Napoleonic occupation 1810-14. Italy in 1915 signed a secret pact with the powers of the Entente, which led to its entering the First World War on the side of the Entente. One of the territories promised to Italy, as a compensation for joining the war, was South Tyrol.

South Tyrol was officially annexed by Italy according to the treaty of St. Germain-en-Laye in 1919. According to the last census conducted by Austria in 1910, 89% of the South Tyrolean population was German, 4% Ladins (Rhaetoromanians) and 3% Italians. Italy promised to safeguard the identity of its new linguistic minority after the annexation. However, no measures were taken to hold to this promise. In 1922 the Fascists rose to power and ended the hopes of the South Tyroleans for the protection of their language and culture. During World War II South Tyrol's German-speaking inhabitants were forced to opt either to leave the country to be resettled in an area in the Third Reich or stay in South Tyrol and face forced transportation to southern parts of Italy. After the World War II, South Tyrolean representatives together with the provisional government of Austria tried in vain to influence peace negotiations requesting that South Tyrol be returned to Austria, but Italian borders were officially reconfirmed in 1947 in the Peace Treaty of Paris. The agreement on the self-government of South Tyrol, signed in Paris in 1946 and annexed to the peace treaty with Italy, gave the South Tyrol question an international standing.

A first Statute of Autonomy was passed by the Italian Parliament in 1948, but it referred not only to German-speaking South Tyrol but also included the Italian-speaking region of Trentino. As a result, the post-war years were characterized by disputes and clashing interests of the South Tyrolean and Italian governments. South Tyrolean activists organized bomb attacks to which Italian authorities answered with harsh measures in South Tyrol. At the same time, Austria brought the case to the attention of the UN. A new agreement was reached in 1969 (known as the "Package"), consisting of a set of measures with an aim to establish effective autonomy in South Tyrol. The Package consisted of 137 measures: 97 of them required implementation through amendment of the 1948 Autonomy Statute by a constitutional law, eight through executive measures to the above-mentioned Statute, 15 through ordinary state laws, nine through administrative decrees and the rest through administrative regulations. Due to that "Package" a new autonomy statute was set forth which entered into force on 20 January 1972. After 20 years intense negotiations all the important measures contained in the Package were implemented and only on 11 June 1992 Austria and Italy officially declared before the United Nations that the conflict had been settled [9]. This Statute of Autonomy was amended again in 2001 in 50 single issues. It forms an integral part of the Italian constitution.

With this statute the powers of the Region and the Provinces were redefined, with the powers of the two Provinces substantially increased in comparison with the past. The provisions of the autonomy apply generally to both Provinces in the same way, but South Tyrol has in addition special provisions regarding the use of the mother tongue, schools, culture, bilingualism, and ethnic proportions in employment, etc. On the basis of the Paris Agreement, the South Tyrol Autonomy Statute should ensure the maintenance and linguistic and cultural development

of the German and Ladin linguistic groups within the framework of the Italian state; but at the same time the autonomy is a territorial one, i.e. the benefits of these enlarged powers of self-government apply to members of all three linguistic groups in South Tyrol.

The second Autonomy Statute provides the Province of South Tyrol (and the Province of Trento) with far-reaching independence vis-à-vis the Region and the State. The most important powers of the Province of Bozen - South Tyrol are: place naming, protection of objects of artistic and ethnic value, local uses and customs, planning and building, protection of the countryside, common rights (for pasturage and timber), the regulation of small holdings, crafts and handicrafts, public housing, fairs and markets, prevention of disasters, mining, hunting and fishing, alpine pastures and the protection of fauna and flora, public works, transport, tourism and the hotel trade, agriculture and forestry, expropriations, employment exchanges, public welfare, nursery schools, school buildings and school welfare, vocational training; restricted powers apply to teaching in primary and secondary schools, trade and commerce, hygiene and health, sport and leisure, etc. On the other hand, the Region has just modest powers, amongst them being the regulation of regional offices, municipal boundaries, land registers and land registry offices, fire services, regulation of health bodies and Chambers of Commerce.

The Provincial Government of South Tyrol has started to go a way, which has been accepted by the government in Rome under the definition of "dynamic autonomy". The ambition of a new extension of the autonomy and of new competencies for the administrative structures the South Tyrolean government has been very successful. During the last years the autonomy could have been extended with the following competencies: own salary contracts and extension of the programmatic competencies in school sector; taking over of the employment offices and the office of motorization; taking over of the state roads; transition of the state real estate; reduction of the state control functions (court of account); extension of the administrative jurisdiction; new prospects in the energy sector; recognition of competencies in the EU- sector (Europe-Office); competence on university level with the following foundation of the Free University Bozen; commitment to the rights of the Ladins (constitutional law). This achievement has increased the self assurance of the South Tyrolean population. The Provincial Government of South Tyrol has shown, that the autonomy is not a static thing, but it is something capable of development.

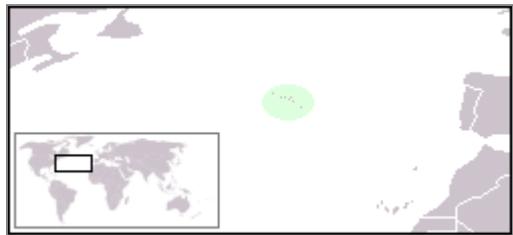
Two major issues are important to be recalled when evaluating the South Tyrolean autonomy system. First, the strict regime of bilingualism which affects the whole public service sector and all public institutions, regardless whether they belong to the municipalities, the province or the state, and including the judiciary and the police. Only the army personnel and the government representative in Bozen is exempted. Every applicant to a civil service job has to prove to have sufficient command of both official languages, German and Italian, through an objective examination. In the Ladin area there are even three official languages to be mastered.

Second, the second peculiarity of South Tyrol's autonomy is the "proportionality principle" in accordance to the numerical strength of the three official linguistic groups in the province. It has to be distinguished between the application of this calculation key to all public commissions and bodies as a basic means of consociational form of administration and government, along with the interethnic cooperation in democratic life. On the other hand also some major items of public resources, as subsidized housing funds, social assistance in some sectors, and all civil service jobs are allocated according to the respective share of each group on the total population. To meet this requirement, every permanent resident in the province has to freely declare and register his "affiliation to one of the official linguistic groups of the province of Bozen - South Tyrol".

At least the financial regulation provided to the Autonomous Province has brought

about a quite advantageous situation for the Province. It enjoys budgetary freedom regarding its expenditures, but has only few powers regarding taxation. South Tyrol as main source of revenue can keep 90% of all tax revenue collected by the States tax administration in the autonomous territory.

2.6 Portugal's autonomous islands: the Azores and Madeira [[top](#)]



Population (2001): 241.763
 Land area: 2.333 km²
 Capital: Ponta Delgada, Horta
 Official language: Portuguese
 Autonomy since: 1976
<http://en.wikipedia.org/wiki/Azores>

Portugal for many decades was retained a country without national minorities or minority languages. Despite the "discovery" of the Mirandes-speakers - a Castilian dialect - close to the border to Spain and the presence of some major groups of gypsies (Romany) autonomy in Portugal is not accorded to minorities defined by ethnic-linguistic categories, but by geographical categories: the two island groups of Madeira and the Azores. The first is located about 100 km south of the Portuguese mainland, while the Azores lie in the middle of the Atlantic, at half way between Europe and North America. The Azores comprise three groups of islands, Madeira consists of 4 islands. Both were first discovered by the Portuguese and settled in the 14th and 15th century. The navigator's interest in plumbing the southern reaches of the West African coast combined with the exigencies of the West African slave and gold trade led to the development of Madeira as a convenient stopping point for ships to and from Portugal. Like Madeira to the south, the Azores Islands were the last frontier for European expansion before the New World to the west. During the years of Portuguese exploration in the New World, the Azores were used as a final checkpoint before sailing across the Atlantic. By the close of the age of discovery and with the incorporation of Portugal into Spain in 1580, the Azores became a place of refuge for political exiles until the 1920s.

In the Portuguese constitution of 1976, the Azores and Madeira were granted special constitutional status as "Autonomous Regions". The Portuguese constitution declared that the special political and administrative arrangements to the Azores and Madeira are based on "their geographical, economic and social constitutions and on the historic aspiration of the people to autonomy". It was stipulated that this autonomy should in no way affect the Portuguese state's full sovereignty and shall be exercised within the limits of the national constitution. For political and administrative purposes the Azores Islands are divided into three districts, each sending its representatives to the Chamber at Lisbon. Madeira and Porto Santo are officially designated the District of Funchal, which sends two deputies to the Portuguese National Assembly.

2.6.1 Madeira



Population (2003): 265.000
 Land area: 964 km²
 Capital: Funchal
 Official language: Portuguese
 Autonomy since: 1976
<http://en.wikipedia.org/wiki/Madeira>

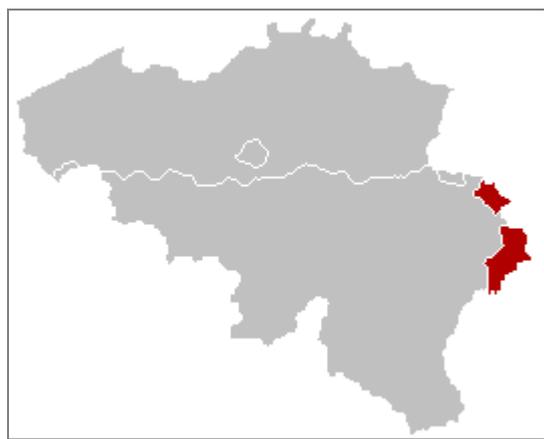
Executive authority in the two Autonomous Regions is delegated by the Portuguese President and a five-person advisory committee to the Minister of the Republic. The Minister's authority with regard to most internal affairs is further devolved to the Regional Governments in the Azores Islands and Madeira. The Regional Government are headed by a president who is elected by and from the Regional Assembly and appointed by the Minister of the

Republic. The President nominates the ministers of the government who are appointed in the same manner. The government remains responsible to the Regional Assembly and may be dissolved by a vote of no-confidence. Legislative authority in the two regions is vested in the unicameral Regional Assemblies the members of which are directly elected for four years-term. The judicial system of these autonomous regions is under the auspices of the Portuguese system with District Courts and a Court of Appeal located in each region. Final appeal is to Portuguese Supreme Court.

The Regional Assemblies are empowered to legislate on matters of special interest to the region, to exercise executive authority over regional legislation, to draw up regional economic plans and to participate in the preparation of the national plan. The regional Governments also have the power to levy taxes and tariffs, and to spend 95% of their internal revenues. The 1976 Portuguese constitution grants to the Autonomous Regions the right to participate in the negotiation of and enjoy the benefits derived from international treaties and agreements which may concern it. The official language of the islands is Portuguese. In the 80ies some groups on the Azores pushed for an extension of the autonomy. The conflict with Lisbon developed on the right of the islands to have their own flag and anthem. The "Front for the Liberation of the Azores" (FLA), with support from some of the wealthiest families of the islands, threatened to come up with violent resistance. Initially the Portuguese president Soares rejected the claim, fearing a danger for the national unity, later the conflict on the symbols was resolved and the Azorean autonomy extended.

Madeira and the Azores, unlike Greenland, are full members of the EU, as these autonomous regions have no powers in international affairs. The Azores economically are relying on the cultivation of tea, tobacco and oranges and serve as the main intermediate port in the Northern Atlantic. Since 1913 the Azores are hosting the American air base of Terceira. They have frequently been hit by earthquakes and volcano eruptions. Also Madeira during the times of Portugal's colonial expansion served as an important naval base. Today the most important income resource of the island is tourism, especially from Great Britain.

2.7 The German Community in Belgium [[top](#)]



Population (estimated 2005): 72.000

Land area: 894 km²

Capital: Eupen

Official language: German/French

Autonomy since: 1973-1994

http://en.wikipedia.org/wiki/German-speaking_Community_of_Belgium

1. History of the German community in Belgium

The German speaking community of Belgium (Deutschsprachige Gemeinschaft Belgiens) is the main part of the so-called East Canton of

Belgium, which is a part of the Belgian province of Liège. Almost all of the 72.000 inhabitants of the nine municipalities are German by mother tongue. The East Cantons consists of the German-speaking Community and the municipalities of Malmedy and Waimes (Weimses), which belong to the French speaking Community of Belgium. This region was part of the Rhine Province of Prussia in Germany until 1920 as the "Counties of Eupen and Malmedy", but was annexed by Belgium following Germany's defeat in World War I and the subsequent Treaty of Versailles. Thus they also became known as the cantons redimés (redeemed cantons) or later as "Eastern Belgium" or "German Belgium".

The peace treaty of Versailles demanded the "questioning" of the local population

about their political status. This process was not carried out as an anonymous referendum. Instead, those locals who were unwilling to become Belgians and who wanted the region to return being a part of Germany were required to register themselves along with their full name and address. By that method the Belgian military administration prevented a free and fair referendum as many locals feared reprisals or even expulsion after enlisting. In the mid-1920s negotiations between Germany and Belgium were held and the kingdom of Belgium seemed to be inclined to sell the region back to Germany. At this point the French government, fearing for the complete postwar order, intervened at Brussels and the Belgian-German talks were called off.

The new cantons had been part of Belgium for just 20 years when in 1940 they were retaken by Germany. The majority of the population of the East Cantons welcomed this as they considered themselves Germans. Following the defeat of Germany in 1945 the cantons were once again annexed by Belgium, and as result of alleged collaboration with Nazi-Germany an attempt was made to "un-Germanize" the local population by the Belgian and Wallonian authorities [10].

2. The autonomy arrangement

The German Community forms an autonomous entity of public law within a precisely defined territory of Belgium. As Nunavut in Canada the German Community represents an asymmetrical element of the federal structures of the Belgian state, established to accommodate the interests of the smallest ethnic group, the about 72.000 "German Belgians" (about 0,7% of Belgium's total population). Belgium consists, at present, of three regions (Flanders, Wallonia and Brussels) which are roughly equivalent to states in a federal state. Parallel to this, there exists an organization of the state into three "Communities" which corresponds to the language frontiers within each region. According to art.2 of the Belgian Constitution "Belgium encompasses three communities: the German, the Flemish and the French community". The three "Communities", possess far reaching powers in all "person-related-services" as education, cultural policies, conservation of cultural sites, family and social assistance, health and in employment policies.

Powers of the Communities
(person related services)
Cultural and language policy
Media
Education
Health assistance
Social assistance
services
Youth services and protection
Fundamental research
Inter-community cooperation
of municipalities

Powers of the regions
Urban planning
Environmental and energy policy
Housing
Local economic policy
Employment and labor market
Transport and communications
Agriculture
Local administration and control
Local economic development
International trade

All three Communities, autonomous entities of the federal state, have an own parliament, a government and ministries to exercise their powers. By contrast to the major communities the German Community is empowered only to regulate the medium language of the public education system. But the German Community can exercise regional powers

"Belgium comprises 4 linguistic areas: the German, the French, the Dutch and the bilingual area of the capital Brussels" (Art.4 Constitution). The German area comprises 9 municipalities in the East of Wallonia. In all areas by general legal principle the official language of public administration, schools and judiciary is that provided by the territorial attribution. There are special language provisions in the German Community for French speakers in private corporations and in two neighboring French speaking municipalities for German speakers. The power for the medium language in education has been transferred in 1997 to the German Community, after an amendment of the Constitution.

The GC now has also powers in urban planning, employment and local economic policies. Also some powers in foreign relations and it can stipulate treaties and co-operation. In 2005 the German Community has taken charge of controlling and auditing the municipalities.

3. The political representation

The Germans of Belgium are represented on 3 levels:

1. The German linguistic territory forms a common constituency with a Walloon constituency of Liège. Hence currently no member of the Belgian Parliament has been elected, that is why the Germans are claiming a guaranteed seat on the Parliament. The parliament of the German Community appoints one member in the second chamber of the Belgian Parliament, the Senate (71 members). There is no directly elected German member of the Senate, as there are not sufficient German voters.
2. On a regional level the German Community is represented in the Walloon Regional Parliament with 3 members, but there is no special constituency for the German voters. In the Province of Liège, the German are currently represented with 6 members of the Provincial Assembly.
3. The democratically elected Parliament of the German Community in Eupen is representing the German Community in the overarching commissions of co-ordination with parliaments of the other communities. In addition to that German Community forms a constituency for the election of the European Parliament.

The well defined autonomy of the German Community has been established only in the framework of the transformation of the Belgian state from a unitary state into a federal state from 1973 to 1994. The first provisions of official use of languages date back to 1962-63, but the German Community as such has been established only with the first state reform 1973. In 1974 the first Parliament of the German Community was elected. The second state reform 1980-83 extended the cultural powers and person-related services since that time the Parliament is directly forming the government of the German area. Later the German Community becomes fully responsible for the whole education system, with the third State reform.

In the 90ies the German Community is on the level of constitutional law further reinforced and granted with additional powers. With the 4th state reform 1993-94 the Belgian system of national parliament is reformed, with a direct representation of Germans in the Senate. At the same time the autonomy of the German Community is enlarged. Now it is also vested with social assistance, conservation of the cultural heritage sites, labor market services and politics and the financing of the local bodies as well as audit and control on municipalities. In 2001 the system of financing the German Community has profoundly changed. The government of the German Community is formed by 3 to 5 ministers.

Today Belgium's German Community is demanding greater autonomy and wants, in long term, to be recognized as an "equal region" in federal Belgium as the Wallonia and Flemish region. The chief Minister of the Community, Karl-Heinz Lambertz, announced that he had opened negotiations with the French speaking region of Wallonia. The German Community wants additional powers in the urban planning policy, in housing and highways as well as agriculture. This follows a strategy which was unanimously endorsed at the end of 2001 in the Council of the German Community. There it was decided to go "further step by step, along the way to an increase in our autonomy". In the long term the German Community should be recognized as a fourth region alongside Flanders, Brussels and Wallonia. For now Wallonia has rejected the German demands of a fourth region as a "state in the state". And Wallonia is rather reluctant to enlarge the powers of the German Community, fearing a complete secession from the Region of Wallonia.

It should be remarked that, if the German Community would advance to the status of a full fledged Belgian region, it would gain equal standing with the existing 3

regions as one of the 4 constituent entities of a federal state. Subsequently it would cease to be qualified as a "territorial autonomy" as today.

2.8 Gagauzia: Moldova's autonomous region [[top](#)]



Population (2001): 171.500
Land area: 1.831,5 km²
Capital: Comrat
Official language: Gagauzian, Moldovan, Russian
Autonomy since: 1994
<http://en.wikipedia.org/wiki/Gagauzia>

Gagauzia embraces 1831,5 km² which is 5,4% of Moldova's total territory. The 172.000 odd inhabitants are composed as follows: 78,7% Gagauzians, 5,5% Bulgarians, 5,4% Moldavians, 5% Russians, 4% Ukrainians, 1,3% other ethnic groups. As for religious affiliation 4 orthodox churches are competing: the Moldavian-orthodox, Ukrainian-, Russian- and Gagauzian-orthodox church. The Republic of Moldova is a multiethnic state in Eastern Europe faced with various ethnic conflicts. The Gagauzians are a people of Turkic origin

and language, who fled the continuous Russian Ottoman wars in the Balkans in the 18th century. Today among all Turkic peoples the Gagauzians are along with the Chuvash in Russia the only christianized one. The Gagauzians have been living for centuries in Bulgaria, where they adopted orthodox Christianity. As the area of today's Moldova was annexed to Russia all the Muslim inhabitants of that region had to leave, while the new Russian rules lured settlers from the neighbouring countries with privileges like tax and military service exemptions and land. This brought the Gagauzians to fill the vacuum. The Gagauzians were Turkish by language, but in history had adopted orthodox christianity

Whereas the conflict between the central power and the Russian minority concentrated in the region of Transnistria still lies unsolved, the Moldovan state has reached a stable compromise with the small people of the Gagauzians by establishing a territorial autonomy. One third of Moldova's population belongs to various minorities. After the independence of Moldova in August 1991 fears came up among Gagauzians that Moldova's nationalist movements would seek reunion with Romania. Not only in Transnistria, but also in the southern Gagauzian hill region the tension rose and the Gagauzians built up a popular common front. As the newly constituted Republic of Moldova approved a nationalist language regulation centred on the Moldovan language, the Gagauzians proclaimed their own miniature Soviet Republic in the capital of the region Comrat. While many observers feared the outbreak of a second frontline including bloody confrontation with separatist militants, both parties - the leadership of the Gagauzian people and the government of the newly independent Republic of Moldova - agreed to engage in a political negotiation process to find a bearable compromise.

The 23 December 1994 the Moldovan Parliament in Chisinau, after a day long intense debate, exceptionally held only in Russian, approved the "Act on the special juridical status of Gagauzia (Gagauz Yeri) in the Republic of Moldova". The core issue of the law was the concession of internal self-determination for the Gagauzian people of Moldova through the constitution of Gagauzia as an autonomous territorial unit "with particular juridical position which, as a form of self-determination of the Gagauzians is a part of the Republic of Moldova". On that basis in March 1995 there could be held a referendum in all areas of Southern

Moldova where Gagauzians are living whether to join the new autonomous territory or not. 30 municipalities decided to become a part of Gagauzia with 1 January 1996.

According to the autonomy act of 1994 the territory of Gagauz Yeri consists of all those localities where the proportion of the Gagauz population exceeds 50%. Local referenda were held, where this number was below 50%, to decide whether those municipalities wanted to be included in the autonomous area. Legislation rests with the Assembly of Gagauz Yeri, which is directly elected by the people. The main powers include education, culture, local development, budgetary and taxation issues, social security and urban planning and environment. Moreover the Gagauz Assembly may also participate to formulate Moldova's internal and foreign policy and may challenge national laws before the Constitutional Court if they interfere in the Gagauzian jurisdiction. The head of the executive is the governor who is directly elected by the population of Gagauz Yeri for a 4-years-term. He is by definition a member of the Government of the Republic of Moldova. The members of the Gagauz government are appointed by the Gagauz Assembly.

As for the judicial branch the Court of Gagauzia acts as an appeal forum for local judicial districts. Its judges are appointed by the president of Moldova on proposal of the Assembly of Gagauz-Yeri. The Chief Judge of the Court of Gagauzia is by definition a member of the Supreme Court of Moldova. A similar sharing of responsibilities may be observed with regards to the office of attorneys of Gagauz-Yeri. From a Gagauzian point of view there were two particularly important sections of the "Autonomy Act". First, as the subject of the autonomous region of Gagauzia (Gagauz Yeri) is defined the Gagauzian people. Hence, the Gagauzians are not only labelled as "minority" or as "ethnic group", but as a people. Second, the act of autonomy took into account the historical anxiety of the Gagauzians that their territory could once again be annexed to neighbouring Romania as it happened already in the period 1918-1940 and 1941-1944. The article means: "In the case of changing the status of the Republic of Moldova as an independent state, the people of Gagauzia has the right to external self-determination". This means the right to secession and to create an own state.

Gagauzia is governed by a parliament and a governor, who has been elected for the first time directly in June 1995. Since 1998 Gagauzia has also its own constitution. Along with Russian and Moldavian (Romanian) Gagauzian is the official language of the autonomous entity. Its territory is not contiguous, but consists of a core area around the capital Comrat including the area of Ceadir Lunga and three exclaves around the city of Vulcanesti in the South and the villages of Copceac and Carbolia. Setting up a territorial autonomy contributed decisively to end a harsh conflict between the Gagauz people and the central government in Chisinau. In October 1990 and August 1991 this conflict was on the verge to glide in full fledged war. The autonomy solution contributed to ease the tension in Moldova's second ethnic conflict: the quest of Transnistria. In summer 1992 a brief local war broke out around the town of Bendery/Tiglina between the Moldavian army and the Transnistrian separatists causing a thousand of victims and about 100.000 IDPs. Up to now there is still no definitive solution of that conflict. On the background of this fragile internal situation the breakthrough to autonomy in Gagauzia was a triumph of political reason over the ambitions of the old power elites.

The perspective of the concerned political institutions and forces has been different, as well as the positions of the concerned local population, Gagauzian or non-Gagauzians. There was some criticism to the incomplete power sharing between the central government and the autonomous institutions and to the weak representation of autonomous Gagauzia at the central level. However, also the main Moldovan political forces retain the autonomy solution a success. The autonomy statute of Gagauzia today is not questioned even by the majority of the non-Gagauzian population of Gagauzia. Whereas outside the autonomous area, according to Moldova's language laws, all leading positions in politics, enterprises, Medias, administration require full mastery of Moldavian Romanian, Gagauzia is

trilingual. No wonder that also the Bulgarian minority of Moldova in the South-western part of the country is now claiming a territorial autonomy. However, the case of Gagauzia endorses the assumption that every autonomy solution has to be exactly tailored to the specific case and conditions of interethnic relations reigning in the concerned region. A successful form of autonomy can work in one case, but other conflicts can require a different approach.

The autonomy of Moldova's Gagauz Yeri is of paramount importance for the Central and Eastern Europe as after 1990 in most post-communist states resurfaced strong nationalist political forces. While even before minority protection was a secondary issue in state policy now new reinforced politics of assimilation led to tensions. A broad number of minorities felt ever more frustrated and threatened being treated as "second class citizens", sometimes even used as scapegoats for social and economic backwardness. Few attempts were made to promote minorities to equal partners and "autonomy was and is often understood with an attack on the integrity of the state. Gagauzia's autonomy set an example of both territorial autonomy and of minorities collective rights, for the first time in Eastern Europe since the fall of communism. It proved that method can offer a sensible remedy to concerns to all sides.

2.9 Autonomy in the Russian Federation: the Republic of Tatarstan [[top](#)]



Population (2002): 3.779.265

Land area: 67.836,2 km²

Capital: Kazan

Official language: Russian, Tatar

Autonomy since: 1994

<http://en.wikipedia.org/wiki/Tatarstan>

Regional autonomy in federal states could appear contradictory as every federated subject by definition enjoys a certain degree of autonomy. The Russian

federation is the worldwide best example of an "asymmetrical federation". Its constitution recognizes six different forms of federal subjects: republics, districts, territories, town with federal importance, autonomous territories and autonomous districts. Asymmetry encompasses three aspects: different kind of constitutional status; a different kind of executive powers provided by bilateral treaties between the federal unit and the federation; a different kind of internal political system, sometimes even in contrast to the federal constitution. According to the relative rank of the subject the extension of powers and the degree of autonomy decreases. Asymmetrical federal states adopt their power sharing structure to the specific needs and interests of the single territorial units. As the Russian federation, they combine symmetrical features, applied to all units with asymmetrical features, set forth only for some or one specific case. Therefore in the Russian Federation today there are different forms of participation to power in the centre, different levels of control of local resources, different degrees of autonomous legislative and executive powers; but finally all the subjects of one kind share some common juridical feature, otherwise the whole system would become ungovernable. However, unlike the situation in the Soviet era, the republics do not have any sovereignty.

Why should the Republic of Tatarstan be considered a particular case of autonomy? Tatarstan is not only the most populous autonomous republic of the Russian Federation, but has also a particularly advanced form of autonomy. Tatarstan was a member of the former Soviet Union (USSR). Prior to the formulation of the existing Russian Federation, the USSR was divided in 15 union republics (Socialist Soviet Republics), 20 autonomous republics (ASSRs), 8 autonomous regions (oblasts) and ten national district (okrugs).

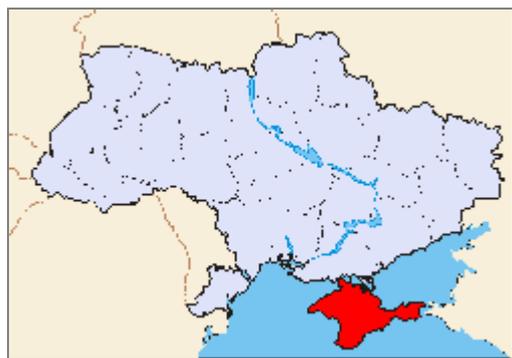
Tatarstan at that time was an Autonomous Socialist Soviet Republic (ASSR) located

in the centre of the USSR next to the ASSRs of Mordvinian, Chuvash, Mary, Udmurt and Bashkir. The major ethnic group in Tatarstan are Tatars (over 51%), Russians (43,3%) and Chuvashes (3,7%). Mordvinians, Udmurts, the Mari and Bashkirs also live in Tatarstan. As for religion the Tatars are Muslim and comprise the second largest ethnic group in the Russian Federation after the Russians. They are Turkic in origin and subsequently settled in north-eastern Mongolia and in the Uighur Khanate. Large numbers of Tatars settled in the Middle Volga region and areas adjacent to the Urals in the 11th century. Today the Tatar ethnic group is located in a number of regions throughout the Russian Federation and the world. The 1989 Russian census counted 6.645.558 Tatars, 5,5 million of whom living in the Russian Federation. From the late 1980s, the Tatars had campaigned for increased autonomy, particularly in respect of the administration of the oil and other rich natural resources of their territory. Tatarstan is rated eight state in the Russian Federation in terms of economic output. It is of enormous strategic and economic importance to the Federation, producing 79% of its oil, most of its heavy trucks and strategic bombers and it has highly developed machine building base.

On 30 August 1990, when the USSR was dissolved under the leadership of Gorbachev, all of the USSR union republics had issued declarations of sovereignty or independence, also Tatarstan proclaimed itself a "sovereign republic". This was confirmed two years later by a popular referendum. The USSR was moving towards greater decentralization and the restoration of powers of autonomy to the governments of the regions. In November 1992, Tatarstan (an ASSR and not a Union Republic) adopted a republican constitution, virtually declaring its independence. The Russian Constitution was adopted in December 1993 and the Tatars refused to sign the Russian Federation multilateral treaty dealing with the structure of the federal member state governments. In 1994, the leaders of the Republic of Tatarstan and the Russian Federation reached an agreement and signed the bilateral Treaty on the Demarcation of Powers between the Agencies of State Power of the Russian Federation and the Republic of Tatarstan. The bilateral Treaty did not grant Tatarstan sovereignty. Instead, the Treaty describes Tatarstan as "a state united with Russia on the basis of the constitution of the two states and the Treaty on the Demarcation of Powers between the Agencies of State Power of the Russian federation and the Republic of Tatarstan."

Russia recognized Tatarstan's right to conduct its own foreign policy and trade, as well as have its own constitution and laws, form its own budget, levy taxes, set up legal and judicial institutions, administer natural resources and set up its own bank. Joint functions include defence of individual rights and freedoms, ethnic minorities. Tatarstan's sovereignty an territorial integrity, military production and sale of weapons, conversion of defence plants to civilian use, coordination of foreign trade, economic policy, monetary policy and transport and communication policy. In most autonomous arrangements, the sovereign state retains power in respect of foreign policy, international relations and defence.

2.10 The Autonomous Republic of Crimea (Ukraine) [[top](#)]



Population (2002): 2.000.192
 Land area: 26.100 km²
 Capital: Sinferopol
 Official language: Russian, Ukrainian, Tatar
 Autonomy since: 1994
 Ethnic composition: Russians: 1,180.000 (58,3%); Ukrainians: 492.000 (24,3%); Crimean Tatars: 243.400 (12%); Other smaller ethnic groups: 5,4%
<http://en.wikipedia.org/wiki/Crimea>

The peninsula of Crimea, the most Southern part of the Republic of Ukraine has a long history as a multinational polity. For centuries a Tatar Khanate, Crimea fell under the Ottoman Empire in 1745 and briefly later (1783) under the Russian

Empire. In the 19th century Crimea underwent a protracted process of russification. After the October-revolution in Russia the Bolsheviks created the "Crimean Autonomous Soviet Socialist Republic" (ASSR) within the Russian federation (RSFSR). A deep trauma hit the Crimean society in 1944 when Stalin deported about 190.000 Tatars from their homes to Central Asia causing the death by hunger and cold of nearly half of them. Russians from the mainland filled the empty homes of the deported Muslim Tatars, one of various peoples victims of genocide under the Stalin regime.

Perhaps as compensation or to gain stronger support of the Ukrainians only in 1954 Krushchev gifted Crimea to the Ukraine. Today it is the only Ukrainian province with a Russian majority. After the collapse of the Soviet system in 1991, the Russian majority tried to turn the clock back to 1954 declaring a "new autonomous Crimea" and seeking annexation to Russia. The years up to 1994 were marked by an intense political struggle between Moscow and Kiev with a divided Crimean population: Ukrainians and Tatars and other minorities backing permanence within Ukraine on the one side, the majority of the Russians favouring a "return to Russia" on the other. Only in autumn 1995, thanks to a decisive role of the Russia-friendly Ukrainian president Leonid Kutchma, Crimea adopted a new constitution enshrining its autonomous status and recognising itself definitely as a "inseparable constituent part of Ukraine".

The Autonomous Republic of Crimea (ARC) is entitled to adopt its own constitution which has to be approved by the Ukrainian parliament. One particular and essential issue of the genesis and legitimation of Crimea's autonomy is not only the Ukrainian-Russian conflict, but also the historical crimes against the traditional inhabitants of the peninsula, the Tatars and others. The constitution ensures (art.11) "the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine". The share of ethnic Russians in the Crimean population has declined from 65,6% (1989) to 58,3% in 2001. Whereas in 1989 just 1,9% of the population were Crimean Tatars their number has risen particularly in the 90s due the return of thousands of Tatar families from Uzbekistan. Along this trend in Crimea in 2011 there will be no more ethnic Russian majority. The lease of the port of Sevastopol for the Russian Black Sea fleet will also end in 2007. In Uzbekistan are still living some 188.000 Crimean Tatars, at least 73% of whom wish to return to Crimea. But poor housing, high unemployment, difficult general living conditions prevent them to return. The Crimean Tatars, however, who today count for about 12% of Crimea's total population, refuse to be considered a "national minority".

The ARC is endowed with legislative and executive powers for the following main policy sectors: agriculture and fishery, land reclamation and mining, public works, crafts and trade, city construction and housing and cultural issues, public transportation, roadways, water supply, hunting and fishing, sanitary and hospital services. If the Ukrainian president retains a Crimean legal act unconstitutional, he may suspend it and appeal to the Constitutional court in Kiev. Moreover the president has the right to monitor and control the ARC through its representative of the Ukraine in Crimea, a very influential figure.

Crimea's language regulation is a particularly sensitive issue as there are at least three major languages spoken on the peninsula: Russian, Ukrainian and Tatar. But the ARC's constitution accords a special importance to Russian which "as the language of the majority of the population and a language admissible for the interethnic communication is used in all spheres of life" (Art. 10). Thus, generally Russian and Ukrainian as the state's language are effectively used as official languages, whereas Tatar can just be used on request.

The 100-seats parliament of the ARC, according to Crimea's constitution, should grant equitable representation to all national minorities on the peninsula: 14 to the Tatars and one each to the smaller ethnic minorities. 14 seats were reserved in the Crimean parliament for representatives of the Crimean Tatars, and one seat for

each of the other former forcibly displaced peoples - ethnic Armenians, Bulgarians, Greeks and Germans. Only from 1994 to 1998 all the 14 seats reserved for Tatars were also occupied. But there is still no guaranteed representation of the Crimean Tatars in the parliament and thus no proportionate representation of the Tatars already settling in Crimea there (only 6 out of 13 possible seats are occupied). However, nearly 1000 Crimean Tatars were elected to council of all levels. The deputy chairman of the Medjlis, the traditional parliament of the Tatars, became the Vice-Speaker of the Crimean parliament. Three Crimean Tatars became members of the Crimean government and one the Vice Prime Minister of the Crimea. The most recent elections to the ARC parliament took place on 31 March 2002; the next one is scheduled for spring 2006.

Summing it up the recreation of the Crimean autonomy, as a multinational region within the unitary state of Ukraine was primarily a response to the threat of irredentism by still predominant Russian population. These arrangements are still unique in Ukraine and no other Ukrainian region has expressed similar demands for greater autonomy. On the other hand Russia had no interest to foster irredentism, being interested to keep Ukraine as a close ally in the region. The OSCE's High Commissioner for National Minorities and the Council of Europe have also helped to produce a form of autonomy which is perhaps an anomaly, but nevertheless firmly entrenched in the Ukrainian reality today. However their constitutional settlement now established in Crimea takes to few account of the aspirations of the Crimean Tatars which have been deported more than 60 years ago en masse from the peninsula and have now returned in huge number to their original homeland. The well organised Tatars are pressing for playing a major role in Crimean politics and also on national and international level. The census of 2001 has shown that demographic trends are positive for them and this will be a real test for the autonomy.

Ukraine's unusual experiment in autonomy within a unitary state may have helped to prevent conflict or may simply have coincided with a period of civic calm. But it is now sufficiently established, after nearly 10 years, for a provisional judgement to be made. It has not failed; it may even succeed, if it can take greater account of the vociferous presence of the Crimean Tatars. In sum, Ukraine's experiment has proved much more durable than at first expected, despite its weak institutional design and many ambiguities, born of political compromise. Crimea today can be considered a multinational region with special status within the unitary state of Ukraine. The threat of Russian irredentism is weakening. The autonomy arrangements are still unique in Ukraine, and further decisions of the Constitutional Court have further entrenched the autonomy of Crimea. However some issues lie still unresolved: the aspirations of the Crimean Tatars, both those who have returned to their homeland and those still waiting abroad for coming back, have not been yet met. Their representatives are still working hard on all political levels to gain full legitimacy and dignity as one of the "titular nations" of the ARC. If the grievances of the Crimean Tatars could peacefully be overcome this autonomy can succeed and Ukraine's experiment on the Crimea could prove to be durable despite its weak institutional design and many ambiguities, due to the compromise.

Chapter 3

Comparison of Europe's working autonomies

3.1 General remarks [[top](#)]

Europe's working territorial autonomies share numerous common features, but on the other hand reflect also differences corresponding to their different genesis, development, geographical location, ethnic composition and political context.

Autonomies usually are institutional and procedural systems based on complex legal provisions starting from the basic autonomy statute or constitution, enactment laws and decrees embracing the legal provisions approved by the autonomous institutions. Although the fundamental aim of an autonomy arrangement might be identical - territorial self-governance - the concrete "design" is a result of the dialectic relationship between the autonomous community and the central state. Finally, the performance of autonomy in terms of peace, respect of minority rights, stability, and positive social and economic development should be evaluated by objective general criteria, comparable among the different realities in Europe as in the world. In the given narrow space a comparison has to focus on some basic issues relevant for every autonomy system: the extent of powers transferred to the region, the kind of political representation, the language policy, provisions for regional citizenship, the entrenchment and revision mechanisms of the autonomy, the financial provisions, consociational structures and internal power sharing, the possibilities to control the regional economic resources. Recently emerged a new issue, which are autonomous powers in the field of foreign affairs. These single issues will be examined briefly as follows, before coming to a final schematic overview as a still rough attempt to rank the quality of the different autonomy systems.

3.2 Political representation [[top](#)]

All autonomous regions or republics are governed by a democratically elected legislative body (parliament or council), which represents the whole population of the autonomous territory. The executive body of those regions in turn is elected by the legislative council or directly elected by the population, hence independent from the central government. The population of the autonomous regions - citizens of their respective states - is represented also on a national level forming one or more constituencies for the election of members of the national parliament. In addition to that some states with a regionalist structure as Italy and Spain have second chambers representing the single regions as such, elected or appointed by a different system. Italy's senate, for instance, only recently has been transformed in a sort of "House of the regions", similar to the second chamber of federated units within federal states as Russia, Switzerland, Austria or Germany. In some cases as the Nordic islands, the Azores and Madeira, the constituencies of the autonomous territories are much smaller than in the rest of the country enabling the local communities to have their representatives in the national parliaments although the numbers were lacking.

A special form of representation also in the executive level is the ex-officio-membership of the Gagauzian chief minister in Moldova's national government. In Italy the president of an autonomous region is only entitled to take part of a session of the national government in Rome when some issues related to the autonomy are on the agenda. Some autonomous regions such as the Aland, Faeroe and Greenland have even the right to be represented with a distinct delegate in international organizations as the Nordic Council.

3.3 Legislative and executive powers [[top](#)]

There are huge differences regarding the content of the autonomy in terms of powers transferred to the autonomous entities. On the bottom ranks Corsica with autonomous powers almost limited to administrative competencies, whereas on the top can be placed the Nordic islands Faeroe, Greenland and Aland which are relying on their respective states Denmark and Finland just regarding the foreign affairs, defense, monetary system and some parts of the judiciary. Some regions like Catalonia and the Basque Country are also vested with powers in the administration of the judiciary.

There is one basic feature characterizing the whole range of European autonomies: they are combining core issues related to the preservation of the cultural identity (education system, language policy, cultural affairs) and territorial functions (labor

market, regional sector economic policies, urban planning, health and social services, environmental protection, public transport, energy, local administrations and whatever refers to the management of local resources). Generally the powers attributed to the autonomous regions are precisely enumerated in a closed list, whilst all the remaining policy sectors fall in stately competence for both legislation and administration.

Only the Azores and Madeira possess a general legislative power leaving the remaining powers to the central state Portugal. In the framework of power sharing with autonomies there is an instrument of mutual control: the right to veto and the right to challenge decisions before the supreme or constitutional Court. On the one hand the central government in some cases can pose its veto regarding acts and decisions of the autonomous region, particularly the legislative body is exceeding its powers. In Greenland and on the Faeroe a mixed expert commission is entitled to mediate, in all other working autonomies the conflicts on exercising and division of powers are to be settled before the Constitutional Court. In the Republic of Crimea the President of Ukraine can temporarily suspend an act set forth by Crimea if he maintains it to be not in line with the national constitution.

3.4 Entrenchment and procedures of revision [[top](#)]

Europe's autonomy regulations have in most cases found entrenchment on a constitutional level. The special status of the Azores and Madeira, the Republic of Crimea, Russia's federated subjects is entrenched in the respective state's constitutions. Also the autonomy statutes of South Tyrol and the Aosta Valley are enjoying constitutional rank. Although the autonomies of the Aland Islands and of Gagauzia are not a part of the Constitution, they can be modified only with a 2/3 (Finland) or a 3/5 (Moldova) majority of the national Parliament. Spain in its constitution has recognized the general right to autonomy, but the single autonomy statutes, elaborated by the respective autonomous communities, are approved by the national Parliament with nothing more than a normal act. Such an autonomy statute can be amended only by the procedure set forth by the same statute or through a regional referendum. Only the status of the autonomous regions of Corsica, Greenland and the Faeroe do not have any constitutional entrenchment. Theoretically these autonomies can be abolished with a simple national act without a qualified majority and thus are exposed to changing moods in the national parliaments. As these autonomies are even not based on international treaties, the readiness to cooperation between majority and national minority and autonomous community is essential for defending the autonomy.

But some scholars argue that even in the absence of a constitutional entrenchment granting autonomy implicitly contains the recognition of the right to internal self-determination of a national minority under international law. In this sense autonomy regulations can be considered as protected by the general principle of self-determination of peoples. Hence a given state, having once established autonomy, is not allowed to cut back these rights of a minority in a substantial extent without the consensus of the concerned community and even less abolish an autonomy statute. Still there is no general mechanism of monitoring, controlling and guaranteeing autonomy regulations in positive international law. Such a provision would be an essential part in a proposed "Framework Convention on the right to autonomy" as submitted in a draft version by the FUEN in 1994 [[11](#)].

Autonomous regions do not have a constitutional legislative and executive power as federated states in a federal system. Normally those representatives have also the right to propose also new initiatives and provisions in order to reform the working autonomy or at least to be involved in joint commission to shape reforms of the autonomy. Who is competent for the enactment and revision of the autonomy statutes? Do the regional communities and national minorities have any sovereignty to shape their own rules of internal government system? Generally the autonomy statute (or regional constitution) is elaborated and approved by the state parliament, but the concerned minorities are involved in the elaboration of the

statutes. In some cases (Basque Country, Catalonia, Crimea, Azores, Madeira) the autonomous regions are entitled to define for themselves the extent and the internal architecture of their autonomy within the given constitutional framework. Spain's autonomous regions for instance may elaborate and approve their own statutes which subsequently have to be approved by the central parliament. Thus, the population of the concerned region has the right of constitutional power, but limited by the state's constitution.

3.5 Financial regulations [[top](#)]

One fundamental condition for a well functioning autonomy is the financial regulation. There are mainly two forms of financial regime: the first consists in a financial transfer from the central government to the autonomous regions, the second one is sharing the tax revenues collected in the autonomous territory up to a limit of devolving the whole locally earned taxes and tariffs to the autonomous entity. Fiscal federalism system with effective powers on taxation is enacted presently only to the Basque Country and Catalonia, but in more limited forms also the Aland Islands, Gagauzia, the Azores and Madeira can raise their own taxes. Regarding expenditures all autonomous regions with exception for Corsica enjoy full freedom to spend their resources and budgets in autonomous way.

3.6 Forms of "regional citizenship" [[top](#)]

Generally Europe's autonomous regions and republics have neither a distinct citizenship nor any power to politically interfere on this matter. Citizenship and the control of immigration and asylum rights, passports are by recent trends even delegated to a supranational level, namely that of the EU. Hence these autonomous entities have no direct control on who is moving in and out from their territories and who is entitled to migrate and settle in their territories. Nevertheless there are some forms of "regional citizenships", consisting basically in the attribution of specific rights and privileges based on the period of residence in the region (Crimea, Aland, Faeroe, Greenland, South Tyrol and Gagauzia). A minimum period of legal residence is required to exercise political rights (franchise to social, regional councils); social rights (housing, social grants and scholarships), eligibility to the local civil service, preferential treatment on the regional labor market.

The Aland Islands went some steps further: who does not master the Swedish language and resides for a minimum of 5 years may not purchase any real estate or open a commercial activity on the islands. He is not exempted from the military service in Finland. Regarding "regional citizenships" there is a huge difference between the smaller islands in Finland, Denmark and Portugal and the big regions fully integrated in the common market as Catalonia, Basque Countries, Friuli-Venezia Giulia in Italy and so on.

3.7 Language policy [[top](#)]

One common feature to all European autonomies is the fact that the minority language along with the state language is accorded the rank of official language, that the recognition, preservation and promotion of minority languages is the very rationale of establishing territorial autonomies (classical examples: Gagauzia, South Tyrol, Basque Country, Catalonia and Galicia, Corsica, Sardinia, Aland Island, Faroe and Greenland). Only in Corsica the Corsican language still is not allowed for contacts with public authorities. On the Aland Islands again Swedish is even the only official language. Bilingualism is in most regions a formal requisite for being admitted to civil service jobs and each applicant has to be formally proved. Also the topographic names are regularly bilingual or monolingual in the local language (Nordic Islands, Aosta Valley, some parts of the Basque Country).

But unlike the Swiss system based on the "language territory principle" (4 languages are official languages in their respective cantons and on a federal levels all three major languages have equal rights), most of Europe's autonomous regions are not

monolingual or not even predominantly monolingual: South Tyrol, Aosta Valley, Crimea, Corsica, the Spanish communities, Wales, Gagauzia. In all those regions except Corsica the minority languages have the status of official languages within the region, but on equal footing with the national or state-language. In some cases a complex legal system of bilingualism had to be worked out in order to ensure the right of each citizen of the region to use his mother tongue in each level and sector of the public administration. In some regions (South Tyrol, Catalonia, Crimea, Aland) the use of minority language is also admitted in all kinds of the judiciary.

The issue of the minority languages strongly affects the promotion of minority rights, which frequently are in a weaker or even endangered situation. Hence the autonomous government are called to launch long-term policies to ensure the preservation and modernization for such "lesser used languages" (e.g. Basque, Irish, Welsh, Faroese, Inuktitut, Corsican, Gallego, Iadine-Rheatoromanian, Gagauzian, Tatar on Crimea). The language policy deeply affects the education system too: several systems are operating in the European autonomy systems, beginning with the weakest form of promotion of a minority language in act in Corsica, where Corsican is nothing more than a optional subject in comprehensive schools; then there are various forms of bilingual school system (Great Britain, Aosta Valley, Basque Country) and strictly monolingual school system according to the respective minority languages.

3.8 Consociational structures and internal power sharing [[top](#)]

Autonomy is an essentially internal arrangement for settling state-region conflicts or conflicts between the national "majority" and minorities. They seek accommodation of conflicting group rights and claims without redrawing state boundaries. Autonomy in complex conflicts in Europe (cf. Stefan Wolff 2005) not only devolve considerable power to the territorial unit, but in presence of different ethnic groups has to build up overarching territorial loyalties and internal power sharing structures. While territorial autonomy is meant principally to empower a specific group to exercise a greater degree of self-governance of its internal affairs, consociational structures in divided societies seek to ensure internal peace and stability, interethnic cooperation and participation of all relevant groups in an autonomous region to legislative and administrative power. The institutional design of such "regional consociations" and the legal and political rules enacted to preserve that kind of power sharing depends on diverse local conditions.

There are few such rules in the island autonomies with an ethnically quite homogenous population as in the Nordic islands and the Azores and Madeira. The need to ensure regional consociations rises with internal heterogeneity: the Basque Country (not even 30% of the population are active Basque speakers), South Tyrol (26% are Italians and 4% Ladins), Crimea (58% Russians and 12% Tatars apart from 24% Ukrainians), Northern Ireland (45% Catholic, 55% Protestant). There is notably one instrument ensuring a first level of "consociational power sharing": democratic elections with the minimum representation guarantee for all major groups. In South Tyrol, e.g. the smallest group, the Ladins, have to be represented in the local parliament by law, whatever the turnout of the polls. In Crimea 14 members out of 100 of the Republic's parliament are reserved for the Tatars and one each for their indigenous peoples. A consociational way of governing overarching the ethnic groups and policy coordination occurs mostly through a political coalitions. In order to set up stable coalitions for the regional government minority forces have necessarily to enter coalitions with parties representing other or smaller ethnic groups. This is also know as "concordance democracy", following the Swiss model.

Four more provision to safeguard the rights of the national minorities can be observed in European autonomy structures:

- mandatory executive power sharing
- segmental autonomy for each group
- proportionality in all governmental function
- minority veto rights.

To ensure participation of all communities to the Northern Ireland Assembly and to protect their rights specific procedures for the allocation of committee chairs and ministries are applied. Key decisions have to be taken on a cross-community basis (parallel consent and weighted majority procedures. An "equality commission" has been set up. Crucial for the operation of the Assembly is that its members register their identity by Nationalist, Unionist or Other in order to ensure parallel consent and weighted majority procedures.

The executive functions are allocated proportionally, according to the party strength in the assembly also on municipal level. The Northern Ireland government has to include members of each community. The first and Deputy First Minister cannot be member of the same community. Similar provisions are enshrined in South Tyrol's autonomy statute too. The autonomous provincial government has to be composed by members of all three official communities and the ministries have to be assigned according to the numerical strength reached in the elections by each community within the provincial assembly. In addition to that, if one ethnic group consider itself discriminated in ethnic terms, it can claim a voting separate in each group. Thus, each minority is entitled to put a veto in very important decision like the annual budget. In South Tyrol not only all government functions, but also all administrative commissions are composed in a proportional manner, according to the numerical relation between the three official groups. Finally there is a segmental autonomy for each group regarding cultural affairs: Germans, Italians and Ladins are entitled to manage their education system, cultural policy in autonomous form.

The Autonomous Republic of Crimea has established similar arrangements of "segmental autonomy" regarding cultural affairs for the major ethnic groups living in the peninsula. All three major groups - Russians, Ukrainians and Tatars - have to be represented in parliamentary commissions and in government. Apart from the necessity given by political party numerical strength and power relations, provisions are made to ensure community-crossing decisions. There is no blueprint of autonomy designs along the lines of regional consociationalism that could be applied to all ethnic conflicts and autonomies in Europe alike.

3.9 The control of the region's economic resources [[top](#)]

If autonomy means territorial self-government by definition it has to ensure the possibility for the autonomous community to manage their social and economic development. This basic need includes the means to control and manage under its own responsibility the use of natural resources, an issue particularly important to many indigenous peoples depending for their very livelihood on natural resource such as land, forests, sea. In Europe this problem is not given in terms of exclusive collective property rights over certain land areas and natural resources by an ethnic community (as in the case of numerous peoples in India, Russia, America and Africa), but most of the autonomous regions are fully integrated not only to their national market economies, but also to the common market of the EU.

In some cases this led to e immediate danger of overexploitation of local resources as fish grounds around the islands of Greenland and the Faroe, previously part of the European Community. Both islands decided to opt out from the membership with the EU to preserve their special rights in fishery. This legal possibility is not given to other regions in the EU, except the Aland Islands. Thus, the need to control the economic development of an autonomous region has to be met by means of a general economic policy and fiscal policy, in accordance with national macroeconomic and monetary policy and with the policy set forth by the EU from Brussels. The division of powers offers a wide range of political regulation in the field of economics: subsidies and regulations for the single sectors, regulation of the agriculture, infrastructural development, direct intervention through public companies, environmental protection and energy control, urban planning end economic planning. Generally a solid financial system for autonomy provides most

effective means to control and steer a local autonomy.

3.10 Conclusions [[top](#)]

Considering the whole range of these ten autonomy systems in Europe under the above listed criteria it is possible to form a first ranking focusing on the real depth and extent of self-governance. Of course this evaluation scheme is a very rough and provisional, but it should just help us to understand that, due to political, historical and social background, autonomy systems have developed differently and are a flexible means to solve different problems.

The **Alands Islands** detain the most complete and far reaching autonomy. Under the Act of self-government of 1991 the Alanders enjoy legislative and executive powers in nearly all political sectors which matter for regulating the living conditions and cultural development on the islands. The Aland Islands have even an administrative judiciary, whilst only the ordinary judiciary keep to be a stately affair. The Aland Islands are also vested with full financial autonomy with some limited powers of taxation. Eventually the Islands enjoy even a form of "insular citizenship", which is a prerequisite for the right to vote for the autonomous parliament. On the Aland Islands the local language is Swedish and this is the only official language. They are virtually a separate community, just linked to Finland by some parts of the juridical system (constitutional and civil law and criminal law). But the Aland Islands with its particular conditions are probably an exception even for many regions with national minorities aspiring to territorial autonomy. Finally Aland has even some powers to be involved in international decisions and are represented in international bodies. Some Alanders consider their region as a "state in the state".

A far reaching degree of autonomy with quasi-statehood in most political sectors has been established also in Greenland and the Faeroe Islands as well. The legislative and administrative competences are comprehensive including a full budgetary freedom and a certain right of taxation. Only the judiciary is still controlled by the Danish state. Whilst sovereignty on the island formally lies with Denmark, the Faeroe have their own "insular citizenship". The high degree of self-government is underpinned by the right of the islands populations to participate even in foreign policy decisions if they are concerned. Greenland and the Faeroe - along with the Alands - are represented in the Nordic Council distinct from their own state representatives. There is one major difference between Greenland and the Faeroes and Aland Islands on the other hand. On the Aland Islands non-Alanders have no right to purchase real estate (property of land is denied to non-Alanders) which is accessible to Danish citizens in the former.

Also **Greenland** and the Faeroe obtained autonomy regarding their participation to international or supranational organizations, as proved by Greenland's opting out of the EU in 1985 in order to control its basic economic resources. If we take into account that the EU nearly one third of all regulations are enacted by Brussels, awareness has to rise that a degree of autonomy cannot only be measured in terms of powers gained vis-à-vis the central government, but also in regard to the supranational structure of the EU. In a ever more globalizing international market autonomy systems of the future will have to be armed against the interference of decision makers at that level too, if the autonomy is to be preserved in its core issues. The Nordic islands in Denmark and Finland are pioneers in this regard, whilst Aland for its possibility to regulate immigration by a sort of regional citizenship is a forerunner in that field.

Also the **Spanish autonomous communities**, and in particular the autonomy systems of the historical "nationalities" of the Basques, the Catalonians and the Galicians can be qualified as comprehensive autonomies with legislative and executive powers in nearly all internally relevant political affairs with a government which is responsible only to the regional autonomous parliament. They have not only budgetary autonomy, but clear-cut powers of taxation, shared with the central state. They have their own civil and administrative judiciary. And the

Basque Country and Catalonia have even their own police force. The Spanish autonomous communities are also vested with a competence normally reserved only to federated member states of a federalist union: the power to elaborate their own autonomy statutes. The amount of autonomous powers of a region in Spain is in a high degree up to the region itself which, within the constitutional framework, can freely regulate their own autonomy.

Hence, the Spanish autonomies are continuously extended and improved. However the autonomy statutes have to be approved with simple majority by the central parliament of Madrid. Spain is a highly complex and dynamic "state of autonomies" with a continuous evolution in the relationships between the centre and the autonomous regions. Within this process the historical smaller nations Catalonia, Basque Country and Galicia, along with the Canaries, Valencia and Navarra, are continuously endeavoring to extend their "autonomous statehood", forcing the central state to find new forms of equilibrium and coordination. The Spanish autonomy system, sometimes labeled as quasi-federal or as "asymmetrical federalism without explicitly naming it, is for some crucial features a model for other European states hosting a number of powerful minority peoples. However, the very advanced Spanish autonomy state shows that major continental regions like Catalonia regarding the control of citizenship, migration, integration in supranational organizations are not in the same position as a remote island group.

The **Portuguese islands Azores and Madeira** in their process towards an ever more advanced autonomy are following Spain's autonomy models, although the two archipelagos are not distinct from the mainland regarding language and ethnicity. Hence Madeira and the Azores represent the "non ethnic insular autonomy" claimed by so many island regions and states around the world, based rather on geographical reasons and needs than on cultural features. The new Portuguese constitution allows the two regions a broad range of legislative and executive powers not specifically attributed to the central state are assigned to the autonomous regions. The general legislative competence, therefore, lies with the regional parliaments of the Azores and Madeira and the Islands are governed by an elected government, independent from Lisbon. In the same manner as the autonomous communities in Spain these islands detain a certain freedom to shape their own autonomy statute and interregional budgetary and taxation competences, but on the other hand they have no power in the judiciary.

A specific importance has to be attributed to the three autonomy systems established in the 90ies in the former communist states of Moldova, Ukraine and Russia. The autonomy of the regions of Gagauzia in the Republic of Moldova is based on the state law, which has transferred autonomous legislative and executive competences in parts of the cultural, social, education, economic and international affairs policy. The government of Gagauzia can also influence the composition of the personal staff of the judiciary on its territory. The supreme executive organ is the governor, and along the Gagauzian executive committee vested with governmental functions. In all three cases - Crimea, Gagauzia and Tatarstan - the central state has transferred extensive legislative and executive powers to the autonomous territories, also ensuring a certain degree of financial-budgetary autonomy. Moreover, those regions or republics, although very different in size, enjoy a distinct regime of language policy aimed to safeguard equality for the minority languages. And they can even regulate some kind of international affairs freely, particularly developing relation with their respective kin-states. The civil and criminal judiciary is still a central affair, but Tatarstan and the ARC have their own constitutional Courts. The inhabitants of the province hold a specific Crimean citizenship, without losing the Ukrainian one, which provides for a certain control of the demographic evolution of the peninsula status.

The autonomous subjects of the **Russian Federation** under the present constitution are vested with formal autonomy with a broad range of autonomous powers. Within the Russian constitutional limits they are free to determine their autonomy statute and rules and can adopt an official state's language. They enjoy legislative,

executive and financial autonomy. Although the civil judiciary is a central state affair, most of the autonomous subjects have a constitutional court.

Italy is a hybrid combination of a regionalist and a federalist state (asymmetrically structured), particularly after the last reform of devolution approved in November 2005. All 20 regions have an extended range of legislative and executive powers, but no full financial autonomy. They have independent regional governments and can approve their own statutes. The exercise of all judicial matters is strictly reserved to the central state. But 15 out of 20 regions are constituted as "regions with ordinary statute", while 5 are regions with special statute (South Tyrol, Aosta Valley, Friuli-Venezia Giulia, Sardinia and Sicily). Recently also the second chamber of the Italian parliament is going to be transformed into a diluted form of "Chamber of the Regions", underscoring the new importance of the regions in the Italian devolution process. Italy, as Spain, is an "asymmetrical regionalist state", developing towards federalism. But the backlashes to the old centralist tendencies, a fragile public finance for the regions and the North-South-dualism still is hindering Italy to give way to more self-governance on each level.

The **German Community in Belgium** in the framework of the transformation of the Belgian state into a federal state has achieved a considerable level of cultural and territorial autonomy, although it is still not considered on an equal footing with the two main constituent Communities, the Flamands and the Wallons, as they do not have their own region. Nevertheless, as a part of the Region of Wallonia the German Community is step by step establishing a special territorial autonomy, underpinning the asymmetrical character of the Belgian federalism.

In the case of the **United Kingdom** one further typical feature of territorial autonomy in Europe can be highlighted. The European nation-states along history have been established integrating or sometimes just swallowing smaller historical nations. This happened in Spain as in Great Britain, in Russia as in the Balkans. The devolution process in the United Kingdom not only is legitimized by the particular linguistic features of the regions endowed with a high degree of self-governance - Scotland, Wales and Northern Ireland -(the minority languages spoken in Scotland and Northern Ireland are a very tiny part of the population), but in specific historical reasons, which in turn have caused internal conflicts (Ireland) or century old strife for regaining a certain degree of "statehood".

Claims for self-governance and autonomy regional level in Europe are deeply rooted in history and in the story of building up the nation-states. In Europe a strong consciousness of regional identity can be felt nearly everywhere based on cultural, linguistic, ethical features. Some European states tried to tackle this internal cultural complexity with federal structures (Switzerland, Belgium, Germany, Russia and recently Bosnia-Herzegovina), some states with "asymmetrical regionalist autonomy systems (Spain, Italy, Serbia before 1989, and the United Kingdom). But still a conspicuous number of regional communities are lacking behind and do not enjoy the same degree of self-governance giving raise to harsh conflicts with central governments. As soon as the operating autonomies prove to be a historical success, stand the test the better will the conditions be to convince state majorities to give way to new autonomy solutions.

The following final comparison of Europe's operating autonomies is a first rough qualification of their performance in the above illustrated categories. It has to be recalled that not all of the existing autonomous regions in Europe have been listed, due to the lack of space. Spain's and Italy's autonomous regions or communities are "represented" by just one of them (there are 5 in Italy and 17 in Spain), whereas Russia would have to be considered as a special case as a "asymmetrical federal system" with autonomous republics, districts and territories. The comparison can show nothing else than the existence of different degrees or levels of quality of autonomies, an issue worth to be analyzed more precisely. The Nordic islands, South Tyrol, Spain's historical autonomous communities Catalonia, the Basque Country and Galicia and Russia's Tatarstan by those criteria can be graded as most

advanced forms of autonomy, whereas Corsica (a "collectivité territoriale" in France) is still on the beginning of the path towards a full fledged autonomy. In between are a number of autonomy systems which still can be improved and enlarged.

Chapter 4

Some lessons from Europe's working autonomies

4.1 Conflict solution through territorial autonomy? [[top](#)]

In Europe's reality today territorial autonomy has in nearly all cases proved to be a success for the conflict parties involved: the regional communities, the national minorities, the central states. In none of the ten here considered states, which have established political autonomies on their territory, there is a serious debate about cutting them back, on the contrary: in most cases the existing autonomy system is continuously improved and completed in order to grant an ever more appropriate way of self-government. Spain is heading the group of states with a dynamic development towards a more articulated "state of autonomies". Recently, in September 2005, Europe's major autonomous region in terms of population, Catalonia, with a large majority of the Parliament of Barcelona passed its newly reformed autonomy statute, which is to be approved by the national parliament in Madrid. In Corsica, the local political forces are working on a reform of the still weak model of autonomy in order to enrich the system with more legislative powers. In Italy the general devolution process of the central state's powers to the ordinary regions is pushing the state towards a federal structure, reinforcing indirectly the position of the five regions with special autonomy. Northern Ireland is facing the most critical situation, since real self-governance, linked to a complex consociational arrangement between the parties involved, is still to take off. The conflict has shifted to a political level, but decades of violence and political cleavages have left deep scars. An ever more deepening process of European integration in the framework of the European Union is definitely helpful for those autonomy solutions, as they are backed by a decisive role of the respective kin-states.

In this political context three patterns of establishing regional autonomies can be distinguished. First, there is the "traditional way" to grant autonomy as a special solution to a specific region in unitary states (Moldova, Ukraine, Portugal, France, Denmark, Finland, and United Kingdom), due to its specific cultural, historical or ethnic features. Autonomy appears as the exception aimed to accommodate a minority, whereas the state as a whole is not prone to transform in a federal or regionalist way. A second pattern is the establishment of autonomy in different (asymmetrical) forms to all subjects of a state as happening in Spain and Italy since the 70ies. A third solution is the creation of different layers of self-government within a large and ethnically heterogeneous country (Russia) in a quite asymmetrical form in order to find appropriate solution for each specific regional reality.

The new autonomies in Eastern Europe, operating only since about a decade, are still in a test phase with contradictory developments in the interethnic relations within the autonomous regions. In the Autonomous Republic of Crimea for instance the Russians keep their predominant rule, while the Tatar community, returning after deportation by Stalin in the 40ies, is not yet accommodated. Tatarstan, at the other hand, is presenting a positive model of how national conflicts inside Russia could be resolved in an equitable balance of powers between the centre (Moscow) and an ethnically mixed region (Kazan). Thinking about the ongoing warfare in Chechnya a lesson to be drawn is that autonomy solutions should be envisaged

before a low level violence turns in a full blown ethnic war. What makes those autonomies particularly important is their role as pioneers of autonomy regulations in a part of the continent which since 1990 has been a scenario of rising new nationalism and state centralism and a widespread of hostility towards autonomy solutions. In this context Gagauzia, Tatarstan and Crimea are paving the way - if successful - to a range of other regions aspiring to full autonomy (South Ossetia in Georgia, Albanians in Macedonia, Hungarians in Transylvania, Serbia and Slovakia, Turks in Bulgaria, other regions in North Caucasus).

Indeed, autonomy is increasingly proposed as a remedy to other self-determination conflicts, while previously it had been seen as a step towards secession. Apart from granting autonomies to national minorities, also multinational states were faced with self-determination claims, like Bosnia-Herzegovina, Belgium and Macedonia, and had to adopt extensive provisions for self-governance for ethnically defined territories. As they found a new, in two cases still uncertain equilibrium other states, faced with secessionist movements and acts like Cyprus (Northern Cyprus), Moldova (Transnistria) and Georgia (Abchasia and South Ossetia) still have to find a way to re-integrate the break-away regions. Kosovo is actually gaining full independence, since a return to forms of autonomy under Serbian sovereignty is unacceptable to the huge majority of that population and its independence is increasingly accepted by the international community. Even violent fringes of self-determination movements, following the example of the IRA in Northern Ireland, like the ETA in the Basque Country and radical groups in Corsica seem to be near to relinquish the strategy of violent confrontation, if advanced forms of autonomy are established. Protracted violent insurgency in those cases had triggered the compromise on autonomy. Apparently a growing number of states have acknowledged that autonomy can serve to integrate national minorities into the state and to stabilize the conflict in situations otherwise prone to go out of control.

4.2 Lessons to be drawn from the European experience with territorial autonomies [[top](#)]

The basic question to pose is, whether territorial autonomy in Europe could achieve its primary scopes, namely granting self-governance in a limited area and protection of the national minorities living in that area. Generally, European states are still very sceptical about a right to autonomy. Often the argument is used that its content is too vague and cannot be clearly defined. But it has to be distinguished between the right and the concrete form of application. However, the interest of states to preserve full integrity of their territory is not clashing with a possible right to autonomy. Autonomy however often has to tackle often a double problem: grant the protection of the national minority on its traditional homeland, but also include in the self-governance all the groups living in that area. Territorial autonomy should benefit a whole regional community, not one group of the population only.

Every autonomy model in Europe has its unique features tailored to the specific problems to be solved. According to the specific premises and conditions of a region and national minorities each autonomy system in Europe shows a particular "architecture" and particular mechanism to ensure participation, conflict solving, power sharing, minority protection, stability. These autonomies are "works in progress", in continuous reform and transformation, correction. By definition they have to be dynamic, giving space to new answers for a developing society. On the other hand there are some elements and conditions which turned out to be key factors of success, what a detailed comparative analysis could eventually filter out. New autonomy projects and negotiations have to take it into account, avoiding repeating harmful mistakes done in other cases and adopting devices more likely to bring about a successful solution. Keeping this basic information about working autonomy systems in mind, some lessons can be drawn from the European experiences:

- ▶ 1. Autonomies are not a mere act of unilateral devolution of public powers.

Establishing, entrenching and amending the autonomy must be based on a genuine negotiation process and constitutional consensus. This implies negotiations between political representatives of the concerned regional population and the central government.

- 2. Autonomy is an open, dynamic, but irreversible process, which has to involve at least three players: the representatives of the national minorities, the central government, and the representatives of other groups living in the same territory. All their interests have to be brought in a balance, with a strong role of the civil society and the media in building up a culture of common shared responsibility for peaceful co-existence.
- 3. Autonomy can offer the necessary institutional framework for minority cultures and peoples and languages, as far as the regional institutions are endowed with all culturally relevant powers and means, especially in the field of education, culture and medias.
- 4. An implementation plan is to be incorporated in the conflict settlement. This sometimes is a very technical, long lasting undertaking.
- 5. There has to be a possibly complete set of functions and powers to endow local institutions with a true potential of self-governance. Sufficient powers make autonomy meaningful and should encompass legislative, executive and judicial powers, which have to be transferred in an unambiguous way
- 6. Autonomy has to be effectively entrenched, if not international level or bilateral level (kin-state), at least on a constitutional level, preventing to expose it to the come and go of political majorities in a central parliament.
- 7. There has to be a solid system of finance and sufficient provisions to allow the autonomous entity to control local economic resources, in order to ensure a positive social and economic development of the region.
- 8. Internally, particularly when there are two or more ethnic groups sharing the same region, there have to be established consociational arrangements to grant access and participation to power to all relevant groups living in same territory.
- 9. Regional integration, trans-border-co-operation with kin-states or integration in regional supranational organisations are definitely helpful in ensuring autonomy solutions.
- 10. There are even forms of participation of autonomous entities to international organizations, exerting influence when the territory is affected.
- 11. In order to ensure the effective operating of autonomy and in the case of overlapping powers between the state and the autonomous entity there is a need of "neutral instances" of mediation and arbitration or an effective mechanism of conflict solving. Such a role can be attributed to the Constitutional or Supreme Court of a state or various forms of joint commissions with an equal number of members of the state and the autonomous region.

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www.eurac.edu/Press/Publications/Monographs/0049635.htm

Websites with general information on national minorities in Europe and autonomies:

- ▶ www.eurac.edu/miris; The Minority Rights System of the European Academy of Bozen
- ▶ www.eblul.org: European Bureau for Lesser Used Languages
- ▶ www.coe.int/T/E/human_rights/minorities; Council of Europe, National Minorities
- ▶ www.ciemen.org/mercator: MERCATOR minority language center of the CIEMEN
- ▶ www.ecmi.de: The European Centre for Minority Issues in Flensburg

Links to general information on minorities and autonomy:

- ▶ www.osce.org/hcnm/item_11_14784.html General fact sheet - High Commissioner on National Minorities
- ▶ <http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm> The Framework Convention for the Protection of National Minorities FCNM
- ▶ <http://conventions.coe.int/Treaty/EN/Treaties/Html/148.htm> The European Charter for Regional or Minority Languages
- ▶ www.federalism.ch: Institute of Federalism, University of Fribourg
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- ▶ www.alertnet.org: Website with humanitarian news in the world's crisis areas
- ▶ www.bertelsmann-transformation-index.de: Reports on many countries in transition to democracy
- ▶ www.bpb.de: German Federal Centre for Political Information
- ▶ www.wikipedia.org General information about every regional entity
- ▶ www.iwgia.org: International Working Group Indigenous Affairs
- ▶ www.gfbv.org International association for threatened peoples (Gesellschaft

für bedrohte Völker)

- ▶ www.tpprc.org Tibetan Parliamentary and Research Centre
- ▶ www.amnestyinternational.org: Amnesty International
- ▶ www.hrw.org: Human Rights Watch
- ▶ www.peacereporter.net: Peace Reporter coverage of ongoing wars
- ▶ www.globalsecurity.org/military/world/war: Global Security coverage of ongoing wars

Websites with information on specific autonomies:

- ▶ www.tinganes.fo: Faeroe official website
- ▶ www.nanoq.gl: Greenland's official website
- ▶ www.provinz.bz.it: South Tyrol's official site
- ▶ www.crimea-portal.gov.ua: Crimea Portal
- ▶ www.euronet.nl/users/sota/krimtatar.html: Articles about the Crimean Tatars
- ▶ www.tatar.ru: official site of Tatarstan
- ▶ www.corsica-isula.com: various information on Corsica
- ▶ www.scotland.gov.uk: official site of the Scottish government
- ▶ www.scottish.parliament.uk: official site of the Scottish Parliament
- ▶ www.walesworldnation.com: general information about Wales
- ▶ www.azores.com: official website of the Azores
- ▶ www.azores.gov.pt: Official website of the Azores regional government
- ▶ www.madeira.com: official website of Madeira
- ▶ www.gov-madeira.pt: Official website of the Madeira government
- ▶ www.aland.fi: official site of Åland
- ▶ www.dglive.be: Official Site of the German speaking community of Belgium
- ▶ www.niassembly.gov.uk: Official website of the Parliament of Northern Ireland
- ▶ www.institutcultureldebretagne.com/assises/PAGE_presentation.htm: Brittany (France)

The author, **Thomas Benedikter**, is an economist and social researcher in Bozen (South Tyrol, Italy, 1957), graduated in economics at the University of Munich (D) and in political economy at the University of Trento (I). Besides many years of professional activity in empirical social and economic research in his home region South Tyrol, since 1983 he has been continuously committed to activities in development co-operation projects and human rights NGO activities with particular regard to minority and indigenous peoples rights, peace and international conflict, information on North-South-issues. T.B. has been director of the South Tyrolean branch of the international NGO "Society for threatened Peoples" (based in Germany) and some other international solidarity initiatives. Committed to journalistic and humanitarian purposes he spent about two years with research and project activities in Latin America, the Balkans and South Asia (especially in Nepal, Kashmir and Sri Lanka) and is writing for several news-magazines and reviews. Since 2003 he is collaborating with the European Academy of Bozen (Department for autonomies and minorities) for an "Exchange Programme for the Politics of Recognition" (minority protection systems) with South Asian partners.

Notes

- ▶ [1] There are scores of websites on the matter to be consulted in this regard. Some of the most important are: The minority rights system of the European Academy of Bozen: www.eurac.edu/miris; the European Bureau for lesser used languages: www.eblul.org; the Council of Europe: www.coe.int/T/E/human_rights/minorities; the MERCATOR minority language centre: www.ciemer.org/mercator; the European Centre for Minority Rights in Flensburg (Germany): www.ecmi.org. More of that under "References".
- ▶ [2] Ruth Lapidot, *Autonomy: flexible solutions to ethnic conflicts*, Washington 1997; for the general concept see the comprehensive approach of Markku Suksi, *Autonomy: Applications and implications*, The Hague 1998
- ▶ [3] Christoph Pan/Beate S. Pfeil, *National Minorities in Europe - A Handbook*, Braumüller, Vienna 2003
- ▶ [4] Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination, The accommodation of Conflicting Rights*, University of Pennsylvania Press 1996

- ▶ [5] Cf. for this issue: Markku Suksi, *Autonomy - Applications and implications*, The Hague 1998; and Zelim Skurbaty (ed.), *Beyond a one-dimensional state*, Leiden 2005; and Yash Ghai (ed.), *Autonomy and ethnicity: negotiating competing claims in multiethnic states*, Hongkong 2000
- ▶ [6] Eduardo Ruiz/Markko Kallonen, *Territorial autonomy and European national minorities: South Tyrol, the Basque Country and the Aland Islands*, 2004
- ▶ [7] The name is different in Basque and Spanish versions, meaning respectively "Basque Party of God and Old Laws" and "Basque Nationalist Party".
- ▶ [8] Euskadi Ta Askatasuna (ETA) literally means: "Basque Fatherland and Freedom".
- ▶ [9] See Melissa Magliana, *The Autonomous Province of South Tyrol: A Model of Self-Governance?*, Bozen 2000; Antony Alcock, *The South Tyrol Autonomy - A Short Introduction*, Bozen 2001, at: www.provinz.bz.it/aprov/publ/publ_getreso.asp?PRES_ID=1899, Jens Woelk, *Reconciliation impossible or (only) undesirable? South Tyrolean experiences*, March 2002.
- ▶ [10] http://en.wikipedia.org/wiki/German_speaking_community_in_Belgium
- ▶ [11] *Autonomy Rights of Ethnic Groups in Europe*, draft Convention, May 1994, in: Christoph Pan/Beate S. Pfeil, *National Minorities in Europe - A Handbook*, Vienna 2003, p. 278-286

See also:

* www.gfbv.it: www.gfbv.it/3dossier/edicolmin/indexmin.html | www.gfbv.it/3dossier/eu-min/europe2004-en.html | www.gfbv.it/3dossier/eu-min/conseu-tb-en.html

* www.ciemen.org/conseu.htm | www.eblul.org

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