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EUROPE'S WORKING REGIONAL AUTONOMIES A Comparative Analysis

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MAPPING EUROPE'S TERRITORIAL AUTONOMIES

Europe's working territorial autonomies share numerous common features, and also reflect differences corresponding to their different genesis, development, geographical location, ethnic composition and political context. Usually autonomies are institutional and procedural systems based on complex legal provisions, starting from the basic autonomy statute or constitutional law, and coming to enactment laws and decrees embracing the legal provisions approved and adapted by the autonomous institutions.

In this overview the autonomous entities of the Russian Federation (federal subjects) are not listed as this state should be considered a special case, in fact the most complex one of an 'asymmetrical federal system' with autonomous republics, regions, *oblasts* and districts. The label 'autonomous' of some of its 88 federal subjects reflects rather a historically distinct claim for a special relationship between the centre (federal government) and some of its entities, due to the presence of particular minorities or peoples, rather than a special territorial autonomy. Although regional autonomy in Russia substan-

tially can be compared to the other remaining forms of autonomy in Europe, the prevailing organizational principles in that state are federal by nature. In contrast, Spain officially is not a federal state, but a 'state of autonomous communities' showing blurred boundaries to a federal structure. As all of its regions have their own specific status, the Spanish autonomy system is again different, for example, from the Italian regionalist state consisting of 5 special autonomies and 15 'regions with an ordinary statute'. However, generally regional autonomy in almost all states in Europe as in the rest of the world is a special political arrangement established for just some special cases of a given state (see Table 7.1).

Table 7.1 EUROPE'S REGIONS WITH TERRITORIAL AUTONOMY

State	Autonomous regions/entities	Capital	Population
1. Italy	Sicily	Palermo	5,031,081
	Sardinia	Cagliari	1,650,052
	Friuli-Venezia Giulia	Udine	1,204,718
	Trentino-Alto Adige	Trento	974,613
	Val d'Aosta	Aosta	122,868
2. Spain	Andalusia	Sevilla	7,849,799
	Catalonia	Barcelona	6,995,206
	Madrid	Madrid	5,964,143
	Valencia	Valencia	4,692,449
	Galicia	Santiago de Compostela	2,762,198
	Castile-Leon	Valladolid	2,510,849
	Basque Country	Vitoria/Gasteiz	2,125,000
	Canary Islands	Las Palmas de Gran C.	1,968,280
	Castile-La Mancha	Toledo	1,894,667
	Murcia	Murcia	1,335,792
	Aragon	Zaragoza	1,269,027
	Extremadura	Mérida	1,083,897
	Asturias	Oviedo	1,076,635
	Balearic Islands	Palma de Mallorca	983,131
	Navarre	Pamplona	593,472
	Cantabria	Santander	562,309
	La Rioja	Logrono	301,084

Table 8.1 EUROPE'S REGIONS WITH TERRITORIAL AUTONOMY (Cont.)

State	Autonomous regions/entities	Capital	Population
3. United Kingdom	Scotland	Edinburgh	5,094,800
	Wales	Cardiff	2,958,600
	Northern Ireland	Belfast	1,710,300
	Isle of Man	Douglas	80,058
	Guernsey	Saint Peter Port	65,573
4. Finland	Jersey	Saint Helier	91,626
	Åland Islands	Mariehamn	26,711
5. Denmark	Greenland	Nuuk	56,375
	Faroe	Torshavn	44,228
6. Belgium	German Community	Eupen	72,000
7. France	New Caledonia	Nouméa	230,789
	French Polynesia	Papeete	259,596
8. Moldova	Gagauzia	Comrat	171,500
9. Ukraine	Crimea	Sinferopol	2,000,192
10. Serbia	Vojvodina	Novi Sad	2,031,000
11. The Netherlands	Netherlands Antilles	Willemstad	220,000
	Aruba	Oranjestad	102,000
12. Portugal	Azores	Ponta Delgada	253,000
	Madeira	Funchal	265,000

SOURCE: all figures from the last available census dates or the most recent official estimated figures. Selection according to the criteria explained in Thomas Benedikter, *The World's Modern Autonomy Systems—Concepts and Experiences of Regional Territorial Autonomy*, EURAC Bozen 2009, Chapter 2:10; at: <http://www.eurac.edu/Org/Minorities/IMR/Projects/asia.htm>

NOTE: In Spain there are also two autonomous cities, Ceuta and Melilla. The Netherlands Antilles in Oct. 2010 will split in two groups of islands and shift to different kinds of status (*status a parte* within the Dutch Commonwealth, and overseas municipality).

Although the fundamental aim of an autonomy arrangement might be identical—territorial self-governance—the concrete 'design' is a result of the dialectical relationship between the autonomous community and the central state. Nonetheless, the performance of each autonomy arrangement in terms of peaceful and harmonious relations among ethnic groups sharing the same territory, respect for minority rights, stability

and positive social and economic development, can be evaluated only on the basis of generally shared criteria, an ambitious endeavour still to be done.

EXPERIMENTS IN INCORPORATING 'FUNCTIONS' OF AN AUTONOMY SYSTEM

Which are the 'functions' of an autonomy system to be compared? Generally, autonomy arrangements are established to meet specific needs and satisfy definable functions. The quality and the very success of an autonomy system depend essentially on how those functions are shaped and realized. We can consider these functions as the constitutive elements of every autonomy system. If one or some of these elements are seriously flawed or even missing, the stability, durability, indeed the system itself is at risk. In the past, some autonomy systems have failed because one or some of these functions were faulty. Although the list may not be exhaustive, among the most important functional elements are:

- (i) The political representation
- (ii) The scope of the autonomy
- (iii) The entrenchment and revision mechanisms
- (iv) The financial regulations
- (v) Provisions for regional citizenship
- (vi) International relations
- (vii) Language rights and protection of ethnic identity and minority rights
- (viii) The consociational structures and internal power sharing
- (ix) The control of economic resources
- (x) The settlement of disputes and legal protection mechanisms

These fundamental 'functional elements' have found different forms of application and solutions within Europe's working autonomy arrangements, which evidently in this short

chapter cannot be compared in depth. This is a project for the future, based on more empirical research that should make it possible to draw an exhaustive evaluation of the performance of the distinct forms of territorial autonomy and even to determine the decisive elements of an 'optimum standard of autonomy' to be tailored to each single case. The following comparative analysis will concentrate on showing nothing else than the existence of different forms and qualitative levels of regional autonomies in relation to several of the 'functional elements' identified as fundamental to autonomy arrangements.

Political representation

All autonomous regions 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, such as Spain, and in the new future also Italy, have second chambers representing the separate regions as such, elected or appointed in accordance with a different representational system. In some cases as the Nordic islands, the Azores and Madeira, the constituencies of the autonomous territories are much smaller than those in the rest of the country, enabling the local communities to have their representatives in the national parliaments, although their numbers are insufficient.

Another special form of representation also at the executive level is the ex-officio membership of the Gagausian chief minister in Moldova's national government. In Italy, the president of an autonomous region is only entitled to take part

in the session of the national government in Rome when some issues related to the autonomy are on the agenda. Some autonomous regions such as Åland Islands, Faroe and Greenland have even the right to be represented with a distinct delegate in international organizations such as the Nordic Council.

The scope of autonomy: legislative and executive powers

There are huge differences regarding the content of the autonomy in terms of the powers transferred to the autonomous entities. At the bottom ranks Corsica with autonomous powers merely limited to administrative competencies, which cannot be considered an 'authentic autonomy system', whereas at the top can be placed the Nordic islands—the Faroe, Greenland and Åland Islands—which rely on their respective states, Denmark and Finland, only as regards foreign affairs, defence, the monetary system and some aspects of the judiciary. Catalonia and the Basque Country are also vested with powers in the administration of the judiciary.

There is one basic feature characteristic of the whole range of European autonomies: this combines core issues related to the preservation of the cultural identity (the education system, language policy, cultural affairs) and territorial functions (labour 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 come under stately competencies for both legislation and administration.

Only the autonomous regions of 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. The central government, in some cases, can exercise its veto regarding acts and decisions of the autonomous region, particularly of the legislative body if it exceeds its powers. In Greenland and on the Faroe a mixed expert commission is entitled to mediate. In all other working autonomies the conflicts over the exercise 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 is not in line with the national constitution.

Entrenchment and revision procedures

Europe's autonomy regulations, in most cases, have found entrenchment at a constitutional level. The special status of the Azores and Madeira, the Republic of Crimea, Russia's federated subjects are entrenched in the respective state's constitutions. Also the autonomy statutes of South Tyrol and the Aosta Valley enjoy constitutional status. Although the autonomies of the Åland Islands and of Gagauzia are not a part of the Constitution, they can be modified only with a two-thirds (Finland) or a three-fifths (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 like nothing more than a normal act. However, such an autonomy statute can be amended only by the procedure set forth in the same statute or through a regional referendum. Only the status of the autonomous regions of Greenland and the Faroes do not have any constitutional entrenchment. Theoretically, these autonomies can be abolished with a simple national act without a qualified majority and thus are vulnerable to changing moods in the national parliaments. As these autonomies are even not based on international treaties, the readiness of the majority to cooperate with the national minority or autonomous community is essential for defending the autonomy.

But some scholars argue that even in the absence of a constitutional entrenchment granting autonomy, autonomy systems are implicitly imbued with the recognition of the principle of the right to internal self-determination of a national minority under international law. In that 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 roll back these rights of a minority to any 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 of the proposed 'Framework Convention on the Right to Autonomy' as submitted in a draft version by the FUEN (Federal Union of European Nationalities) in 1994.

Autonomous regions do not have a constitutional legislative and executive power as federated states in a federal system. Normally, those representatives of federal units also have the right to propose new initiatives and provisions in order to reform the working autonomy or at least to be involved in joint commissions to shape reforms of the autonomy arrangements.

Who, then, 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 the internal governing 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 status. 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 that subsequently have to be approved by the

central parliament. Thus, the population of the concerned region enjoys some constitutional powers, but they are limited by the state's constitution.

Financial regulations

A fundamental condition for a well functioning autonomy is the structure of financial regulation. There are mainly two forms of financial regimes. The first consists of a financial transfer from the central government to the autonomous regions; the second one is based on the sharing of the tax revenues collected in the autonomous territory even to the extent of devolving the wholly locally earned taxes and tariffs to the autonomous entity. Fiscal federal system with effective powers for taxation is enacted presently only in the Basque Country and Catalonia; it exists in the Åland Islands, Gagauzia, the Azores and Madeira in a more limited form as these can raise their own taxes. Regarding expenditures, all autonomous regions with the exception of Corsica enjoy full freedom to spend their resources and budgets in an autonomous way.

Forms of 'regional citizenship'

Generally, Europe's autonomous regions and republics have neither a distinct citizenship nor any power to interfere politically on this matter. Indeed, going by recent trends, citizenship, the control of immigration, asylum rights and passports are even to be 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 of their territories and who is entitled to migrate and settle in their territories. Nevertheless, in some autonomous systems (Crimea, Åland Islands, Faroe, Greenland, South Tyrol and Gagauzia), there are some forms of 'regional citizenship', consisting basically of the entitlement to specific rights and privileges to be determined on the basis of the period of residence in the region

(Crimea, Åland Islands, Faroe, 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 and preferential treatment in the regional labour market.

The Åland Islands went some steps further: persons, who do not master the Swedish language and have not resided in the area for a minimum of 5 years, may not purchase any real estate or open a commercial activity on the islands. Significantly, however, the person is not exempted from military service in Finland. Regarding 'regional citizenship', there is a huge difference between the smaller islands in Finland, Denmark and Portugal and the big regions, which are fully integrated in the common market as Catalonia, the Basque Country and Friuli-Venezia Giulia and so on.

Language policy and protection of national minorities

One feature common to all European autonomies is the fact that the minority languages along with the state language is accorded the rank of official language as the recognition, preservation and promotion of minority languages is the very rationale of establishing territorial autonomies (classical examples being: Gagauzia, South Tyrol, Basque Country, Catalonia and Galicia, Sardinia, Åland Islands, Faroe and Greenland). Again, in the Åland Islands, Swedish, remains the only official language. In most regions bilingualism is a formal requisite for being admitted to civil service jobs and each applicant has to be formally proficient in both languages. Also the topographic names regularly are bilingual or monolingual in the local language as in the Nordic Islands, Aosta Valley and some parts of the Basque Country. This is in contrast to the Swiss system based on the 'language territory principle' which has resulted in four language formula at the canton level, that is, it is recognized as the official language in the respective cantons, while at the federal level all

three major languages enjoy equal rights. Most of Europe's autonomous regions are not monolingual or not even predominantly monolingual, for example, South Tyrol, Aosta Valley, Crimea, Corsica, the Spanish Communities, Wales, Gagausia. In all these regions, except Corsica, the minority language has the status of an official language within the region, and 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 or her mother tongue at each level and sector of the public administration. In some regions—South Tyrol, Catalonia, Crimea, Åland Islands—the use of minority language is also admitted in various levels of the judicial system.

The issue of the minority languages, strongly affects the promotion of minority rights, which frequently are in a weaker or even in an endangered situation. Hence, the autonomous governments are called upon 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, Ladin-Rheatoromanian, Gagauzian, Tatar in Crimea). Inevitably 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 as in Corsica, where Corsican is nothing more than an optional subject in comprehensive schools; then there are various forms of bilingual school systems as in Great Britain, Aosta Valley and the Basque Country) as well as strictly monolingual school systems in the respective minority languages.

Consociational structures and internal power sharing

Autonomy essentially is an 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 the redrawing of state

boundaries. In complex conflicts in Europe, autonomy arrangements have had to negotiate not only the devolution of considerable power to the territorial unit, but in situations where there are different ethnic groups, they have had 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, inter-ethnic cooperation and the participation of all relevant groups in an autonomous region in legislative and administrative power processes.

The institutional design of such 'regional consociations' and the legal and political provisions 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 homogeneous population, such as in the Nordic islands the Azores and Madeira. The need to establish regional consociations arises in situations of internal heterogeneity as in 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% Catholics, 55% Protestants). Notably, there is one instrument for ensuring a first level of 'consociational power-sharing': democratic elections with the minimum representation guaranteed for all major groups. In South Tyrol the smallest group, the Ladins, have to be represented in the local parliament by law, whatever the turnout at the polls. In Crimea 14 members out of 100 seats in the Republic's parliament are reserved for the Tatars and one each for other indigenous peoples. A consociational way of governing has been established which encompasses the various ethnic groups and ensures policy coordination mostly through a political coalition. In order to set up stable coalitions for the governance of the region, minority forces have necessarily to enter into coalitions with parties repre-

senting other or smaller ethnic groups. This is also known as ‘concordance democracy’, following the Swiss model.

Four more provisions for safeguarding the rights of the national minorities can be observed in European autonomy structures:

- (i) mandatory power sharing
- (ii) segmental autonomy for each group
- (iii) proportionality in all governmental functions
- (iv) minority veto rights

Aspects of the functioning of these provisions can be found in several autonomy systems.

In Northern Ireland, to ensure participation of all communities in 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. The working of the Assembly is contingent on its members registering their identity by category—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 as also at the municipal level. The Northern Ireland government has to include members of each community. The First and the Deputy First Minister cannot be members of the same community.

In South Tyrol, similar provisions are enshrined in the autonomy statute. The autonomous provincial government has to be composed of members from all three official communities and the ministries have to be allocated according to the numerical strength scored in the elections by each community within the provincial assembly. In addition to that, if any ethnic group considers itself discriminated against in ethnic terms, it can claim a separate vote in each group. Thus, each minority is entitled to cast a veto in a very im-

portant decision, like the annual budget. In South Tyrol, not only all governing institutions, including all administrative commissions, are composed in a proportional manner, according to the numerical relationship of 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 systems, and autonomously develop their cultural policies.

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—the Russians, Ukrainians and Tatars—have to be represented in parliamentary commissions and in government. Apart from the proportionality, determined by a political party’s numerical strength and power relations, provisions are made to ensure cross-community decision making processes. It should be added that there is no standard of an autonomy design structured along the lines of regional consociationalism that could be applied alike to all ethnic conflicts and autonomies in Europe.

Control of economic resources

If autonomy means territorial self-government, by definition, it has to ensure the possibility for the autonomous community to manage its 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 resources such as land, forests and seas. In Europe, this concern has not found any expression in the form 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 in most of the autonomous regions of Europe, ethnic minorities have been fully integrated not only into their national market economies, but

also to the common market of the EU. In some cases, this has led to the immediate danger of overexploitation of local resources, as for example, the fish grounds around the islands of Greenland and the Faroe, which previously were part of the European Community. Both islands decided to opt out of the membership in the EU to preserve their special rights in fishery. This legal possibility is not given to other regions in the EU, except the Åland Islands.

In the European case, then, the need for the community to exercise some control over the economic development of an autonomous region has to be met by means of a general economic and fiscal policy, that is, in accordance with national macroeconomic and monetary policy and with the policy set forth by the EU in Brussels. The division of powers offers a wide scope and political regulation in the field of economics: subsidies and regulations for the single sectors, regulation of the agriculture, development of infrastructures, direct intervention through public companies, environmental protection and energy control, urban planning and economic planning. Generally, a solid financial system for autonomy provides the most effective means to steer a local autonomy.

A COMPARISON OF THE EUROPEAN AUTONOMY SYSTEMS

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

The Åland Islands obtain the most complete and far-reaching autonomy. Under the Act of Self-Government of 1991 the Ålanders enjoy legislative and executive powers in nearly all political sectors which matter for the peoples on

the islands. The Åland Islands have even an administrative judiciary, whilst only the ordinary judiciary remains under the central state's powers. The Åland Islands also are vested with some financial autonomy with some limited powers of taxation. Eventually the permanent inhabitants of the Islands enjoy a form of 'insular citizenship', which is a prerequisite for the right to vote for the autonomous parliament. On the Åland Islands the local language is Swedish, which is the only official language. They are virtually a separate community, just linked to Finland by some parts of the juridical system (constitutional law, civil law and criminal law). However, the Åland Islands with its particular conditions are probably an exception even when compared with many regions with national minorities aspiring to territorial autonomy. Finally, Åland even has some powers entitling the autonomous region to be involved in international decision-making and to have representation in international bodies. Some Ålanders consider their region as 'a state in the state'.

In Greenland and the Faroe Islands, a wider degree of autonomy with quasi-statehood in most political sectors has been established as well. The legislative and administrative competencies 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 Faroe Islands have their own 'insular citizenship'. The high degree of self-government is underpinned by the right of the island's populations to participate even in foreign policy decisions if these have concerns pertaining to their interests. Greenland and the Faroes—along with the Ålands—are represented in the Nordic Council, in their own distinct capacity, along with their own state representatives. There is one major difference between Greenland and the Faroes and Åland Islands: on the Åland Islands, non-Ålanders have no right to purchase land or real estate (property of land is denied to non-Ålanders); however, in Greenland and the Faroes which are accessible to Danish citizens, the latter have the right to own property.

Unlike most other European regional autonomies, Greenland and the Faroe Islands obtained autonomy, regarding their participation in international or supranational organizations, as demonstrated by Greenland's opting out of the EU in 1985 in order to control its basic economic resources. If we take into account the fact that in the EU nearly one third of all regulations are enacted by Brussels, for a meaningful functioning of the autonomy system there has to be recognition that the degree of autonomy should not be measured only in terms of powers gained vis-à-vis the central government, but also in regard to the supranational structure of the EU. In an increasingly 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 the core areas. The Nordic islands in Denmark and Finland are pioneers in this regard, whilst Åland's right for its possibility to regulate immigration by a sort of regional citizenship is a forerunner in that field.

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 and a government which is responsible only to the regional autonomous parliament. They have not only budgetary autonomy, but also clear-cut powers of taxation, shared with the central state. Spain's autonomous communities have their own civil and administrative judiciary, but 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 its own autonomy. Hence, Spain's regional autonomies are continu-

ously 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 labelled as quasi-federal or as 'asymmetrical federalism without explicitly naming as such', is projected as a model for other European states hosting a number of powerful minority peoples or ethnic groups. However, despite the very advanced Spanish autonomy systems, it is evident, that major continental regions like Catalonia are not in the same empowered position as a remote island group with regard to controlling citizenship and immigration or integration in a supranational organization.

The Portuguese islands, the Azores and Madeira, in their progress 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 autonomous regions a broad range of legislative and executive powers, not specifically attributed to the central state. 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.

Of particular interest are the two autonomy systems established in the 1990s in the former communist states of Moldova and Ukraine. 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 competencies in areas of cultural, social, educational, 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 headed by a governor, and along with a Gagauzian executive committee, vested with all governmental functions. The autonomy of Crimea, established in 1994, is reconstituting the former status of an 'Autonomous Republic' under the Soviet regime. In both cases—Crimea and Gagauzia—the central state has transferred extensive legislative and executive powers to the autonomous territories, also ensuring a certain degree of financial-budgetary autonomy. Moreover, these regions or republics, although very different in size, enjoy a distinct language policy regime aimed at safeguarding equality for the minority languages. They even have some freedom to regulate their international affairs, particularly in developing relation with their respective kin-states. The civil and criminal judiciary is still a central affair, but Crimea has its own constitutional courts. Crimea's inhabitants hold a specific Crimean citizenship, without losing their Ukrainian one, which provides for a certain control over the demographic evolution of the peninsula.

Italy is a hybrid combination of a regionalist and a federalist state (asymmetrically structured), particularly after the last devolution reforms approved in November 2005. Now 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. Some 15 out of 20 regions are constituted as 'regions with ordinary statute', while five regions are 'regions with special statute' (Trentino-South Tyrol, Aosta Valley, Friuli-Venezia Giulia, Sardinia and Sicily). There are concrete plans to transform also the second chamber of the

Italian parliament into a diluted form of 'Chamber of the Regions', underscoring the new importance of the regions in the Italian devolution process. Italy, as well as Spain, is an 'asymmetrical regionalist state', moving towards federalism. But the backlashes of the old centralist tendencies, a fragile public finance for the regions and the North-South-dualism are holding back Italy from giving way to more self-governance at every 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 Walloons, as they do not have their own distinct regions. 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.

The Netherlands Antilles are a hybrid construction combining features of an associated state with that of regional autonomy. Although the inhabitants of that island group are not directly represented in the Dutch parliament, they have a democratically elected representation with the Netherlands' government. Being geographically distant from each other in 2008, they have restructured their respective relations with the 'motherland', partially transforming into associated states. Curacao and Saint Maarten have switched to the identical legal status as Aruba already did in 1986, which is basically a 'free association', whereas the islands of Saba, St. Eustatius and Bonaire have been incorporated into the mainland of the Netherlands as 'municipalities' with a special autonomous status.

The case of the United Kingdom highlights an additional typical feature of territorial autonomy in Europe. The historical process of the formation of nation-states in Europe, has involved the integration or sometimes just the swallowing up of smaller historical nations. This happened in Spain, as

in Great Britain, in Russia and in the Balkans. The devolution process in the United Kingdom is legitimized by the particular linguistic features of the regions, which are endowed with a high degree of self-governance, that is, Scotland, Wales and Northern Ireland. Indeed, in Scotland and in Northern Ireland, the minority languages are spoken by a very tiny part of the population. More significant in driving the devolution process has been specific historical reasons, which in turn have caused internal conflicts (Ireland) or centuries-old strife for regaining a certain degree of 'statehood'.

The Nordic islands, South Tyrol, Spain's historical autonomous communities, Catalonia, the Basque Country and Galicia, and Russia's Tatarstan, according to the functions delineated above, can be graded as having the most advanced forms of autonomy, whereas Corsica (a '*collectivité territoriale*' in France) is still at the beginning of the path towards a full-fledged autonomy. In between are a number of autonomy systems, which still could be improved and enlarged. Nevertheless, France has established an authentic regional autonomy, although not labelled as such, but as *pays d'outre m er* (overseas country). New Caledonia, a major island in Oceania, with a majority of indigenous population, shows all central issues of a territorial autonomy, and by an agreement signed in 1998; after 2011 it will be even more free to determine its further relation with France.

Claims for self-governance and autonomy at the regional level in Europe are deeply rooted in history and in the story of the building up of the European nation-state system. In Europe a strong consciousness of a regional identity largely based on cultural, linguistic and ethnic features can be felt nearly everywhere. Some European states tried to tackle this internal cultural complexity through 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). However, a conspicuous number of re-

gional communities still are lagging behind and do not enjoy the same degree of self-governance, giving rise to harsh conflicts with central governments. Once the working autonomies prove to be a historical success or at least stand the test, the better will the conditions be to convince state majorities to aim for autonomy solutions.

CONFLICT RESOLUTION THROUGH TERRITORIAL AUTONOMY?

Looking at the world's map of autonomies, it is evident that throughout the world Europe is home to the majority of autonomy solutions. It is argued that in Europe territorial autonomy has in nearly every case proved successful for all conflicting parties involved: the national minorities, the regional communities, the central states, and some kin-states. In none of the eleven European states with working regional autonomies is there a serious debate about cutting them back. On the contrary, in most cases, the existing autonomy system is continuously being improved and deepened in order to grant an ever more appropriate system of self-government.

Spain leads the group of states with a dynamic development towards a more articulated 'state of autonomies'. Recently, in September 2005, Europe's largest autonomous region in terms of population, Catalonia, passed its newly reformed autonomy statute with a large majority of its regional parliament, subsequently also approved by the Spanish parliament. In Corsica, local political forces are working to reform the still weak model of self-government 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, indirectly reinforcing 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 yet to take off. The conflict has shifted to a political level, but decades of violence and political cleavages

have left deep scars. An ever-deepening process of European integration in the framework of the European Union has definitely been helpful to these autonomy solutions, as they are backed by a legitimate role of the respective kin-states.

The new autonomies in Eastern Europe have been operating only for about a decade and are still in a provisional phase, with at times contradictory developments in the inter-ethnic relations of the autonomous regions. In the Autonomous Republic of Crimea, for instance, the Russians retain their predominant rule, while the Tatar community, returning after deportation by Stalin in the 1940s, has yet to be accommodated. Tatarstan, on the other hand, presents a positive model of how national conflicts inside Russia could be resolved through an equitable balance of power between the centre (Moscow) and an ethnically mixed region (Tatarstan). Thinking about the ongoing conflict in Chechnya, a lesson to be drawn is that autonomy solutions should be envisaged before low-level violence escalates into a full-blown ethnic war. What makes these autonomies particularly important is their role as pioneers of autonomy regulations in a part of the continent, which since 1990 has been the site of rising new nationalism, state centralism and widespread hostility towards autonomy solutions. In this context, Gagauzia, Tatarstan and Crimea—if successful—are paving the way for a range of other regions aspiring to full autonomy (Abkhassians in Georgia, Albanians in Macedonia, Hungarians in Transylvania (Szeklerland), Serbia and Slovakia, Turks in Bulgaria, Ruthens/Rusyns in Ukraine, and other regions in the Northern Caucasus).

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 the United Kingdom), due to its specific cultural, historical or ethnic features. Autonomy, here, appears as the exception aimed at accommodating a minority, whereas the state as a whole is not inclined to trans-

formation 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 has been happening in Spain and Italy since the 1970s. A third solution is the creation of different layers of self-government within a large and ethnically heterogeneous country, as in Russia, in quite an asymmetrical form in order to find appropriate solution for each specific regional reality.

Indeed, autonomy is increasingly being proposed as a remedy for other self-determination conflicts, while previously it had been seen as a step towards secession. Apart from granting autonomies to national minorities, multinational states were also faced with self-determination claims, like Bosnia-Herzegovina, Belgium and Macedonia, and have had to adopt extensive provisions for self-governance for ethnically differentiated territories. As they found a new equilibrium (though in two cases still uncertain) other states, faced with secessionist movements and acts like Cyprus (Northern Cyprus), Moldova (Transnistria), Georgia (Abkhassia and South Ossetia) and Azerbaijan (Gorni Karabagh) still have to find a way to re-integrate the break-away regions. The formerly autonomous Kosovo is actually gaining full independence, since a return to forms of autonomy under Serbian sovereignty is unacceptable to the huge majority of its population and the international community increasingly accepts its independence.

Even violent fringes of self-determination movements, like the ETA in the Basque Country and radical groups in Corsica, influenced by the example of the IRA in Northern Ireland, seem to be close to relinquishing the strategy of violent confrontation, if advanced forms of autonomy can be established. Protracted violent insurgency in those cases has eventually evolved towards a compromise on a form of 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.

PERSISTING CONCERNS ABOUT EUROPE'S TERRITORIAL AUTONOMIES

The basic question to pose is whether territorial autonomy in Europe can achieve its objectives, namely, granting self-governance in a limited area and the protection of the national minorities living in that area. Generally, European states are still very sceptical about the right to autonomy. Often the argument used is that its content is too vague and that it cannot clearly be defined. But distinction has to be made between the right and the concrete form of application. Moreover, there is the concern that the interest of states to preserve full integrity of their territory should not clash with a possible right to autonomy. Autonomy, however, besides the conflict between the state and the concerned region, often has to tackle a double problem: to grant the protection of the national minority on its traditional homeland, but at the same time to include in the self-governance system 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' involved in dynamic processes of reform, correction and transformation. 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 have turned out to be the key factors of success, as a detailed comparative analysis, will eventually demonstrate. New autonomy projects and negotiations have to take it into account, avoiding repetition of the harmful mistakes made in some 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:

- (i) 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.
- (ii) 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 into a balance, with a strong role of the civil society and the media in building up a culture of common shared responsibility for peaceful coexistence.
- (iii) Autonomy can offer the necessary institutional framework for minority cultures and peoples and languages, in so far as the regional institutions are endowed with all culturally relevant powers and means, especially in the field of education, culture and media.
- (iv) An implementation plan is to be incorporated in the conflict settlement process. This sometimes is a very technical, long-lasting undertaking.
- (v) There should be a possibly complete set of functions and powers to endow local institutions with 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
- (vi) Autonomy has to be effectively entrenched, if not at an international level or bilateral level (kin-state), at least on a constitutional level, preventing it from being exposed to the vulnerabilities of changing political majorities in a central parliament.

- (vii) 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.
- (viii) Internally, when there are two or more ethnic groups sharing the same region, consociational arrangements for granting access and participation in power must be established for all relevant groups living in the same territory.
- (ix) Regional integration, trans-border cooperation with kin-states or integration in regional supranational organizations are definitely helpful in ensuring autonomy solutions.
- (x) There are even forms of participation of autonomous entities in international organizations, exerting influence when the concerned territory is affected.
- (xi) In order to ensure the effective operation 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 Court 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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