

**University of Belgrade
University La Sapienza, Rome
University of Sarajevo**

Master Program State Management and Humanitarian Affairs

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**MODEL OF THE REGIONAL STATE IN EUROPE
- A COMPARATIVE ANALYSIS WITH FOCUS
ON THE REPUBLIC OF SERBIA**

Master Thesis

Belgrade, August 2010

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INTRODUCTION

The objective of this thesis is to describe and explain the nature and basic characteristics of the existing concept of the regional state in Europe (Spain and Italy), as well as to consider the possibility of its practical application in the case of the Republic of Serbia. At the example of two above mentioned modern western democracies we will analyse the advantages and disadvantages in the context of the possible territorial redefinition of the Republic of Serbia. This thesis tends to explore the possibilities and perspectives, as well as potential constraints of the application of the regional state model in Serbia; namely, through the comparative analysis of experiences of Spain and Italy we will try to find the adequate democratic and functional frame for Serbia on its way towards the European integration. The thesis will not only point out facts and characteristics of different models of government organization, but through descriptive-explicative analysis it will give some opinions on possible application of the regional state model in Serbia. Through case analysis of Spain and Italy we will try to give the insight in modern political and social reality, as well as to show the need to rearrange the Serbian state organization, i.e. to change the government organization in the context of the democratization of South-East Europe regions.

Therefore, in one part of this thesis we will speak about the situation in Spain and Italy and in the other part we will be focused on the elaboration of the situation in Serbia and positive changes that could be made in order to speed up the true democratic transformation of the Republic of Serbia and to prepare it for the admission to the European Union.

Through the insight to contemporary practical and theoretical frameworks of regional states, through the overview of specific constellations of historical and other circumstances relevant for this topic, different external and internal influences, detailed overview of

organization of concerned regional states, seen through the prism of democratization process and in the context of the European union, this research provides deeper analytical overview of the real situation in Italy and Spain and the possibilities of introduction of regional state model in Serbia.

The character of the thesis requires wider theoretical researches, analysis, synthesis and occasional confrontation of different theoretical concepts. Where possible, this will be supported and illustrated by relevant empirical data. This is particularly significant if we have in mind the comparative dimension required by the analysis of three case studies within the research. As the source of information we will use theoretical studies, legal acts, i.e. content analysis, statistical data etc.

The thesis is primarily addressed to analyse the concept of the regional state in the context of contemporary political processes and tendencies, as well as related economic, social, cultural and other aspects, which gives to the thesis an interdisciplinary character. On the other side, the complexity of the research topic requires a multivariable approach. This research pretends to have not only monographical, descriptive-explicative character, but through the analytical approach to attain also a prospective character.

In the first part of the thesis, some relevant key terms and basic theoretical categories will be explained and clarified. Afterwards, the basic models of state organization, such as consociational state, unitary state, federation and regional state will be presented.

The second part of the thesis introduces the case studies of the Republic of Italy and the Kingdom of Spain. This part explains the concept of the regional state in Italy and Spain, why they are organized in this way, historical background; it also includes a constitutional analysis of both countries. It gives us the insight to the political institutions and territorial and political organization of these two countries and some problems that Italy and Spain are facing today (such as nationalism and numerous active autonomist and secession movements). The case studies are followed by the comparative analysis of Italy and Spain. Further more, the concept of regionalism in the context of the European Union will be analysed.

In the third and the last part of the thesis we will be talking about the Republic of Serbia, its constitutional determination, organization of government, administrative division and all the units of administrative division, such as municipalities, cities, city of Belgrade and autonomous provinces. We will also present the category of administrative districts, which are not the units of political organization of Serbia but nevertheless very important in

potential redefinition of Serbia as regional state. Here we will also give the criteria for forming of regions and some examples of the possible division of Serbia.

After these three parts follows the conclusion which explains the complexity of the very process of regionalization, identifies some important issues that have to be considered in this process and some advices that would render this process as easier as possible, while minimizing the risk of negative consequences for the state and its citizens.

As previously said, before we begin to speak more concretely about the model of the regional state in Europe, we have to clarify some terms and mention some key definitions related to this topic.

I

1. In politics, **regionalism** is a political ideology that focuses on the interests of a particular region or group of regions, whether traditional or formal (administrative divisions, country subdivisions, political divisions, subnational units). Regionalism centers on increasing the region's influence and political power, either through movements for limited form of autonomy (devolution, states' rights, decentralization) or through stronger measures for a greater degree of autonomy (sovereignty, separatism, independence). Regionalists often favor loose federations or confederations over a unitary state with a strong central government. Regionalism may be contrasted with nationalism.

Proponents of regionalism say that strengthening a region's governing bodies and political powers within a larger country would create efficiencies of scale to the region, promote decentralization, develop a more rational allocation of the region's resources for benefit of the local populations, increase the efficient implementation of local plans, raise competitiveness levels among the regions and ultimately the whole country, and save taxpayers money. In some countries, the development of regionalist politics may be a prelude to further demands for greater autonomy or even full separation, especially when ethnic and cultural disparities are present. This was demonstrated in the late 1980s in Socialist Federative Republic of Yugoslavia, among other examples.

A **regionalist party** is a regional political party promoting autonomy for its region; a **regional party** is a political party with its base almost entirely in a single region. All regionalist parties are also regional, while only a portion of regional parties are also regionalist. Because regional parties often cannot receive enough votes or legislative seats to be politically powerful, they may join political alliances or seek to be part of a coalition government. Examples of regionalist parties include the Scottish National Party and Plaid Cymru in the United Kingdom, the Basque Nationalist Party, Convergence and Union and the Republican Left of Catalonia in Spain, and Lega Nord in Italy, while examples of regional parties include the regionalist parties such as the Christian Social Union of Bavaria and almost all Belgian parties.

Subsidiarity is an organizing principle that matters ought to be handled by the smallest, lowest or least centralized competent authority. Subsidiarity is, ideally or in principle, one of the features of federalism, where it asserts the rights of the parts over the whole. The word subsidiarity is derived from the Latin word *subsidiarius*. The concept or principle is found in several constitutions around the world. It is presently best known as a fundamental principle of European Union law. According to this principle, the EU may only act (i.e. make laws) where action of individual countries is insufficient. The principle was established in the 1992 Treaty of Maastricht. However, at the local level it was already a key element of the European Charter of Local Self-Government, an instrument of the Council of Europe promulgated in 1985 (which states that the exercise of public responsibilities should be decentralised).¹

Decentralization is the process of dispersing decision-making governance closer to the people and/or citizen. It includes the dispersal of administration or governance in sectors or areas like engineering, management science, political science, political economy, sociology and economics. The more decentralized a system is, the more it relies on lateral relationships, and the less it can rely on command or force.²

Political decentralization aims to give citizens or their elected representatives more power in public decision-making. It is often associated with pluralistic politics and representative government, but it can also support democratization by giving citizens, or their representatives, more influence in the formulation and implementation of policies. Advocates of political decentralization assume that decisions made with greater participation will be better informed and more relevant to diverse interests in society than those made only by national political authorities. The concept implies that the selection of representatives from local electoral constituency allows citizens to know better their political representatives and allows elected officials to know better the needs and desires of their constituents. Political decentralization often requires constitutional or statutory reforms, creation of local political units, and the encouragement of effective public interest groups.

Administrative decentralization seeks to redistribute authority, responsibility and financial resources for providing public services among different levels of governance. It is the transfer of responsibility for the planning, financing and management of public functions from the central government or regional governments and its agencies to local governments,

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¹ Source: *Wikipedia – The Free Encyclopedia*

² Lukić R.D., Košutić B.P., Mitrović D.M., *Uvod u pravo*, Službeni list, Belgrade, 2001

semi-autonomous public authorities or corporations, or area-wide, regional or functional authorities. The three major forms of administrative decentralization - deconcentration, delegation, and devolution - each have different characteristics.

Deconcentration is the weakest form of decentralization and is used most frequently in unitary states. It redistributes decision making authority and financial and management responsibilities among different levels of the national government. It can merely shift responsibilities from central government officials in the capital city to those working in regions, provinces or districts, or it can create strong field administration or local administrative capacity under the supervision of central government ministries.

Delegation is a more extensive form of decentralization. Through delegation central governments transfer responsibility for decision-making and administration of public functions to semi-autonomous organizations not wholly controlled by the central government, but ultimately accountable to it. Governments delegate responsibilities when they create public enterprises or corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, or special project implementation units. Usually these organizations have a great deal of discretion in decision-making. They may be exempted from constraints on regular civil service personnel and may be able to charge users directly for services.

Devolution is another administrative type of decentralisation. When governments devolve functions, they transfer authority for decision-making, finance, and management to quasi-autonomous units of local government with corporate status. Devolution usually transfers responsibilities for services to local governments that elect their own elected functionaries and councils, raise their own revenues, and have independent authority to make investment decisions. In a devolved system, local governments have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions. Administrative decentralization always underlies most cases of political decentralization.

2. Basic Models of State Organization

When talking about various models of state organization, we will first explain the consociational state, so that we can later focus on more traditional state models and regional state, which is the main topic of this thesis.

a) Consociational state

Consociational state is a state which has major internal divisions along ethnic, religious, or linguistic lines, with none of the divisions large enough to form a majority group, yet nonetheless manages to remain stable, due to consultation among the elites of each of its major social groups.

Consociational polities often have the following characteristics: coalition cabinets, where executive power is shared between parties, not concentrated in one. Many of these cabinets are oversized, they include parties not necessary for a parliamentary majority; balance of power between executive and legislative; decentralized and federal government, where (regional) minorities have considerable independence; asymmetric bicameralism, where it is very difficult for one party to gain a majority in both houses. Normally one chamber represents regional interests and the other national interests; proportional representation, to allow (small) minorities to gain representation too; organized and corporatist interest groups, which represent minorities; a rigid constitution, which prevents government from changing the constitution without consent of minorities; judicial review, which allow minorities to go to the courts to seek redress against laws that they see as unjust; elements of direct democracy, which allow minorities to enact or prevent legislation; proportional employment in the public sector; a neutral head of state, either a monarch with only ceremonial duties, or an indirectly elected president, who gives up his party affiliation after his election; referendums are only used to allow minorities to block legislation: this means that they must be a citizen's initiative and that there is no compulsory voting; equality between ministers in cabinet, the prime minister is only the *primus inter pares*; an independent central bank, where experts and not politicians set out monetary policies. The political systems of a number of countries operate on a consociational basis, including, Belgium, Lebanon, The Netherlands (from 1917 until 1967), Switzerland and Nigeria. Some academics have also argued that the European Union resembles a consociational democracy.

Additionally, a number of peace agreements are consociational, including the Dayton Agreement that ended the 1992-1995 war in Bosnia and Herzegovina, which is described as “a classic example of consociational settlement” by Sumantra Bose and "an ideal-typical consociational democracy" by Roberto Belloni, and the Belfast Agreement of 1998 in Northern Ireland (and its subsequent reinforcement with 2006's St Andrews Agreement), which Brendan O'Leary describes as "power-sharing plus".

Post-independence Singapore has been described as consociational. Post-Taliban Afghanistan's political system has also been described as consociational, although it lacks ethnic quotas.

The traditional science on state recognizes two models of state organization: unitary state and federation.³ Regional state is relatively new as a concept. The modern science on state considers the regional state the third state model, which is practically something in-between these two classical models.

Before explaining each of these models, we have to emphasize the necessity of the existence of territorial organization of the state, which can be different, but it always has to have two basic territorial units: the municipality and the state. All other categories in between with their status and place in the system show the organizational model of a state, i.e. if it is unitary state, regional state or federation.

Every state is within its boundaries covered by a network of territorial units – from municipal units at the bottom, to federal units/regions/central government at the top. Status of all these units is defined by the constitution of the state and it can greatly and very often substantially differ from state to state.

In a modern state, the presence of a network of territorial units is a necessity. A possible type of territorial unit is a question for itself; however, without a doubt all states (except some mini-states such as San Marino, Andorra, Vatican, etc.) must have in their structure fundamental state building blocks, i.e., units, such as municipalities (communes). As the case was in many states, municipalities came into existence prior to the state; the municipalities as communities of citizens residing in one territory, i.e. settlement, even in medieval period had authorities who performed some executive functions that were relevant for that age. Status of municipalities became regulated at the end of eighteenth and mostly throughout the nineteenth century through a formation of a modern state and adoption of regulations at the level of central government, that was simultaneously characterized by the

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³ We are not mentioning the confederation here because it is not a state by itself but the association of more single states.

creation of a unit of a higher rank, i.e. second degree (such as cantons or districts), and in some states even units of third degree (such as shires or provinces). In this case, municipalities create second degree units, while second degree units create units of a third degree. All of these units have their own bodies and precisely determined authorities that can be exercised in implementing competences delegated to a given unit category.⁴

Rationale for the existence of such, briefly outlined territorial governmental organization present in the modern state is twofold. The first reason lies in rational division of roles that are tailored for the territory occupied by units of different category. It is clear in itself that the role of a municipality is utterly different from, for example role of a province. Therefore, the status of a municipality must differ from the status of other constituent units, i.e. it has to be adequate to the function that it performs. The second reason rests in the fact that in our days, when democracy prevails as a form of political system, it is indispensable to ensure the participation of the citizens in the government (at least through elections) at all levels of territorial organization. Due to a combined influence of these two stated reasons many states today have developed a system of local self-government which represents a network of local authorities of different rank organized as a unified pyramid.

Particularly for the above mentioned reasons, this local self-government system is present in all modern states, regardless whether their internal organization is a **unitary state**, **federation** or a **regional state**. No modern state can function without the system of local self-governments. However, at this point we can also see the fundamental differences between the unitary state on one hand, and two other models of internal organization on the other – in a unitary state units comprising a local self-government represent the only territorial units in that state, while that is not the case in a federation or in a regional state. Federation is comprised out of a number of federal units, each with its own status, and each within itself representing its own self-government (regardless of the fact whether they are the same, what is rarely the case, or different as often seen in federations). In a regional state, regions include units of local self-government located on their own given territory, but, given the lack of status found in federal units, local self-government system in the entire regional state is uniform in general.

Therefore, in a unitary state a network of territorial units with municipality at its base has units of local self-government of a highest degree at its far end, while this is not the case in a federation and a regional state. This difference is of crucial importance for determining

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⁴ Jovičić M., *Regional state*, Vajat, Belgrade, 1996

the unitary state's legal nature, and for distinguishing it from the other two types of state models.

b) Unitary state – simple state

In a **unitary state** all units of local self-government are created under the constitution and pursuant to laws. The constitution determines all the categories of the units for one state to have – municipalities, cantons, districts etc. – their administrative organization and competences. The legislation on the other hand determines the territorial division of the state, i.e., it establishes each individual unit and elaborates and specifies its particular jurisdiction and competences of authorities. Furthermore, the competences of the units are further specified in bylaws and regulations adopted by the executive administration bodies.

The existence and the entire functioning of local self-government system is entirely a matter that the central level of government is dealing with. That means that since the central government establishes this system, it can amend it or even abolish it.

Depending on the type of local self-government system, some categories of units may have certain rights of self-organization (exercised through adopting their own statutes and other local regulations) and may regulate their own competences (as opposed to the so-called transferred competences). But again, all of this has to be within regulations adopted by central government and under the supervision of central government.

The basic characteristic of local self-government units is that they are not constituents of the state in any sense, they do not participate in creation of state's central government bodies (first of all the parliament), nor in the decision-making at the central level. Certain categories of units, such as cantonal or district units may represent election units in parliamentary elections, however, that does not mean they directly partake in constituting the parliament.

c) Federation – complex state

As opposed to a unitary state that is considered to be a simple form of organization of power, **federation** is regarded as a complex one. Every federation is composed out of a certain number of federal units (and that number in practice ranges from just two to even fifty federal units).

Having in mind this basic characteristic of a federation, it further has the following state model related characteristics.

First of all, with respect to the autonomy of their status, federal units are fundamentally different from local self-government units, even the ones of the highest degree (provinces or regions) in highly decentralized states. Having that in mind, it is important to mention that even though federal units in a number of federations are referred to as states, they are not real states because they are not sovereign and therefore they are not independent as the state must be. However, we can speak about a certain degree of their autonomy, limited autonomy. Basic difference between independence and autonomy is in the fact that independence is legally unlimited, while autonomy is always contained within certain predefined boundaries.

The autonomy of federal units (which the units of local self-government do not have) is defined and limited solely by the constitution of a given federation. The constitution determines the fundamental status of federal units, their rights and obligations and their competences. Therefore, federal units do participate in the procedures of amending constitution, and this participative moment is a crucial difference between federal units and units of local self-government.

Autonomy of federal units can further be substantiated by their right to adopt their own constitution. Units of local self-government are deprived of this right in all instances – their fundamental constitutive act is generally called the statute. The constitutions of federal units basically possess all the characteristics of a constitution as a general act of the highest category, but with one major distinction: they must be in accordance with the federal constitution. These separate constitutions are considered supreme acts in the system of general legal documents within one federal unit and all other legal documents in that particular unit must be in accordance with it; then again, they all have to be in accordance with the federal constitution. Therefore, they represent a specific category of legal documents called constitutions, but in fact they are only second-degree constitutions.

Constitutions of federal units represent a basic form for expressing their right to self-organization, which they have within a given federation. The scope of that right might vary, depending on terms set under federal constitution regulating federal units' governance and the distribution of competencies between the federation and federal units. In any case, federal units and federation are structured in a similar way, with a parliament, government, administrative and judiciary bodies (with exception of federations not generally applying the federal principle), which further gives to the individual federal units the appearance of

statehood. Pursuant to the mentioned, these units have their own legislation and system of legal regulations, which are the part of an unified system of legal regulations of the entire federation. Also, state administration and judiciary bodies in federal units are in some way, that may differ from federation to federation, vertically connected with the appropriate federal system.

The autonomy of a federal unit may also be substantiated by the scope of its competencies identified under the federal constitution. The federal constitution distributes competencies of federal bodies and federal units' bodies by employing different techniques. The most common is the so-called presumption of competence in favor of federal units. The volume and quality of competences delegated to federal units significantly illustrates the scope of federal principle application. In any case, federal units may not be deprived of their competences, since the distribution of competences is the reason of the establishment of federations; withdrawal of competencies from federal units would lead to a change from a federal model to a centralized unitary model of governance. At this point it is important to reiterate that the distribution of competences, i.e. decreasing the range of competences of federal units cannot occur without their participation in the decision-making process.

Presented characteristics of federal units significantly differ from those of local self-governments, which, in other words, leads to a clear distinction between a federation and a unitary state. Basically, all those differences are either directly or indirectly result of the fact that federal unit represents a constituent part of a federal state with ensured representation in a federal parliament. In that sense, federal units participate in adopting, enacting and amending federal constitution and laws. Given that representatives of federal units constitute one of two federal parliament chambers and that their approval is required in adopting laws and making decisions, federal units are directly guaranteed that their will is to be taken into account in decision-making of the federal parliament. When it comes to amending constitution, federal units may also participate directly in a way that in a given number of federations a majority of federal units must consent to proposed amendments adopted in the parliament.

Throughout the history of mankind the oldest state model was a unitary state, which has been the only form of territorial organization of the state for a long time (with exception of alliances of Greek *polis* in ancient times and alliances of medieval towns in Italy, Holland and Germany). The modern federation, with the USA as the first federally organized state, first appeared at the end of XVIII century, and then gradually increased in number over the

years to reach the number of around 20 modern federations. This number is more or less the same for several decades.⁵

Reasons for choosing federal or unitary model may be very different from state to state. Unitary model is not only historically older model, but it is also closer to the original notion of the state as a form of organizing a society in a unitary and legally bound and organized community. However, there may also be reasons requiring that a community should be organized as federation. Those reasons may first and foremost include ethnic composition of that community – the fact that one state is home to a number of different ethnic groups; then, traditional reasons – for example when a number of separate state entities are united into a single new state; then, geographical reasons - in cases when state territory is vast in order to better organize it as federation rather than a unitary state; economic and other reasons. Each of the mentioned reasons, and many of them combined, objectively speak in favor of selecting a federal model as a more favorable model. However, history also holds examples of federations created without sufficiently justified objective reasons.

The two state models are not only different between themselves for their basic characteristics, but there may be significant differences in terms of administration and governmental organization also within each of them. Both federations and unitary states may within themselves be significantly different. There is no ‘generally’ adopted basic model for neither federal nor unitary state. Therefore, it would be very difficult, more precisely impossible, to award competitive advantage to one of them when comparing two models. It all depends on a number of very specific and concrete circumstances and elements that primarily in a normative sense, in first place constitutionally, define a certain state model, and then, what is even more important, it depends on the way in which the model functions in practice.

Anyway, contemporary science is not ready to accept *a priori* one of the two models as theoretically better. Both models can be supported with a number of advantages in the same way as both of them may have shortcomings. In cases where reasons are strong enough to steer the creation of federation, the federal model must be accepted as the only right solution. And otherwise, in cases where such reasons are lacking, the unitary state imposes itself as a better solution.

Nevertheless, the science, of course notes some imminent characteristics for both state models. Hence, unitary state is said to be advantageous in terms of its simplicity, rationality,

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⁵ Jovičić M., *Regional state*, Vajat, Belgrade, 1996

efficiency and relative cost-effectiveness in organizing governance and its functioning, all of which are not common for a federal state model; federal state divides the governmental bodies in two levels, thus creating problems in distribution of competences, slowing down the decision making process, and introducing a number of different solutions in areas pertaining the status of citizens etc. On the other hand, federal state model allows separate parts of the state, namely federal units, to govern themselves in a great extent and pursuant to their conditions and needs, thus further encouraging democracy. To further support the unitary state model it is often argued that the distribution of competences in both normative and executive-administrative sphere in a federation may weaken one state's unity.

d) Regional state – tertium genus

During the last number of decades, a third form of state model was introduced - the so-called '**regional state**', representing something in between the unitary and federal state models.

In last decades, in a number of states – for example in France, Great Britain, Sweden etc. – a special category of territorial units, higher ranked than the existing local self-government units (by then of the highest rank), called regions, were introduced and their introduction was supported by an argument and a need for adapting certain services to larger territories than the ones originally included in local self-government units. However, the mere introduction of regions did not lead to a creation of a regional state since it did not change the mere nature of the unitary state.

The first regional state was established in Italy based on its 1948 Constitution, and then, three decades later, in 1978 in Spain. The latter served as an example for building the theoretical model of a regional state. Regional state is introduced in cases where there are significant historical, ethnic, language, geographic, and economic reasons prompting a certain state territories to be recognized as having a particular status (status that is above the status of local self-government of the highest rank, but below the status of a federal unit), which in itself impacts the organization of state government of entire country.⁶

It is rightly said that regional state merges certain good characteristics of both unitary and federal state, while at the same time eliminates certain weaknesses of both state models. In short, regional state to a greater extent than federation provides a 'unity-in-diversity', but

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⁶ Jovičić M., *Regional state*, Vajat, Belgrade, 1996

on the other hand avoids the excessive concentration of power common for unitary state. Regional state pays attention to particularities of given areas of the country and allows them to organize themselves in tune with their needs, but also prevents them from jeopardizing state's unity. Regional state is based on the idea of autonomy and the related idea of democracy, and it ensures civil participation in both self-government and executive government.

Regional state model, as a model between unitary and federal state is characterized by three groups of elements. The first group includes status and organization of regions, the second pertains to their participation in central government, and the third are relations between the two levels of government.

Regions can never have elements of the statehood present in federal units. They cannot have constitutional powers, nor have significant rights to self-organization as federal units have. However, an indispensable feature of regions is that they have their own election bodies (regional assembly) and other regional bodies (executive bodies – ‘regional government’), and the autonomy of their status depends on whether the central government bodies with specific competences relating to the work and regulations of regional authorities are present in the region or not. Further, the ratio between unitary and federal state model elements present in regions depends the most on the scope of competences those regions have under the constitution. In that sense, regions may under the constitution be awarded certain competences that are similar to those of a federal unit in federation with rational distribution of competences. Regions always dispose with normative authorizations, either smaller or greater, as well as with executive and administrative competences. Finally, regions must have a certain degree of financial autonomy, most commonly seen in a form of a right to collect their own income.

Based on the modality of the participation of a region in the central government organization, it depends whether the regional state will have characteristics that are closer to a unitary or a federal state. Within the two-chamber parliament, the regions in a certain way participate in constituting the upper chamber, either together with other parties or on their own, and this undoubtedly strengthens their position and significance. The status of this chamber in relation to the other chamber, the chamber of civil representatives, is also important.

And finally, relations between the state and its regions also influence the shaping of a regional state. These relations must absolutely be hierarchically structured both in the legislative and executive-administrative sphere. Constitutional court must oversee and control

the legitimacy and constitutionality of regional regulations, while the work of regional bodies must be overseen by state bodies entitled to abolish or cancel illegitimate and inappropriate legal documents.

If we analyze the above mentioned elements we could conclude that the nature of regions is twofold.

On one hand, regions share a number of characteristics with territorial units of highest degree in a classic highly decentralized unitary state; they enjoy a significant degree of autonomy, wide array of rights to self-organization, numerous and significant competences, and all that generally at the higher level than territorial units in unitary state. But, just the same as these units, regions do not have that degree of autonomy found in federal units that is exerted through the right to adopt constitution and their own legislature, system of bodies for all three branches of government, a number of quasi-governmental functions etc. In general, the status of regions is undoubtedly closer to the status of the territorial units of highest degree found in a unitary state, rather than the status of the federal units in federation.

Nevertheless, regions are, just as federal units, often participants in central government, which is not the case with territorial units in unitary state, not even the ones of the highest degree. This participation consists of the regional representation in one chamber of the central parliament. Therefore, a region participates in exercising constitutional and legislative powers but always indirectly, through representatives, and never directly as the case is with federal units in a number of federations.

Having in mind the described status of regions on one side and their participation in the organization and work of central government on the other, we can state that regional state contains elements of both unitary state and federation. Regional state is truly something in-between.

As it is said for a federation, considering the diversity of federal arrangements, that is spans in the zone with confederation on one end and unitary state on the other, the similar can be said also for regional state that depending on elements of unitary and federal state it contains, it is somewhere in-between these two state models, sometimes being closer to unitary state and sometimes to federation.

II

1. Republic of Italy

The regional idea was born, in Italy, during the national Risorgimento and the first decades after the Unification, but any proposal was rejected until the Second World War. After the collapse of Fascism and the end of the war a violent independence movement that led to the institution of the region and the concession of the Statute, based on the model of federal States was born in Sicily. A similar route was followed by Friuli-Venezia Giulia, Sardinia, Trentino-Alto Adige/Südtirol and Valley of Aosta. The other regions were instituted, officially, by the Constitution of 1948, but first elections of Regional Councils happened in 1970.

The Constitution of 1984 and special constitutional laws of the same year – on the special status of the areas of Sicily (Constitutional law no. 2/48), Sardinia (Constitutional law no. 3/48), Valle d'Aosta (Constitutional law no. 4/48) and Trentino Alto Adige (Constitutional law no. 5/48), as well as the law on special status of the area of Friuli-Venezia-Giulia of 1963 (Constitutional law no. 1/63) – which regulate the special legal regime of specific Italian areas, make the basic legal framework of the local and regional autonomy in this country.⁷

This field has been regulated also by various regulations, which regulate the issues of regional, province and local divisions of the country, especially the legal regime of local authorities, establishment and functioning of regional authorities, elections for representatives of regional, province and local authorities, elections for mayor, president of province and municipal council, government authorizations for the regulation of local authorities financing, assigning of jobs of the state administration to subnational bodies and rights of EU citizens at local elections.

As the basic characteristic of Italian territorial organization we can mention its three-grade system. Basic unit of the local self government is the municipality (*comune*), self government unit on higher level is the province (*provincia*) and the highest level of decentralization is the region (*regione*).

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⁷ Vučetić D., Janićijević D., *Decentralization as a base of the further development of Serbia*, Protecta, Niš, 2007

The Regions of Italy are the first-level administrative divisions of the state. There are twenty regions. Five of them are constitutionally given a broader amount of autonomy granted by special statutes.

Originally meant as administrative districts of the central state, the regions acquired a significant level of autonomy following a constitutional reform in 2001. A further federalist reform was proposed by the regionalist party Lega Nord and in 2005, the centre-right government led by Silvio Berlusconi proposed a new reform of the Constitution that would have entailed greatly increasing the powers of all regions. In June 2006 the proposals, which had been particularly associated with the Lega Nord, and seen by some as leading the way to a federal state, were rejected in a referendum by 61.7% to 38.3%. The results varied considerably from one region to another, ranging to 55.3% in favour in Veneto to 82% against in Calabria.

Every region in Italy has a statute that serves as a regional constitution, determining the form of government and the fundamental principles of the organization and the functioning of the region, as prescribed by the Constitution of Italy:

“Each Region shall have a statute which, in harmony with the Constitution, shall lay down the form of government and basic principles for the organisation of the Region and the conduct of its business. The statute shall regulate the right to initiate legislation and promote referenda on the laws and administrative measures of the Region as well as the publication of laws and of regional regulations.

Regional statutes are adopted and amended by the Regional Council with a law approved by an absolute majority of its members, with two subsequent deliberations at an interval of not less than two months. This law does not require the visé of the Government commissioner. The Government of the Republic may submit the constitutional legitimacy of the regional statutes to the Constitutional Court within thirty days from their publication.

The statute is submitted to popular referendum if one-fiftieth of the electors of the Region or one-fifth of the members of the Regional Council so request within three months from its publication. The statute that is submitted to referendum is not promulgated if it is not approved by the majority of valid votes.

In each Region, statutes regulate the activity of the Council of local authorities as a consultative body on relations between the Regions and local authorities”.⁸

Fifteen Italian regions have ordinary statutes and five of them have special statutes.

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⁸ Article 123 of the Italian Constitution

The regions, whose statutes are approved by their regional councils, were created in 1970, even though the Italian Constitution dates back to 1947. Since the constitutional reform of 2001 they have had legislative as well as administrative powers. The regions have exclusive legislative power with respect to any matters not expressly reserved to state law.⁹ Yet their financial autonomy is quite modest: they just keep 20% of all levied taxes.

Article 116 of the Italian Constitution grants to five regions (namely Sardinia, Sicily, Trentino-Alto Adige/Südtirol, Aosta Valley and Friuli-Venezia Giulia) home rule, acknowledging their powers in relation to legislation, administration and finance. They keep between 60% (Friuli-Venezia Giulia) and 100% (Sicily) of all levied taxes. In return they have to finance the health-care system, the school system and most public infrastructures by themselves. Sicily and Sardinia get additional resources from the Italian state in order to finance all services.

These regions became autonomous in order to take into account linguistic and cultural differences, such as the linguistic minorities in Trentino-Alto Adige/Südtirol, Aosta Valley, and Friuli-Venezia Giulia, or geographical isolation in the case of the two greater islands, Sicily and Sardinia. Moreover the government wanted to prevent their secession from Italy after the end of the Second World War.

Trentino-Alto Adige/Südtirol constitutes a special case. The region itself is nearly powerless and the powers granted by the region's statute are mostly exercised by the two autonomous provinces within the region, Trento and Bolzano-Bozen. In this case, the regional institution plays a merely coordinating role.

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⁹ Article 117 of the Italian Constitution

Italy is subdivided into 20 regions (regioni).



Region	Capital	Area (km²)	Population
Abruzzo	L'Aquila	10,794	1,324,000
<i>Aosta Valley</i>	Aosta	3,263	126,000
Apulia	Bari	19,362	4,076,000
Basilicata	Potenza	9,992	591,000
Calabria	Catanzaro	15,080	2,007,000
Campania	Naples	13,595	5,811,000
Emilia-Romagna	Bologna	22,124	4,276,000
<i>Friuli-Venezia Giulia</i>	Trieste	7,855	1,222,000
Lazio	Rome	17,207	5,561,000
Liguria	Genoa	5,421	1,610,000
Lombardy	Milan	23,861	9,642,000
Marche	Ancona	9,694	1,553,000
Molise	Campobasso	4,438	320,000
Piedmont	Turin	25,399	4,401,000
<i>Sardinia</i>	Cagliari	24,090	1,666,000
<i>Sicily</i>	Palermo	25,708	5,030,000
Tuscany	Florence	22,997	3,677,000
<i>Trentino-Alto Adige</i>	Trento	13,607	1,007,000
Umbria	Perugia	8,456	884,000
Veneto	Venice	18,391	4,832,000
Italy	Rome	301,334	59,616,000

Role of political institutions

Each region has an elected parliament, called *Consiglio Regionale* (Regional Council), and a government called *Giunta Regionale* (Regional Junta), headed by the regional President. The latter is directly elected by the citizens of each region, with the exceptions of Aosta Valley and Trentino-Alto Adige/Südtirol, where he is chosen by the Regional Council.

According to the electoral law of 1995, the winning coalition receives the absolute majority of the Council's seats. The President chairs the Junta, nominates and dismisses its members, called *assessori*. If the direct-elected President resigns, new elections are immediately called.

Regional Council (*Consiglio regionale*) is the name of the elected parliament in all Italian regions, except Sicily and Valley of Aosta, which parliament's name is, respectively, Sicilian Regional Assembly (*Assemblea regionale siciliana*) and Council of the Valley (*Consiglio della Valle*).

As we already mentioned, the first elections of Regional Councils happened in 1970. Councils, initially, had the power to elect the president and other members (assessors) of regional government (*Giunta Regionale*). With the constitutional reforms of 1999 and 2001, they lost these powers (because the president is elected by the people and the assessors are appointed by the president). On the other hand the regional councils obtained a lot of new legislative powers, including the regional electoral system, that before was decided by the State.

Until the 90's, all councils were elected with a proportional representation. In order to prevent political instability, a new electoral law, called *Legge Mattarella*, was introduced for the ordinary regions in 1995, and gradually extended with little changes to the other regions. Nowadays, the coalition of parties which receives the biggest number of votes, obtains the absolute majority of the Council's seats, and its leader is elected as the President of the Region. In Aosta Valley the President is elected by the Council. In Trentino-South Tirol, the Council is the joint session of the two Provincial Councils, each one with its own electoral law and the Regional President is one of the two Provincial Presidents.

Place and structure of provinces in Italy

In Italy, a **province** (*provincia*) is an administrative division of intermediate level between municipality (*comune*) and region (*regione*).

A province is composed of many municipalities, and usually several provinces form a region. The region of Aosta Valley is the only one that, strictly speaking, has no provinces: the administrative functions of its province are provided by the corresponding regional government; however, loosely speaking, it is seen as a single province.

The three main functions devolved to provinces are:

- Local planning and zoning
- Provision of local police and fire services.
- Transportation regulation (car registration, maintenance of local roads...)

The number of provinces in Italy has been steadily growing in recent years, as many new ones are carved out of older ones, sometimes being limited to less than a hundred thousands inhabitants per province (a smaller population than several *comuni*). As of 2009, there are 110 provinces in Italy (including Aosta Valley).

Each province is headed by a President assisted by a representative body, the Provincial Council, and an executive body, the Provincial Junta. President and members of Council are elected together by resident citizens: the coalition of the elected President (who needs an absolute majority in the first or second round of voting) gains the three fifths of the Council's seats. The Junta is chaired by President who appoints others members, called *assessori*.

In each province there is also a Prefect (*prefetto*), a representative of central government who heads an agency called *prefettura - ufficio territoriale del governo*. Questor (*questore*) is the head of State's Police (*Polizia di Stato*) in province and his office is called *questura*. There is also a province's police force depending from local government, called *Polizia Provinciale* (Provincial Police).

The province of Bolzano-Bozen and the province of Trento are a case *sui generis*. They are autonomous provinces: unlike all other Italian provinces they have the legislative powers of regions and are not subordinated to the region they are part of, namely Trentino-Alto Adige/Südtirol.

Comune as the basic administrative unit

The *comune* in Italy is the basic administrative division of both provinces and regions, and may be properly approximated in casual speech by the English word township or municipality.

The *comune* provides many of the basic civil functions: registry of births and deaths, registry of deeds, contracting for local roads and public works, etc.

It is headed by a mayor (*sindaco*) assisted by a legislative body, the *Consiglio Comunale*, and an executive body, the *Giunta Comunale*. Mayor and members of *Consiglio Comunale* are elected together by resident citizens: the coalition of the elected Mayor (who needs an absolute majority in the first or second round of voting) gains the three fifths of the Council's seats. The *Giunta Comunale* is chaired by mayor who appoints others members, called *assessori*. The offices of the *comune* are housed in a building usually called the *Municipio*, or *Palazzo Comunale*.

As of the 2007 census, there were 8,101 comuni in Italy; they vary considerably in area and population.

For example, the *comune* of Rome (Lazio) has an area of 1,285.30 km² and a population of 2,726,539, and is both the largest and the most populated *comune* in Italy; Fiera di Primiero, in the province of Trento, is the smallest *comune* by area, with only 0.15 km², and Morterone (province of Lecco) is the smallest by population, with only 33 inhabitants. The smallest non-alpine comune in Italy is Montelapiano, the fourth is Carapelle Calvisio, both in the mountainous region of Abruzzo.

The density of *comuni* varies widely by province and region: the province of Bari, for example, has 1,564,000 inhabitants in 48 municipalities or over 32,000 inhabitants per municipality; whereas the Aosta Valley has 121,000 inhabitants in 74 municipalities or 1,630 inhabitants per municipality – roughly twenty times more communal units per inhabitant. There are inefficiencies at both ends of the scale, and there is concern about optimizing the size of the comuni so they may best function in the modern world, but planners are hampered by the historical resonances of the comuni, which often reach back many hundreds of years, or even a full millennium: while provinces and regions are creations of the central government, and subject to fairly frequent border changes, the natural cultural unit is indeed the *comune*, – for many Italians, their hometown: in recent years especially, it has thus become quite rare for *comuni* either to merge or to break apart.

Many *comuni* also have a *Polizia Municipale* (municipal police) which is responsible for public order duties. Traffic control is their main function in addition to controlling commercial establishments to ensure they open and close according to their license.

A *comune* usually comprises:

- a principal town or village, that almost always gives its name to the *comune*; such a town is referred to as the *capoluogo* (“head place”, or “capital”) of the *comune*; the word *comune* is also used in casual speech to refer to the town hall.
- other outlying areas called *frazioni* (literally “fractions”), each usually centred on a small town or village. These *frazioni* have usually never had any independent historical existence, but occasionally are former smaller *comuni* consolidated into a larger. They may also represent settlements which predated the *capoluogo*: the ancient town of Pollentia, for instance, today known as Pollenzo, is a *frazione* of Bra. In recent years the *frazioni* have become more important thanks to the institution of the "*Consiglio di Frazione*", a local form of government which can interact with the *comune* and show it the local needs, requests and claims. Yet smaller places are called *località* (literally “localities”).

Sometimes, a *frazione* might be more populated than the *capoluogo*; and very occasionally, due to unusual circumstances or to the depopulation of the latter, the town hall and its administrative functions move to one of the *frazioni*: but the *comune* still retains the name of the *capoluogo*.

In some cases, a *comune* might not have a *capoluogo* but only some 'frazioni': in these cases, it is called a "*comune sparso*" (sparse municipality) and the *frazione* which houses the town hall is called "*sede municipale*" (municipal seat).

2. Kingdom of Spain

The establishment of Spain as a state, during the period before liberalism, between the end of 15th century and the beginning of 19th century was slow and difficult process. Under the entity of monarchy and common laws, clearly differentiated nations and cultures have survived. The change of dynasty, from the Austrian one there was a change to the Bourbon one at the beginning of 18th century, resulted in the constitution of legal unity and the constitution of unitary kingdom, having the strong central power.

Liberalism, which started by the Constitution from Kadiz from 1812 and strengthened with moderate constitutions dating back to 1845 and 1876, means the strengthening of the notion, namely of the model of unitary and centralized state. The efforts to carry out decentralization, also including the establishment of a federal state, were materialized in the progressive period (1854-1856) or the democratic-republican period (1868-1873). However, the fact is that the old-fashioned idea and practice of a very centralized state survived, although it could not achieve the actual integration of the country. Territorial tensions and disputes remained, as witnessed by several civil wars during the major part of 19th century.

The tensions that had been created during the previous years appear at the beginning of this century. The crisis of the moderate system, established by the Constitution from 1876 creates non-confidence in the state within the regions having nationalistic tradition (which is especially present in case of Catalonia), which does not meet their requirements and encourages them to propose alternatives to the centralized system of power. As the consequence of unsuccessful federal option, which was tried in 1873, various efforts exist in order to find individual solutions of each problem. This is how political parties and initiatives occurred, which required political autonomy for their own regions without raising the issue of general reform of the state. This issue lasted during the first half of 20th century. Neither the dictatorship of General Primo de Rivera (1923-1930) was able to “hush” it. The Second Republic and the Constitution from 1931 set up a problem and shaped the state recognizing political autonomy of the regions – half the way between unitary and federal state. Such a solution is known under the name of integral state.

However, the republican experience lasted for short and only Catalonia and Basque practically applied self-governance, but with interruptions. After this short period and the civil war from 1936 to 1939, the dictatorship of General Franco imposed the return of strong

centralization, which continued until the beginning of the constitutional period from 1978, when the model applied during the Second Republic regained its influence.

As we already said, the three-year civil war in Spain ended in 1939. The bombing of Guernica, a small Basque town, has up to now remained a well-known symbol of atrocities of that civil war and of the circumstances that followed it in Spain. General Franco (*Francisco Franco Bahamonde*), who headed the winning forces of the allied right wing, introduced his long-term dictatorship. He prohibited the activities of all political parties, except for the Spanish Falange (*Falange Española*), which was the official party of Franco's regime. Totalitarian political climate has been imposed. This party did not only propagate the uniform political ideology but also imposed single-minded view of the world and living¹⁰. General Franco had all political power concentrated in his hands and declared himself the head of the state (*el Jefe de Estado*)¹¹ in 1939. His leadership is characterized by the lack of the constitution, which should be, according to the definition, the first barrier of almightiness and unpredictability of power. This resulted in the suspension of elementary human rights and freedoms. The constitutional system and democratic parliamentary ideas together with it disappear in Spain during the age of General Franco.

General Franco adopted the Organic Law in 1967¹², defining Spain as a catholic country (*Un país católico*). In this way the distinction between the Church and the State, declared during the time of the Second Spanish Republic in 1931 was removed. Also, the distinction between the public and the private matters was blurred, by imposing strict rules based on ethics and religion according to Franco's supporters. Franco's regime was afraid of foreign influence, especially in the field of economy and culture, and feared of communism in particular, describing it as immoral. This has all been a picture of Spain from not long ago.

General Franco died in 1975. In theory, among various authors, there is a discrepancy about the year of Spanish step forward towards democratic transition. The majority is inclined to taking the year of Franco's death to be that year. Together with Portugal, according to Samuel Huntington, Spain is the first in the cycle of countries leaving authoritarianism and commencing a successful cycle of democratic changes in the so-called third stage of democratisation. „It remains strange and mysterious to a certain extent how this country of traditional conservative and authoritative politics and culture succeeded in a

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¹⁰ Because of these and other features a considerable number of authors find the Franco's policy a fascist ideology. For details, see: Andrew Haywood, *Political Ideologies*, Belgrade, 2005

¹¹ He is remembered as Generalísimo or *Caudillo*, and people addressed him as *Führer* or *Duce*, the names gladly used by Hitler and Mussolini.

¹² The Organic Law is limited to prescription of internal governance in the country.

relatively short time, especially in economy and democratization process, to join the most developed West European countries¹³. Further, Prof. V. Vasović characterizes the Spanish transition to democracy as an extremely successful, fast, deep and painless.

Don Juan Carlos was crowned two days after Franco's death (*Juan Carlos I de Borbón*). In June 1977 the first democratic, namely competition elections were held in Spain, which have not been held since the time of the Republic in 1936. The number of voters was very high, almost 80%. Although no party won absolute majority, the elections are remembered for the victory of democratic forces. At the constitutional referendum, which was held on 6 December 1978, enormous majority of the Spanish people voted for a new constitution. The Spanish constitution from 1978 was first adopted by the Parliament, at the plenary session of the Congress of Deputies and Senate. It was then ratified by the Spanish people at the referendum and finally approved by His Royal Majesty the King before the Parliament.

“Transition in Spain did not only mean transformation from authoritarianism to democracy, but also building of a multi-cultural society to find its expression in an adequate type of political system¹⁴.”

This new type of the political system of Spain primarily means building of new democratic and stable institutions of power and a process of state decentralization. Namely, during the thirty six years of Franco's regime, any attempt of autonomy was considered to be a danger for the state and national unity and that is why it was suppressed in its roots. One of the most difficult temptations faced by the new legislator was how to resolve the issue of state organization in respect of its territory, namely its vertical level of power organization¹⁵. The process of transition was accompanied by strong aspirations of Catalonia and Basque towards independence, for which reason the territorial issue was considered the most delicate one and caused the largest number of disputes among the Spanish politicians. Probably due to the efforts of the new political stakeholders to achieve the maximum possible level of conformity regarding the text of the new constitution, this new constitution only contains a principal approach to the resolution of territorial organization of power in Spain.

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¹³ Vasović Vučina, *Savremene demokratije II*, Belgrade, 2007, p. 17

¹⁴ Vasović Vučina, *op. cit.*, p. 17.

¹⁵ However,, it must be noted that the new Constitution of Spain only contains contours, namely the general principles how to organize and control territorial distribution of power. As different from the Italian Constitution from 1948, which prescribes this issue explicitly, i. e. it only counts the regions, the Spanish Constitution defines the rules of constitution of autonomous communities only in principle, and assigns their establishment to the initiative of local population, namely to their representatives within the local self-government bodies.

„Bearing in mind the vertical dimension of power organization, some authors find that Spain has a semi-federal constitution or an imperfect federalism, namely, some combination of unitary and federal state“¹⁶. Other authors define Spain as a regional state model.

It is necessary to base the analysis of the Spanish model of regional state on the provision of Article 2 of the Spanish Constitution, which reads as follows: „This Constitution is based on indissoluble unity of the Spanish nation, on the common and indivisible fatherland of all Spaniards; it accepts and guarantees the right to autonomy of nations and regions making it, and solidarity among them all“. It comes out from this that the Spanish regional state¹⁷ is based on three large principles: the principle of unity (collectiveness), the principle of autonomy and the principle of solidarity.

The principle of unity means that supreme power, namely sovereignty (*soberanía*) results from the Spanish nation as a whole, from unity. It is specified in the Constitution that the Spanish people have national sovereignty resulting in the authorities of the state. It is clearly stressed that sovereignty is not grounded on the regions, as bordered territorial units and their inhabitants, but on “the unity of the Spanish nation“. The principle of autonomy guarantees that specific features and autonomy of nations and regions, as prescribed by the Constitution, is established indeed through the constitution of autonomous communities (*Comunidades Autónomas*). Their autonomy is of political nature, which means that the autonomous communities may adopt and implement certain political decisions, as well as to possess their own financial resources, namely to have financial independence. The legislative autonomy means that each region may adopt its own laws, respecting, naturally, the principle of legality meaning the compliance of regional acts and acts of central power. However, it is to be noted considerably that although the Spanish Constitution is valid and has priority over the entire Spanish territory, there is no hierarchy of norms between the central and regional levels. For this reason some authors call such relations „federalism of co-operation“. The principle of solidarity is closely related to the achievement, and if not of economic equality, of certain economic balance among the regions. Thus, the Constitution authorizes the state, namely the central power to implement the principle of solidarity in practice, by making, on one side, efforts to correct social and economic differences between the regions and, on the other hand, helping those regions in less favourable position. It is probably unnecessary to stress that such a policy of „re-distribution“ of financial resources by the centre faced severe

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¹⁶ Vasović Vučina, *op. cit.*, p. 35.

¹⁷ Two expressions are used in the Spanish literature at the same time: *el Estado Regional* and *el Estado Autonomico*.

opposition by economically most developed regions, especially by Catalonia with its centre in Barcelona.

It is considerable to refer to the comments by Prof. Vasović related to the provision of Article 2 of the Spanish Constitution: „The difficulties in forming the constitutional text, its partial eclectic properties, which is reflected in the proclamation – syntagm of non-abrogation of „the nation of all nations“, are not because of its legal imprecision but because of the wish to reflect in the Basic Law the real complexity of historical heritage, which includes strong identity of national and regional components and affirmation of the unity of the Spanish state. Such a formulation wanted to provide the unity of the global Spanish state in a complex political community where there are strong national-regional identities“.

17 autonomous communities (regions) have been established in Spain in total: Asturias, Galicia, La Rioja, Castilla y Leon, Extremadura, Andalusia, Cantabria, Castilla-La Mancha, Basque, Madrid, Navarra, Murcia, Aragon, Catalonia, Valensia, the Balearic islands and the Canary Islands.

17 Spanish communities, plus Ceuta and Melilla¹⁸



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¹⁸ Since 1995, Ceuta and Melilla are two autonomous cities (*Ciudades Autónomas*) of Spain, located in the territory of Morocco

Community	Capital	Area (km²)	Population
Castile and León	León, Burgos, Valladolid	94 223	2,506,454
Andalusia	Seville	87 268	8,105,608
Castile-La Mancha	Albacete, Toledo	79 463	2,001,643
Aragon	Saragossa	47 719	1,306,631
Extremadura	Mérida	41 634	1,079,725
Catalonia	Barcelona	32 114	7,270,468
Galicia	Corunna, Santiago de Compostela	29 574	2,738,098
Valencian Community	Valencia	23 255	4,950,566
Murcia	Cartagena, Murcia	11 313	1,430,986
Asturias	Oviedo	10 604	1,059,089
Navarre	Pamplona	10 391	610,384
Madrid	Madrid	8 028	6,245,883
Canary Islands	Santa Cruz de Tenerife/ Las Palmas de Gran Canaria	7 447	2,061,499
Basque Country	Vitoria	7 234	2,138,453
Cantabria	Santander	5 321	573,758
La Rioja	Logroño	5 045	313,772
Balearic Islands	Palma de Mallorca	4 992	1,058,668
<i>Ceuta</i>		28	72,353
<i>Melilla</i>		20	69,347
Spain	Madrid	505 988 km²	45,593,385

It should be mentioned that all the regions do not enjoy equal autonomy and do not have equal competences in relation to the central power. For example, Prof. Vasović points out: „It is important and interesting that different competences of the regions are introduced depending on certain specific features. Accordingly, certain specific features may be noticed in the territorial organization of Basque, autonomous police forces in Catalonia and Basque, different autonomous linguistic policies and fiscal regime of the Canary Islands“. In this sense we talk about asymmetric regionalism. It is interesting that each autonomous community has the right to its own flag and emblems, which might be used together with the Spanish flag in public places and on the occasion of formal ceremonies. Catalonia even has its own official hymn. The reasons of historic, ethnic, cultural and in an increasing amount within the recent years, the reasons of economic nature are mentioned as the reasons for the constitution of regions in Spain.

Regional institutions and their role

A compulsory property of the regions is that they have their own bodies. The bodies of autonomous communities in Spain consist of: the legislative assembly or Asamblea (*los Parlamentos Autonómicos*), the Government Council (*el Consejo del Gobierno*) as well as the High Court of Justice, which are established in each autonomous community.

The Spanish Parliament (*Cortes generales*) has until recently been a body consisting of two houses: the Congress of Deputies (*Congreso*) and the Senate (*Senado*). The Senate, namely the upper house is prescribed in the Constitution as “the house of territorial representation“ (*Cámara de representación territorial*). This has been the body representing the interests of the regions to a great extent (mainly through the appointed representatives of the autonomous communities). However, it should be noted that the Senate is neither a federal nor a regional house. It is interesting that the proposals to transform the Senate into some kind of regional or federal house known in some other federalized or decentralized states, have not been accepted.

Unlike the national parliament, which is, as already said, bi-chamber, the parliaments of the autonomous communities are single chamber bodies. Similarity with other decentralized countries may be noticed, such as Germany or Italy. These regional parliaments are by all means the product of the Constitution from 1978. However, the parliament of

Catalonia (*Parlament de Catalunya/Cataluña*) has long tradition. It was established during the Second Republic.

The Council of Government is the executive-administrative body in each autonomous community, which is elected by the *Asemblea* and which accounts to the *Asemblea*.

As regards the organization of judiciary power, a special High Court of Justice is established in each autonomous community, which fits into the uniform organization of judiciary power because the judiciary power in Spain is not divisible, namely it is unique.

The Constitutional Court has the central place in the organization of judiciary power. According to the Constitution, the supervision of autonomous communities is performed by the Constitutional Court deciding on the constitutionality of the regulations of the communities, which have the power of laws¹⁹.

The organization of autonomous communities is most precisely defined in Articles 147 and 148 of the Spanish Constitution. Thus, the provision of paragraph 1 of Article 147 defines the Statute as the basic institutional norm of each autonomous community. The statute of autonomy should contain the following:

- The name of the region corresponding to its historic identity in the best way.
- The borders of its territory.
- Name, organization and seat of its own autonomous institutions.
- The competence it has within the framework established by the Constitution and basic conditions for the transfer of services referring to them.

Article 148 of the Constitution lists the competences of autonomous regions, out of which some should be mentioned: organization of institutions of its own autonomous government; promotion of economic development of autonomous region, within the goals set up by the national economic policy; development of culture, researches and, if applicable, teaching of the language of autonomous region. Upon the expiration of five years and by the amendments of their statutes, the autonomous communities are allowed to expand their competences, but only in accordance with the provisions of Article 149 of the Constitution. Article 149 lists the competences explicitly reserved for the state, namely for the central power.

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¹⁹ Jovičić M., *op. cit.*, p. 36-42 and De Lario D., *Los Parlamentos de España*, Madrid, 1991, p. 81-84.

Nationalism²⁰ as a constant threat

The characteristic of some Spanish regions is the existence and strengthening of nationalistic charge to a large extent. Concretely, it especially applies to Basque with its centre in Bilbao, Catalonia with its centre in Barcelona and Galicia with its centre in Santiago de Compostela. The mentioned regions are by all means the communities with strong experience of collective identity, namely with the properties that make it distinguished within the unity of the Spanish nation. They also have long history, so they are often marked as historic regions (*comunidades históricas*). They are characterized by certain specific properties, primarily historic and cultural, and often the aspiration to perceive the specific feature as ethnic feature. The existence of the own language, literature, tradition, as well as the strong cultural identification as a separate nation whose history is measured by centuries, are just some of the properties of regional nationalism in Spain.

Nationalism in Spain is not a new idea; its history even goes back to the 19th century. During the time of Franco's dictatorship any attempt to achieve any form of national pluralism was destined to fail. Such repression resulted in the feeling of dissatisfaction and bitterness in respect of the acts of the central power in Madrid. In certain circles such a feeling is still present. The Spanish regional nationalism implies collective awareness of inhabitants of the region about certain characteristics (primarily historic, linguistic and ethnic), which are common but which also make them different from the rest of Spain.

In respect of political goals, the existence of circles striving to transform these nationalistic feelings into a concrete political action, to result in either accomplishment of satisfactory degree of autonomy within the uniform Spanish state or in declaration of an independent state, as a harder job. Such nationalistic aspirations of regional political elites caused political tensions and divided the Spanish society. Accordingly, Basque and Catalonia are today two regions wherein nationalistic charge is most vivid. They are to a great extent encouraged by the very reasons of economic and financial nature, and not only by historic and cultural specific features. Namely, these are industrially very developed regions, whose per capita income considerably exceeds the average at the level of the entire Spanish state.

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²⁰ The idea of nationalism is by all means one of the most problematic in politics. Different authors have different definitions. Thus, according to Andrew Haywood, the essential belief of nationalism is that the nation is or it should be the main principle of political organization. This author finds that a nation is a group of people sharing the same values or traditions, common language, religion, history and usually living in the same geographic region. Andrew Haywood, *Political Ideologies*, Belgrade, 2005, p. 167.

The political elites of the two mentioned regions have fought for considerably larger competences than other regions of Spain.

Basque represents by all means an example of the most radical nationalism present in Spain nowadays. Some authors shall say that the conditions have recently only worsened in spite of efforts made on both sides. There are several reasons for Basque nationalism. Namely, in Basque (*el País Vasco*)²¹ people speak special autochthonous regional language (*el Euskera*). It is the oldest language in Europe, which is not similar to any other, namely, it cannot be classified into any known linguistic group. The origins of this language, as well as the time it had occurred are not reliably established. The Basque people have special traditions, holidays and ceremonies. In respect of economic parameters Basque is a rich, industrialized region. In political sense, the autonomous community of Basque enjoys a high level of autonomy, in fact the highest level of all the regions in Spain. The Basque Parliament and the regional government are almost entirely independent from the power in Madrid in the fields such as: health services, education, culture, public security, etc. Basque possesses its own police forces (*Ertaintza*). However, in spite of the very high level of autonomy, the political elites of Basque are not satisfied yet. The strongest nationalistic forces in Basque are represented by the following two political parties: the National party of Basque – PNV (*Partido Nacionalista Vasco*) and EA (*Eusko Alkartasuna*). These parties lead the Basque government at present. The extremely nationalistic ideology they represent, is directed towards the accomplishment of independence and self-constitution of the Basque people. The advocates of such ideology see Basque different than the rest of Spain, due to linguistic, cultural and ethnic specific features. It should be stressed that, although some of their goals are similar, the nationalistic parties of Basque do not share the military passion and do not support anti-constitutional actions of ETA²² (*Euskadi ta Askatasuna*) terroristic organization. There is no need to stress that the terroristic activities of ETA do not contribute to the resolution of the problem. The assassinations the ETA officially took the responsibility for, only aggravate the development of the normal and efficient dialogue, which might lead to normalization of relations between the central government in Madrid and the regional Basque

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²¹ In Basque language *Euskadi* or *Euskal Herria*

²² ETA terroristic group was established in 1959, namely during the regime of General Franco. A wing of military students separated themselves from the National Party of Basque (PNV), who blamed the party for its passive attitude in the struggle for national rights of the Basque people. The organization was constituted as a revolutionary one, the aim of which was to establish independent Basque and impose socialistic constitution. Franco sentenced to death some of the first leaders of this organization. About 80% of ETA victims were killed after 1975. The number of ETA victims has today reached 817, out of whom 339 are civilians and 478 are soldiers and policemen.

government. Recently conducted questionnaires and researches show that the large majority of the inhabitants of Basque do not consider themselves as members of the Spanish nation. However, only 31% of inhabitants want the independent state of the Basque people. According to these researches 70% of the Basque people are satisfied with the present status of autonomy.

3. Jeopardizing Unity - Autonomist and Secessionist Movements in Italy and Spain

ETA is obviously not the only group that wants the independence of its region. We can find growing nationalism and separatist tendencies of certain regional circles not only in Spain, but also in Italy. These separatistic tendencies are expressed in various modalities in various regions and by different groups. Some of them have long history and rich background, while some of them are more recent. In order to have an inview to the number of movements advocating various types of autonomy, let's see a list of currently active autonomist and secessionist movements in Italy and in Spain.

Entries on this list meet two criteria: they are active movements with living, active members, and they are seeking greater autonomy or self-determination for a geographic region (as opposed to personal autonomy).

Under each region listed you can find one or more of the following: ***Proposed state*** (proposed name for the seceding state), ***Political parties*** (for organizations involved in a political system to push for autonomy or secession), ***Rebel organizations*** (for armed organizations; may also be used for political parties that have taken up arms), ***Pressure groups*** (for non-belligerent non-politically participatory entities)

Italy²³

- Padania
 - **Proposed State:** Padania
 - **Political parties:** Lega Nord

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²³ Source: *Wikipedia – The Free Encyclopedia*

- Aosta Valley
 - **Political parties:** Valdotanian Union, Edelweiss Aosta Valley, Autonomist Federation, Valdotanian Renewal, Lively Aosta Valley, Lega Nord Valle d'Aosta
- Piedmont
 - **Political parties:** Lega Nord Piemont
- Lombardy
 - **Political parties:** Lega Lombarda, Lega Alleanza Lombarda, Lombard Independentist Front
 - **Pressure groups:** Domà Nunch
- Trentino
 - **Political parties:** Union for Trentino, Lega Nord Trentino, Trentino Tyrolean Autonomist Party, Autonomist Trentino, Ladin Autonomist Union, United Valleys, Popular Autonomy, Fassa
- South Tyrol
 - **Political parties:** South Tyrolean People's Party, Union for South Tyrol, The Libertarians, South Tyrolean Freedom, Political Movement Ladins, Democratic Party of South Tyrol, Lega Nord Sud Tirolo
- Veneto
 - **Movement:** Venetism
 - **Political parties:** Liga Veneta, North-East Project, Liga Veneta Repubblica, Venetians in Movement, Venetian National Party, Venetian People's Unity
- Friuli-Venezia Giulia
 - **Political parties :** Lega Nord Friuli-Venezia Giulia, Friuli Movement, Giulian Front
- Liguria
 - **Political party:** Lega Nord Liguria, Ligurian Independentist Movement
- Emilia
 - **Political parties:** Lega Nord Emilia
- Romagna
 - **Political parties:** Lega Nord Romagna
- Tuscany
 - **Political parties:** Lega Nord Toscana

- Marche
 - **Political parties:** Lega Nord Marche
- Umbria
 - **Political parties:** Lega Nord Umbria
- Sardinia
 - **Political parties:** Sardinia Nation, Sardinian Reformers, Sardinian People's Party, Sardinian Democratic Union, Sardinian Action Party, Independence Republic of Sardinia
- Sicily
 - **Political parties:** Movement for the Independence of Sicily, Sicilian Alliance, Sicilian People's Party, Sicilian National Front
 - **Pressure groups:** Terra e Liberazione
- Southern Italy
 - Political parties: Movement for Autonomy, Federalist Alliance, Lega Sud Ausonia, Southern Action League

*Spain*²⁴

- Basque Country and Navarre
 - **Political party:** Partido Nacionalista Vasco (member of the European Democratic Party), Eusko Alkartasuna (member of the European Free Alliance), Aralar, Nafarroa Bai, Basque Nationalist Action, Batasuna
 - **Trade union:** Euskal Langileen Alkartasuna, Langile Abertzaleen Batzordeak
 - **Youth pressure groups:** Egi, Gazte Abertzaleak, Iritzarri, Segi
 - **Rebel organization:** Euskadi Ta Askatasuna (ETA)
 - **Proposed state:** Euskal Herria (Basque Country)
- Catalonia (Catalan independentism), the Valencian Community and the Balearic Islands
 - **Civil Organization:** Sobirania i Progrés, Plataforma pel Dret de Decidir, Cercle d'Estudis Sobiranistes

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²⁴ Source: *Wikipedia – The Free Encyclopedia*

- **Pressure groups:** Catalunya Acció, Free Catalonia, Endavant, Moviment de Defensa de la Terra, Reagrupament
- **Youth pressure groups:** Maulets, Coordinadora d'Assemblees de Joves de l'Esquerra Independentista, Joventuts d'Esquerra Republicana de Catalunya
- **Political parties (secessionist):** Candidatura d'Unitat Popular (in the Catalan Countries); Esquerra Republicana de Catalunya (in Catalonia, Balearic Islands, and Northern Catalonia; called Esquerra Republicana del País Valencià in the Valencian Country), member of the European Free Alliance; Estat Català (in Catalonia).
- **Political parties (autonomist):** Convergència Democràtica de Catalunya, Unió Democràtica de Catalunya (in Catalonia); Partit Socialista de Mallorca-Entesa Nacionalista, Entesa de l'Esquerra de Menorca (in the Balearic Islands); Bloc Nacionalista Valencià (in the Valencian Country).
- **Proposed state:** Catalan Countries (united or federated); Principality of Catalonia, Valencian Community and Balearic Islands.
- Galicia
 - **Political party:** Bloque Nacionalista Galego (Galician Nationalist Block)(autonomist), member of the European Free Alliance, NÓS-Unidade Popular (WE-Popular Unity)(independentist), Frente Popular Galego (Galician Popular Front)(independentist), Partido Galeguista (The Galician Party) , Terra Galega Galician Coalition (Centrist nationalist Party)
 - **Youth pressure groups:** Galiza Nova, AGIR, CAF
 - **Proposed state:** Galiza
- Andalusia
 - **Political parties (autonomist):** Partido Andalucista, Partido Socialista Andaluz, Bloque Andaluz de Izquierdas, Partido Comunista del Pueblo Andaluz
 - **Political parties (secessionist):** Nación Andaluza, Asamblea Nacional de Andalucía
 - **Youth movement:** Jaleo!!!, Juventudes Andalucistas
 - **Proposed state:** Andalusia

- Aragon
 - **Political party (autonomist):** Chunta Aragonesista member of the European Free Alliance
 - **Political party (secessionist):** Estau Aragonés, Tierra Aragonesa
 - **Pressure groups:** Puyalón
 - **Youth movement:** Astral, Chobenalla Aragonesista, A Enrestida
 - **Proposed state:** Aragón
- Asturias
 - **Political parties (autonomist):** Partíu Asturianista, URAS
 - **Political parties (secessionist):** Unidá Nacionalista Asturiana member of the European Free Alliance, Bloque por Asturias, Andecha Astur
 - **Youth movements:** Darréu, UNA-Mocedá, Fai!
 - **Trade Unions:** CSI, SUATEA, Frenti Estudiantil d' Asturias
 - **Other pro-independence organizations:** Sofitu
 - **Proposed state:** Socialist Republic of Asturias
 - **Proposed flag:** Asturina
- Canary Islands
 - **Political party:** Congreso Nacional de Canarias (MPAIAC party), Alternativa Nacionalista Canaria, Unidad del Pueblo
 - **Youth movement:** Inekaren, Azarug
 - **Trade union:** Intersindical Canaria, Frente Sindical Obrero de Canarias
 - **Terrorist organization:** MPAIAC (defunct)
 - **Proposed State:** Canary Islands
- Cantabria
 - **Political party:** Conceju Nacionaliegu Cántabru
- Castile
 - **Political parties (autonomist):** Tierra Comunera
 - **Political parties (secessionist):** Izquierda Castellana, Movimiento Popular Castellano,
 - **Youth movement:** YESCA
 - **Proposed state:** Castile
 - **Proposed flag:** Pendón Morado, Pendón Estrellado

- León
 - **Political parties:** Unión del Pueblo Leonés (UPL or Leonese People's Union), Partido Regionalista del País Leonés (PREPAL), Unión del Pueblo Salmantino (UPS), Partido Carlista del Reino de León (PC)
 - **Proposed state:** País Llionés - Leonese Country (Conceyu Xoven)
 - **Proposed autonomous region:** Comunidad Autónoma de León - Autonomous Community of León (UPL, PREPAL, UPS, PC)
 - **Civil organizations:** Ciudadanos del Reino de Leon (CCRLL), Ciudadanos Zamoranos (CCZZ)
 - **Youth movements:** Conceyu Xoven (Young Council)

4. Italy and Spain – Differences and Similarities

If a comparative analysis of the regional state model of these two states is set up, we shall see that the course of such special form of the state constitution, which primarily occurs after the Second World War, is in historical circumstances prevailing in this region.

Italy was established in 1860-1861 through the union of seven small states founded in the Middle Age, and the uniform Spanish state was established as far as 1479 from several independent states that had existed in this region during the Feudalism Age. The diversities in respect of language, customs, cultural, economic and social characteristics have manifested in the form of requests for the increase of independence of certain regions. These requests were the logic consequence of the dictatorship period both the states had gone through, which promoted a strictly centralized system. It is interesting that the regional constitution had been introduced in Italy (1948) much earlier than in Spain although Spain had longer state-legal tradition. Nevertheless, the Spanish model of regionalism is considered closer to an ideal-type model.

The regional models in Italy and Spain were introduced by the Constitution (in 1948, 1978, respectively). The state constitution had been changed in Italy on the grounds of the requests by the Constituent Assembly, and in Spain it was left as an option to form the so-called autonomous communities under the request of the representatives of the local population in the bodies of local self-government. The process of establishment of regions in both the states was conducted on the grounds of traditional distributions, although there had been some regions established in the process of regionalization. The common property of both the models is the existence of great differences between the regions in respect of size and the number of population. The extreme difference may be noted between Lombardia (9,000,000 inhabitants) and Vale d'Aosta (100,000 inhabitants).²⁵ This is a clear indicator that the size of the region had not been a decisive factor in the establishment process. Multiethnic features of the regions as well as the high degree of diversities within the Spanish and the Italian nations suppressed the idea of federalism, which had initially existed in both the states. Although it seems absurd at first sight, the Constitutions of both the states proclaim unitary constitution in order to co-ordinate the diversities and integrate the regions.

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²⁵ Jovičić Miodrag, *Regional State*, Vajat, Belgrade, 1996, p. 43

Accordingly, Article 5 of the Italian Constitution prescribes: “The Republic, one and inseparable recognizes and promotes local autonomies; performs the services of the state as the absolute criterion of administrative decentralization; it permits the sources and methods of its legislation that are in compliance with the needs of autonomy and decentralization”²⁶

Article 2 of the Spanish Constitution prescribes: "The Constitution is based on inseparable unity of the Spanish nation, common and inseparable state of all Spanish people; it recognizes and protects the right to autonomy to all nations and regions the state consists of and seeks to keep solidarity between them.”²⁷

It is clear that both the constitutions precisely define the position of autonomous units. In Italy these are the regions and in Spain these are autonomous communities. Since the regions are constitutional categories, their status, competence and participation in the organization of power must be in accordance with the Constitution. Nevertheless, there are certain asymmetries in this respect. In Italy the regions are classified in two groups: the regions having regular (15) and the regions having special status (5). The statutes of the regions having regular status are adopted by the highest regional body and they are acknowledged by the parliament while the constitution of of the regions having special status is defined by special acts in the form of constitutional laws adopted by the parliament. The statutes of the regions having regular status must be strictly in accordance with the provisions of the constitution while the regions with special status have much wider scope of activities and decision-making. As different from Italy, the status of the autonomous communities of Spain is adopted by special local assembly consisting of the delegations of regions and the members of both houses of the parliament, the General Cortes. The very statute is adopted by the General Cortes according to the relevant legal procedure.

As for the competences of the regions, in Italy their scope depends on the group the region belongs to. However, the scope of competences of all regions includes by all means the organization of regional bodies, provision of infrastructure in the region, economic functions of regional importance, social and cultural-educational functions. In Spain the competences of autonomous units are defined directly and in details in the Constitution, Article 148, although the Constitution of Spain also defines in the next Article the competences of the state (primarily the issue of citizenship, international relations, defence,

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²⁶ Article 5 of the Italian Constitution

²⁷ Article 2 of the Spanish Constitution

public security, judiciary, customs, foreign trade, monetary system)²⁸ , which considerably contributes to impossibility of discrepancies from the authorizations and obligations prescribed by the Constitution.

Possible expansions of the competences of the regions are only possible if the Cortes permits them through special legal acts. A specific feature of the Spanish autonomous communities is the possibility to display flags and emblems, which brings the Spanish model of regionalism closer to a pure model, but does not exceed the limits of its definition towards federalism.

All these procedures and provisions mean that the regions may use their normative powers only after adequate state laws had been adopted.

In respect of organization of power, both the states have the highest regional body elected in general and direct elections. In Italy, it is the regional council consisting from 30 to 80 members and in Spain it is the legislative assembly whose members are the representatives of different regions. The regional council is the executive form of power of the Italian regions. The president of the regional council, which represents the region, proclaims regional regulations and manages the administrative functions prescribed to the regions by the state while the regional council also appoints its members and they account to it. The executive-legal body of the autonomous communities of Spain is the government council appointed by the assembly. The president and the members of the council account to the assembly. The judiciary power of the regions of both the states is exercised by special regional courts. They govern the implementation of regional regulations. In cases not covered by regional regulations the competence is delegated to the state court. The autonomous communities are controlled by the Constitutional Court in respect of constitutionality of regulations of the community having the power of laws, the government controls them in respect of exercise of given functions, the administrative courts in respect of administration activities and the commercial court in respect of economic and budgetary issues. If the regions do not perform their functions or if they exceed the sphere of their competence by their actions, they are subjected to the supervision by these bodies. In Italy, the control of regions depends on the type of the region. In the regions of both the states there is a body of central power co-ordinating the functions and competences of the state and the regions. In Italy, it is the government commissioner and in Spain, it is the government delegate.

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²⁸ Jovičić Miodrag , *Regional State*, Vajat, Belgrade, 1996, p. 40

Participation of the regions in the establishment and exercise of central power is contrary sphere of influence. Both the states have a parliamentary system of two houses so that the execution is thus bicephalous. The representatives of the regions are concentrated in the Upper House.

Italy has the fragmentary or fractural parliamentary system characterised by weak and instable government. However, the weak and instable government does not simultaneously mean the instability of the entire political system or of the regions. Thus, within the period from 1948 to 2010 there were 57 governments in Italy. Such conditions did not slow down the development of the regions since they have their own administrative, economic, cultural autonomy. The Italian Parliament has the Representation House and the Senate. It was established by the Constitution from 1948 that the Senate (the Upper House of the Parliament) is elected on regional grounds. Nevertheless, the members of the Upper House are not only the representatives of the regions but also the former presidents of the republic and also five life-time senators at maximum, who are appointed by the president of the republic pursuant to their merits. The members of both the houses are elected for the period of 5 years, although both the houses may be dissolved before the expiration of this term. The laws may be proposed by both the houses, but they must be adopted by the majority of both the houses, which indicates weak asymmetry in respect of dominant position of one of the houses of the parliament in case of adoption of important political decisions.

The Parliament of Spain (Cortes) is the holder of the sovereignty of the nation and it has the priority in the process of political decision-making. It consists of the Congress of deputies and the Senate. A specific feature of the Spanish Parliament is the fact that the Senate is not a regional house, which is usual for the states of similar constitution. The Senate does not govern the relations between the state and the region, but it includes the members of autonomous communities. The regional representation in the Spanish Senate is below 20%.²⁹ However, the Senate has the right to a veto in the field of constitutional review. According to the opinion of political analysts the agreements between the central and the autonomous power are achieved through the tops of leading parties. In the Spanish Parliament asymmetry may be noticed in the decision-making – the Congress of deputies is the most dominant in this respect. Because of the above mentioned statistical data the autonomous communities are not able to form a parliamentary group. They only have the possibility to form regional sub-groups of a parliamentary group. Since the Spanish model is more close to an ideal type, from

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²⁹ Vasović Vučina *Savremene Demokratije II tom*, Službeni glasnik 2008, p.55

the above mentioned data we may conclude that the participation of regions in forming central power is not sufficient in view of autonomy they enjoy within their boundaries.

The very regions also have their parliamentary systems, drawn and subordinated to the central parliamentary system.

The constitution of both the states guarantees financial autonomy of autonomous communities. In Italy, this issue is defined in the constitutional provision prescribing the position of regions while in Spain the competence in this field is regulated by the statutes of regions and an important state norm called LOFCA (Organic Act on the Finances of the Autonomous Communities). This document describes the structure of autonomous financial system. However, although the general financial system acknowledges local autonomy in finances, almost entire normative and executive policy of tax collection belongs to the state, which later distributes such funds to autonomous communities according to LOFCA criteria. At the end of the seventies, when decentralization started, distribution of public expenses was in the proportion of 90% for the central government, and 10% for the local councils. Fifteen years later the proportion changed to 60% for the central government, 25% for autonomous communities and 15% for city councils. A portion of the funds belonging to local councils is an indicator of a higher degree of decentralization than in Italy where the funds are distributed to the base of the group a region belongs to, but, naturally, to lower decentralization of the state having federal constitution. Any act of regional and local bodies in this field must be approved by the central power. There is certain asymmetry in the distribution of funds between autonomous communities of Spain. Namely, the key is in the existence of the common and special financial regime. It is commonly applied in 15 autonomous communities while the special ones are only active in Basque and Navara. A special financial regime is governed by historic charters, which both the regions have been keeping since 19th century. The basic sources of profit in the common regime are participation in tax, transferred taxes and donations. The autonomous communities with special financial regime are financed from their own sources, and for the services of the central government each autonomous community pays the annual quota to the central government.

If we compare the election systems of these two states, we shall notice that they are different. Italy is the only state of the European Union applying the mixed election system (although it has certain stressed properties of the majority system) while in Spain, for the election of the Upper House of the Parliament, the majority election system is applied, and the plural-nominal system, which is no longer applied in the representative democracies. This

election system was introduced by the Organic Law adopted in 1985. After the Senate is established, 204 deputies are elected directly, and 47 are elected by legislative bodies of the autonomous communities³⁰, which show weak influence of autonomous communities to the formation of the membership of the Senate.

All the above mentioned specific properties are drawn from universal authentic models. The hybrid form of the state constitution has been introduced because of the needs of these regions, historic circumstances, regimes they had gone through and inability to adjust to one of universally accepted models (unitary or federal). The analysis made so far is drawn on the grounds of the relations between horizontal and vertical organization of power, namely on the grounds of institutional–constitutional approach. Based on the structural-functional approach, Italy is classified as the group of western polyarchies, and Spain belongs to the group of new democracies since the right wing dictatorship of this state was destabilized much later.

The introduction of such a transit solution has both advantages and disadvantages. The advantage of such a transit solution is the division of power to various levels, which decreases the possibility of abuse because the power levels are integrated and control each other. On the other hand, such a system may create a problem since not all the regions have the same position. The consequences of such condition may be separatist aspirations, which may lead to national conflicts thus also weakening the entire state system. In brief, the constitution of both the states contributed to the formation of a regional model, which might be further developed in the states not having a clearly defined constitution or in the states the constitution of which needs a change.

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³⁰ Marinković T., *Izborni sistemi država Evropske Unije*, CeSID, Belgrade, 2002

5. Europe of the Regions

The European Union traces its origins from the European Coal and Steel Community formed among six countries in 1951 and the Treaty of Rome formed in 1957 by the same states. Since then, it has grown in size through enlargement, and in power through the addition of policy areas to its remit. The last amendment to the constitutional basis of the EU came into force in 2009 and was the Lisbon Treaty, by virtue of which the Charter of Fundamental Rights of the European Union was elevated to legally binding status.

The European Union is an economic and political union of currently 27 member states.³¹ Committed to regional integration, the EU was established by the Treaty of Maastricht in 1993 upon the foundations of the European Communities.

The European Union operates through a hybrid system of supranationalism and intergovernmentalism. It is based on supranational principles which are neither confederal nor federal. Robert Schuman, the initiator of the European Community system, wrote that a supranational community like the Europe's founding European Coal and Steel Community lay midway between an association of states where they retained complete independence and a federation leading to a fusion of States in a super-state. The European founding fathers made a Europe Declaration at the time of the signing of the Treaty of Paris on 18 April 1951 saying that the Europe should be organized on a supranational foundation. They envisaged a structure quite different from a federation called the European Political Community.

The EU is a three pillar structure of the original supranational European Economic Community and the nuclear non-proliferation treaty, Euratom, plus two largely intergovernmental pillars dealing with External Affairs and Justice and Home Affairs. The EU is therefore not a *de jure* federation, although some academic observers conclude that after 50 years of institutional evolution since the Treaties of Rome it is becoming one. The European Union possesses attributes of a federal state. However, its central government is far weaker than that of most federations and the individual members are sovereign states under

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³¹ EU member states are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom. Three more countries are candidates for EU membership: Croatia, Turkey and the Former Yugoslav Republic of Macedonia. And potential candidate countries are Albania, Bosnia and Herzegovina, Kosovo under UN Security Council Resolution 1244, Montenegro and Serbia.

international law, so it is usually characterized as an unprecedented form of supra-national union. The EU possesses all the elements of a federal system, but each of the EU states is far more sovereign than in any other federal system. The EU has responsibility for important areas such as trade, monetary union, agriculture, fisheries. Nonetheless, EU member states retain the right to act independently in matters of foreign policy and defense, and also enjoy a near monopoly over other major policy areas such as criminal justice and taxation. Since the Treaty of Lisbon, Member States' right to leave the Union is codified, and the Union operates with more qualified majority voting (rather than unanimity) in many areas.

A more nuanced view has been given by the German Constitutional Court. Here the EU is defined as 'an association of sovereign national states (*Staatenverbund*). With this view, the European Union resembles more to a confederation.

EU institutions and other bodies

As said before, the European Union is not a federation like the United States. Nor is it simply an organisation for co-operation between governments, like the United Nations. It is, in fact, unique. The countries that make up the EU, i.e. its member states, remain independent sovereign nations but they pool their sovereignty in order to gain a strength and world influence none of them could have on their own. Pooling sovereignty means, in practice, that the member states delegate some of their decision-making powers to shared institutions they have created, so that decisions on specific matters of joint interest can be made democratically at European level.

The EU's decision-making process in general and the co-decision procedure in particular involve three main institutions:

- the European Parliament, which represents the citizens of European Union and is directly elected by them;
- the Council of the European Union, which represents the individual member states;
- the European Commission, which seeks to uphold the interests of the Union as a whole.

This 'institutional triangle' produces the policies and laws that apply throughout the EU. In principle, it is the Commission that proposes new laws, but it is the Parliament and Council

that adopt them. The Commission and the member states then implement them, and the Commission ensures that the laws are properly taken on board.

Two other institutions have a significant role in European Union: the Court of Justice upholds the rule of European law, and the Court of Auditors checks the financing of the Union's activities.

The powers and responsibilities of these institutions are laid down in the treaties, which are the foundation of everything the EU does. They also lay down the rules and procedures that the EU institutions must follow. The treaties are agreed by the presidents and/or prime ministers of all the EU countries, and ratified by their parliaments.

In addition to its institutions, the EU has a number of other bodies that play specialised roles:

- the European Economic and Social Committee represents civil society, employers and employees;
- the Committee of the Regions represents regional and local authorities;
- the European Investment Bank finances EU investment projects, and helps small businesses via the European Investment Fund;
- the European Central Bank is responsible for European monetary policy;
- the European Ombudsman investigates complaints about maladministration by EU institutions and bodies;
- the European Data Protection Supervisor safeguards the privacy of people's personal data;
- the Office for Official Publications of the European Communities publishes information about the EU;
- the European Personnel Selection Office recruits staff for the EU institutions and other bodies;
- the European Administrative School task is to provide training in specific areas for members of EU staff.

Furthermore, specialised agencies have been set up to handle certain technical, scientific or management tasks.

One of the issues that are very important for European Union is the issue of regions and regionalization. European Union is advocating the forming of regions and regional states. It sees a regional state as a form that would provide equal opportunities of development of all parts of a state and at the same time guarantee the “equality in diversity”.

Let’s start from the fact that every state, every society, naturally bases on diversities. The unconstrained expression of these diversities is called freedom. The acceptance of the diversities, as well as creation of conditions also for their institutional expression is the precondition for undisturbed development of the society and for the avoidance of conflicts within the society. Rational state organization should, at the same time, comprise mechanisms that will allow expression of diversities, mechanisms that will, through direction and coordination, diminish negative effects of diversities and mechanisms that will provide the integrity of entire state and society.

Besides these principal reasons, in big number of modern states there are also historical, cultural, ethnical reasons for adoption of regional model of state organization. This process is particularly characteristic of European countries. Sometimes historical or ethnical reasons prevail, and sometimes these are economic or political reasons. Variety of the motivations for introducing the regional model of government organization has resulted in existence of many types of regions, namely territorial units of administrative or political-administrative character, situated between central government and local governing bodies. Similarly, within the European framework we can find different ways of regionalization. It can be the *adaptation of existing institutions to the purpose of regionalization*, when already existing level of government organization perform certain functions on behalf of the state, but also on behalf of local governmental bodies, which have their representatives within these bodies (Sweden, Netherlands, Germany, Great Britain in the case of Scotland, Wels and Northern Ireland); or constituting regions as distinct type of local self-government with functional character entitled for the functions related to spatial planning, education, culture, economic development, called *regional decentralization* (France, Portugal, Greece, Turkey); and the third and most developed type of decentralization is *institutional regionalization* that implies introduction of regions in governmental structure as political entities having attributes of decentralized governmental bodies, but primarily characteristics of political autonomy (Italy and Spain). On the example of some of these states (Spain, Italy, Great Britain and France) we can see that the processes of regionalization were initiated as a response to secessionist tendencies of some parts of these states, when the proportions of these tendencies jeopardized territorial integrity of the states. In that sense, the statement of François

Mitterrand³² from 1980 is very symbolic: “France needed a strong central government in order to be constituted. Today it needs decentralization in order to avoid disintegration”³³

The process of regionalization takes place not only within boundaries of national states, but it is also present at the level of European integration processes, whether through networking of existing regions of national states (*Assembly of European Regions*), or through representing of regions in European institutions, such as the *Congress of Local and Regional Authorities* of the Council of Europe and Committee of the Regions of the European Union.

The *Assembly of European Regions (AER)* is the largest independent network of regions in wider Europe. Bringing together more than 270 regions³⁴ from 33 countries and 16 interregional organisations, AER is the political voice of its members and a forum for interregional co-operation. Since 1987, AER has a role of observer within the Council of Europe. With its activities it supported the establishment of the Congress of Local and Regional Authorities as a body of the Council of Europe. The Assembly of European Regions maintains intensive cooperation with institutions of European Union. Thanks to its activities in the Treaty of Maastricht (1995), the Committee of the Regions was established as an advisory body and the principle of subsidiarity became the rule in the decision-making process at European level.

The *Committee of the Regions* of European Union has been established as an advisory body of the Council of Europe and European Commission. It consists of the representatives of local and regional bodies of EU member states. The Council of Ministers and European Commission consult this body when making decisions related to regional policy, social policy, health policy and culture. This body has the mandate to give initiatives in all matters regarding the role of the regions as partners in European institution building. The need for the more important role of this body has been pointed out in 2001, when the Committee issued the opinion that suggests the review of the place and participation of the Committee in the European decision-making process.³⁵ As the representative of regional and local bodies of EU member states, the Committee expressed the opinion that the issue of the European future can not be discussed only as the issue of the institutions and finance, but also through respecting the principles of subsidiarity and proportionality in placing competences, with the

³² The president of the state considered as perfect example of centralized state in Europe.

³³ Rabe Peter, *Report on the European Charter of Regional Self-governments*, Congress of local and regional authorities, 3 July 1996

³⁴ Vojvodina is also a member of AER.

³⁵ Opinion of the Committee of the Regions on *The Committee of the Regions place and participation in the European decision-making process*, C107/40 OJEC

respect towards the national identity of member states. The decision-making processes must be more transparent and performed with more responsibility and more democratically. Regional and local authorities have to be more involved in preparatory phase of European or national decision-making. This opinion of the Committee of the Regions shows that the problem of the conflict between centralized decision-making and necessity of meeting local needs exists also at the European institutions level, not only in national states. The issue of disbalance between the efficiency principle guided primarily by financial reasons and the principle of democratic decision-making with benefit for citizens has obviously occurred at the level of European integration processes and European institutions.

The trend of the dispersion of competences is also present in the Council of Europe, which is another important European supra-national organization and the oldest European organization. The *Congress of Local and Regional Authorities* became a permanent body of the Council of Europe in 1994 and it comprises two chambers: the Chamber of Local Authorities and the Chamber of Regions of the representatives of Council of Europe member states. The Chamber of Regions upon consulting the Chamber of Local Authorities submitted in 1977 the “Draft European Charter on Regional Autonomy”, which represents the tentative of identification of values, goals and principles that would be the base for the model of regional autonomy in European states. Under the title the “European Charter of Local Self-Government” this document was adopted and it was opened for signature by the Council of Europe's member states on 15 October 1985.

The Preamble of this document contains the following outsets:

- the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe;
- it is at local level that this right can be most directly exercised;
- the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen;
- the principle of subsidiarity is a major contribution to the development of democracy in Europe on the basis of the equal legitimacy of the different levels of authority: local, regional, national and European;
- regionalisation must not be achieved at the expense of the autonomy of local authorities but must be accompanied by measures designed to protect such authorities and fully respecting what has been achieved through the European Charter of Local Self-Government;

- recognition of regional self-government entails loyalty towards the State to which the regions belong, with due regard to its sovereignty and territorial integrity;
- the recognition of regional self-government should be accompanied by measures to implement solidarity between regions so as to foster balanced development;
- interregional and transfrontier co-operation makes a valuable and indispensable contribution to European construction;
- the creation of appropriate European institutions should take account of the existence of regions within European States as regards the framing and execution of policies implemented at European level and should encourage regions to participate in such institutions, in particular in the Chamber of Regions of the Congress of Local and Regional Authorities of Europe and the European Union's Committee of the Regions;
- these principles presuppose the existence of a level of regional authority endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for the fulfilment of their tasks;
- over and above the profound differences existing between the legal and institutional traditions of the different European countries, it is both desirable and appropriate to extend the process of regionalisation within European States.

In base of these values and principles set up in the Preamble, the normative part of the Charter prescribes only the framework of the regional self-government. The Article 2 prescribes that the principles of the regional self-government should be recognised as far as possible in the constitution and that the scope of regional self-government should be determined by the constitution, the statutes of the region, national law or international law. The very term of regional self-government comprises “the right and the ability of the largest territorial authorities within each state, having elected bodies, being administratively placed between central government and local authorities and enjoying prerogatives either of self-organisation or of a type normally associated with the central authority, to manage, on their own responsibility and in the interests of their populations, a substantial share of public affairs, in accordance with the principle of subsidiarity.”³⁶ Respecting these provisions of the Charter, the structure of every self-government is determined by the internal laws of each

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³⁶ *European Charter on Regional Selfgovernment*, Article 3.1

state. By prescribing that the scope of regional self-government shall be prescribed by the constitution, law and regional statute of each state, this Charter determines standards regarding:

- the types of competences (own and delegated);
- the areas of competences (regional affairs, relations with local authorities, interregional or transfrontier relations, participation in state affairs, participation in European and international affairs);
- the organization of regional bodies (own regional organization through elected assembly with executive body, own administration bodies and own staff);
- the funding system that provides them with a foreseeable amount of revenue commensurate with their competences, constitutional and legal determining of revenue from taxes, charges and contributes and own assets;
- the principle of solidarity aiming at harmonising the living standard of inhabitants of different regions.

Besides the above mentioned provisions, the Charter also contains the standards for the protection of regional self-governments related to the protection of territorial boundaries, i.e. the possibility of modification of regional boundaries, right of regions to institute legal proceedings, settlement of the conflicts of competences, supervision of instruments adopted by regions.

It is important to underline that the European Charter of Regional Self-government is based on the existing experiences of European states, as well as on the preferable direction of development of internal territorial organization of national states.

We can understand how significant the issue of regionalization is for the European Union also from the fact that the Council of Europe has constituted a consultative body called the *Group of Independent Experts on the European Charter*, consisting of senior academics representing each of the forty-six member states. The Group meets twice a year to consider a range of matters related to the European Charter of Local Self-Government, and it also provides legal advice and support to the elected members of the Congress of the Council of Europe who undertake a programme of missions to monitor the situation of local and regional democracy in member states of the Council.

III

1. Republic of Serbia

The Republic of Serbia attained its current borders and government structure in October 2006 upon referendum approval of a new constitution. It is the successor state to the short-lived Serbia and Montenegro and the Socialistic Federal Republic of Yugoslavia. Accordingly, it is a civil law system in which the constitution, statutes, and ministerial laws are the principle sources of law.

The Republic of Serbia is a democratic unitary state based on the parliamentary principles. „The Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values.”³⁷

The sovereignty in Serbia is vested in citizens who exercise it through referendums, people’s initiative and freely elected representatives and no state body, political organization, group or individual may usurp the sovereignty from the citizens, nor establish government against freely expressed will of the citizens. The legal system according to the Constitution is unique. The government system is based on the division of power into legislative, executive and judiciary. Relation between these three branches of power is based on balance and mutual control where the judiciary power is independent.

a) How things are organized in Serbia?

The President of the Republic of Serbia is elected democratically in direct election and by secret ballot and serves as the head of state representing the country in international matters, commanding the military, promulgating laws, awarding amnesties and honors, and nominating candidates for Prime Minister. The president serves a five-year term and may serve up to two terms.

The Prime Minister serves as the head of government, managing government executive functions within the country. The Government is the holder of executive power in the Republic of Serbia. It establishes and pursues policy, executes laws and other general acts

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³⁷ Article 1 of the Constitution of the Republic of Serbia (2006)

of the National Assembly, adopts regulations and other general acts for the purpose of law enforcement, proposes to the National Assembly laws and other general acts and gives its opinion on those laws and general acts, when another mover proposes them, directs and adjusts the work of public administration bodies and performs supervision of their work, administers other affairs stipulated by the Constitution and Law. The Government accounts to the National Assembly for the policy of the Republic of Serbia, for enforcement of laws and other general acts of the National Assembly, as well as for the work of the public administration bodies.

The Government consists of the Prime Minister, one or more Vice Presidents and ministers. The Prime Minister manages and directs the work of the Government, takes care of coordinated political activities of the Government, coordinates the work of members of the Government and represents the Government. Ministers account for their work and situation within the competence of their ministries to the Prime Minister, Government and National Assembly.

The Parliament is a unicameral body called the National Assembly which has 250 elected members. The National Assembly is the supreme representative body and holder of constitutional and legislative powers in the Republic of Serbia. It adopts and amends the Constitution, decides on changes concerning borders of the Republic of Serbia, calls for the Republic referendum, ratifies international contracts when the obligation of their ratification is stipulated by the Law, decides on war and peace and declares state of war and emergency, supervises the work of security services, enacts laws and other general acts within the competence of the Republic of Serbia, gives previous approval for the Statute of the autonomous province, adopts defense strategy, adopts development plan and spatial plan, adopts the Budget and financial statement of the Republic of Serbia, upon the proposal of the Government, grants amnesty for criminal offences. Within its election rights, the National Assembly elects the Government, supervises its work and decides on expiry of the term of office of the Government and ministers, appoints and dismisses judges of the Constitutional Court, appoints the President of the Supreme Court of Cassation, presidents of courts, Republic Public Prosecutor, public prosecutors, judges and deputy public prosecutors, in accordance with the Constitution, appoints and dismisses the Governor of the National Bank of Serbia and the Civic Defender and supervises their work and appoints and dismisses other officials stipulated by the Law.

With majority votes of all deputies, the National Assembly elects the President and one or more Vice Presidents of the National Assembly. The President of the National

Assembly represents the National Assembly, convokes its sessions, presides over them and performs other activities stipulated by the Constitution, Law and Rules of Procedure of the National Assembly. The National Assembly adopts decisions and laws by majority vote of deputies at the session at which majority of deputies are present. The deputies are elected according to party lists for four-year terms.

The Constitution of the Republic of Serbia provides to the Civic Defender and the National Bank of Serbia the right to propose laws relevant to their particular work. The Serbian court system operates under the authority of the Ministry of Justice and consists of: the Supreme Court of Cassation, Appellate Court, Commercial Courts, Administrative Court, District Courts, and Municipal Courts. The Constitutional Court is an independent entity separate from the Ministry of Justice.

The Public Administration in Serbia is independent, bound by the Constitution and law and it accounts for its work to the Government. Public Administration affairs are performed by ministries and other public administration bodies, stipulated by the law. Internal organisation of ministries and other public administration bodies and organisations are regulated by the Government.

In the interest of more efficient and rational exercise of citizens' rights and duties and meeting their needs of vital importance for life and work, the law may delegate the performing of particular affairs falling within the competence of the Republic of Serbia to the autonomous province and local self-government unit.

According to the Constitution, The Republic of Serbia, autonomous provinces and local self-government units may establish public services.

The part VII of the Constitution brings the provisions on territorial organization of the Republic of Serbia. In the first chapter of this part there are provisions regarding the provincial autonomy and local self-government, namely it is mentioning concept, delimitation and delegation of competences, right to autonomous organization of bodies, assembly of autonomous province and local self-government unit and cooperation of autonomous provinces and local self-government units. In the second chapter it is talking about autonomous provinces, their concept, establishment and territory, competences, financial autonomy, legal acts, monitoring of the work of bodies of autonomous province and the protection of the provincial autonomy. The third chapter explains local self-government,

related general provisions, status of local self-government units, competences of municipality, municipal legal acts and bodies, monitoring of the work of municipality and the protection of local self-government.

The Constitution prescribes that citizens have the right to the provincial autonomy and local self-government exercised directly or through their freely elected representatives, where autonomous provinces and local self-government units have the status of legal entities. Local self-government units and autonomous provinces have their competences that are not the competences of the Republic of Serbia. The law specifies what matters are of republic, provincial or local interest. The Republic of Serbia may, in accordance with the law, delegate particular matters within its competence to autonomous provinces and local self-government units and an autonomous province may delegate particular matters within its competence to local self-government units.

Autonomous provinces, in accordance with the Constitution and the statute, and local self-government units, in accordance with the Constitution and the law, autonomously regulate the organization and competences of its bodies and public services. The Assembly is the supreme body of the autonomous province and a local self-government unit. The Assembly of the autonomous province constitutes of deputies, and the assembly of a local self-government unit of councilors. Deputies and councilors are elected for the period of four years, in direct elections by secret ballot, namely, deputies in accordance with the decision of the assembly of the autonomous province, and councilors in accordance with the law. In those autonomous provinces and local self-government units with the population of mixed nationalities, a proportional representation of national minorities in assemblies has to be provided.

Autonomous provinces are autonomous territorial communities established by the Constitution, in which citizens exercise the right to the provincial autonomy. In the Republic of Serbia, there are two autonomous provinces: the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija. The substantial autonomy of the Autonomous province of Kosovo and Metohija shall be regulated by the special law. New autonomous provinces may be established, and already established ones may be revoked or merged following the proceedings envisaged for amending the Constitution. The proposal to establish new, or revoke or merge the existing autonomous provinces is established by citizens in a referendum. Territory of autonomous provinces and the terms under which borders between autonomous provinces may be altered are regulated by the law. Territory of autonomous provinces may not be altered without the consent of its citizens given in a referendum.

In accordance with the Constitution and their Statutes, autonomous provinces regulate the competences, election, organization and work of bodies and services they establish.

Autonomous provinces regulate the matters of provincial interest in the following fields:

1. urban planning and development,
2. agriculture, water economy, forestry, hunting, fishery, tourism, catering, spas and health resorts, environmental protection, industry and craftsmanship, road, river and railway transport and road repairs, organizing fairs and other economic events,
3. education, sport, culture, health care and social welfare and public informing at the provincial level.³⁸

Autonomous provinces see to exercising human and minority rights, in accordance with the Law, establish their symbols, as well as the manner in which they are put to use and they manage the provincial assets in the manner stipulated by the law. They have direct revenues, provide the resources for local self-government units for performing the delegated affairs and adopt their budget and annual balance sheet.

The Statute is the supreme legal act of the autonomous province. It is adopted by its assembly, subject to prior approval of the National Assembly. The autonomous province enacts other decisions and general acts pertaining to matters within its competences.

A body designated by the Statute of the autonomous province has a right to lodge an appeal with the Constitutional Court, if an individual legal act or action of a state body or body of local self-government unit obstructs performing the competences of the autonomous province. A body designated by the Statute of the autonomous province may institute the proceedings of assessing the constitutionality or legality of the law and other legal act of the Republic of Serbia or the legal act of the local self-government unit, which violates the right to the provincial autonomy.

Local self-government units are municipalities, cities and the City of Belgrade. The territory and seat of a local self-government unit is specified by the law. Establishment, revocation or alteration of the territory of a local self-government unit has to be preceded by a referendum on the territory of that local self-government unit.

Affairs of a local self-government unit are financed from the direct revenues of the local self-government unit, the budget of the Republic of Serbia and the budget of the Autonomous Province of Vojvodina, in cases when the autonomous province delegated the performing of affairs within its competences, in accordance with the decision of the assembly of the autonomous province.

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³⁸ Article 183 of the Constitution of the Republic of Serbia

Municipalities are established and revoked by the law. Cities are established by the law, in accordance with the criteria stipulated by the law regulating local self-government. A city has competences delegated to the municipality by the Constitution, whereas other competences may be delegated to it by the law. It may be envisaged in the statute of the city to establish two or more city municipalities on the territory of the city. The statute of the city regulates the affairs falling within the city competences performed by city municipalities.

The status of the City of Belgrade, the capital of the Republic of Serbia, is regulated by the Law on the Capital and the Statute of the City of Belgrade. The City of Belgrade has competences delegated to the municipality and city by the Constitution and the law, and other competences may be delegated to it in accordance with the Law on the Capital.

According to the Constitution the municipality, through its bodies, and in accordance with the law:

1. regulates and provides for the performing and development of municipal activities;
2. regulates and provides for the use of urban construction sites and business premises;
3. is responsible for construction, reconstruction, maintenance and use of local network of roads and streets and other public facilities of municipal interest; regulates and provides for the local transport;
4. is responsible for meeting the needs of citizens in the field of education, culture, health care and social welfare, child welfare, sport and physical culture;
5. is responsible for development and improvement of tourism, craftsmanship, catering and commerce;
6. is responsible for environmental protection, protection against natural and other disasters; protection of cultural heritage of the municipal interest;
7. is responsible for protection, improvement and use of agricultural land;
8. performs other duties specified by the Law.³⁹

The municipality, autonomously, in accordance with the law, adopts its budget and annual balance sheet, the urban development plan and municipal development programme, establishes the symbols of the municipality, as well as their use. It assures exercising, protection and improvement of human and minority rights and public informing in the municipality. Furthermore, it

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³⁹ Article 190 of the Constitution of the Republic of Serbia

autonomously manages the municipal assets and prescribes offences related to the violation of municipal regulations.

The Statute is the supreme legal act of the municipality and it is adopted by the Municipal Assembly.

Municipal bodies are the Municipal Assembly and other bodies designated by the statute, in accordance with the law. The Municipal Assembly passes general acts within its competences, adopts the budget and annual balance sheet, adopts the development plan and the municipal spatial plan, schedules the municipal referendum and performs other duties specified by the law and the statute. The Municipal Assembly decides on the election of municipal executive bodies, in accordance with the law and the statute. Nevertheless, the election of executive bodies of the city and the City of Belgrade is regulated by the law.

b) Administrative division of Serbia and relative units

Territorial organization of Serbia is regulated by the Law on Territorial Organization, adopted in the National Assembly of Serbia on 29 December 2007. According to this Law, territorial organization in Serbia consists of municipalities, cities and the City of Belgrade as units of the territorial organization and autonomous provinces as forms of territorial autonomy.

Serbia is divided into 150 municipalities and 24 cities (including the City of Belgrade), which are the basic units of local self-government and it has two autonomous provinces.

Municipalities as basic entities

Like in many other countries, municipalities are the basic entities of local self-government in Serbia. Each municipality has an assembly, elected every 4 years on local elections, a municipal president, public service property and a budget. Municipalities usually have more than 10,000 inhabitants. Exceptionally, when there are particular economic, geographic or historical reasons, a municipality with less than 10,000 inhabitants can be established. The procedures of establishment, merging or abolition of municipalities are regulated by the Law on Territorial Organization.

“The initiative for the starting of the procedure for establishment, merging and altering of the territory of a municipality can be submitted by the municipal assembly or by 10% of voters who have the residence at the territory of the concerned municipality.

Together with the initiative, the analysis with economic, spatial, demographic and other indicators of the effects of the initiated change has to be submitted. A diagram is a mandatory part of the initiative.

If it finds that the suggested change is legal and justified, the Government presents to the National Assembly the proposal to announce the consultative referendum.

The National Assembly, according to the law, announces the consultative referendum, in which citizens with right of suffrage and residence at the territory of the concerned municipality profess themselves if they are ‘for’ or ‘against’ the initiated change.

It is considered that the citizens have supported the initiated change if the majority of those who voted, voted for the change”⁴⁰

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⁴⁰ Article 12 of the Law on Territorial Organization

Municipalities comprise local communities, which mostly correspond to settlements (villages) in the rural areas (several small villages can comprise one local community, and large villages can contain several communities). They are practically areas of so called cadastral municipalities. Urban areas are also divided into local communities. Their roles include communication of elected municipal representatives with citizens, organization of citizen initiatives related to public service and communal issues. They are presided with councils, elected on semi-formal elections, whose members are basically volunteers. The role of local communities is far more important in rural areas; due to proximity to municipal centers, many urban local communities are defunct.

Cities in the administrative division of Serbia

Cities are another type of local self-government. They are territorial units defined by the Law on Territorial Organization, which represent economic, administrative, geographic and cultural centers of a wider area and usually have more than 100,000 inhabitants. Cities are very similar to municipalities. There are 23 cities in Serbia, each having an assembly and budget of its own. Only cities have mayors, although the presidents of the municipalities are often referred to as "mayors" in everyday usage.

The procedure for the change of the city territory is the same as the procedure for the change of municipal territory.

The city may and may not be divided into city municipalities. Five cities, Belgrade, Novi Sad, Niš, Požarevac and Kragujevac comprise several municipalities, divided into urban and suburban areas. Competences of cities and their municipalities are divided. The division of cities into city municipalities is regulated by the city statute, according to the law.

Cities in Serbia are as following: Valjevo, Vranje, Zaječar, Zrenjanin, Jagodina, Kragujevac, Kraljevo, Kruševac, Leskovac, Loznica, Niš, Novi Pazar, Novi Sad, Pančevo, Požarevac, Priština, Smederevo, Sombor, Sremska Mitrovica, Subotica, Užice, Čačak and Šabac.

Status of the City of Belgrade

The City of Belgrade has the status of a distinct territorial unit in Serbia that has its own government system: the Assembly of the City of Belgrade, the Mayor of the City of Belgrade, City Council of the City of Belgrade and City Administration of the City of

Belgrade. The territory of the City of Belgrade is divided into 17 city municipalities with their own local government bodies. The division of Belgrade into city municipalities is regulated by its statute.

Autonomous provinces as the only form of autonomy in Serbia

Autonomous provinces are autonomous territorial communities in which citizens actualize the right to the provincial autonomy. The Republic of Serbia has two autonomous provinces: the Autonomous Province of Vojvodina in the north (which includes 39 municipalities and 7 cities) and the Autonomous Province of Kosovo and Metohija in the south (with 28 municipalities and 1 city).

Autonomous province has its own assembly and executive council (government). It enjoys autonomy on the certain matters like education and culture.

The area that lies between Vojvodina and Kosovo is called Central Serbia. Central Serbia is not an administrative division (unlike the autonomous provinces), and it has no autonomous government of its own.

Provinces of Serbia



Name of territory	Area km ²	Cities	Municipalities	Communities	Administrative districts
Republic of Serbia	88361	24	150	6169	29
Central Serbia ⁴¹	55968	16	83	4253	17
AP Vojvodina	21506	7	39	467	7
AP Kosovo and Metohija	10887	1	28	1449	5

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⁴¹ The Central Serbia is not an administrative division of Serbia as such. It is just the term referring to the part of the Republic of Serbia not including the provinces of Vojvodina and Kosovo

g) Administrative Districts as purely administrative units

The Republic of Serbia is also divided into 29 districts under the Government's Enactment of 29 January 1992.

Municipalities and cities are gathered into districts, which are regional centers of state authority, but have no assemblies of their own; they present purely administrative divisions, and host various state institutions such as funds, office branches and courts. Through centers of districts ministries administer state affairs of the Republic of Serbia. Districts are not defined by the Law on Territorial Organization, but by the Law on Public Administration.⁴²

By the Serbian government's 2006 Regulation on administrative districts the names of all districts were changed from district to administrative district. An administrative district is governed by the prefect who is appointed by the central government.

As already mentioned, Serbia is divided into 29 districts (17 in Central Serbia, 7 in Vojvodina and 5 in Kosovo), while the city of Belgrade presents a district of its own. The 29 administrative districts are as follows: Severnobački, Srednjobanatski, Severnobanatski, Južnobanatski, Zapadnobački, Južnobački, Sremski, Mačvanski, Kolubarski, Podunavski, Braničevski, Šumadijski, Pomoravski, Borski, Zaječarski, Zlatiborski, Moravički, Raški, Rasinski, Nišavski, Toplički, Pirotski, Jablanički, Pčinjski, Kosovski, Pečki, Prizrenski, Kosovskomitrovački and Kosovskopomoravski.

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⁴² Law on Public Administration, Official Gazette of the Republic of Serbia, no. 79/2005 and 101/2007

Districts of Serbia



h) Region vs. Local self-government

When we talk about difference between the status of a region and the status of a local self-government unit, we should first emphasize that regions are a constitutional category. Their existence is not only prescribed by the Constitution, but they are all by name, one by one, listed in the Constitution⁴³, which is not the case with local self-government units. This guarantees the existence of regions that can be questioned only in a way regulated by the constitution.

Furthermore, competences of regions are regulated by the constitution and further by law, while the competences of local self-government units are regulated by law or often by by-laws. This makes their competences subject to frequent changes.

The set of competences of regions and local self-government units is generally adjusted to their territory. Since the regions have a wider territory, they also have more significant competences than local self-government units.

Financial resources of the regions are higher since they have wider range of competences and, at the same time, their autonomy in managing resources is wider.

The right to self-organization in regions is more significant than in local self-governments. The regional statutes have special status and their acts (seen the wide range of issues they regulate) are at the level of regional laws and by-laws with specific grade in the hierarchy of general acts. When local self-government units make their regulations, these regulations always have the lowest grade in the hierarchy of general acts.

If we consider three basic bodies: representative body, its executive body and the head of the concerned unit, their structure can be similar with some differences in their status and mutual relations. The regions have bigger number of administrative bodies than local self-government units, of course, according to the wider competences prescribed by the constitution.

Local self-government units generally have higher level of supervision by the central government, since they are also supervised by the regional bodies.

One of most important characteristics of regions is their right to participate in the establishment of one of the chambers of the parliament and to participate in decision-making regarding the constitution and laws. Not even the local self-government units of the highest

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⁴³ Except of the case of Spain

level have this right. This is what gives the regions the additional significance in the entire governmental organization.

i) Division in regions

The issue of regionalization as territorial reorganization of the Republic of Serbia has been considered by jurists, political scientists, economists and politicians for almost two decades. The difference between interest in regionalization from twenty years ago and now is that today we are talking about the regionalization of the entire territory of Serbia and not only about the statuses of its two parts, Vojvodina and Kosovo and Metohija.

The regionalization of the Republic of Serbia can be seen as the actualization of the idea of the decentralization of state and of overall public life of the society. This idea is based on the fact that the real needs and interests of citizens and civil society in public life have to be met by bodies and institutions that are closer to them, because they know them better and they will do it more successfully (principle of subsidiarity). Local, regional and generally bodies and institutions that are not central, have bigger democratic potentials, they are more sensitive and efficient in meeting the needs of the society, they are easier to be changed and the supervision of their work is easier. These facts are often followed by economic idea that the regional and decentralized model leads to better and more equal allocation of economic resources, which then contributes to more harmonized development of different parts of the state. Different regional authorities in a state, by applying the principle of fiscal federalism, have the possibility to create tax and fiscal incentives that attracts investments and increase competitiveness, which helps economic and society development. And last but not the least, the regionalization and the creation of territorial autonomies of different levels are supported by those who are basing their theories on historical, cultural, language, ethnic, confessional and geographic particularities of specific areas of the state, which want to preserve and develop their individuality and identity that are more or less different from those common or national.

One of the possibilities of the introduction of a regional state in Serbia would be the establishment of three regions at the territories of Vojvodina, Central Serbia and Kosovo and Metohija. This solution would be the simplest, but not the best. First of all, the difference in their size would be too big, comprising the population. The Central Serbia would have around six million inhabitants and Vojvodina and Kosovo and Metohija around two millions each.

That means that the Central Serbia would have lot more inhabitants than Vojvodina and Kosovo together. These differences would not contribute to the rational state organization.

When establishing the regional state and forming the regions, some criteria have to be taken in consideration.

The first criterion would be very rational and mechanical and it is related to the number of inhabitants of the regions. In the case of the Republic of Serbia, the optimal number of inhabitants per region could be 1.5-2 millions. This would bring to certain equality in the number of inhabitants that is very advisable in every rational territorial division. As well as the big difference in respect to the number of inhabitants of municipalities in a state creates big problems in the organization of local self-government, the existence of, on one side too big regions and on other side too small regions, would jeopardize the unique concept of regions – everybody have to have equal status and to have equal competences. If we manage to achieve this equality, we would be for sure one step ahead in respect to Italy and Spain, where the differences between some regions are significant.

Another criterion that should be considered are historical, i.e. traditional reasons. This criterion would be emphasized in the case of Vojvodina and Kosovo and Metohija, but also in the division of the Central Serbia.

Furthermore, another fact that should be taken into account is the diversity in culture, customs and traditions and mentality of some areas, which certainly exist even in a relatively small country as Serbia.

One more criterion that is very important are economic, traffic and geographic factors. Regions should comprise inter-connected areas that would make encircled wholes with their own functional sources, which are capable to exist.

j) Statistical Regions towards Political Regions

Serbia is one of the states with the biggest regional discrepancies in Europe. The existing system leads to the fact that the rich municipalities become richer and the poor ones even more poor. This gap also affects negative demographic indicators in some areas. One of the basis for the regionalization of the Republic of Serbia is the Strategy of Spatial Development of Serbia, produced by the Ministry for Spatial Planning and Environment. This Strategy represents some kind of a political programme of the development of Serbia in next ten years. Objectives of the Strategy should be: equilibrated regional development, higher level of

competitiveness, functional integration to environment and sustainable environment. According to this document the regionalization of Serbia should be completed by year 2020.

We can say that the first step in the regionalization of Serbia was made when in 2009, the National Assembly of Serbia adopted the Law on Regional Development prepared by The Ministry of Economy and Regional Development. Under this Law seven statistical regions were formed in the territory of Serbia and they were namely: Vojvodina, Belgrade, Western, Eastern, Central and Southern Serbia and Kosovo and Metohija. The Law was amended on 7 April 2010, and the number of regions was reduced to 5. The Eastern Serbia region was merged with Southern Serbia and Šumadija was merged with Western Serbia. Now the statistical regions are: 1) Vojvodina, 2) Belgrade, 3) Šumadija and Western Serbia, 4) Southern and Eastern Serbia and 5) Kosovo and Metohija.

This regionalization is not political, but purely statistical and it has been done with the aim of allocations of EU funds. Statistical regions are one of the conditions of further approach of Serbia to EU.⁴⁴

Although for now it is all about statistical subdivision, the consequences of this classification can be multiple. The statistical regions will be beneficiaries of EU resources, but they should develop by themselves regional programmes and projects to be financed and this includes the development of adequate administrative capacities and the ability of programming and financial management. This way the statistical regions should learn how to manage themselves. Then they could be used as a base for future political regions. In fact, according to the Strategy of Spatial Development of Serbia, around year 2020 the statistical regions should obtain administrative and political status. If this happens, the central level would probably still be dealing with issues regarding security, monetary policy, internal and foreign affairs, representing of Serbian citizens in the world, diplomatic and international relations, macroeconomic and fiscal policy. Other competences would be probably passed to lower levels of government. But of course, none of this can happen without the change of the Constitution.

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⁴⁴ Statistical regions are made in accordance with the Nomenclature of Territorial Units for Statistics – NUTS, a statistical model of EU introduced in 1988. According to this model, the European Union established a unique network of statistical territorial units. There are three levels of NUTS subdivision in base of the number of inhabitants. For the highest level NUTS 1, the criterion is 3-7 million inhabitants, for NUTS 2 800.000 – 3 million inhabitants and for NUTS 3 150.000 – 800.000 inhabitants. Lower levels called LAUs could be compared with Serbian administrative districts or municipalities.

In a future regional state each region for itself would represent a distinct territorial unit with significant place in entire organization of government. They would have a certain level of autonomy, harmoniously assimilated in the whole. Nevertheless, regions must not tend to wrap themselves in their own borders nor to tend to autarchy. As mentioned before, the regional borders must be open for the flow of people, capital, goods and in every other sense.

Different forms of cooperation should exist between regions; cooperation that would bring general benefit. Also, there should be positive competitiveness between regions, first of all in economy but also in other social areas like culture, social services, tourism, sport etc. Central government should encourage regions to look-up at successful functioning of regions and, on the other side, to avoid repeating the same mistakes.

Some regions, especially neighbouring ones, could stipulate formal agreements of cooperation in certain areas of regional competence or on financing of joint projects and similar. Certainly, this could have significant effects in the regional development and in the equalization of living conditions in regions, which is very desirable from the point of view of the state.

Nevertheless, similarly to the provisions of the Spanish Constitution, the federalization and unification of regions should not be allowed in any case.

CONCLUSION

Internal reasons for regionalization should strengthen the democracy, transparency and rotation of government. Rational recognition of public needs and meeting these needs, social services, decisions on allocation of public investments is not possible without horizontal and vertical division of power.

When we talk about the regionalization of Serbia, we talk about the fundamental principle of equality of the right of all citizens of Serbia to actualize the possibility to regional organization, through which they use their right to self-government. Vertical division of powers cannot remain the privilege of one part of the population (although justified by historical, cultural, national, ethnic or some other reasons) respect to another part of population. That means that obvious historical, cultural and ethnic particularities that brought to the territorial autonomy of Vojvodina, for example, cannot reject in advance the right of other parts of Serbia to the regionalization. It is clear that other parts of Serbia do not have so evident historic, cultural, traditional or ethnic reasons like those that brought autonomy to Vojvodina and Kosovo and Metohija. Nevertheless, those parts of Serbia can have some natural, geographic, traffic, economic or other particularities, but they can also have legitimate interests in regional self-organization. In that sense, the right to regional organization must be equal, while the relevant procedure for its implementation has to be carefully regulated and even more carefully actualized. This procedure implies the approval of great number of various key political stakeholders during its constitutional drafting and defining, as well as relatively long term of its implementation. At the same time, during the drafting of decentralization and the process of regionalization, all special interests of individual local communities and their inhabitants, existing urban and regional centers, national and ethnic minorities have to be expressed in a very open and direct manner. Also, certain economic criteria have to be objectified, such as: natural wealth, energetic, traffic and other infrastructure, reserves and qualification of labour force, income level and the possibility of general development of some parts of the country and the country itself.

On the other hand, the process of actualization of the right to regionalization has to be carefully regulated, with participation of all branches of central government – in regular course with participation of the parliament and government and in case of inevitable disputes with participation of highest courts and the Constitutional Court of the Republic of Serbia.

The process should have in mind the existing division in municipalities and administrative districts. Although the administrative districts are not form of any decentralization, but on contrary, form through which central government bodies act locally, they still exist and they influence different parts of the republic. To this effect, the solutions from the existing Spatial plan of Serbia should be used, as well as the division in statistical regions of the Law on Regional Development, because they are the result of longtime work of experts from very different areas. This does not mean that their solutions have to be *a priori* accepted, but it is just a reminder that they exist, they are in use and they have to be considered in every future decision-making related to regionalization.

Some say that Serbian society does not have enough and adequate managing capacity for multi-level organization of public functions and affairs, that it does not have developed legal culture and that the regionalization with its complex governing structure would lead to poor meeting of public needs, increase of public funds and costs of public administration and increase of bribery and corruption; and these are exactly things that the regionalization should try to eliminate, or at least minimize. This objection deserves special attention especially in our society.

Every sudden and fast regionalization would create problems with synchronizing competences of public bodies and with their conflict of competences. It would immediately increase public expenditures, while the better quality of public decision-making and governance could be actualized and noticed in long-term. All beneficiaries of public services and subjects of state decisions would be induced to use corruptive mechanisms for easier and faster achievement of their objectives. There are some relevant researches on this issue and they are not in favour of easy acceptance of decentralization of public affairs and creation of several levels of public governance and public subjects, except central and the lowest local levels. General assessment is that wealthier states and states with stabile democratic system tend to achieve greater decentralization. Nevertheless, the regionalization is a process that is more and more present in many countries, primarily for political and not for rational reasons, especially in transition countries.

The regionalization can certainly lead to more equal economic and general development of some parts of a country. Different levels of governance, in particular different regions and their bodies, by applying incentive economic and fiscal policies, lead to circulation of capital and people and in that manner, through competitiveness, lead to faster development of some regions. Other regions can follow the example of more developed and dynamic regions or ask help from central government, i.e. ask for redistribution. Naturally, this is possible only

through long-term economic policy at central level, which monitors economic discrepancies and wisely redistributes the wealth, applying the principle of solidarity. The level of redistribution is always a matter of political decision, but it is very important to include the regional level when making decisions related to this issue.

Creation of regions could have pragmatic objectives that can bring significant benefit to the entire society and state, but they must not be created out of the blue and without respecting the existing territorial organization of the country. The issue of the regionalization of the Republic of Serbia must be approached considering territorial integrity, inherited experience and experience of countries that have already faced or that are still facing similar problems. Processes and integrations happening in Europe should also be considered. The decision-makers have to be very careful, to take in account serious researches of various relevant institutions and to approach the issue with very wide political and social consensus, having in mind that the realization of some short-term political, regional or minority interests can lead to long-term negative consequences.

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