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ADMINISTRATION AND TERRITORY IN EUROPE: PUBLIC SERVICES AND DISTRIBUTION OF GOVERNANCE POWERS

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1. The principles of autonomy and decentralisation are currently part of the set of values shaping the distribution of governance powers in countries throughout Europe. The reason for this is the generally accepted belief that autonomy and decentralisation constitute additional instruments to endow European democracies with a deeper and larger dimension. Although the EU is respectful of the diverse administrative organisational options of Member States, it is also true that the EU actively promotes those principles. As proof of this, it suffices to recall certain provisions of the Treaty for a European Constitution. Article I-5 of the Treaty asserts that the Union will respect national identities with regard to local and regional autonomy. This formulation, together with the stated respect for the organisational solutions and decisions of each Member State, envisages the strengthening of local and regional autonomy. Article I-3.3 establishes that the Union will respect the rich cultural and linguistic diversity of Member States, a diversity existing both domestically in each Member State and among Member States. Article I-11 reinforces the principles of subsidiarity and proportionality, which are crucial for determining the extent of any European intervention. At the same time, these principles have effects beyond the European political sphere as such because they are also used by Member States as guiding principles for organising the distribution of powers domestically. Article I-32 is devoted to an Advisory Body of the Union, namely the Committee of the Regions. This article also implies the acknowledgement of the principles of autonomy and decentralisation when it states that the Committee of the Regions is formed by representatives of regional and local bodies that either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly. Considering this provision, it is important to underline that, in the EU's view, regional and local autonomies are not possible without a democratic electoral mandate that is conferred on regional and local entities respectively. It is also worth remembering that the political dynamics generated by the European policies on structural funds have undeniable effects in terms of contributing to the enhancement of decentralization and the autonomy of sub-national governments in many Member States. Together with these indications, the Constitutional Treaty also establishes the EU's respect for the integrity of the national territories of Member States.

But Europe is not confined to the organizational aspects of the EU. Other existing dimensions, which have a larger territorial reach than the EU, represent major contributions to the design of Europe. Worth noting is the European Charter of Local Autonomy. This charter may be considered as a truly operational declaration promoting decentralization in all European countries (beyond those integrated into the EU), not only because of the initial impulse to adopt the document by the Council of Europe, but also due to the continuous efforts in supervising and promoting its implementation through the Congress of Regional and Local Powers. All of these developments make it possible to assert that the values of territorial autonomy and decentralization are fundamental elements in the political construction of Europe.

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2. From an historical viewpoint, some organizational models may be identified in European states. On the one hand, there are the formally unitary states, which show various degrees of centralization (or decentralization) intensity. This group, headed by France, includes – among others – Italy, Netherlands, Portugal and Spain. On the other hand, three countries have formal federal structures: Austria, Belgium and Germany. We put aside the UK, which has a peculiar configuration of local authorities based on its historical legal tradition. In recent decades important modifications concerning regional and local governments have occurred in all of these countries. With regard to regional governments, all countries have progressively accepted, at different speeds, the existence of a regional political space by institutionalizing an array of autonomous entities. Italy and Spain have instituted regional autonomies holding legislative powers; the UK has undertaken a devolution process to Scotland, Wales and Northern Ireland; and Belgium has transformed its unitary state configuration into a federal structure. In France regions have been created with elected governing authorities endowed with administrative powers, and recently its overseas territories have been given legislative powers. Something similar has occurred in the Portuguese insular territories. In summary, some old and significant European unitary states that were strongly centralized have abandoned this configuration and adopted decentralizing formulas, which have entailed the creation of regional autonomies. At the same time, states inspired by the German federal model have had to introduce – without departing from the federal model – mechanisms and procedures fostering co-ordination and co-operation between the centre and the regions in order to better respond to the challenges that modern industrial societies are facing.

The autonomy of local governments is also in the process of being strengthened. It is worth noting the changes that occurred in France at the beginning of the 1980s and almost simultaneously in other centralized states, where municipalities have been given more powers and resources. At the same time, control mechanisms derived from the preceding tutelage scheme were loosened in order to reduce or even eliminate the submission of local decision-making to state preferences. This is consistent with enlarging the powers under the responsibility of locally elected regional and municipal authorities. Although it can be assumed that decentralizing formulas and schemes differ in different countries, the tendency is common. In this regard, it is necessary to acknowledge once again the impact of the European Charter for Local Autonomy.

An issue that often appears in ongoing debates concerns the levels of local government. Two levels of local government constitute the more usual model, even if the existence of the second level (province, department or county) is often put into question. Several elements contribute to this questioning, namely: the existence of regional autonomous governments, which shape a third level of sub-national government; the phenomenon of a large-sized urban area developing into a metropolis; the relative small size of a country; and failures in the functioning of the second level of local government or feeble roots in historical traditions. In some countries (e.g. Spain) an additional argument against the second level of local government (i.e. the province) is that this level is only indirectly elected by the citizens, as it is created by appointment from within the group of municipal representatives.

These decentralization trends have several different causes, such as the need to create territorial circumscriptions that are better adapted to handle public affairs, the recognition of territorial cultural plurality and other kinds of cultural diversities, and the reduction of intermediaries in public participation in democratic decision-making. In any event, it can be said that the winds of local and territorial autonomy and decentralization blow constantly and with increasing force in Europe, even though the above-mentioned causes, among others, occur in different degrees in different countries and the decentralization process adopts different domestic features, depending on each country's idiosyncrasies.

3. Decentralization and autonomy are notions that respond to very clear socio-political demands:

- A desire to have institutions governed by those directly elected by the citizens residing in the corresponding territory;
- Transfer of autonomous powers to these institutions to enable them to take decisions on matters within their scope of responsibility;

- Transfer of financial resources from the centre, without earmarking them for any specific activity and in a sufficient amount to enable these autonomous institutions to meet their responsibilities;
- Control of the legality of decisions of these autonomous institutions by the judicial system, with extraordinary controls by the central government as the exception rather than the rule.

Obviously these demands may differ, depending on whether or not autonomous territorial entities have legislative powers. Also to be taken into consideration is whether or not there is a second or upper chamber in the national parliament representing the interests of territories existing within the country. Usually sub-national governments have representatives sitting in these second parliamentary chambers.

Concerning the distribution of responsibilities, the general pattern is that the central government maintains responsibility for national defense and international relations, macroeconomic policies and state finances, and determines the general policies aimed at ensuring national cohesion. Regional governments are usually responsible for social services (basically education and health care), whereas local governments are responsible or co-responsible for urban planning and some other social services. These are only the main features, as variations from one state to another may be considerable. For example, in some countries regional governments are responsible for education and health care, while in others these services are under the responsibility of the central government. Also noteworthy is the fact that in federal states (such as Belgium and Germany), the regulation of municipal and local governments is within the competence of regional or federate entities. Likewise, responsibility for the police is attributed according to different criteria, and in some countries this responsibility is totally centralized.

Difficulties are often enormous when all responsibilities for a public issue, domain or policy sector are attributed to only a single level of government. Usually responsibilities for a particular domain are shared among different levels of government. As for the financing of regional and local autonomous entities, the important issue is to ensure full autonomy over spending decisions along with the sufficiency of financial resources, commensurate with the responsibilities of these entities. This is even more important than the capacity of sub-national governments to raise their own revenues (for example, through taxation powers). In any event, regardless of the modality used for the attribution of responsibilities and resources to sub-national governments, it is important that measures are taken to ensure accountability, transparency in public management, and responsiveness of sub-national governments. At the end of the day, autonomy and decentralization – among other goals that may be set in accordance with diversities – are aimed at ensuring a close relationship between elected authorities and citizens.

Autonomy is a notion that entails limitation. This is precisely the reason why territorial autonomy does not signify an obstacle – and even less a risk – for the proper functioning of the state. The development of the principle of autonomy assumes that the state is able to function properly in a way that is different from a centralized mode of operation. Autonomy represents an alternative and legitimate way of articulating the functioning of the state, provided that the state keeps in its hands the political and legal instruments that are necessary to ensure national cohesion. This rule applies even in situations that could be considered as pathological or politically problematic (separatist movements, contestation of the legitimacy of the central state, secession-oriented regional policies, and so forth).

4. Current European trends are leading towards higher levels and more resolute recognition of territorial autonomy. However, temporary contradictions remain, arising from political constraints or – more importantly – resulting from economic and social processes. Some policies, which entail a diminishing role of the state in the delivery of public services or in promoting a given societal model, also have a strong impact on the role of regional and local authorities. The concern that these policies have generated has manifested itself especially in very consolidated federal states, such as Germany, or in the development of a more local dimension in certain Nordic countries, such as Denmark and Norway.

It is important to note also, within the current trends, the obstacles that have been created by the powers that exist in some countries in order to constrain the wholehearted acceptance of the principle of territorial autonomy and the full democracy it signifies.

Another fact to be emphasized is the progressive acceptance of heterogeneous or flexible organizational criteria for regulating local government. Naturally local governments are better off whenever the regulatory powers over them are exercised mainly by regional governments. The development of co-ordination and co-operation mechanisms tends to increase as a logical consequence of the strengthening of local and regional autonomy.

The landscape is becoming more and more diversified concerning the regional level of government. Along with entities having legislative powers and federal or federal-like statutes, other regional entities may have such limited administrative powers that they are closer to a local government type of legal statute. In some countries (Czech Republic, Estonia and Hungary), the tendency to create new regions stems from internal political reasons, but it is also connected to the willingness to adapt their territorial administrative structures to EU regional policies and to the distributional criteria for EU structural funds. All of these various processes make it possible to distinguish between two categories of regions: a) political regions, federated or non-federated; and b) administrative regions, which intrinsically mirror local government type structures.

Also noteworthy is the continuous revision, in some countries, of territorial schemes, with a view to deepening and enlarging territorial autonomy, augmenting responsibilities and resources attributed to regional authorities, and granting differentiated regional statutes to these authorities. The Italian and Spanish reforms respond to these objectives, although with significant variations. This is also the case of practices in Finland (Aland), France (New Caledonia), and Portugal (Azores and Madeira).

At the local government level, several new trends include the attribution of enlarged responsibilities to local municipalities (Czech Republic, France, Greece, Italy, Portugal, Slovakia and Spain). In some cases an increase in municipal powers is coupled with the elimination of second levels of local government, such as provinces or counties. The trend to suppress or loosen tutelage control over local government decisions still exists, despite the abundant controls remaining, especially in the area of budget and finance. Finally, the number of countries with some sort of constitutional protection of local autonomy is increasing (Czech Republic, Spain).

5. Europe, through its institutions – such as the European Union and the Council of Europe – has taken stock of its various national historical backgrounds and orientations and encouraged, either directly or indirectly, the strengthening of territorial autonomy within its Member States, while at the same time respecting their internal political dynamics. The European Charter of Local Autonomy – together with an array of initiatives, most of which originated internally – shapes a rather diversified institutional landscape across Europe in comparison to the one existing just a few years ago. While two opposing political views – centralization versus decentralization – had previously coexisted, the balance has clearly tilted nowadays in favor of decentralization and autonomy, which take different forms depending on the countless number of internal characteristics of each country. The currently prevalent orientation towards decentralisation and autonomy is not only compatible with the continuity of each European State – only states are partners of the EU and the Council of Europe – but also leads to a new way for states to function, a way that gives a wider scope to democracy and citizenship.