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THE ESSENCE OF REGIONS – with a Particular View of the Latest Kinds of Regionalization: Scotland, Wales and Northern Ireland in the United Kingdom of Great Britain and Northern Ireland

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Milan Petrović

Niš

Abstact. *In the opinion polls and proposals related to the amendment of the Constitution of the Republic of Serbia, which have been conducted and presented from different sides in the public life of this republic, the need for Serbia's regionalization has often been underlined. The questions like "Is this need really existent?", and if this question is answered confirmatively, what this regionalization should be like, can only be answered correctly if one really gets to know what region or regions are in essence. A great confusion is present in regard to this issue, not only in the general public, but also among the experts. The reason is, after all, that regions arise as extremely volatile institutional forms, as "flowers of thousands of colours". Therefore, in an attempt to clear up the said confusion, a clear-cut scientific understanding is necessary, based on an adequate systematization and classification of all the phenomenal forms of region. In an ideal situation, this should be the intention behind this text. However, due to the vastness of the material, this intention cannot be completely realized here. Hence, this text will be confined, aside from the juridical-theoretic, logical considerations, to the analysis of the most current and perhaps the most authoritative forms of region. As long as the older forms are concerned, a depiction of sorts can be found in our study titled "Regions (Forms of Territorial Autonomy) in the Theory of Law and History of Law", which appeared in the issue 112-113/2002 of the journal Letopis Matice srpske, as well as in English, in the journal Facta Universitatis, Series Law and Politics, vol. 1 for the year 2002. First of all, it should be kept in mind that regionalization is founded upon larger or smaller* ***political ramifications and contrasts****; region is a* ***political setting of boundaries*** *in relation to the surrounding area.*

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There are two fundamental types of region: regions in the **functional sense** and **territorial-political regions**. The difference between them lies in the fact that the characteristic outcome of functional (or "sectorial") regions is an insignificant number of legal documents and legal relations; they tend to touch the issue of individuals and legal entities in their domain only superficially. As opposed to them, territorial-political regions present important substantial sources of law, lining with some other phenomena such as state or confederacy.

Starting from broader functional regions and going toward the narrower ones, we shall first investigate the **regions of international law**. In terms of contemporary international law, a region implies any such association of states which concerning certain parts of the world does not involve all the states, but only some of them.[1] Regional organizations of that kind are the European Council, the American States Organization, the Arab League, The Organization of African Unity, and many others. After the World War II, the United States of America commenced the formation of a number of regional military alliances, in which it reserved the role of a hegemon: NATO, which involves the western European states, Greece, Turkey and Canada; SEATO, which encompasses the countries of southeast Asia and Oceania, as well as the major European powers of Great Britain and France; ANZUS, composed of Australia, New Zealand and the US.

Similar to this type of regionalization is the grouping of federal units according to "sections" within the United States of America as a large federal state.[2] The "sections" can be recognized upon their specific geographical qualities, resources and economic capacities, as well as their interest rivalries; basically, it is a question of distiguishing between the East and the West, the North and the South of the United States of America. Before the World War II, a particularly influential section was New England (Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut). However, the constituent states of the sections were not able to make legally liable contracts since the precondition to these contracts is the compliance of the Congress as the parliament of the Union, so that they pursued their interests mainly as interparlaimentary voting blocks. This type of regionalization is actually equivalent to the so-called "horizontal cooperative federalism", as discussed by Jovičić.[3]

Finally, as a form of territorial grouping of sub-state status, functional regions are based on the deconcentration and concentration of administration, respectively. In this case, regions are often the central areal organs or organizations subordinate to a greater or a smaller degree to the hierarchical superordination of some other central organ. Concerning the fact that regions here make their own legal and political acts, the hierarchical superordination over them is reduced, deconcentrated. It can occur, however considerably less often so, that non-central organs of administration, municipalities for instance, form regions as common areas of their local jurisdiction to which they can confer the execution of certain of their authorities. In this case, which is not essentially different from the hypothesis of functional regions of international law, there occurs a

[1] G. Dahm, Völkerrecht, II, Stuttgart 1961, p. 260.
[2] See: H. Finer, The Theory and Practice of Modern Government, I, London 1932, p. 295 sqq.
[3] M. Jovičić, Savremeni federalizam – uporednopravna studija (Contemporary Federalism – a Comparative-juridical Study), Belgrade 1973, p. 227 sqq.

deconcentration of transferred authority of non-central organs of administration in question, in the jurisdictions of the regions they have instituted.

We should add that it is not excluded that these regions can enter even broader inter-regional associations, not only in the country, but also abroad. Nevertheless, this requires at least the compliance of the constituent factors (municipalities, central organs, etc.) since the organization disposes of their authority.

An impressive and historically significant example of regionalization based on deconcentration of administration is offered by the North American Tennessee Valley Authority – TVA. It was established in 1933, within the framework of the New Deal, to the end of projecting the development of the valley on the part of the state. The authority is headed by a Board of three directors which is responsible only to the Congress and the President of the Union. The area of the valley which is under the local jurisdiction of the Board is 105 000 square kilometers and spreads over parts of territories of 7 federal states and 137 counties. The Authority has regulated the course of the river Tennessee, built a number of dams and power plants, thus becoming the largest producer of electricity in the United States of America. It has carried out projects concerning protection against floods, irrigation, soil protection, and the production of artificial fertilizers. Water polution has been reduced and malaria eradicated. It has developed recreational facilities for camping, swimming and fishing. It is interesting that the Authority has been putting an effort, and succeeded in this, to involve the population of the region in the activities around the projects. One of the first prominent figures of the Authority has claimed that the TVA has been providing a good example of a healthy democratic administration – with its decentralized operation, voluntary citizen participation and involvement of local communities, educational policy and convincing people by way of words and with minimum compulsion, by working with the people and not for them.[4]

In Serbia, during the age of the socialist self-managment-based republic, there also existed regions on the basis of administrative deconcentration and concentration. The Constitution of the Socialist Republic of Serbia dating from the 25th of February 1974 provided in its Article 284 for the existance of regions in the form of inter-municipal regional communities and communities of cities, as a mandatory form of municipal association.[5] Contrary to the Republic, the Autonomous Provinces, the City of Belgrade and the municipalities, the Constitution did not acknowledge the status of "socio-political communities" to inter-municipal regional communities and communities of cities, i.e. the existance of their own public authority. However, in its regulations it stated that these communities exercise "certain rights and liabilities as conferred to them by the municipalities and the Republic from the contingent of their rights and liabilities". This "transfer of public authority wielding" which the Constitution provided for in a more general form in the Article 170, is nothing else but administrative deconcentration or concentration, the addressee of which may be a certain "self-management" or similar organization that

[4] D. E. Lilienthal, TVA: Democracy on the March, New York 1944, p. 159 sqq, p. 199 sqq.

[5] On these forms in particular, see: S. Popović, Regionalizacija u svetu i kod nas – Pravni aspekt (Regionalization in the World and in our Country – the Legal Aspect), Belgrade 1983, p. 160 sqq; M. Ilić, Međuopštinske regionalne zajednice u Socijalističkoj Republici Srbiji (Inter-municipal Regional Communities in the Socialist Republic of Serbia), Belgrade 1988.

had no characteristics of a socio-political community, an organization such as the inter-municipal regional community or community of cities were in this very case. In accordance with what has already been said, administrative deconcentration here was manifested in the right vested in the Republic to confer the exercising of certain rights and liabilities, whereas administrative concentration was manifested in the same right that the municipality had – with regard to the same subject.

The Constitution determined that municipalities should "make associations in the form of inter-municipal regional communities and communities of cities to the end of achieving permanent cooperation, development planning, harmonizing their own programmes and enacting common plans and programmes, as well as to the end of pursuing other interests of common importance" (Article 284, Paragraph 1). Nevertheless, one of the objectives of establishing inter-municipal regional communities, which was arranged by the "social compacts" between the Republic and the municipalities in 1974 and 1975, could have been the "demetropolization",[6] one of the objectives with pressing importance even today.

Afterwards, the Republic conferred a considerable part of its administrative functions to the inter-municipal regional communities, mainly those of second instance, in cases when the first instance was the municipal administrative agency, along with the governing of certain public services (regional communities of self-managing organizations), whereas the municipalities entrusted the issue of policy-making in terms of coordination, pertaining to almost all questions from their constitutional domain, to the inter-municipal regional communities. Those communities had their own by-laws and assembly as the basic organ, composed of representatives of municipal assemblies that were constituent parts of a particular inter-municipal regional community. This was meant to underline once again the constitutional position of municipalities as "the fundamental socio-political communities", but it simultaneously minimalized the position of the Republic as a state. From this contemporary perspective, parity between the representatives of the Republic on one hand, and municipal representatives on the other, could have been a more appropriate solution. The ultracentralistic Constitution of the Republic of Serbia dating from the 28th of September 1990 did not recognize the concept of inter-municipal regional communities, which, on the basis of a strict provision of the Constitutional Law for its implementation, ceased to exist. This move from one extreme to the other, however, created more problems than it solved.

Territorial-political regions can appear either as **forms of territorial autonomy (in the narrow sense)** or as **state fragments**.

The quintessence of a form of territorial autonomy in the narrow sense is possessing **a decentralized legislative power in the material sense of the word**. Legislative power in the material sense of the word implies creating, altering and dissolving legal institutions, that is setting the environment for the creation, alteration or abolition of particular legal relations by means of state acts and the proceedings of private law. Since legislative acts (laws, statutes) make the basic formal sources of law, the right of making them is nowadays one of the principle attributes of state. However, the state can, due to various reasons, delegate one smaller or larger part of the power to arrange material

[6] Popović, op. cit., p. 173.

legislation to the organs of a lower territorial unit of its structure, thus turning the unit into an autonomous region in the narrower sense of the word. What is important here is that this is a matter of decentralization, in other words, a kind of power transfer at which the transferer retains certain **rights of supervision** the execution of the conferred power.[7]

Decentralization is different from deconcentration, first of all, in the sense that the state cannot give hierarchical instructions to the transferees of decentralized power in terms of how they should exercise it; the state can annul the legal acts that have come out of such authority, that is, it can block their enacting, but it cannot determine the contents of the bills.

There is a school of thought in the science of law which contends that regions represent units of local self-government higher than municipalities and that they have "large span",[8] i.e. that these are local self-government units of the third degree.[9] This attitude is unacceptable. Autonomous regions do possess the authority of making laws in the material sense. However, local self-government units do not possess this authority. What is common to autonomous regions and units of local self-government is that we have a form of territorial decentralization in either case. However, the state confers less power to the local self-government units in the qualitative sense, regardless of their degree of importance – administrative authority in the narrower sense, which consists of enacting administrative acts, concluding administrative contracts and taking measures of material execution, as well as the usually very narrow, "power of government", which enters the domain of administrative authority in the wider sense and consists of making general legal acts which serve the purpose of enforcing laws (those are the so-called "decrees in the material sense") and directing and coordinating the the work of administrative organs and public services ("policy-making"). It is important to bear in mind that with the decentralization of legislative power, both administrative authority in the narrow sense of the word and "power of government", i.e. local self-government are transferred to the autonomous regions. And yet, even though they often have separate units of local self-government as even narrower territorial communities of their structure, this is not a crucially significant element which defines their nature.

The type of autonomous region that we have shown occurs as a normal type of European regionalism. The regions of Italy, Spain, Portugal, as well as Scotland itself, Northen Ireland, and to a great deal Wales, belong to this type of region. There exists, however, a type of territorial-political region which is in complete opposition to the nature of contemporary state and which Jellinek has justly called a factor of "state disorganization";[10] it is a "state fragment". Notwithstanding this, Jellinek was wrong by conceiving a state fragment as a form of decentralization.[11] Decentralization is, let us emphasize again, a transfer of state authority, the exercising of which remains under the unhierarchical supervision of the transferer. However, by transferring a part of its

[7] See, for example: E. Forsthosqq, Lehrbuch des Verwaltungsrechts, I: Allgemeiner Teil, 10. Aufl., München 1973, p. 459.
[8] L. M. Kostić, Administrativno pravo Kraljevine Jugoslavije (The Administrative Law of the Kingdom of Yugoslavia), I, Belgrade 1933, p. 53.
[9] E. Pusić, Komuna i općina (Commune and Municipality), Zagreb 1981, p. 88 sqq. This view is supported by certain German authors. See: O. Gönnenwein, Gemeinderecht, Tübingen 1963, p. 420.
[10] G. Jellinek, Allgemeine Staatslehre, 3. Aufl., von W. Jellinek, Berlin 1914, pp 655, 660.
[11] Jellinek, op. cit. , p. 647 sqq.

authority to the organs of a state fragment, the state, to the contrary, is devoid of any **immediate** supervision of its exercising, so that the state fragment obtains its own state authority, and its organs, thereby become **state organs**. To qualify still such a phenomenon as decentralization is an obvious sin committed towards the truth. Certain theoreticians, first of all Kelsen, even find the key for understanding the fundamental formations of international law in the conceptual opposition of centralization and decentralization. "Union of states and federal state", he says, "the two main types of associating states, are also distinguished only in terms of the degree of decentralization or centralization.[12] It is completely clear that only an imagination driven by the desire for originality at all cost, could create an idea of such an entity of international law which can create states and supervise the exercising of authority it has transferred to them.

The relation between a state and a state fragment within its structure is based on another legal institution, which originated in the feudal law, to speak the truth, but which occasionally appears in the post-feudal era and which due to its very origin must stand out from all other institutions of that time. This legal institution which "wanders" through one epoch after another is yet one more proof of the idea that historical periods are not divided from one other by means of insurmountable barriers. The legal institution in question is **granting** (**octroying**) **benefits** (**privileges**).[13] The following make the list of the most important state fragments of modern history: Finland within the boundaries of the Russian Empire (from 1809 to 1917); Serbia as a constituent part of the Turkish Empire (from 1812 to 1856); the British dominions: Canada, Australia, New Zealand and South Africa (till 1917); Croatia and Slavonia within the boundaries of Hungary (from 1868 to 1918); Vojvodina and Kosovo as constituent parts of Serbia (1974 to 1990). Behind each granting of privileges is a **contract**, a contract of public law concluded between the state and the state fragment which is a constituent part of the state. In case the state fragment did not discharge the obligations stated in the contract, the state would be entitled to effect certain sanctions against the fragment. In Finland, the Russian tsar set up dictatorship from 1902 to 1905. In Croatia adn Slavonia, Hungary imposed a state of emergency and commissary rule. The Assembly of the Socialist Republic of Serbia passed the Law on dissolving the Kosovo Assembly and its government on the 5th of July 1990.

The great resemblance that exists between the state fragment and the state has inspired many arguments about the legal nature of state fragments, in which it has often been claimed that the state fragment is actually one form of state, a "sub-state" (most often a vassal state) as a constituent part of another "upper state". How complex this problem is can be seen from the attempts at dating the transformation of Serbia from a state fragment into a vassal state. In the national history of state and law, it is considered that Serbia became a vassal state in 1830, having been granted an independent interior administration.[14] According to the viewpoint existent in the science of international law, Serbia was raised to the status of a vassal state much later, by the decision of the major

[12] H. Kelsen, Allgemeine Staatslehre, Berlin 1925, p. 194.

[13] On the essence of privileges see: C. L. von Haller, Restauration der Staatswissenscaft, III, 2. Aufl., Winterthur 1821, p. 344 sqq.

[14] D. Janković, in: Istorija država i prava jugoslovenskih naroda (The History of States and Laws of the Yugoslav Peoples), 4th edition, Belgrade, 1970, p. 231.

powers on the Paris Peace Conference dated on the 30th of March 1856;[15] the provision of the Article XXIX of the Paris Peace with which Turkey was forbidden to carry out military intervention in Serbia without a prior consent of the major powers is deemed particularly important. We tend to accept this last interpretation, since having an independent interior administration is not sufficient for establishing statehood. Indeed, limiting the possibilities of military intervention has great importance. However, the crucial significance can be attributed to another provision of the Paris Peace (Article XXVIII) which should be read as an acknowledgment of Serbia's **national sovereignty**: "la dite Principauté conservera son administration indépendente et **nationale**". If we except certain relics of the past, such as, for instance, miniature states, this principle is basic to every contemporary state. A vassal state is still not a completely independent state, since its territory is the same with a part of the territory of the hyper-state. That is the reason why a vassal state is devoid of full international subjectivity, i.e. the right to conclude political contracts with other states.

Let us now consider the issue of the forms of territorial autonomy in Great Britain and Northern Ireland. Before that, certain terminological clarifications should be made. The transfer of central authority to the autonomous administrative organs of Scotland, Wales and Northern Ireland is called "devolution" in the laws from 1998, in accordance with which the transfer was effected. Devolution means delegating governmental authority, at the instance of which there does not occur any cessation of supremacy for the central legislative body. The supremacy can be either legislative or administrative, or two-fold, and in its higher forms it can include exercising authority on the part of individuals or a body which, although it acts on behalf of the British Parliament, is not immediately responsible to the Parliament or the central government. It has been claimed that devolution does not affect the unity of the United Kingdom, nor does it affect the authority of the British Parliament in terms of its ability to enact laws – even in devolutionary matters – which pertain to the whole or any part of the United Kingdom, nor to repeal, amend or supplement agreements even on devolution. Thus, devolution is the same as **decentralization** (in the widest sense) of the continental law. "Decentralization" of the British law is, on the contrary, a method by means of which certain decision-making authority of the central government is wielded by officials of the central government distributed to different regions. Obviously, this is a question of **administrative deconcentration** of the continental law. After all, "regions" in the British law are not "autonomous regions" used in the sense employed here, but the largest territorial units of England, Scotland and Wales.[16]

Scotland was an independent kingdom which, since the Scottish king inherited also the English Crown in 1603, entered into a personal union with its southern neighbour. The two states made a treaty in 1706 relating to a complete union into a new state, the United Kingdom of Great Britain, which the English and Scottish Parliament ratified by means of two laws, one dating from 1706 and the other from 1707: the Union with Scotland Act and the Union with England Act. With the effecting of these two Acts, the two separate parliaments ceased to exist, having transferred their authority to the new,

[15] J. L. Kunz, Die Staatenverbindungen, Stuttgart 1929, p. 513.
[16] See: O. Hood Phillips / P. Jackson / P. Leopold, Constitutional and Administrative Law, 8th ed., London 2001, pp. 83, 88, 104 sqq.

British Parliament. Since the two fused states are not equally represented in this Parliament, it is practically an enlarged English Parliament. The Scotland Office, which by rank is equal to a ministry, was established in accordance with an act passed in 1885, later on headed by the Secretary of State for Scotland whose seat was in Edinbourgh. Over time, considerable administrative authority was transferred to this office (agriculture, health care, education, certain interior affairs). Scotland retained its characteristics of a separate legal region even after the union. Its legislature which was not in collision with the Union Treaty, remained still in force. The British Parliament obtained the authority to amend the entire earstwhile legislature. But when it comes to the Scottish private law, it cannot be amended "unless ostensibly to the benefit of the subjects within Scotland". One of the "key points" of the union is the retention of the Presbyterian Church in Scotland, and the sovereign has to vow on ascending the throne that he/she will preserve the Church. However, it is considered that its legal position is not permanently unalterable, that is, even in regard to this, the clause "rebus sic stantibus" holds; for example, the liability of university professors in Scotland to profess the religion of the said Church was abolished with the legislative provisions from 1832 and 1905. Scotland has retained its own courts, too; at the occasion of civil suits it is allowed, however, to ledge an appeal to one of the Supreme British Courts, The House of Lords, whereas in criminal law matters, there are no higher courts than the Scottish ones. Scotland has also preserved its own self-government and separate education system.

However, England did not treat Wales as a formally equal co-contractor. Originally an independent Celtic principality which was at the level of tribal self-government, Wales under the leadership of Llewelyn ap Griffith was defeated by the English king Edward I, and by the force of a legislative act (Statutum Walliae) was incorporated into the Kingdom of England in 1284. The uprisings of the Welsh people which occured in the meantime did not change the matters for the better, and an act passed by the Government of king Henry VIII in 1536 finished the process of introducing the English political and legal system into Wales, simultaneously giving the Welsh people all the rights, liabilities and privileges of the English. It was only in the twentieth century that Wales was partly acknowledged as a separate legal domain. The Welsh language became equal to the English in the legal suits conducted in Wales, the Anglican Church in Wales became independent; since the year 1945, 15 govermental ministries have been having their sections in Wales, and since 1964, there have existed the Wales Secretariate and the Secretary of State for Wales, parallel to the corresponding administrative institutions for Scotland.

As early as in 1886, the Association for the Home rule of Scotland was founded.[17] Nevertheless, the Scots, to whom the union had opened the world-wide English market, did not have any real reasons to be dissatisfied, so that the few amendments on devolution got stuck in the British Parliament, because, among other things, those amendments were not supported by a stronger majority of Scottish MPs. The attitudes toward this issue started changing for earnest both in Scotland and Wales when Great Britain entered the European Union. The dilemma that forced itself on the two was

[17] See: F. O. Og (Ogg), Političko uređenje savremene Engleske (English Government and Politics), II, translation of the 2nd edition, Belgrade 1938, p. 554 sqq.

whether it was more economically grounded for them to join the European institution separately than in a union with England. This change of attitude was particularly visible at the parliamentary election dating from 1966, when the nationalist parties in those countries won 20 percent of the vote. The pinnacle of effort put by various parliamentary commissions were the bills on Scotland and Wales from 1978. Both of the bills incorporated assembly rule, with the difference that the Scottish parliament would have not only legislative, but also administrative competence, while the Welsh parliament would have only enlarged self-government. The bills, the provisions of which provided for a referendum in Scotland and Wales, respectively, and an affirmative vote for the reforms of at least 40 percent of the entire body of electors in each country separately, were the subject matter of referenda held on the 1st of March 1979. Both of the referenda were unsuccessful. In Scotland, 32,5 percent of the entire body of electors voted in favour of the devolution, and in Wales only 11,8 percent of the voters, so that the process of enacting these bills had to be staid. The issue of devolution was not brought up before the Parliament for some time. The two major parties, the Conservative party and the Labour party, disagreed on the matter; the Conservatives were against the devolution, whereas the Labourties made it a part of their electoral programme. In 1997, when after a long period of Conservative rule the Labour party became the majority party in the British parliament, the devolution plan moved on from a standstill. First, the so-called White paper on the Scottish and Welsh devolution were issued in July 1997, and then, in the same year, the Parliament passed the Referendum in Scotland and Wales Act which was based on the White paper and did not provide for any lower limit of voters taking part in the referendum. In Scotland, out of 60 percent of the electorate, 74,3 percent of voters voted in favour of institutionalizing a Scottish parliament; in Wales, out of 51 percent of the electorate who cast their vote, 50,3 percent supported the establishment of the Welsh Assembly. Both of the devolution Acts obtained the Royal Assent in 1998, and the first elections held in accordance with the Acts took place in May 1999.

Scotland obtained the most extensive and comprehensive autonomy, owing to the Scotland Act passed on the 19th of November 1998. This law by all means presents a pattern upon which other autonomy laws were based.

According to this law, Scotland has its own parliament again, "the Scottish Parliament", the basic function of which is autonomous legislation. The domain of this legislature is determined on the principle of "negative enumeration", which means that it takes into account all the matters that are not specifically excluded, that is, the matters which remained in the jurisdiction of the British Parliament. First of all, the legislative authority of the Scottish Parliament should not "interfere with the authority of the United Kingdom Parliament to pass laws on Scotland". This shows that the Scotland Act establishes mere decentralization, according to which the British laws will always have greater legal force than the Scottish ones, and does not give (octroy) Scotland the privileges in the beforementioned sense; thus, with the Scotland Act Scotland has not become a state fragment. Furthermore, the Scottish Parliament is not authorized to enact laws with legal effect outside Scotland (exterritorial effect); laws which would be in collision with the rights stated in the European Convention or the European Comunitarian Law; laws which would eliminate Scotland's Attorney General, the Lord Advocate, as the head of the criminal persecution system in Scotland; laws which would concern the following "matters of state": constitution, political parties, foreign affairs, public officials, defence, high

treason and treason. The Scotland Act must not alter: certain provisions of the Union Act from 1706 and 1707; the Human Rights Act from 1998; sections of the Law of European Communities, as well as almost the entire Scotland Act from the year 1998.

There are eleven broad-based matters which were, in principle, placed under the jurisdiction of the Scottish Parliament and Scottish administration, but from which certain issues have been deduced and retained in the jurisdiction of the central authority. The broad-based affairs are: economy and finance, interior affairs, trade and industry, energetics, traffic, social insurance, profession regulating, employment, health care and medicine, media and culture, as well as certain miscellaneous minor items. The following domains are within the power scope of the Scottish autonomous authorities, the Parliament, the Government and its ministers: self-government, including all the financing of the self-government, education and professional training, housing construction, sport, legal system – including the judiciary and public order, agriculture, fishery, forestry, arts, village and commerce development, health care system organization (although these issues are excluded and retained by the British Parliament: abortion; embriology, surogacy, motherhood and genetics; medicines and medical requisites and poisons). It is an interesting feature that by means of a royal decree (Order in Council) issued by the central Government most of the authority established with this law can be altered, which eventually can lead to quasi-total devolution, with which the autonomous agencies would exercise the entire executive power, whereas the central agencies would retain only their supervisory authorizations.

As opposed to the elections to the British Parliament, which are based on the majority electoral system, the elections to the national assemblies of Scotland, Wales and Northern Ireland are based on the proportional electoral system, the system of electoral lists, according to the so-called d'Hondt formula, with the introduction of which the British legislators wanted to stimulate easier formation of coalition governments, which actually occured in reality. In regard to the elections for all the three autonomous national assemblies, the organizational and supervisory competence belong with the appointed state secretaries as representatives of the central Government.

The Scottish Parliament and its activity is under the supervision of the central Government. The formation of this supervision depends on the state structure of the United Kingdom as a parliamentary monarchy. This supervision can be either **indirect** or **a priori**. The indirect supervision lies in the prerogatives of the British monarch (practically the British Government) to dissolve the Parliament and request the holding of early elections.[18]

The a priori supervision is contained, first of all, in the institution of Royal Assent; a legal text enacted in the Scottish (analogous to the British) Parliament is only a bill unless it obtains the Royal Assent ("sanction"). The Scotland Act provides for further instances of a priori supervision, the sanction of which is a ban on bringing in certain bills for obtaining the Royal Assent. First, the ban is effective if one of the Supreme Courts in Britain, the Judicial Committee of the Privy Council, at the behest of any of the highest order British or Scottish legal officials (the Advocate General, the Lord Advocate, the Attorney General) finds that the disputed bill or any of its provisions

[18] See: Hood Phillips / Jackson / Leopold, op. cit., p. 95.

transgresses the legislative competence of the Scottish Parliament. Second, the Secretary of State for Scotland can stay a legislative procedure by way of order if the Secretary should have a valid reason to believe that any of the provisions of the bill is incompatible with international obligations, or defence interests, or national security, or that it may have any adverse effect on the law applied in reserved matters. The ban must be well justified and accounted for.

The top of the Scottish autonomous administrative power is occupied by the Government, formally named "the Scottish Executive". It is composed of the First Minister and Ministers subjugated to him, as well as high legal official, the Lord Advocate and his/her deputy Solicitor General. The Scottish Executive is a government which favours the assembly form of administration; the Scottish Parliament can overthrow it by voting negatively on a confidence vote, but it is not empowered to dissolve the Parliament: in terms of government, the Parliament can be dissolved only if it is not in a position to elect the First Minister. The First Minister, the Ministers and their deputies must be members of the Scottish Parliament.

Within their devolved competence, Scottish Ministers exercise the same functions exercised by the Ministers of the Crown in the matters which are in the scope of that jurisdiction. It is rather interesting that the Scottish Executive wields its devolved power as a representative body of the Crown, which definitively points to a personal union that existed before the complete union of England and Scotland. Beside this, Scottish Ministers can be delegated further authority by means of the laws enacted by the Scottish Parliament; here we can take into consideration the authority for enacting by-laws. The supreme autonomous administrative power belongs to the Scottish ministers as a collective body, but, if we disregard the specific authority of the First Minister and the Lord Advocate, its attributes can be assigned to each of the individual members of the Scottish Government. The Scotland Act enumerates other issues (mainly of administrative and technical nature) which are partially excepted from the general transfer; these are functions that can be performed by the Crown Ministers and the Scottish Ministers alike (shared powers). Nevertheless, when it comes to the liabilities that are derived from the European Communitarian Law, their discharging even in Scotland still comes within the competence of the corresponding Minister of the Crown.

The supervisory activity of the central administration over the Scottish Ministers is shaped in a manner similar to the supervision of this administration over the Scottish Parliament and its activity. This supervision, too, can occur either in its **indirect** or its **a priori** form. The indirect supervision is manifested in the prerogatives of the monarch (Her Royal Majesty the Queen) to appoint and release the First Minister, the Ministers and their Deputies of the Scottish Executive. The a priori supervision lies in the following authority of the Secretary of State for Scotland. First, if there are sufficient grounds to believe that certain action, the taking of which has been proposed by a member of the Scottish Executive, will be inconsistent with international obligations, the Secretary can order the dismissal of that action. Second, if there are sufficient grounds to believe that certain action by a member of the Scottish Executive is necessary so that an international commitment can be met, the Secretary can order the taking of this action. Third, the Secretary's order can revoke a by-law which is within the jurisdiction of a member of the Scottish Executive, if there are cogent reasons to believe that this document contains provisions which are incompatible with international obligations, or defence interests of

the country, national security, or which alter the law that is applied on reserved matters, and the Secretary has valid reasons to trust that these provisions will produce adverse effects on the law applied in these matters. The order of the Secretary of State for Scotland must be well justified and accounted for.

With regard to the membership in the European Union, the central government has also met the wishes of Scotland, so that Scotland has obtained possibilities very similar to those of the German federal provinces in the European institutions. Scottish Ministers participate in the sessions of the Ministerial Council when questions from devolved jurisdiction are taken into consideration. In certain cases, these ministers are even entitled to formulate the standpoint of Great Britain. Scotland was even granted a permission to have its own representative office in Brussels, and this office was opened on the 1st of July 1999.

Notwithstanding this, Scotland, Wales and Northern Ireland **possess no financial autonomy**. Their incomes are dependent upon the British Parliament. In this respect Scotland presents an exception, since the Scottish Parliament can increase or decrease the basic income tax rate for Scottish tax payers for as much as 3 percent, as determined by the Parliament of the United Kingdom.

The Government of Wales Act dating from the 31st of July 1998 established that the agency of that Government be the National Assembly for Wales. No original legislative authority has been transferred to this Assembly; the British Parliament remains the sole legislator for Wales. The National Assembly has obtained only those authorities which before its establishment belonged to the State Secretary for Wales as a member of the British Government and the head of the Service (Ministry) for Wales. Strictly speaking, Wales has obtained only a self-government of the highest order within the United Kingdom. However, the Secretary of State for Wales did not have only administrative power in the narrower sense, completely determined by legal regulations, but also the laws that he enforced to a large extent contained general stipulations which the Secretary complemented independently with by-laws, in what can be concerned as real **delegated legislation**. The intention of the British Parliament is to delegate broader legislative competence to the National Assembly for Wales in the future.[19] Thus, Wales is entitled to have a multilateral administration government – and in this respect the legal title (The Government of Wales Act) is quite appropriate – and subsequently "actual autonomy". The National Assembly adopts by-laws known as "Assembly Orders", but also circulars which contain political declarations and give instructions on how to enforce legal authority.

Here is a list of matters in which the National Assembly has been figuring ever since the year 1999 as the carrier of delegated legislative power: agriculture; forestry; fishery and food; culture (including museums, galleries and bookshops); economic development; education and professional training; the environment; health care and health care services; highways; housing construction; industry; local government; social services; sport and leisure; tourism; town and country planning; transport and roads; protection against floods and the Welsh language. The Government of Wales Act determines the supervison of the authorized Minister of the Crown over of the National Assembly for

[19] See: Hood Phillips / Jackson / Leopold, op. cit., p. 102.

Wales in regard to the activities which involve the European Communitarian Law, human rights and international obligations.

This Act obliges the National Assembly to appoint certain office-holders (the Chairperson and its deputy, the Assembly First Secretary) and establish certain Committees (for example, each region in Wales has to be represented by its regional committee which possesses certain consultative authorizations). However, consistent to its understanding of the National Assembly as a form of executive conseil, the legislator did not institute a separate executive body along with the Assembly, but only obliged it to form its own "Executive Committee". Thus, the assembly form of government was established for Wales. However, the National Assembly itself renamed this committee as "Cabinet", and its members "Ministers", headed by the "First Minister". Simultaneously, making use of its legal right to delegate the authorities and functions of the National Assembly, it strengthened the legal position of the "Cabinet" and the "First Minister", so that in this roundabout way, the Assembly introduced a parliamentary government.[20] This example sufficiently speaks of the discrepancy that exists between the purely assembly form of government and the system of government of parliamentary ("representative") political parties. Beside this, the committees can sub-delegate their authority to sub-committees.

It is worth mentioning that of all citizens of the autonomous territories, it is only to the Welsh that the British Parliament has specifically acknowledged the character of a nation, since only the Welsh possess their own mother tongue and culture, whereas the mother tongue of the Scots and the Northern Irish is English.

Completely different is the legal-historical background which significantly influenced the shaping of the autonomy of Northern Ireland. This background is, however, inseparable from the totality of Anglo-Irish relations.[21]

In the year 1171, the English subdued the Irish and started populating Ireland, but they encountered a fierce resistance on the part of the warlike Celtic tribes. Eventually, the stronger civilization overpowered: the English monarch ruled over Ireland through the Lord Deputy of Ireland, but Ireland was not a part of England and it had its own Parliament, which in 1494 became subordinate to the English legislation. The relations between England and Ireland may have developed similarly to the Anglo-Scottish ones if it had not been for the religious factor. In the sixteenth century, a great majority of the English, Scottish and Welsh accepted Protestantism, whereas the majority of Irish remained loyal to the Roman-Catholic Church. In England, fanatic Protestants established a short-termed Republic (from 1649 to 1660) which encompassed Scotland and Ireland (Commonwealth of England, Scotland and Ireland) and whose head (Lord Protector) was the military leader Oliver Cromwell. (The Constitution of this short-lived Republic had a strong impact on the long-lived Constitution of the United States of America dating from 1787!) Provoked by the attrocities which the Irish Catholics had committed over the Protestant minority, Cromwell entered Ireland leading his Puritan army; in the pogroms, deportations and confiscations done by Cromwell's army almost the entire Irish nobility had been destroyed; and yet the consequence of this very act was

[20] Hood Phillips / Jackson / Leopold, op. cit., p. 103.
[21] An extensive literature on this issue is osqqered by Kunz, op. cit. , p. 746, note 4. Also see: Og (Ogg), op. cit., II, p. 557 sqq.

that the Irish masses were driven to the leadership of the Catholic clergy.[22] It is perhaps worth mentioning that Cromwell, the father of Anglo-Saxon nationalism and imperialism, in his "Proclamation Addressed to the Irish People" from 1650, justified his campaign against this wretched people with the intention of bringing "liberty and fortune" to the Irish.[23] Ever since then, this motto will have served as a tool of the Anglo-Saxon imperialism. The Irish Catholics responded with fanatic hatred to this attempt of the English to "liberate" and "make them fortunate" primarily by imposing their confession on the Irish. The same kind of hatred, to speak but the truth, existed on the other side, as well. The so-called "Test Act" from 1672, deprived the Roman Catholics of the possibility to become Members of the Parliament and Office-holders of the Crown.

This mutual hatred will reach its peak several decades later, when the Irish, who formed alliances with all of the enemies of England, accepted the overthrown English king, Catholic James II, thus having started a revolt against the new king, Protestant William III of Orange. The two armies, the English-Protestant and the Irish-Catholic, clashed on the Irish soil in 1690 and 1691, and on both occasions the English-Protestant army won. Harsh oppression of the defeated side soon ensued: the Roman Catholics were forbidden to carry firearms and to be teachers; their right to possess land was abrogated, severe restrictions were imposed on the Irish trade. The Irish people, who would not reconcile with such a fate, took to a different mode of political struggle: secret societies. One of the most authoritative books on the subject has a chapter dedicated to these societies, the chapter being titled: "Ireland, an Eldorado of Secret Associations."[24] Of all Irish secret societies, which are considered responsible for countless political assassinations and acts of terrorism, the best known today are the Roman Catholic "Irish Republican Army" (IRA) and the Protestant "Orange League", which is organized into lodges upon the model of the free masons and one of the Great Masters of which was to become a future British king. When towards the end of the XVIII century Great Britain again found itself in considerable difficulties due to the war with revolutionary France, the secret societies, counting on financing from the USA and the military support by the French, started preparing a new uprising. This rebellion broke out in 1798, when the French troops disembarked on the Irish land. One of the many reasons that the rebellion was put down was that the Irish Protestants utterly sided with the English army. Now the Government in London considered that it would be most appropriate if Ireland completely united with Great Britain; the pattern for doing that was supposed to be the one of the union of England and Scotland. The Union with Ireland Act was passed in 1800, ratified also by the Irish Parliament composed only of Protestant members who had publicly received large sums of money for their votes as a bribe – in accordance with the custom of the day. The time of restoring the civil rights of the Roman Catholics was drawing near and the British authorities did not want to have the Irish Parliament with a Catholic majority in its opposition. This leveling of the Catholics with other citizens was proclaimed in a form of law, the Roman Catholic Relief Act, dating from 1829.

On the other hand, the Irish were now in a position to use the British Parliament for their own propagandistic purposes. Furthermore, the opinion of the public in England

[22] A. Maurois, Die Geschichte Englands, Wien / Leipzig 1937, p. 370.
[23] See: H. Kohn, The Idea of Nationalism. A Study in Its Origins and Background, New York 1956, p. 177.
[24] E. Lennhoff, Politische Geheimbünde, Neu bearbeitet v. W. Gebühr, München / Wien 1968, p. 159.

was undergoing a change, it was becoming more tolerant, and an increasing number of the English themselves shared the viewpoint that Ireland should be given its "internal independence" (home rule). So, the prominent British statesment Gladstone (1809-1898) created a bill of this "internal independence" for Ireland, modelled on the legal position of Croatia and Slavonia in Hungary upon the Agreement in 1868. According to this bill, the legal position of Ireland would correspond to the legal position of Croatia-Slavonia, and the position of Great Britain to that of Hungary.[25] Nevertheless, all the compromise propositions failed, first of all, due to the remonstration on the part of the Irish people themselves: the Roman Catholics demanded either complete independence in the form of a republic (intercessor: the Sinn Fein party, where Sinn Fein translated from the Irish means "we ourselves") or a union with Great Britain similar to the union between Austria and Hungary, while the Protestants from the northern part of the island would not accept any distancing from England. When serious difficulties again befell Great Britain as a side taking part in the World War I, the Irish Catholic revolutionaries tried their luck anew with another insurrection; the rebellion this time broke out on Easter 1916 and the "Irish Republic" with a temporary government was proclaimed, which, however, after a short success at the very beginning had to down the weapons before the awesome fire of the British artillery. Exasperated because of this "stab in the back", the English condemned most of the leaders of the rebellion to death; their execution would push all the Irish Catholics over to the revolutionary camp.

Quite unexpectedly, in 1920 the British Parliament passed the Goverment of Ireland Act which provided for the division of the island into the northern and southern part and two separate autonomous Irish Parliaments, and which took effect only in Northern Ireland, since Southern Ireland (Sinn Fein) rejected to acknowledge it. After painstaking negotiations, during which the Irish Civil War was taking place, the British Parliament passed two laws in 1922 by which it recognized and constituted the Southern Ireland as "Free State of Ireland " with the status of a dominion similar to that of Canada. As such, the "Free State" became an equal member of the British Commonwealth of Nations. Recognizing the secession of the Republic of Ireland, the British Ireland Act dating from the same year also regulates the following matter: "It is hereby declared that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom, and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without consent of the Parliament fo Northern Ireland." This provision was meant, as a response to the pretensions of the Catholic Republic to the whole island, to indicate that in any potential future negotiations on the union of Ireland, the Northern Irish Protestants must be an inevitable participant.

In accordance with the mentioned Goverment of Ireland Act, Northern Ireland had a two-chamber Parliament (the Senat and the House of Communes with the preponderance of the House of Communes) as the legislative body, as well as the Governor as the representative of the Crown and the Cabinet headed by the Prime Minister as executive agencies. It had its own courts the last resort of which was the Supreme Court and the Criminal Court of Appeal. An appeal against the rulings of both the resorts can be filed

[25] Kunz, op. cit. , p. 747.

with the House of Lords which also had the authority of examining the validity of the Northern Ireland legislation.

The legislative competence of the Northern Ireland Parliament was determined upon the principle of "negative enumeration". The Parliament was authorized to enact legislation necessary for "the peace, order and good government" of Northern Ireland. The boundary of this general clause was described by certain exceptions and reservations. "Excepted matters" were matters that concerned imperial issues in deciding upon which the Northern Ireland Parliament had absolutely no authority, for example: the matters that concerned the Crown, peace and war, defence and armed forces, foreign affairs and affairs within the Empire, citizenship and supervision of foreigners, export, monetary emission, wireless telegraphy, patents and copyright. "Reserved matters" were issues of narrower importance which the Parliament of the United Kingdom reserved as its own regulatory domain, particularly: postal service, purchase of land, as well as taxes that the British Parliament continued to collect (primarily income tax, customs duty and excise payments). At that, the legislation of Northern Ireland was in every respect subordinated to the laws of the United Kingdom. Thus, even if a British Parliament law would regulate an issue from the competence of the Northern Ireland Parliament, an act of the Northern Ireland Parliament which would be contrary to that law, would be considered null and void to the extent of the disparity between the two. Further on, the Northern Ireland Parliament was not allowed to enact laws which would establish or ban confessions, or levy a general capital tax. On the other hand, the legislation of the Northern Ireland Parliament was not particularly original; its laws were mainly British adapted to the given local circumstances.

Northern Ireland had financial autonomy to a certain degree. It could cover its budget income by means of levying different types of taxes, particularly real estate tax, fiscal stamps, motor vehicle tax, games tax, mining claim and mining rights tax, betting shops. Despite this, the taxes were usually insufficient for covering the expenses, so that Northern Ireland had to obtain financial aid from the central budget.[26]

The autonomous laws and their application, however, could not stabilize the life in Northern Ireland. Political murders and other acts of terrorism, on one hand, and the fact that the Catholic minority was not present in administrative institutions, so that religious affiliation became class distinction, on the other, forced the United Kingdom to engage military forces in 1969 to stop the riots in Northern Ireland, and afterwards, in 1972 to formally suspend its autonomy. When it became clear to both of the sides that they would not be able to achieve a victory in the conflict, negotiations took place, first of all between the United Kingdom and the Republic of (Southern) Ireland. The negotiations between the Protestant and the Roman Catholic parties ensued, and the whole diplomatic effort was ended on Good Friday in 1998, with the so-called "Belfast Agreement". In May 1998, a referendum was conducted on the fate of the Belfast Agreement in both Northern Ireland and the Republic of Ireland. In Northern Ireland the turnout of the voters was 80,98 percent of the total, out of which number 71,2 percent endorsed the Agreement, whereas in the Republic of Ireland 55,47 percent of the voters voted on the

[26] See: O. Hood Phillips, The Constitutional Law of Great Britain and the Commonwealth, assisted by G. Ellenbogen, London, s.a., p. 617.

referendum, but 94 percent of the vote were in favour of the Agreement. On the basis of the Belfast Agreement, as its most important implement, on the 19th of November 1998 the United Kingdom Parliament passed the Northern Ireland Act which replaced the suspended Goverment of Ireland Act from the year 1920.

The Northern Ireland Act provides for the remaining of this region within the United Kingdom and for the status of Northern Ireland which will stay the same until, on a referendum conducted for this purpose, the majority of the citizens of Northern Ireland vote in favour of Northern Ireland becoming a part of unified Ireland. This is not an acknowledgment of the right to self-determination of Northern Ireland in the real sense, since it cannot establish itself as an independent state, but Northern Ireland can opt for the United Kingdom or the Republic of Ireland. The acknowledgement of such a right is nothing unusual when it comes to parts of different states. For the sake of illustration, the Versaille Peace Accord from the 28th of June 1919 determined such "cross-community counselling" and plebiscites for the territories of the basin Sara, Upper Slesia, for a part of eastern Prussia and the province of Schleswig.

Autonomous legislation was devolved to the Northern Ireland Assembly in a general way, but the scope of this legislation is narrower even than the scope of the autonomous legislation in the Government of Ireland Act and the autonomous legislation of Scotland.

The Northern Ireland Act makes a distinction between "transferred matters", "excepted matters" and "reserved matters". "Transferred matters", which incorporate all those matters that are neither "excepted matters" nor "reserved matters", and are part of the jurisdiction of the Assembly and the Executive Committee of Northern Ireland. "Excepted matters" are such matters as could not be transferred to the autonomous agencies, and which include: the issues of the Crown; the British Parliament; foreign affairs; defence; high treason; treason; national security; nuclear energy; the Constitution of Northern Ireland , including parts of the Northern Ireland Act from 1998. "Reserved matters" are many and, among other things, those concern: the property of the Crown, postal services, criminal law, fire arms and explosives, telecommunications, measures, surrogacy, data protection and consumer protection. It is particularly important that the judicature and the police are completely exempt from the scope of autonomous legislature of Northern Ireland.

However, even within the autonomous domain, the laws of Northern Ireland cannot: have extraterritorial effect; deal with "excepted matters" unless in an accessory way; be in contradiction to the rights of the European Convention on Human Rights or the European Communitarian Law; discriminate individuals or groups of people on religious or political grounds; alter certain of the strictly protected legal provisions and acts (such as, for example, Human Rights Act from 1998).

The legislative competence of the Northern Ireland Assembly covers agriculture, environment, education, health care (except for embriology and genetics), employment policy, public office-holder status and social care. The Assembly can delegate its functions to certain ministers or agencies of Northern Ireland.

As it is the case with Scotland, the focus of supervisory authority over the Northern Ireland legislation lies with a priori supervision. The laws of Northern Ireland, just as those of Scotland, have to obtain Royal Assent in order to be legally effective, but there does not exist any liability on the part of the monarch to give such consent. Further on, the Attorney General of Northern Ireland, who is a Minister in the Government of the

United Kingdom, as opposed to the similar office-holder from Scotland, can file a demand with the Tribunal of the Privy Council within a certain period of time to investigate if a bill is within the frame of authority of the Northern Ireland Assembly. The State Secretary for Northern Ireland (also a Minister of the central Government), who is entitled to seek Royal Assent for the laws of Northern Ireland, can deny to do that in many cases. A characteristic of the legal proceedings of Northern Ireland is that they include as mandatory members such bodies as the Civic Forum, which has to be consulted on social, cultural and economic dimensions of the bills, as well as certain committees of the Assembly with the authority to examine the bills for the sake of ensuring their correspondence with the demands of parity and human rights.

The State Secretary for Northern Ireland performs a preventive and repressive supervision over this delegated legislation which is not supposed to surpass the limits set to the original legislation. This supervision is shaped in a way similar to that one of the supervision of the Sate Secretary for Scotland, but is considerably wider in range. Thus, it presents a way of protecting not only "excepted matters" and "reserved matters", international obligations, defence and national security interests, but also public safety, public order and a unified market of goods and services within the United Kingdom. All in all, the State Secretary for Northern Ireland is the **dictator of Northern Ireland**. This person has also reserved the responsibility for general police forces, security police, prisons, criminal law, foreign affairs, taxation, national insurance companies, financial service regulation, as well as regulating the operation of telecommunications and radio.

The monarch (Her Majesty the Queen) is all the same at the top of the autonomous administration in Northern Ireland. The immediate responsibility for this administration lies with the Executive Committee which is a kind of governmnent of Northern Ireland. It is completely constructed with regard to the principle of power sharing, which is supposed to reflect the dualism of the Protestants ("Unionists") and Roman-Catholics ("Nationalists") within the Northern Ireland Assembly. It is the Assembly that elects the First Minister and the Deputy First Minister as a team, and both of them are marked as the chairpersons of the Executive Committee of Northern Ireland. Other members of the Committee include Ministers of Northern Ireland, the number of which cannot exceed ten. The Ministers of the Northern Ireland Assembly are elected regarding the proportional electoral system, in accordance with the d'Hondt formula. The First Minister and the Deputy First Minister have no rights whatsoever in terms of appointing or resolving Ministers, nor does there exist any collective responsibility of the Executive Committee to the Northern Ireland Assembly. Thus, a kind of directorial form of government has been established in Northern Ireland.

The Government of the United Kingdom makes an important factor of material legislation concerning Northern Ireland, a factor which can alter the authority of the Northern Ireland Assembly by expanding it or reducing it. This function is performed by the Government on the basis of the royal decree (Order in Council), with the provision that the draft of this decree is supposed to be authorized by the resolutions of the Houses of the British Parliament. This shows that the central authorities have decided to retain full control over every legal situation in Northern Ireland.

The Belfast Agreement established two councils with inter-national elements: the North-South Ministerial Council and the British-Irish Council. The North-South Ministerial Council encompasses Ministers of the Northern Ireland Assembly and the Govern-

ment of the Republic of Ireland. The purpose of this Council is developing consultation, cooperation and implementation of matters of mutual interest to the two countries. The policy decisions are carried out by the "Implementation Bodies for North-South". The British-Irish Council has been founded on a broader base and is composed of representatives of the British Government, the Irish Government, the Northern Ireland Assembly, the National Assembly for Wales, as well as the institutions of the Isle of Man and the Channel (Norman) Islands. The purpose of this Council is furthering harmonious relations among different governments, parliaments and institutions.

In spite of all that, this achievement of exceptional political and legal inventiveness did not survive the test of reality. Due to a crisis in the peace process, the State Secretary for Northern Ireland introduced short-term suspensions of the Northern Ireland autonomous institutions on several occasions. However, on the 14th of October 2002 he was finally incited to state the measure of permanent suspension of the said institutions. With this, obviously, another chapter of public law in Northern Ireland was closed.

SUŠTINA REGIONA – s naročitim osvrtom na najnovije vidove regionalizacije: Škotske, Velsa i Severne Irske u Ujedinjenom Kraljevstvu Velike Britanije i Severne Irske

Milan Petrović

*U mišljenjima i predlozima za izmene ustava Republike Srbije, koji se već duže vremena, s najrazličitijih strana, unose u javni život ove Republike, često se naglašava potreba njene regionalizacije. Da li ta potreba uistinu postoji i, ukoliko se na to pitanje potvrdno odgovori, kakva ta regionalizacija treba da bude, na ta pitanja moguće je ispravno odgovoriti jedino ako se zbilja spozna šta zapravo region ili regioni jesu. A o tome ne samo u najširoj, već i u stručnoj javnosti, vladaju goleme nedoumice. Razlog tome je ne naposletku taj, što se regioni javljaju kao krajnje različiti institucionalni oblici, kao "cvetovi u hiljadama boja". Zato je, da bi se rečene nedoumice razvejale, potrebno jasno naučno saznanje zasnovano na ispravnoj sistematizaciji i klasifikaciji svih pojavnih oblika regiona. To bi, u idealnom slučaju, trebalo da bude i namera koja nosi ovaj tekst. Ali, ovde se ta namera, zbog ogromnosti građe, ipak ne može sasvim odelotvoriti. Zato će se ovaj tekst, pored pravno teorijskih, logičkih razmatranja, ograničiti na analizu najaktuelnijih i, možda, trenutno najmerodavnijih formi regiona. Što se starijih oblika tiče, izvesnu sliku o njima pruža naša studija "Regioni (oblici teritorijalne autonomije) u teoriji prava i pravnoj istoriji", koji se pojavio u broju 112-113/2002 Letopisa Matice srpske kao i, na engleskom, u časopisu Facta universitatis, Series Law and Politics, vol. 1 za 2002. godinu. No, pre svega treba imati u vidu to, da regionalizacija počiva na manjim ili većim **političkim razlikama i suprotnostima**; region je **političko omeđivanje** prema prostoru koji ga okružuje.*

Ključne reči: *upravna dekoncentracija, decentralizacija, teritorijalna autonomija, državni fragment, oktroisanje privilegija.*