

ANALYSIS OF THE IMPORTANCE OF THE EUROPEAN CHARTER OF REGIONAL AUTONOMY (DEMOCRACY)*

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Abstract. *Despite Serbia's adoption of certain documents suggesting its readiness to undertake regionalization such as the Agreement on Stabilization and Integration (ASI), Strategy of the Regional Development of the Republic of Serbia for the Period from 2007 to 2012, Act on Regional Development (2009) and the like, still the fact remains that no concrete actions in that sense have taken place so far. The essence is in the fact that political, economic, legal and other elites preserve their old unitary concept without taking into consideration unequal regional development, all for the sake of preserving their centralistic and protectionist way of ruling the society which befits only their interests. In that sense, the Serbian society remains at the level of a pre-political system since, in that sense, the state still appears to be the only institution which determines the degree of its citizens' freedom. The stress put on the given documents affirming the regional approach to the state structure, first of all, on the European Declaration of Regional Autonomy (1997) as much as Helsinki Declaration of Regional Self-Government (2002) and the Draft European Charter of Regional Democracy (2008) clearly shows the intention to present, anew, Serbian people with the necessary paths of social development regarding the fact that the basic aspiration of all the efforts made by the contemporary democratic processes is the realization of greater rights and liberties of each citizen, that is, the institutional inclusion into social processes of all the citizens at many levels (from local through county and regional to central). With respect to these approaches, it is necessary for the Serbian political-legal and economic-social sphere – with all the subsystem aspects - to free itself from the traditional unitary concept (characteristic for the nineteenth and early twentieth centuries) for the sake of greater pluralism of the society which also implies greater equality and equal rights for all the citizens. With such transformation as the goal to reach, it is sure that the ideas of regionalism, through given documents and principles that most certainly include subsidiarity, should represent the genuine support for its realization.*

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A new approach to the social organization implies that the Serbian political and legal scene must undergo a change in the very concept of the state as an institution – namely, that it does no longer figure out as the only subject, that is, that the concept of sovereignty (as the main attribute of subjectivity) cannot be understood in a strictly traditional way any more. In this case no state integrity is in question – though the opposite is the misconception very often promoted by the opponents of regionalization; what is at issues here is, above all, the relationship which is established in the state, namely between its citizens and its elite ruling it. In other words, the centralist, oligarchic and, not rarely, despotic form of ruling the state and the society is the aspects that should undergo changes as suggested by all the intentions of the democratic standards focused in a more recent history in the European Charter of Regional Autonomy and the Draft European Charter of Regional Democracy. Speaking more concretely, the Serbian citizenry is presented with the aspects of the indispensable changes at several levels without which there is no democratization or closer relationships between public affairs and citizens. The achievement of the given social changes in the Serbian society as well, as pointed out in the documents of international importance, most of all, European Charter of Local Autonomy as the first notable act, implies that it is necessary to 1) introduce democratization in the governing institutions, 2) affirm political pluralism, 3) change the concept of autonomy and 4) enable integration processes on the principle of international cooperation. The given plans of the democratic paradigm are supported in the text with particular articles quoted from many documents whose purpose is to present the public with those approaches to social organization that provide it with the essential trait, namely, that all citizens are equal, with equal rights, with the same responsibility and solidarity..

Key words: *democracy, unitarism, regionalization, autonomy, equality, equal rights.*

1. INTRODUCTION

In view of certain social changes suggesting that Serbia will get regionalized, most of all, in view of the Agreement on Stabilization and Integration (ASI), Strategy of the Regional Development of the Republic of Serbia for the Period from 2007 to 2012, Act on Regional Development (2009)¹ – as omitted to be done in the new Constitution (2006)² – it becomes sure that Serbia will, in its near future, find itself in the situation to take into consideration the European Charter of Regional Autonomy,³ that is, now more actual (though still in the draft form) European Charter of Regional Democracy (2008). Hence, this text tends to re-actualize the importance of the intentions of the Council of Europe and its impact on further development of the Serbian society through the concept of regionalization on its way to the integration into EU.

¹ Act on Regional Development is adopted by the National Assembly of the Republic of Serbia on July 8, 2009, at the proposal submitted by the Ministry of Economy and Regional Development. The professional public has missed to see in this Act a step toward decentralization of Serbia - since this is the problem of administrative de-concentration resting upon functioning of the centralist approach instead of coming closer toward citizens in the areas of governing and use of means.

² The Constitution of the Republic of Serbia was proclaimed in the National Assembly on November 11, 2006

³ *European Charter of Regional Self-Government*, Congress of Local and Regional Authorities of Europe, Council of Europe, 1997

With respect to the given Charter, particular aspects of the Helsinki Declaration of Regional Self-Government (2002)⁴ and the Draft European Charter of Regional Democracy (2008)⁵ that have come into being as a sort of summary of all the considerations of particular legal-political practice in some member countries of the Council of Europe. To that extent these documents are in a way integral parts of the subject treated in this paper.

Stressing the significance of regionalization through the European Charter of Regional Autonomy (Democracy) actually points to its specific character in its intention to change the overall legal-political practice of the Serbian society in view of new system options, even more so when it is known that the international community transforms this aspect of social organization into a convention that suggests the rules for each country which is on its way to democratization, decentralization and affirmation of pluralist social system. An additional reason to initiate a dialogue about the importance of the European Charter of Regional Autonomy is that, to repeat, the Serbian society will have to take an attitude toward regional democracy just as the National Assembly, on July 23, 2007, ratified the Act on Acceptance of the European Charter of Local Self-Government⁶ though the given Charter was adopted as far back as 1985.

Since the application of the concept of regionalism has found its justification in many countries of developed democracy and the states that have recently joined the EU – all this depending on the tradition and the most immediate contemporary conditions of the given society⁷ - it can be pointed out that the practice of *indirect political right* has created such a social constellation that the expansion is evident of the system abilities regarding equalities in freedom (*isoleftism*), before law (*isonomy*) and rights to participation in government (*isocracy*).

⁴ Helsinki Declaration on Regional Self-Government adopted by the attending ministers at the thirteenth conference of the European Ministers in charge of a set of local and regional authorities in Helsinki, June 27-28, 2002

⁵ Draft European Charter of Regional Democracy in its Key Elements of Regional Democracy stresses: "Principle of Democratic Governance", "Citizen Participation", "Principle of Subsidiarity", "Principle of Good Governance and Administration", "Concept and Definition of Regional Authority", "Relations with Local Authorities", "Principle of Loyalty and Respect for Territorial Integrity", "Principle of Cohesion", "Constitutional or Legal Basis of Regional Self-Government", "Scope of Regional Self-Government", "Right of Initiative", "Regional Elected Bodies", "Conditions of Office of Elected Representatives Composing Regional Bodies", "Resources of Regional Authorities", "Self-organization of Regional Authorities", "Right of Association, Inter-regional Co-operation and External Relations", "Right to be Consulted", "Supervision of Regional Authority Acts" and "Protection of Regional Self-Government."

⁶ *European Charter of Local Self-Government*, Council of Europe, No. 122, October, 15, 1985

⁷ About experiences of West European countries with the models of regional organization there are many texts. In this case, and for your information only, we are mentioning two, namely, Dr Irena Pejić, ph. d. (2007) "Decentralizacija vlasti i organizovanja regionalnih jedinica" ("Decentralization of Government and Organization of Regional Units"), in *Ka regionalnoj državi (Toward Regional State)*, Niš: Filozofski fakultet Univerziteta u Nišu, and Dr Nadija Skenderović-Čuk, (2002), "Evropske koncepcije regionalizma" ("European Conceptions of Regionalism"), in *Sandžak multietnička regija - evropska iskustva (Sandjak: A Multiethnic Region - European Experiences)*, Novi Pazar: Centar za regionalizam - Novi Pazar and NIŠP "Sandžačke novine". In N. Čuk's paper it is emphasized that regionalization takes place, on principle, through three aspects, namely, as *regionalization by adjusting the existing institutions* (Holland, Germany and Great Britain), as *regional decentralization* (France, Portugal and, to some extent, Greece and Turkey) and as *institutional (political) regionalization* (Spain, Italy and Belgium) which has, meanwhile, become a federal state.

Since our public does not take the social concept of regionalism as an urgent goal despite devastating data about economic, social, demographic and other aspects that characterize other parts of Serbia apart from Belgrade and Novi Sad, a basic survey of the main aspects of defining regionalization according to the all-inclusive document of the Council of Europe, European Charter of Regional Autonomy, is given here. This need is also evident when we come to think of all possible reactions to the statement made by the President of Serbia in which he says, to paraphrase, that constitutional changes to solve the issue of regionalization and decentralization of Serbia are possible. It is not natural that only Vojvodina, he remarks, is the region with the defined rights in Serbia when the other regions want the same kind of rights. With Vojvodina, he observes, as the only one region, Serbia would be an asymmetrical state; therefore, we should, he adds, change and improve upon our Constitution in terms of the issue of regionalization.⁸

2. ASPECTS OF THE IMPORTANCE OF THE EUROPEAN CHARTER OF REGIONAL AUTONOMY (DEMOCRACY)

In order to get out of the social crisis which was felt before and after eighties, when the ideas of unitary national states gave out regressive results, the European efforts have resulted in a series of documents critically directed toward centralized communities, all for the sake of affirming other kinds of social organization. Their intention was to establish additional levels of citizens' subjectivity as the condition needed for the realization of a democratically structured government no matter if it was the *Madrid Convention on Transfrontier Cooperation* (1980) or *European Charter of Local Self-Government* (1985). However, the efforts invested into making the documents related to the *regional autonomy* (starting from 1993, at the Conference held in Geneva) created, already by mid-1997, the initial space for issuing the *European Charter of Regional Autonomy* (through Recommendations No. 34) as a significant legal document.⁹ Thus the frame process for reorganization of Europe was completed with special tasks for the subsequent period of time – for it is the issue of initiating the institutionalization of the principle of autonomy – through the right to bring about legal acts by which the original jurisdictions of the units wider than local self-government are defined in view of the fact that the basic standards are set for all the countries wishing to expand the democratic principles and to get integrated into Europe.

The significance of the *European Charter of Regional Autonomy* lies in the fact that it requires the changes in the social practice through several aspects:

- (a) it introduces *democratization of the government institutions*,
- (b) it affirms *political pluralism*,
- (c) it changes *the concept of autonomy*, and,
- (d) enables *integration processes on the principle of inter-regional cooperation*.

⁸ The above-quoted interview of the President of Serbia, published in the *Večernje novosti* on April 29 2009 led to some fifty articles in daily papers and weeklies as well as many roundtables in Belgrade and other towns which speaks well enough about its causing quite turbulence in the Serbian public.

⁹ The Council of Europe has continued, in addition to the issuing of the *Helsinki Declaration on Regional Self Government*, to build upon this aspect of social organization by adopting the following documents at its Council of Ministers: *Declaration from Valence* (2007) and the *Draft European Charter of Regional Democracy* (2008)

(a) The concept of regional idea promotes the system social changes which denote *democratization of the society by changing the character of the governing institutions* thus providing for "right of citizens to participate in the conduct of public affairs at all levels of government is one of the democratic principles that are shared by all the member States and that the exercise of that right at regional level contributes to the entrenchment of democratic values and the rule of law"¹⁰. Such an approach implies a direct criticism of the centralist social system that fails to provide for a direct way of individual inclusion into governing activities. In other words, the concept of regionalization inaugurates decentralization of unitary social system by the principle of *subsidiarity*¹¹ since it is, to paraphrase, based on equal legitimism of different levels of government: local, regional, state and European and it represents significant contribution to the building of democracy in Europe.¹² Further way of democratization is also implied in the paragraphs of Art. 2 of the Part 1 of the Charter that assumes the principle of regional autonomy to be constitutionally incorporated, that is, the scope of regional autonomy can be defined only "by the Constitution or by statute, under their own responsibility and in the interests of the population" (12.1) In addition to the scope of regional autonomy, there are also competences defined so that, in the direct way, they should change the character of the political system – "within the limits of the law and in matters falling within their competence" (3) as well as that it is desirable that, as defined by law, perform the tasks which otherwise fall into competence of the national state, at the regional level, should be given to the bodies belonging to the region.¹³

It is clear that these determinations completely suppress the concept of authority resting upon centralized state sovereignty since an essential change is being suggested, namely, the change in understanding *original competences* which indicates *the state of the*

¹⁰ Second Art. of the Preamble of the *European Charter of Regional Autonomy*. In the *Helsinki Declaration* this idea is even more explicit, namely, that the process of decentralization and devolution (transfer of power to lower level) "reflects the shared conviction that economic growth, sustainable regeneration, quality public services and full democratic participation can be more effectively facilitated if governmental institutions are not overtly centralised" (*Helsinki Declaration*).

¹¹ In her definition of this concept, Marijana Pajvančić navodi: "The principle of subsidiarity is defined as a general assumption of authority in favor of local community as a primary form of citizens' self-government. In the local community, all the affairs that are not explicitly under the jurisdiction of other levels of authority are taken care of, along with enumerating of all the competences at higher levels of authority. The application of this principle to the distribution of jurisdiction requires that the competences of all other forms of authority are determined by the method of enumeration. The regions' competences must neither be limited nor should they intrude upon the original jurisdiction of local authorities." ((M. Pajvančić. 2008. "Ustavni okvir regionalne države" ("Constitutional Framework of Regional State") in *Decentralizacija u kontekstu novog ustava Srbije i EU integracija (Decentralization in the Context of the New Constitution of Serbia and EU Integrations)*. Novi Sad: Centar za regionalizam

¹² Paragraph 4, Preamble, *European Charter of Regional Autonomy*. In *Helsinki Declaration*, it is said that wherever there is regionalization, regional self-government is part of the democratic government. In this way of regional authorities, once they are established, must meet minimal standards of the democratic system just as they must take on legal competences and the possibility, within the constitutional and legal framework, to order and lead part of the public offices in their competence, in the interest of their citizens and in agreement with the principle of subsidiarity.

¹³ Art. 4 of the *European Charter of Regional Autonomy*. The *Helsinki Declaration*, in the part referred to as *Regional Competences* additionally elaborates on this principle, and, in one paragraph especially, it stresses that "regional authorities shall have decision-making and administrative powers in the areas covered by their own competences. These powers shall permit the adoption and implementation of policies specific to the region. Decision-making powers may include legislative powers" (1.2.)

region against a unitary state. Only if the character of the state structure is changed in such a way as to ensure, as its dominant principle, an interaction of all levels of government is it possible to fully implement the democratic concept that also ensures a vertical division of power.

(b) The presence of the phrase *political pluralism* by which the international community inaugurates a new form of social organization enables us to perceive two relevant aspects of the contemporary society. First of all, it refers to implied achievement of *political society* unlike the society with the characteristics of the community; it is only upon this basic fact that it is possible to affirm the so far suppressed factors of the social structure that were pushed to the margins in the centralized and national state. With respect to this, the new practice of the legal-political system's functioning is in action thereby introducing the principle of the rule of law (through *original* and *transferred* aspects of action) based on the guaranteed interrelation of *competence division* among the levels of territorial communities. In that sense, Art. 9 precisely defines that the region can realize its interests by representation in legislative or governing bodies, whether through the procedures of *negotiations* and *consulting* between interested state and region bodies, that is, that they stem from consultations of state bodies and a structure representing given region.¹⁴ In addition to promoting various levels and statuses that regional entities can have, it should also be kept in mind that the very idea of regionalization is accepted as a substantial form so that its application cannot be seen as short-termed, let alone as depending on the political will of some social group or party. In that sense, both regarding the aspects of regional definition and the guaranteed status (no matter the level), it says in the Charter that legal regulations that define the scope of autonomy should provide the region with as much as possible, regarding their procedure or adoption conditions, specific protection (*European Charter of Regional Autonomy*, Art. 2, paragraph 3). That protection is not just of declaratory character but that it is very decidedly defined becomes clear in the idea that the change of territory cannot be done without its consent which does not exclude the procedures of indirect democracy which can be assumed for this case by domestic law.¹⁵

Since greater citizens' freedom is the fundamental condition of pluralism¹⁶ - for, in the unitary legal-political concept of the state, its extent is fully defined by the will of the state –

¹⁴ Art. 9 of the European Charter of Regional Autonomy regulates forms of region's participation in state affairs. The co-operation of different levels of government the Helsinki Declaration likewise states that "in so far as the constitution and/or law enable it, regional authorities and/or their representative bodies shall be represented or consulted, through appropriate bodies and/or procedures, with regard to international negotiations of the state and the implementation of treaties in which their competences or the scope of regional self-government are at stake." (3.3)

¹⁵ Ibid, Art. 16, paragraph 1

¹⁶ Completing the contribution to the making of a plural society, V. Stanovčić states: "It is necessary to have social, economic and political, as well as cultural pluralism, besides an open civil society with liberal political culture, along with respect for differences, tolerance, dialogue and compromises as ways of achieving agreements. These are also relevant pre-conditions of fruitful consocialization as well as guarantees of human rights. Under pluralism we do not only imply a multi-party system but also pluralism of autonomous economic, cultural, political associations, enterprises, unions, ideological, cultural and religious groups and beliefs, autonomous universities, free and responsible press..." ((Vojislav Stanovčić. 2000. "Oblici decentralizacije i disperzije moći: federalizam, autonomija, regionalizam, lokalna samouprava") ("Forms of Decentralization and Dispersion of Power; Federalism, Autonomy, Regionalism, Local Self-Government"), p. 44. in: *Autonomija i multietnička društva (Autonomy and Multiethnic Societies)*. Subotica: Otvoreni univerzitet, Subotica

it is, therefore, not exhausted only through the existing parliamentary structure and multi-party system but it stimulates, in itself, other possibilities for other structural elements of the society to possess legitimacy of presentation and representation and, ultimately, the status of constitutionality. This is, above all, the case with the definition of the region itself which is not only an administratively determined space or just formal territorial unit but it is also an expression of subjectivity substituting many status (constitutional),¹⁷ political, cultural, economic and other characteristics.¹⁸ Or, because the region makes a separate identity entity regarding many aspects, it provides for a higher level of subjectivity by pluralization and democratization of the society by means of organs of citizens' representation and authority. The Charter assumes that regions have their representative assemblies and executive organs in addition to other forms of citizens' participation in decision-making.¹⁹ Not less significant aspect of pluralism implies economic or cultural facts that would be organizations of citizens who, involved in the region specific activity, thus express and confirm its territorial particularity and specific subjectivity. The Charter, in this case as well, precisely defines the attitude that the principle of solidarity will require the establishment of the mechanism, within each state, for financial distribution that will take into account *potential income* (underlined by J.Ž.) as well as expenditure of each region with the intention of approximating the living standard of citizens in diverse regions.²⁰

(c) In the attempts to realize higher degree of democratization of the societies, the European Charter of Regional Autonomy also contributes to affirmation and enlargement of the *concept of autonomy*.²¹ This kind of conclusion is possible on the basis of the definition of *regional autonomy*: stating that the concept of regional autonomy implies the right and the genuine ability of the *widest territorial communities* (underlined by J.Ž.) within each member state with the elected bodies which are between state and local communities and which have either prerogatives of self-government or prerogative of state character to carry out, as their responsibility and in the interest of their population, a considerable part of tasks in public interests and in accordance with the principle of subsidiarity²² With this positioning, the social community puts an emphasis on the change of the concept of state sovereignty since through the principle of regionalization it pleads for the foundation of the state on the regional concept. Namely, the already-present form of

¹⁷ Participation of region in social affairs is assumed at many levels and can be realized by respective representation in legislative or governing bodies (*Charter*, Art. 9)

¹⁸ In order to comprise all the above-mentioned aspects and in order to make them part of the overall social process, in the European Charter of Regional Autonomy, they are additionally operationalized in the form of separate paragraphs

¹⁹ European Charter of Regional Autonomy, Art. 12, paragraph 1

²⁰ *Ibid.*, Art 14, paragraph 4

²¹ In critical consideration of the concept of autonomy, J. Komčić stresses that "autonomy comprises complex meanings belonging to different social subsystems, starting from autonomy of individual through autonomy of group, organization, professional and other institutions, that is, civil society on the whole to autonomy of territorial organs of authority. The whole palette of diverse autonomies still has one thing in common: this is autonomy with respect to something, both with respect to the state authority and to the possibility of control by some other subject of power and social influence. In other words, it is *socially-legally acknowledged right of individual and group subjects that, in a certain area, independently make their own rules of the game and make decisions.*" (Jovan Komšić. 2002. *Uvod u demokratiju i lokalnu samoupravu (Introduction to Democracy and Local Self-Government)* p. 58. Novi Sad: Centar za regionalizam)

²² European Charter of Regional Autonomy, Art. 3, paragraph 1

autonomy which has been so far in a very narrow sense comprised within the *Act on Local Self-Government*, in the Charter gets wider just as it does the same through the right to the territorially delineated autonomy resting upon the principle of subsidiarity for the sake of ever more present and direct engagement of citizens in controlling their life processes.²³ Autonomy is further extended, in addition to taking over *original competences*, since the bodies responsible for undertaking these competences must enjoy, as much as possible in legal sense, the freedom of adjusting their realization to the conditions of given region and its organizational structures for the sake of efficiency and in accordance with the wishes of the given region's population.²⁴ Therefore, the assumed extent of autonomy is, by the Charter, first of all, given in an ideal form (right to bring about a constitution), and then, according to the conditions of delineation, through another form of foundation (by statute or special act); all this, taken together, also suggest the possibility of creating asymmetrical forms of regional entities.

Additional contribution of this document issued by the international community lies in the fact that it strengthens *autonomy of local authority* since it assumes that regions, in their relations with local communities apply the principle of *subsidiarity* so that, as law permits it, they can transfer their competences to local communities so that, if this is their competence, regions will try to provide, as much as it needed, financial allocation among local communities on their territory. The *Helsinki Declaration* additionally defines this principle so that regional authorities are territorial authorities between central government and local authorities. However, as it says in the Declaration, "this does not necessarily imply a hierarchical relationship between regional and local authorities (in the section on *Core Concepts and Principles*, 1.1).

(d) The last of the above-mentioned aspects that focuses attention on the significance of the European Charter of Regional Autonomy refers to the *integration processes based on the principle of inter-regional cooperation*. The international community has opted for such an approach with the belief that interregional and transfrontier co-operation is a valuable and necessary contribution to further building of Europe²⁵ as well as the basis for elimination of any kind of obstacle to special cooperation that the unitary countries very often practiced. In that sense we have to understand the bodies it has formed for official coordination since it is evident that, in the process of institutional building, cooperation must expand which asks for additional guiding of the existing regional heterogeneity toward homogenization of values and principles with which Europe is creating its common space. That is why the *European Charter* has obliged the existing states, members of the Council of Europe, to accept the attitude stating that the building of respective Euro-

²³ The substantial meaning of autonomy incorporates the right to issue legal acts by which legal relations are realized through the right to law-making competence within the existing constitutional-legal matter.

²⁴ *Ibid.*, Art. 5, paragraph 7. Likewise, in the draft of the European Charter of Regional Democracy, the same approach is dominant: "Regional authorities shall have the legal competence and the effective ability, within the limits of the Constitution and the law, to regulate and manage all matters of regional interest which are not excluded from their competences or attributed to another authority by the Constitution or by statute" (Art. 12, paragraph 1)

²⁵ *Ibid.*, Preamble, paragraph 11. In order to establish social balance, the draft of the European Charter of Regional Democracy further elaborates this aspect in the Preamble (paragraphs 5, 6 and 7) assuming that the integration of minorities cannot be a neglected aspect of the organization of the democratic society.

pean institutions must, in setting up and realization of the policies realized at the European level, take into account the existence of regions within the European states and to encourage participation of the region in the given institutions, especially within the Congress of Local and Regional Authorities of Europe (CLRAE) and the Committee of Regions of the European Union.²⁶

Another aspect affirming *the principle of inter-regional cooperation* comprises the principle of solidarity that makes up for shortcomings and differences based on historical, cultural and other assumptions related to the region participation so far. Therefore, even this aspect was not left uncared for as a matter of arbitrariness but, instead, it is presented as an institutional form of communication since the recognition of regional autonomy must be accompanied with the actions for solidarity among different regions in order to achieve balanced development.²⁷ The principle of solidarity presents, additionally, the first paragraph which defines inter-regional and transfrontier relations. In that sense, it is said that in the areas that fall into their competences, they have the right, along with practicing the procedure determined by domestic law, to take on actions of co-operation among regions and across state borders.²⁸ That the totality of inter-regional relations is institutionally established, as an integrative and integral process with no improvisation whatsoever is further confirmed by the subsequent paragraph of this article that precisely states that the regions belonging to borderline area can create, along with practicing all national legislations of respective states and international laws, common bodies of counseling and/or executive nature.²⁹

In emphasizing this statement from the Charter – as the one also reactivated by the Helsinki Declaration – it should be evident that the Serbian political-legal sphere has to undertake two indispensable steps. First of all, the legal procedure should, as urgently as possible, introduce the *Proposal for the Act of Adoption of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities* since, without such law, even the constitutional regulation of transfrontier cooperation remain dead letters (according to Article 181 of the Constitution of the Republic of Serbia). As the second step, the local communities should be given back their taken-away property from 1995 so that the local self-governments would have a genuine base for full-fledged implementation of the Act on Local Self-Government and integration into modern social processes no matter if this refers to the right for the local self-government entities to realize their own rights and duties and to satisfy the needs of local population. For this purpose, they can "found enterprises, institutes and other organizations performing public service in accordance with the law and the statute." (Act on Local Self-Government, Article 7).

²⁶ Ibid, Preamble, paragraph 12. The Helsinki Declaration also stresses that the Council of Europe "provides a privileged meeting place for European governments to address issues of local and regional government and to engage in dialogue at European level with the elected representatives of local and regional authorities as brought together in the Congress of Local and Regional Authorities of Europe (CLRAE)" (6).

²⁷ Ibid, Preamble, paragraph 9

²⁸ Ibid, Preamble, paragraph 7

²⁹ Ibid, Preamble, paragraph 8

3. INSTEAD OF CONCLUSION

Since the process of regionalization as a specific social process cannot be observed unilaterally – even more so if we take into consideration remarks produced by unitary opinion that regional autonomy initiates dissolution of the state by national minorities wishing to integrate with their mother countries – the *European Charter of Regional Autonomy* strictly defines the impossibility of any separate and secessionist act. In that sense, it is assumed that the recognition of regional autonomy assumes, with respect to the state to which the given regions belong, their loyalty regarding its sovereignty and territorial integrity.³⁰

Likewise, it is clearly stated that regionalization cannot lead to the formation of a new reduced centralist system of government since it says that regionalization regionalization must not be realized at the expense of autonomy of local communities but, on the contrary, it must comprise the actions for safeguarding them with the full respect of the achieved results in the *European Charter of Local Self-Government*.

We would like to point out, finally, that overall social developments do not lead toward atomization of state into regions; instead the introduction of the regional social concept is meant to increase confidentiality along with the coming together of the overall European space in which region, as an essential part of the state, with its identity bears the testimony of diversity of Europe, contributes to the riches of its culture and respect for its tradition and in accordance with its history contributes to economic prosperity for the sake of its lasting development.³¹

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ANALIZA ZNAČAJA EVROPSKE POVELJE O REGIONALNOJ AUTONOMIJI (DEMOKRATIJI)

Jovan Živković

Uprkos tome što su u Srbiji doneta određena dokumenta kojima se nagoveštava da će se pristupiti njenoj regionalizaciji, kao što su Sporazum o stabilizaciji i pridruživanju (SSP), Strategiji regionalnog razvoja Republike Srbije za period od 2007. do 2012, Zakon o regionalnom razvoju (2009) i t.sl., ipak je činjenica da nekih konkretnih događaja u tom pravcu nema. Suština je u tome što političke, ekonomske, pravne i dr. elite zadržavaju stari unitarni koncept – bez osvrtnja na neravnomeran regionalni razvoj, sve kako bi zadržale centralistički i protekcionistički način upravljanja društvom koji odgovara samo njima. U tom kontekstu srpsko društvo ostaje na nivou pretpolitičkog ustrojstva, budući da se, u tom slučaju, država i dalje pojavljuje kao jedina institucija koja određuje stepen slobode građanima. Isticanje značaja određenih dokumenata koji afirmišu regionalni pristup državnog uređenja, pre svega kroz Evropsku deklaraciju o regionalnoj autonomiji (1997), ali ništa manje ni kroz Helsinšku povelju o regionalnoj samoupravi (2002) i nacrt Evropske povelje o regionalnoj demokratiji (2008), intencija je da se srpskoj javnosti iznova predoče nužni putevi društvenog razvoja, s obzirom da je osnovna težnja ukupnog napora savremenih demokratskih procesa ostvarenje većih prava i sloboda za svakog građanina, tj. da se u društvene procese institucionalno uključe svi građani na više nivoa (od lokalnog, okružnog, regionalnog i do centralnog). U sklopu takvih ideja nužno je da se i srpska političko-pravna i ekonomsko-socijalna sfera – sa svim posdsistemskim aspektima, oslobode tradicionalnog unitarnog koncepta (karakterističnog za XIX i prvu polovinu XX veka) ka većoj pluralizaciji društva, što podrazumeva i veću jednakost i ravnopravnost građana. Na putu ka takvoj transformaciji sigurno je da su ideje regionalizma, kroz određena dokumenta i principe – u koji svakako da spada supsidijarnost, pravi oslonac za doseganje takvih ciljeva.

Novim pristupom društvenom uređenju na srpskoj političko-pravnoj sceni mora doći do promene odnosa prema shvatanju institucije države – da se više ne ispostavlja jedinim subjektom, odnosno da se pojam suvereniteta (kao osnovni atribut subjektivnosti) ne može više razumovati na strogo tradicionalni način. U ovom slučaju nije doveden u pitanje integritet države – mada tu zamenu teza stalno ističu protivnici regionalizacije, već, pre svega, odnos koji se uspostavlja u državi – između građana i elite koja rukovodi državom. Drugim rečima, centralistički, oligarhijski i, ne retko, despotski oblik upravljanja državom i društvom je onaj aspekt koji mora da pretrpi izmene, a koje sugerišu sve intencije demokratskih standarda fokusirane u novijoj istoriji kroz Evropsku povelju o regionalnoj autonomiji i nacrtu Evropske povelje o regionalnoj demokratiji. Konkretizovano govoreći, srpskoj javnosti se predočavaju aspekti nužnih promena kroz nekoliko nivoa, bez kojih nema demokratizacije i približavanja javnih poslova građanima. Ka ostvarenju takvih društvenih promena i u srpskom društvu, ukazuje se dokumentima međunarodne zajednice, pre svega Evropskom poveljom o lokalnoj autonomiji – kao prvim zaokruženim dokumentom, da je nužno (a) uvesti demokratizaciju u institucijama vlasti, (b) afirmisati politički pluralizam, (c) menjati pojam autonomije i (d) omogućavati integracione prosese na principu međuregionalne saradnje.

Navedeni planovi demokratske paradigme potkrepljuju se u tekstu određenim članovima iz više dokumenata, čija je svrsishodnost da se predoče javnosti oni pristupi društvenom uređenju koji mu daju obeležje da su u njemu svi građani jednaki, ravnopravni, odgovorni i solidarni.

Ključne reči: demokratija, unitarizam, regionalizacija, ravnopravnost, jednakost.