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Self-Determination in a Context of Shared Sovereignty

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How to devise a European approach?

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Introduction

Sandrina Antunes
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Demands for self-determination have long been associated with the European Union (EU), yet time has resolved neither their complexity nor their many inherent contradictions. Indeed, one of the paradoxes of self-determination processes is that nationalist movements and central governments share a 19th century vision of nationalism and statehood in which sovereignty is unitary rather than shared. Despite the institutional milestones achieved with the Treaty of Maastricht, a unitary sovereign logic prevails in the EU and this is precisely what puts them on a collision course.

The EU has traditionally maintained that regional matters and the consequent participation of regions in European affairs are not a European subject but an internal matter for States. Additionally, EU membership is limited to sovereign States that meet the EU's admission criteria. Once members, States participate directly in the EU's primary governing institutions: the European Council, the European Commission and the European Parliament. Statehood in the EU thus retains meaning for nationalists because it remains the sole means by which they can be recognised as sovereign equals within the European polity.

However, at a time when State functions are arguably waning or being profoundly transformed by authority re-scaling in the EU, it is urgent to further clarify how the Union could offer the most appropriate template to meet the aspirations of stateless nations. Over the years, the EU has played an important transformative role in the relationship between regions/nation-regions and central States. However, this role could be improved. We need Europe to be brave enough to recognise the presence of self-determination claims, and flexible enough to allow diversity within it.

As noted by Simona Piattoni, one thing is 'policy empowerment', that is, the ability of regions to participate in European policymaking; another is 'institutional empowerment', that is, the institutional entrenchment of regional involvement in EU policymaking. More concretely, the latter requires a new institutional set-up for equal partnership in governance. In contrast with the late 1980s and early 1990s, the challenge is no longer to devise a conceptual tool that could capture and explain the presence of subnational authorities in EU governance, as Liebset Hooghe and Gary Marks did with their theory on multilevel governance, but rather how to devise an institutional set-up that could render this participation truly effective.

This book gathers the contributions of two practitioners and eight academics who took part in a conference held in September 2019 in Brussels. The aim of this international conference was to promote the debate around four major challenges posed to stateless nations and to the EU in a context of shared sovereignty. By engaging academics and practitioners in a multi-disciplinary dialogue, this international conference aimed to develop innovative concepts that could inform the way in which such demands could be managed within the EU. Each contribution draws on pre-existing paradigms yet moves beyond them.

The conference was divided in four panels with distinctive, though complementary goals. The present book follows the same alignment. Immediately after a keynote address by **Montserrat Guibernau**, the book provides innovative insights on how Europe could provide multiples solutions for self-determination claims. In the first part of the book, **Maggie Lennon** and **Elisenda Paluzie** summarise the state of play for Scotland and Catalonia in the European Union. In the second part of the book, and moving away from present days, **John Loughlin** and **Emanuele Massetti** offer a detailed historical account of the difficult relationship between self-determination claims and the EU. Finally, in the third and fourth parts of the book, **Cormac Mac Amhlaigh** and **Sandrina Antunes** unpack the idea of sovereignty, more attuned with a context of shared sovereignty, while **Nicolas Levrat**, **Huw Evans** and **Marc Sanjaume-Calvet** suggest solutions to the inescapable challenge of 'internal enlargement'.

In sum, this collaborative book suggests out-of-the-box solutions for all actors involved: the EU, States and regions/nation-regions. These tools inform unusual templates for co-sovereignty and effective multi-level governance in a revisited vision of a 'Europe of the peoples' whereby democracy is the natural winner. We hope that these insights will inspire those who are curious enough to go through uncharted waters in this collective undertaking to bear and preserve European values through difficult times.

Self-determination in a context of shared sovereignty? Bringing functional autonomy in a federal mold

**Sandrina Antunes,
University of Minho**

Introduction

Demands of self-determination have long been associated with the European Union (EU) (Jones and Keating 1995; Keating and Loughlin 1997; Keating 1998; MacGarry and Keating, 2006; Keating and MacGarry 2004), but time has resolved neither their complexity nor the many inherent contradictions. Indeed, although the EU has provided avenues for the articulation and pursuit of nationalist objectives beyond the

borders of the state, it has also bolstered the significance of statehood by limiting full participation in its institutions (Connolly 2013: 54). Despite these complications and apparent lack of logic, the EU has become an essential component of regional nationalist aspirations. However, this relationship is currently under pressure as the EU remains silent over the Catalan and Scottish crises, demonstrating its inability to cope with sovereignty-based conflicts within its borders. In the late 1980s and early 1990s, there was a flurry of interest in a 'Europe of the Regions' that resulted in a vaguely-specified order calling for regions to be recognized as a third level of government alongside states and the EU (Keating 2006: 31).

This vagueness is confirmed by the multiple labels in use during that period. Movements for a 'Europe of the Peoples' and a 'Europe of the Regions' attempted to displace the role of states, but neither succeeded in obtaining effective powers enhancing the regions' position in the multilevel structure of the European polity. Even before the heyday of 'Europe of the Regions', in the 1960s and 1970s, the federal path was explored but did not prevail. There are three primary reasons for this failure: first, federalist solutions have only been employed as political arrangements aimed at furthering the European integration process; second, in the EU, federalist strategies have never been considered *per se* to address the dilemma of national sovereignty from a regional nationalist perspective; and third, organized forms of regionalist movements have lost traction in part due to the limited pay-offs achieved with Maastricht.

In this context, Neil Walker (2016: 7) recently argued that the inadequacy of the state federal manual as a technique of good government in the EU is reinforced if we adopt a 3D vision and look to the relationship between supra-national and sub-state levels. In other words, the analysis of the EU in federal terms has traditionally had little to say about the third (subnational) dimension, as federalist formulas have tended to concentrate on the 2D model. Fundamentally, in line with the tenets of multilevel governance literature, states remain the most important actors of the European puzzle, that is, the primary actors within the EU system (Hooghe and Marks, 1995).

Membership in the EU is limited to sovereign states that meet the EU's admission criteria. Once admitted to membership, states participate directly in the EU's primary governing institutions: the European Council, the European Commission and the European Parliament. Statehood in the EU thus retains meaning for nationalists because it remains the sole means by which they can be recognized as sovereign equals within the European polity (Laible 2008: 23; Keating *et al.*

2019: 13). This obstacle to 'effective representation' is exacerbated by the inability of regionalists and nationalist parties to generate a federal solution that reflects the variety of ethno-regionalist autonomies and objectives¹. Indeed, despite the institutional breakthrough of the 1980s and the 1990s for regional participation in EU policymaking, regional institutional involvement in European decision-making remains weak and unevenly distributed.

As noted by Piattoni (2010: 128), one thing is 'policy empowerment', that is, the ability of regions to participate in European policymaking; another thing is the 'institutional empowerment', that is, the institutional entrenchment of regional involvement in EU policymaking. More concretely, the latter requires a new institutional set-up of the European polity, preferably along federal lines whereby sovereignty is shared rather than divided, so as to achieve equal partnership in governance. Hence, in contrast to the late 1980s and early 1990s, the intellectual challenge is no longer to devise a conceptual tool that could capture and explain the presence of subnational authorities in EU governance, as Liebset Hooghe and Gary Marks (2001) did with their landmark theory on multilevel governance (MLG), but rather on how to devise an institutional set-up that could render this participation truly effective (Schakel, 2020).

Against this backdrop and having in mind the ongoing Conference on the Future of Europe, the purpose of this article is to encourage discussion over the EU's potential to deliver an effective multilevel governance in a three-tier EU polity or in 3D, as creatively suggested by Walker (2016). Drawing on the concept of functional sovereignty, this paper sheds light on a federal European solution to manage functional demands of self-determination in a context of shared sovereignty. While federalism will inform the normative principle upon which a federal order should be constructed; functional sovereignty will provide the ethos to lift the burden of modern sovereignty (and nationalism) that has prevented the EU from developing a three-tier European polity, whereby authority is shared (and heterarchical) rather than divided (and hierarchical).

¹ As noted by De Winter and Tursan (1998), whilst regionalist and nationalist parties share the core businesses of autonomy, the level of authority they seek is highly differentiated. De Winter and Tursan (1998) organize regionalist parties into five different types according to their autonomy goals: independentists, autonomists, protectionists, national-federalists and irredentists. For a detailed discussion on the different categories of nationalist and ethno-regionalist parties, see the contribution of Dandoy (2010).

The remainder of this article is divided in four parts. We will first expand on the pitfalls of the federalization of Europe in light of self-determination demands of the mid 1980s and early 1990s. In the second part, we will unpack the idea of sovereignty, and suggest an innovative federal solution to enhance functional autonomy of regions (and nation-regions) in the EU. In the third part, we will elaborate on the contribution of the Conference on the Future of Europe to an effective multilevel governance. Finally, by way of conclusion, we will highlight the main tenets of our argument and suggest future avenues of research.

Self-determination and the federalisation of Europe: elements of a difficult relationship

If we had to define the EU's political system, we would describe it as a case of federalism without federation, due to the absence of clear federal rules that would mold the Union into a federation. Federalism can be defined as a principle of government whose essence is the idea of combining self-rule and shared rule such that national and regional governments are independent but coordinating spheres (Wheare 1963:10; Elazar 1987: 12). A federation entails a more descriptive concept, referring to types of political systems that apply the federal principle (King 1982: 77; Burgess 2006: 29). Typically, a federal union can be said to have two faces: it is both a unifying force and a means of maintaining differences and diversity. In a very brief outline, for the sake of simplicity, Elazar (1987 and 1994) and Wheare (1963) set out two prerequisites for a federation: first, it must provide a specific method of distributing powers between two tiers of government, and second, each tier of government should act directly on its citizens.

However, as noted by Kelemen and Nicolaidis (2007: 301), federalism in the context of European integration has been conceived as privileging either the descriptive over the explanatory (emphasizing the 'what' over the 'why') or normativism over pragmatism (suggesting what the EU should be rather than what it is or what it could solve). Furthermore, European federalism has largely been considered a response to political integration, thus associating federalism with statehood and statehood with the traditional form of sovereignty (i.e., unitary and territorially based).

Despite the best efforts of many EU scholars to steer research away from this dreaded F-word, it has continued to rear its head. Despite these shortcomings, the

idea that Federalism is relevant to understanding the EU has persisted for a number of reasons. First, because the EU has expanded its range of competences as many state (and regional) competences have been rescaled to Europe (Keating 2013), the comparison with federal systems has become ever more plausible. Second, the language of subsidiarity and ideas related to the identification of optimal divisions of authority between member states and the Union have clear parallels in federal systems.

That being said, we easily understand why self-determination and the idea of federalization of Europe clearly overlapped. Indeed, federalization meant the establishment of a system based on shared rule and self-rule, whilst preserving the centrality of classical sovereignty and nationalism. As noted by Loughlin (1996a: 150), the slogan 'Europe of the Regions' had its origins in the 'integral' federalist model of European integration and was used by a number of federalist authors, including Denis de Rougemont (1966) and, in a slight variation, by Guy Héraud as *Europe des Ethnies* (1974) but with basically the same meaning. In this model of federalism, the nation-state would be replaced by subnational levels of government and especially regions taking over the nation-state's functions and responsibilities.

Some federalists went so far as to advocate the complete disappearance of the nation-state, whereby the supranational institutions of the European Community would exist as a federation of regions. In sum, for a period in the latter 1980s and early 1990s, 'Europe' was perceived as a route by which these submerged 'nations' could escape from the clutches of their 'oppressive' nation-states by becoming part of a wider European federation (Loughlin 1996a: 151). According to this widespread image, the nation-state was deemed to fade away and, in Europe, the European Union, on the one hand, and the regions, on the other, were said to be its heirs (Ohmae 1995). The state, caught in the middle, would be stripped of its power from above and from below, as if we were in a zero-sum game. The scheme has been called the 'sandwich thesis', and seemed very attractive to regional nationalists (Nagel, 2004: 59). Against this backdrop, regionalist demands became key themes in the negotiations about the future character of the EU in the intergovernmental Conference (IGC) on Political Union which, with its counterpart on Economic and Monetary Union, culminated at Maastricht.

One of the most widely discussed features of the Maastricht Treaty was the success of a broadly-based regional lobby in securing formal recognition in the EU's Treaty arrangements and important rights of access of regions and nation-regions to European decision-making. This lobby could count three major achievements in the

Treaty. First, the Committee of the Regions (CoR) was established as an advisory body, formally adding the sub-national level to the existing forms of representation in the EU (Loughlin 1996b)². Second, the possibility was opened up for regional-level ministers to lead their countries' delegations in the Council of Ministers (Article 146 of the Maastricht Treaty on the EU and most recently enshrined within the Lisbon Treaty as Article 9c). And third, the principle of subsidiarity was incorporated formally into the Treaty (Article 5 of the Treaty of Maastricht and article 5(3) of the Lisbon Treaty).

Maastricht was seen not just a decisive breakthrough for the third level (Christiansen 1996; Jeffery 1997; Bullmann 1997), but also a first steppingstone on the way to a fully-fledged, three-level Union, leaning towards a gradual federalization of Europe (Hooghe 1995: 177; Loughlin, 1996a). Overall, the idea of a "Europe of the regions" stimulated regions to follow some kind of institutional representation within the EU, acting beyond the national state, via an active participation in formal and informal channels made available to them (Hooghe and Marks, 2001; Mazey and Richardson 2001; Tatham 2008 and 2010; Greenwood 2011; Rowe, 2011). Whereas the former included the possibility to seat at the CoR and at the European Parliament, within the European Free Alliance (EFA) political group; the latter offered the possibility for regions to set up their own representation offices.

Yet on balance, the attempt to establish formal and informal channels for regional participation in EU governance have produced only limited results (Schakel 2020). The robust regional role promised by Maastricht proved to be flawed and dictated the end of the naïve hype of the 'Europe of the Regions' (Elias, 2008; Hepburn, 2008; Keating, 2008). Although regional actors had been granted new access points to European decision-making processes, these were either not available to them or the scope of influence that could be exercised was very limited. Indeed, whilst the Maastricht Treaty has allowed regional representatives to represent member states in the Council of Ministers – and not forcibly their own regional position –, this opportunity has not been open to all sub-state authorities but only to those regions with constitutional powers in their respective domestic settings; that is, the German and Austrian Länder, the Spanish Autonomous Communities, the UK's devolved administration or the Belgian regions of Flanders and Wallonia (Moore 2011: 53).

² More recently, the Lisbon Treaty of 2009 provided notable, though modest expansions of formal regional powers. The Treaty strengthens the Committee of the Regions by requiring the Commission, Council and parliament to consult it on matters concerning local or regional government, and it allows the Committee to challenge EU laws that it believes run afoul of the subsidiarity principle in the European Court of Justice (ECJ). Although it signals a shift towards a greater formal regional participation in the EU, it falls short of the direct authority afforded to member states and thus seem to provide only a glimmer of hope to those still dreaming of a 'Europe of the Regions'.

However, even within constitutional regions, the quality of intergovernmental relations is highly conditioned by national state's good will, which means that it tends to vary according to the political context. In sum, while European 'high' policymaking remained largely intergovernmental, there were mechanisms for regions to act, provided they first achieve victory in domestic constitutional arenas (McGarry and Keating, 2006: 31). Similarly, the CoR became a political disappointment due to its political weakness, lack of resources and excessive diversity in terms of authority within it (Keating *at al.* 2019; Piattoni 2012). Frustrated at having to share a place with municipal governments, the strong regions, nation-regions and federated units launched an initiative for the 'Regions with Legislative Powers' (REGLEG) that was very active during the negotiation process over the European Constitution, but lost its attractiveness and political strength immediately after (Lynch, 1997).

Thus, contrary to early expectations, skepticism towards the EU has increased across most of ethno-regionalist parties and state-centric approaches, that is, regional influence exerted through the central executive, has become the dominant strategy – though not the exclusive one – for regional mobilization in the EU (Swenden and Bolleyer 2014: 383). In sum, the particular vision of a 'Europe of the Regions' and a 'three-level union' projected at Maastricht has never fully materialized. Instead, perhaps the most fruitful concept to describe a context of complex interdependencies in European governance – and not a Federal polity – was that of a 'multilevel system of governance' that Marks encapsulated in his seminal work (Bache and Flinders 2004) and that Hooghe later described as a 'Europe with the regions' (Hooghe and Marks 1996). According to this innovative concept, regions and nation-regions were becoming political actors alongside the state and the (then) increasingly strong European institutions.

In sum, although the concept of MLG shed a new light on the dynamics of network governance in a context of 'pooled sovereignty' (Laible 2008; Keating 2001b and 2002), it has been unable to advance a conceptual tool to frame the institutional dimension on how 'political authority' should be organized along a three-dimensional mold. Instead, as noted by Jáuregui (2006: 254), what the EU has proposed, mainly after the Treaty of Maastricht, was 'a Europe of the Regions', not as an alternative to the 'Europe of the States', but as a complementary reality, always in subordination to states. Hence, EU's regional blindness in recognizing anything other than sovereign states has contributed to fuel the return of regional nationalists' sovereignty claims.

Despite the limited, though important accomplishments of the Treaty of Maastricht, the regionalist spirit did not disappear. In the early 2000s, the Convention on the

Future of Europe initiated an intense debate on how the future polity should look like (Keating, 2006:32). Frustrated with the shortcoming of the Maastricht Treaty, the strong regions, stateless nationals and federated units launched an initiative for the 'Regions with Legislative Powers' called REGLEG to gain recognition in the European Constitution. REGLEG pressed for the vision of an integrated Europe, acting as an encompassing political framework for multiple *demoi*, themselves constitutive, along with the state, of a larger political community. REGLEG was committed to raising the level of democratic participation from legislative regions in EU affairs. Back at that time, the 73 EU regions lobbied for regional participation in policy formation in accordance with the principles of subsidiarity and campaigned to extend and improve the rights of legislative regions.

Irrespective of a pro-active engagement, the solutions presented by the Convention ended up being an obstacle to flexible forms of accommodation. As noted by Keating (*ibidem*: 33), the majority in the Convention and in the CoR even refused to distinguish between federated units and devolved national parliaments on the one hand, and municipal government on the other. More radical proposals did not even reach the agenda. These included the idea that to divide a member state's vote in the Council of Ministers; a chamber of the nationalities for stateless nations and minorities and a provision for internal enlargement in which stateless nations could become full members of the EU. Another suggestion expanded on the Lamassoure proposal (French MEP directly involved with the work of the Convention), whereby regions could become partners of the Union, to provide for them to become 'associated partners of the Union. Even the proposal to recognize a category of regions with legislative powers fell victim to a combination of those who considered that all regions were the same and those who thought that they were so different that they were impossible to categorize.

Yet taking stock of what history has thought us, a new federalization of Europe could offer an appropriate template to accommodate demands of self-determination. However, this innovative federal solution requires unpacking the idea of sovereignty (Keating and MacGarry 2006: 35), although it imposes inescapable trade-offs for classic sovereignty and nationalism, be it national or regional in nature. Bearing these precedents in mind and drawing on the notion of functional sovereignty, the next section of this paper will shed light on a workable federal solution aimed at managing functional demands of self-determination, thus, rendering multilevel governance more effective in a Europe in 3D.

Self-determination in a context of shared sovereignty: bringing functional sovereignty in a federal mold

The intellectual debate on how to devise a European solution for nationalist accommodation is not totally new. Indeed, Keating (2006:35) had already suggested that one way to devise a European solution to self-determination without raising divisive issues of secession or independence is to unpack the idea of sovereignty, making a clear-cut distinction between functional and territorial sovereignty. More specifically, when focusing on functional sovereignty, modern nationalism's spell – which imposes a link between identity and control of territory – would be broken. In doing so, we are not suggesting that nationalism can be detached from politics, nor that self-determination demands are illegitimate. Instead, we are making the argument that all levels of governments – states included – have to accept that in the EU, states are not sovereign as they were in the past, and authority has been pooled and shared for the sake of 'good governance'.

Unpacking sovereignty in the EU context would provide us with a workable solution for sub-state nations (and regions) to enhance their agency and voice as an alternative to nationalist claims of self-determination without resulting in confrontation. Additionally, since federalism refers to basic values of power-sharing and federation refers to the institutional make-up of any federal system (King 1982), we believe that a functional federal system could contribute to enhance the effectiveness of multilevel governance. Hence, while federalism would inform the normative principle upon which a federal institutional structure should be constructed; functional sovereignty would provide the legitimate criteria to demarcate the roles and responsibilities of each level of government within it.

In this strategy, 'stateless nations' – and regions, broadly speaking – would concentrate on developing a European institutional framework that could enhance their capacity for self-government, whilst lifting the burden of modern sovereignty (and nationalism) that has prevented the EU from developing a three-tier European polity. Questions of boundaries would move from territory to function, thus, paving the way for compromise towards an effective multilevel governance. All in all, 'stateless nations' would not lose their identity, but they would privilege functional sovereignty over territorial sovereignty, policy effectiveness over identity, in this partial abandonment of territorial claims in the form of statehood.

This federal solution would not entail the end of territorial claims in the form of statehood, at least not for those who wish to embrace it, but it would provide

a pragmatic and workable solution for an enhanced form of multilevel system of governance in Europe. In practice, overcoming European disillusion would entail the gradual acceptance that European governance operates within the realm of a post-sovereign paradigm (Keating 2001a and 2002; Laible 2008) in which political authority is shared and divided, and most notably, in its 'functional dimension'. Drawing from there and taking stock of the ongoing debate on the 'Future of Europe', creativity should be put to work to overcome regional subalternity by promoting a new federalization of Europe based on the limits of their competences, that is, on their legitimate right to act on behalf of their region (and nation-region) in matters that fall within regional competences.

However, to initiate this federal path three conditions need to be met. First, it implies the abandonment of the search of statehood in the part of regional nationalists, at least on European ground. As such, self-determination claims would lose their emotive attachment traditionally endorsed by ideas of nationhood. In other words, self-determination would no longer entail secession but rather the ability to negotiate one's position within the European arena. In this particular context, the nation-region would no longer be perceived as a nation as its primary feature in the European arena. The region – be it a nationality, an ethnic group or a nation – would be conceived as a 'community of interests', aimed at endorsing the interests of their fellow citizens.

Second, it imposes an additional effort on the part of state actors to reconsider the European institutional make-up so as to ensure the 'institutional entrenchment' of regional powers, whereby regions and nation-regions would be fully recognized as state partners in European policymaking. Third, it asks for a radical transformation in the way the EU looks at the regional question. In practice, this would imply that the EU looks at regional matters as a substantive part of the European Project, and no longer as domestic issue. That being said, the Conference on the Future of Europe initiated in September 2020 could offer a new window of opportunity for a second regionalist push, asking once more for the entrenchment of regional power in the European institutional structure, with or without a federation.

The contribution of the Conference on the Future of Europe to multilevel governance: a preliminary assessment

In January 2020, the European Commission set out its ideas for shaping the Conference on the Future of Europe. The planned conference, a two-year

initiative which aims to reconnect citizens with Brussels, was initially scheduled to start on Europe's day (9 May), but the coronavirus pandemic postponed it to September 2020. The Communication adopted was the Commission's contribution to the already lively debate around the Conference on the Future of Europe – a project announced by President Ursula von der Leyen in her Political Guidelines, to give Europeans a greater say on what the European Union does and how it works for them. Although part of the debate will focus on institutional matters, nothing has been clearly stated about the European institutional framework in respect to multilevel governance.

In reaction to this initiative, in February 2020, the CoR has also published a Draft Resolution on the Conference on the Future of Europe, thus, recognising the potentials of the nascent Conference on the Future of Europe to renew the EU. According to a survey conducted between 3 and 17 September 2020³, around two-thirds of Europeans think that regional and local authorities do not have enough influence on the decisions taken at the European Union level. Europeans citizens would like their regional and local authorities to have more influence on the decisions taken at EU level; the most mentioned policies for more influence would be preferred are those related to health (45%), employment and social affairs (43%), and education, training and culture (40%). Finally, a clear majority of Europeans (58%) think that more influence of regional and local authorities would have a positive impact on the EU's ability to solve problems, and this is the majority view in all Member States.

For the time being, the COVID-19 pandemic has postponed the debate but it has already contributed to enhance the profile of regions and local authorities in the fight against the crisis, asking for more coordination and collaboration between levels of governance, thus, urging for a more effective multilevel system of governance. Covid-19 has actually made the need for the Conference on the Future of Europe more pressing than ever. This is actually the main reason why we believe that the theme will remain crucial for several years. Hence, similarly to what happen in early 2000's with the debate on the Constitutional Future of Europe, the Conference of European Regional Legislative Assemblies (CARLE) will certainly play a key role in pressing for a greater involvement of regional parliaments in EU decision-making.

³ For further details, see the webpage here: https://cor.europa.eu/en/our-work/Pages/EURegionalBarometer-survey.aspx?utm_source=SharedLink&utm_medium=ShortURL&utm_campaign=EURegionalBarometer-Survey access on the 20/10/2020.

Similar situation does not apply to the Conference of European Regions with Legislative Power (REGLEG) which is no longer active, although it has been replaced by RLEG since 2018⁴. To date, RLEG represents 5 Regions with Legislative powers – Piedmont (IT), Navarre (ES), Salzburg (AT), Aaland Island(FI) and Basque Country (ES) – whose governments, many representing peoples or nations within their Member States, are highly committed to improve the concept of 'effective multilevel governance' in the EU. Together with the EU institutions, the Member States and other organizations representing all levels of governments in EU, RLEG members are committed to implementing citizenship-oriented policies, avoiding any use of this group for unilateral purposes.

More specifically, in the post COVID context, the current approach of RLEG is to contribute to the Conference on the Future of Europe, in particular, in the pillar dealing with institutional debates to deepen and implement the principle of multilevel governance. In short, RLEG is fully committed to engage systematically in a structured dialogue between the EU institutions and RLEG. According to RLEG, this dialogue should be inspired by pragmatism and long-term vision. In practice, RLEG believes that the Conference on the Future of Europe should organize a high-level debate on effective multilevel governance.

According to RLEG, this could be achieved by means of a working group aiming at devising a new institutional framework for enhanced cooperation whereby regions with legislative powers would have their capabilities recognized by a unique status, expanding once more on the Lamassoure proposal of the early 2000s, whereby regions would become 'Partner Region' to the EU. In a nutshell, for RLEG, this institutional novelty should encompass the introduction of a second chamber within the European Parliament as well as within the Council of Ministers. Whereas the former would allow regional parliaments to engage directly in the European legislative process; the latter would improve the quality of intergovernmental relations in policy areas where governmental responsibilities are shared. In short, although RLEG is using a different acronym, the propositions are very similar to those presented by REGLEG in the early 2000s. Only time will tell if regions and nation-regions will manage to take advantage of this window of opportunity, partly enhanced by the COVID-19 pandemic.

⁴ Information provided by the Head of the Representation of the Basque Country in Brussels in June 2020. This information was confirmed by other reliable sources.

Conclusion

Demands of self-determination in Europe is an old, yet unresolved issue in the difficult relationship that 'stateless nations' maintain with the EU. This situation is partly due to the inability of states and regional nationalists to overcome the classic idea of sovereignty. Indeed, both states and regional nationalists rest on a classic vision of sovereignty, which has rendered them necessarily antagonistic.

In this paper, we have argued that this antagonism could be overcome if all levels of governments involved agreed to enhance functional autonomy in a federal mold. With this in mind, we believe that the old slogan of 'Europe of the Regions' – which rested on the subordination of regions and nation-regions to the States – should be replaced by a 'Europe of the peoples' as an alternative to 'the Europe of states', understanding by peoples, a distinguishable human 'community of interests', including nations, nationalities or ethnic groups mobilized for the representation of their 'interests' on the European arena.

By way of conclusion, we hope that this short theoretical exercise could enhance the debate over the need to reform the European Institutional structure for the benefits of all governments involved, whereby regions and nation-regions would be treated as 'equal partners' in policy-making. The idea is not to replace the role of the state, but to complement it by means of a reinforced collaboration entrenched in an institutional template so as to enhance the quality of European governance as a whole.

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