

Preface

The Treaty of Lisbon entered into force in December 2009 and is an extremely important step in the European integration process. This new treaty is not a full European Constitution, but it remains a further development in the ongoing process of creation of an evermore integrated supranational union. States were and remain the only “members of the club” (the Union) but the importance of sub-state entities is also recognised by the Treaty.

The concept of “multi-level governance” has grown in importance. This concept was originally developed to coordinate the action of the Member States (on local and national levels) with that of the EU. Coordination is more difficult to achieve in those Member States in which the government has a regionalised or decentralised structure.

During the last four decades, a number of Member States decentralised important powers of the central government to sub-national entities. At the same time, the Member States continued to hand a significant part of their powers to the supranational level. These are two parallel and simultaneous processes which, at first sight, seem to be contradicting one another. In reality, they complement each other and give birth to numerous and complex relationships.¹

Initially, regional entities claiming further powers were not fully aware that the construction of the Union was absorbing both national and sub-national competences.² However, they became aware that all their obtained demands were in reality threatened by the transfer of powers made by the Member States in favour of the European Communities and, later, the European Union. Soon, the development of EC law and the increase of powers transferred to the Community and the Union, led to a change in strategy by regional entities. They began to claim participation in EU-related matters, especially when the EU law and policies involved

¹Both processes have been highlighted in many EU Member States that have a federal or regional political system; see, in Germany, Ipsen (1966), pp. 248–264; in Italy, Caretti (1979); in Spain, Ruiloba Santana (1985), pp. 21–38; in Belgium, Velaers (2006), pp. 3–86.

²Portelli (1993), pp. 15–20.

subjects falling within their competence.³ These observations indicate the complex evolution of the legal relationship between the European Communities (later the European Union) and its Member States.

The difficult balance between the exercise of powers of entities with certain legislative powers within the different Member States (called “regions” in the scope of this book⁴) and the European Union constitutes the subject of this comparative research book. The topics dealt with will be approached from two different angles: the EU level and the Member States.

Despite the supranational identity of the EU, recent treaties and regulations show some openness to the regionalisation and decentralisation process that took (and it is still taking) place in the Member States. The participation of the Regions in the meetings of the Council should be mentioned as an example. Additionally, the EU showed more awareness of the existence of sub-state regional entities through the growing recognition of the Committee of the Regions. One of the principal roles of this Committee is in the safeguarding of the principle of subsidiarity. Actually, the Committee is often referred to as the “subsidiarity watchdog”.⁵ However, the legal meaning of the principle of subsidiarity within the Treaty of Lisbon still needs to be clarified. On the other hand, the EU still remains “regionally blind” as to other aspects; for example, the locus standi of the regions before EU courts, which will be discussed in Chap.2.

On the Member State level, seven federal, regionalised and decentralised Member States will be discussed. It is the first time that so many national patterns form the focus of a comprehensive legal research project on the role of the Regions in the EU.

The following Member States are analysed: three federal States (Austria, Belgium and Germany), two regionalised States (Italy, Spain) and two major Member States that underwent a strong devolution (United Kingdom) or decentralisation process (France) in the recent past. Two other Member States with a regionalised or decentralised structure (Portugal and Finland) are not included in the book for two reasons. Firstly, the book aimed to address those federal, regionalised and decentralised states with the biggest impact on the EU. Secondly, regionalism in these

³Reich (2001), pp. 1–18; Lenaerts et al. (2005), pp. 533–534.

⁴For the purpose of this book, we call “regions” not only the regions in regionalised states. In a way which is consistent with the European primary law, we also call “regions” the level of government that, both in regionalised and federal settings, is at the intermediate level between the state and the local authorities. Accordingly, we refer to the German and the Austrian *Länder*, the Italian, Belgian, and French Regions, the Belgian Communities, the Spanish *Comunidades autónomas*, and the authorities with devolved powers in Scotland, Wales and Northern Ireland as “regions”. In the case of Italy, the term “region” also covers the Autonomous Provinces of Trento and Bolzano which have powers very similar to those of the Regions.

⁵Among others, read the report pertaining to the 95th meeting of the Bureau of the Committee of the Regions, 7 July 2006, p. 5. Also read the press release of the Committee of the Regions of 4 December 2009 <http://www.cor.europa.eu/pages/PressTemplate.aspx?view=detail&id=decfa388-ecd6-4cc0-9d0d-dc9ae2584112> (last checked on 15 June 2010).

two countries is rather limited in scope. In Portugal, it is limited to overseas regions. In Finland, regional authorities are not directly elected.⁶

To ensure uniformity throughout the book, the same topics are addressed for each of the analysed Member States. The authors of the national Chapters (Chaps. 6–12) were given the following issues to address:

- (a) How does the transfer of powers of the Regions to the EU take place?
- (b) The internal regulation of the forms of direct and/or indirect involvement of the Regions in the EU law- and policy-making.⁷
- (c) The internal preparation of (European) Councils and how, or indeed if, it is guaranteed that internal agreements will be respected during the negotiations on the EU level.
- (d) The judicial defence of the Regions' competences at national and European level in the case of an invasion of competences of the Regions by the EU.
- (e) The fulfilment of EU obligations in the internal sphere.
- (f) Main areas within which there is an overlap between the competences of the Regions and those of the EU.
- (g) Representation offices of the Regions in Brussels.

The findings of the research have been thoroughly analysed and summarised in the Conclusion. The book has been updated until the end of April 2010. Where significant changes had taken place since, the texts were updated until the end of June 2010 and all the websites referred to in the footnotes have been accessed on that date.

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⁶Prakke et al. (2004), pp. 229–231.

⁷Direct involvement concerns involvement at the EU level (e.g., regional participation in Council meetings). Indirect involvement includes legal mechanisms ensuring some safeguard of the powers of the regions to determine the position of the Member State on the EU level (e.g., negotiation of common positions in regional matters).

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