

**ACCOMMODATION OF SUBSTATE NATIONS THROUGH
TERRITORIAL AUTONOMY: SOUTH TYROL AND THE
BASQUE COUNTRY COMPARED**

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Submitted to
Central European University
Nationalism Studies Program

In partial fulfillment of the requirements for the degree of
Master of Arts

Advisor: Professor Maria Kovacs

Budapest, Hungary

2011

Acknowledgements

I would like to express my deepest gratitude to Prof. Maria Kovacs, my supervisor, for her support and guidance during my work on this project. I am also very thankful to Szabolcs Pogonyi, Will Kymlicka, Eduardo Ruiz Vieitez, and research staff in EURAC for their useful tips for my research. Lastly, I would not be able to accomplish this thesis and my research in South Tyrol and the Basque Country without scholarships I had received from the Central European University and Visegrad Fund. Thank you very much for trusting in my research project.

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Introduction

There are several substate nations particularly in Europe which have become more demanding in their goals during past few decades. The fact they altered in their attitude is challenging traditional world of nation-states which practiced their nation-building policies. Majority of scholars interested in this field admit that in response an important shift took place and countries which previously implemented the politics of assimilation turned to the strategy of accommodation of substate nations, usually through some form of territorial autonomy with certain degree of special language status. My main research question, which will be tested in the two case studies, is whether these accommodations are stabilizing and thus, if we can call them successful. Although the main focus will be on the case studies, I will also strive to find certain general applicability for this thesis.

Autonomy indeed appeared to be a very flexible political tool which can be used in order to “silence” minorities within a nation-state. Scholars distinguish between a variety of kinds of autonomy: territorial, personal, cultural, political etc. As Hurst Hannum puts it, autonomy has many advantages in general as a solution to ethnic conflicts, since it can directly respond to concerns about minority rights (especially when minorities are territorially concentrated) while preserving territorial integrity of the state. In other words, autonomy is a stabilizing tool which is the best compromise for both parties concerned, even though their aims might be quite far away from that solution.¹

¹ Hurst Hannum, "Territorial Autonomy: Permanent Solution or Step toward Seccession?" in *Facing Ethnic Conflict: Toward a New Realism*, Andreas Wimmer ed. (Lanham: Rowman & Littlefield Publishers, 2004), pp. 1-3.

Yet, other authors perceive such accommodation as an absolute necessity. States should feel obliged to try to negotiate establishment of any measures which lead to that end. Will Kymlicka for example believes that the state belongs to all people, regardless of their nationality. Only then, people can freely enjoy their culture. In case minorities do not have control over decisions regarding language, education or economic development, they might be more keen on maintaining political units in which they can form a majority. Such conditions unavoidably lead to a wish for secession.² In other words, Kymlicka assumes that if you successfully negotiate a proper accommodation (for example a territorial autonomy), a particular minority will less likely look for separated statehood, because such minority can easily enjoy their minority rights within the original nation-state.

The debate on success or non-success, advantages and disadvantages or stabilizing and destabilizing effects of autonomy is wide. Some authors strive to perceive balancing force of autonomy, yet another group of scholars is worried about its damaging effects. A short overview of this debate in the first theoretical chapter will be the standpoint of this thesis.

The biggest part of the thesis will focus on two case studies which will test flexibility of territorial autonomy. Both have been already heavily discussed by many scholars in their works, but usually separately or compared to other cases. Their comparison is very rare (for example, Ruiz and Kallonen; 2003). The Basque Autonomous Community (The Basque Country) and the Autonomous Province of Bolzano/Bozen (South Tyrol) both enjoy advanced autonomous statuses which not only allow its citizens maintain elements of their culture, but they also assure them certain independence and level of self-governance within borders of unitary states that accommodate them.

² Will Kymlicka, ed., *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship* (Oxford: Oxford University Press, 2001), pp. 139-140.

Thus, both main parties – the state and minority – benefit from autonomy. Can we, however, claim that establishment of this relation guarantees overall stability in the region? This issue is very complex and it deserves further analysis. Stability can be perceived from many points of view. For purposes of this thesis, I will focus on the plurality of different actors in the dispute and diversity of their opinions, which is typical for both cases. The position of those actors and their willingness to negotiate a proper autonomous statute and perhaps the compromise they were able or not able to conclude will be determinant of stability and success of autonomous arrangements.

Both cases demonstrate distinct development, precisely because the two studies represent different type of substate nation. Basques are stateless nation (nation without state). The plurality of actors and opinions is internal issue. Majority of South Tyrolean inhabitants are members of kin-state (cross-border) minority protected by its kin-state (Austria). Their autonomy was discussed on international platform. Yet, the presence of international actor (kin-state, international organization) might have in the end a decisive role and hence, it can be perceived as a powerful determinant for balanced autonomy arrangements. Therefore, this aspect will be taken into account.

Since we talk about development, meaning in this case a period of time which shows some changes or stagnation in negotiations about the autonomous statute, in both cases I will look into particular moments from rather modern history which led to the current arrangements and which clearly manifest how different actors developed their point of view. Current arrangements will be discussed in detail, concretely the particular state constitutions and statuses of autonomy. After discussing mentioned plurality of actors the last part of the

analysis will be dedicated to evaluation of final outcomes of autonomy where overall examination of positive stabilizing or rather disputable aspects will be done.

As the methodological framework of this study is a comparative analysis, both cases will be put into comparison in the final conclusion, though the structure of the two case studies might not be absolutely identical as we have to reflect their particular reality which is indeed very different. This approach will not be obstacle for a comparative study which generally favors cases which are much more similar. Conversely, differences might help us to understand both cases better and can also make the study more generally applicable.

In the end the final result of the comparison can bring two different options of autonomy accommodation, as the plurality of actors and their involvement in both cases differs. Consequently, a very unique comparison of these two case studies offers an opportunity to test flexibility of the concept of autonomy which has been overwhelmingly discussed by a big amount of authors. I am expecting that the final comparison will bring results which will either confirm or reject idea that autonomy can work as a universal stabilizing tool for silencing separatist tendencies of substate minorities, easing ethnic conflicts, preserving unity of states and bringing benefits to all actors who were willing to negotiate particular compromise.

Chapter One: Theoretical Framework

1.1. The Debate on Effects of Autonomy

There is a vast literature on the topic of concept of territorial autonomy (and autonomy in general) which is commonly perceived as a useful tool for accommodation of substate nations. The most of authors focus in their works on positive impact that autonomy has (easing of ethnic tensions, prevention of secession or preservation of unity of state) and complexity with its application (proper negotiations, territorial limitation).

Will Kymlicka has developed in his work a liberal opinion which is very supportive towards accommodation of minorities within what he calls multinational federalism³ which recognizes cultural diversity of the country by creating territorial units. Such accommodation implies certain limitation of state sovereignty and basically giving minority many of the same powers to express and diffuse its language and culture at the substate level that the majority group exercises through the central state.⁴

Importantly, although Kymlicka is defender of multicultural policies, he does not present any solution as universal and distinguishes between several types of minorities: substate nations, immigrants and indigenous peoples. All disputes between those groups and the State have to be addressed in a proper way, because each of these minority groups adopted a certain strategy how to face state nation-building and, thus, requires different accommodation from

³ Multinational federalism is to be distinguished from mononational federalism which is more centralized and does not in principle seek to reflect cultural diversity. The type of diversity it recognizes is economic and social one.

⁴ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity* (Oxford: Oxford University Press, 2007), p. 141.

the state. This accommodation may include some form of multicultural policies, self-government and language rights, or treaty rights and land claims or legal exemptions.⁵

Substate nations which are in the focus of this thesis typically demanded some form of autonomy and partly mobilized their group along nationalist lines.⁶ According to Kymlicka the success of multinational federalism in accommodation of substate minorities is based on its ability to silence the force of nationalism⁷ that those groups used in order to pursue their goals. As one of such goals may be secession, the fact that territorial autonomy has ability to accommodate regions within preserved unity of the state, confirms its biggest advantage.

In addition, not only that Kymlicka finds accommodation of substate minorities within multinational federalism advantageous, but he also perceives significant positive factors in its application. Above all, countries which adopted strong multicultural policies have had no more difficulty sustaining their redistributive social policies, but multicultural approach also helped to preserve ethnic peace, reduce inequalities and injustices, promote liberalization, democratization and human rights.⁸

Another group of authors defends rather a normative viewpoint, which relates autonomy to anti-secessionist movement and preservation of given unity of the state. Donald Horowitz claims that first, secession does not create homogenous states and it neither reduces the conflict nor violence or minority oppression. Moreover, the right to secede is according to

⁵ Will Kymlicka and Magda Opalski, eds., *Can Liberal Pluralism Be Exported? Western Political Theory and Ethnic Relations in Eastern Europe* (Oxford: Oxford University Press, 2001), p. 23.

⁶ Ibidem, p. 24.

⁷ Will Kymlicka, "Multiculturalism and Minority Rights: West and East," *Journal on Ethnopolitics and Minority Issues in Europe* 4 (2002), p. 11.

⁸ Will Kymlicka, *Multicultural Odysseys...*, pp. 136-137.

Horowitz undermining attempts to achieve interethnic accommodation within undivided states, including the adoption of federalism or regional autonomy, which might be helpful instruments to alleviate some of the grievances of secessionist minorities.⁹ In the end, Horowitz says, there is always a choice, which characterizes current debate, between encouraging participation in the undivided state and legitimating exit from it. Although the former will produce imperfect results, Horowitz clearly prefers respect for integrity of the state and accommodation of minorities within it, because the second option is downright dangerous.¹⁰

Indeed, if we take into account that there are thousands of ethnic groups in the world, their secession is not feasible, neither desirable; mainly, because some of those groups would not be simply able to survive in a separated statehood.

Similarly Hurst Hannum talks about trapped minorities which will never cease to exist no matter how carefully boundaries will be drawn. Therefore, secession should be supported by the international community only in cases of human rights violations or in case reasonable demands for self-government or minority rights have been rejected by a central government.¹¹

Hannum, however, believes that if human rights of minority groups members are protected, strong national cultures can indeed easily continue developing even without their own states.¹²

The way how national minorities can be accommodated is through territorial autonomy. Hannum claims the best advantage of autonomy as a solution to ethnic conflicts is its

⁹ Donald L. Horowitz, "The Cracked Foundations of the Rights to Secede." *Journal of Democracy* 14, no. 2 (April 2003): p. 6.

¹⁰ *Ibidem*, p. 16.

¹¹ Hurst Hannum, "The Specter of Secession," *Foreign Affairs* 77, no. 2. (March/April 1998): pp. 16.

¹² *Ibidem*, p. 14.

flexibility. Autonomy may encompass a wide range of constitutional relationships including separated legislature, judiciary and financial independent authority or powers over language, education, or culture. It is also perceived as a successful response to concerns about minority rights and as an instrument which maintains the territorial integrity of existing states, since autonomous units are not becoming sovereign. In this way, autonomy is based on contributing to the stability of the existing international order. It is a compromise solution responsive to both, majority concerns and minority demands.¹³

On the other hand, Hannum is very careful with usage of the concept of territorial autonomy and stresses it is indeed just one of tools which remains useful, but only if it is clear for which purposes it has been used. And more importantly, it can be successful only if it is based on strong willingness of people to live together.¹⁴

We can easily list cases when such willingness lacked, so autonomy was not on the agenda: Krajina Serbs in Croatia, Kosovo in Serbia or Czechoslovakia. Here we can also distinguish between different ways how those conflicts were solved. While disputes among Czechs and Slovaks were resolved through a peaceful disintegration, conflicts in Croatian Krajina and Kosovo employed a bloody war.

Yet Ruth Lapidot also indicates flexibility of autonomous arrangements or rather at the necessity to establish them in the way that allows their modification in future. Lapidot points at its proper usage and warns about future difficulties, usually regarding different opinions of actors on devolution of power or clashes between them. For this reason arrangements of

¹³ Hurst Hannum, "Territorial Autonomy...", pp. 1-3.

¹⁴ Ibidem, p. 7.

autonomy should not be rigid, but rather flexible which allows introduction of changes in future.¹⁵

When talking about advantages and disadvantages of autonomy Lapidoth similarly to Hannum says that success of territorial autonomy as a tool for accommodation of minorities lies in its wide scope. Territorial autonomy is not limited to matters of culture or language, but it applies to a wide range of social and economic affairs. On the other hand, its disadvantage is that it only applies to residents in the autonomous territory, while those members of the minority group living outside the territory cannot enjoy its benefits.¹⁶

Also other authors turn to listing of advantages and disadvantages when talking about autonomy. Stefan Wolff says that the biggest advantage of territorial autonomy is that this concept is the only one among territorial claims, which does not aim to change internationally recognized boundaries, but expresses desire of a particular ethnic group to gain some form of self-governance within its homeland. In some cases, autonomy is, however, not desired; it is rather the second-best option either when the particular ethnic group notices that the recognition of their separated statehood is unlikely to happen or when their ability to survive as an independent state would be limited. Because of its non-disturbing impact on existing states, the international community has been long defender of this accommodation, since autonomy provides for a viable compromise between states and minorities.¹⁷

¹⁵ Ruth Lapidoth, *Autonomy: Flexible Solutions to Ethnic Conflicts* (Washington, DC: United States Institute of Peace Press, 1996), pp. 34-35.

¹⁶ Ibidem, p. 40.

¹⁷ Stefan Wolff, *Ethnic Conflict: A Global Perspective* (Oxford: Oxford University Press, 2007), p. 45.

International dimension is widely discussed by Thomas Musgrave who looks at the possibility how to see the principle of autonomy in the context of international law. Any positive approach in norms of the international law would basically mean a possibility to impose on states obligation to guarantee autonomy as a form of internal self-determination to their territorially or non-territorially concentrated minorities. Musgrave stresses that such approach already appeared in the draft Declaration on the Rights of Indigenous Peoples which recognizes the right of self-determination within existing state (via autonomy and self-government) for indigenous people. Nevertheless, when it comes to substate nations the principle of autonomy falls within domestic jurisdiction of the state. Many states are usually very reluctant to grant any forms autonomy and consider them as potential danger for stability as they may lead to “Balkanization.”¹⁸ Therefore, the international law approach to autonomy is a neutral one and autonomy remains being vague concept with no rules. It is dependent on a state which form of autonomy it would like to adopt and the state is also free to decide whether it wants to turn to autonomy at all.

In connection with that a rather critical point of view has Montserrat Guibernau who stresses no fixed rules on how much power should be devolved when autonomy is given to regions. Also, autonomy should never be taken for granted that states would automatically accept this principle, even though there are practical reasons for it in certain areas. As it requires very serious intervention into states structure (mainly, amendments to constitutions which should specify degree of decentralization and specific powers to be devolved), states usually hesitate to come to that end and they only change their position after national minorities evolve some

¹⁸ Thomas D. Musgrave, *Self-Determination and National Minorities* (Oxford: Oxford University Press, 1997), p. 208.

pressure. As such, the whole process of establishment of autonomy is never smooth and it always brings certain disputes.¹⁹

It is very visible especially in the Central-Eastern Europe (CEE) that countries in the post-socialist region generally fear of their minorities (in most of cases they are kin-state minorities) and autonomy model is not viewed as ‘a positive easing ethnic conflict solution.’ Autonomy is not acceptable mostly because it is perceived as a first step towards secession and as a tool which causes a lot of damage to the unity of the state. Also autonomy in their perception can constitute discrimination against other inhabitants or it can violate certain interests and values of the state. Lastly, establishment of autonomy may bring the risk of intervention of other state to which members of the autonomous group feel affiliated.²⁰

Finally, most of CEE states might rather believe that it is not always necessary and desirable to adopt autonomy (perhaps because of Yugoslav experience) and they strive to solve their ethnic conflicts through other measures which do not imply changes in state’s structure. Those are general rules of human rights, such as prohibition of discrimination and the right of citizens to political participation.²¹

Many authors on the other hand do not see danger in ‘Balkanization’ and perceive an important connection between autonomy and ethnicity. For this reason it is necessary to take certain risk. Yash Ghai perceives in his edited volume ‘Ethnicity and Autonomy’ autonomy as a device directly connected to ethnicity, meaning that this device allows particular ethnic or

¹⁹ Montserrat Guibernau, *Nations without States: Political Communities in a Global Age* (Cambridge, UK: Polity Press, 1999), pp. 37-38.

²⁰ Ruth Lapidot, *Autonomy: Flexible Solutions...*, p. 203.

²¹ *Ibidem*, p. 204.

other group to exercise direct control over affairs of special concern.²² Importantly, Ghai indicates importance in negotiations, accommodation and events which preceded concluding of actual arrangements. Among such aspects are involvement of international community, previously established traditions of democracy and the rule of law, negotiations led in a democratic and participatory way and careful institutional arrangements. Ghai again stresses importance of proper negotiations which are essential for diffusion of ethnic conflicts. He claims that autonomy cannot be explained as simply either successful or non-successful tool in this sense. Autonomy arrangements appeared to be successful in defusing identity-based conflicts within some states (Canada, India, Spain), yet they were not successful in other cases (Yugoslavia, Cyprus).²³

Also Hans-Joachim Heintze sees advantage of autonomy in its ability to ease ethnic tensions and points that suppression of minority may only lead to its resistance. Autonomy can promote participation of minority in the state affairs and in the end whole mechanism provides for cultural pluralism which can have positive effect on society as a whole. Yet, the danger lies in its facilitation of division in the society which may lead to political, economical or social disputes. In brief, autonomy is a type of conflict resolution, but it needs to be combined with other measures in order to assure balance between its advantages and disadvantages.²⁴

In summary, scholars offer a wide range of viewpoints on application of autonomy. One general view is more related to the need for accommodation of different cultures and to the

²² Yash Ghai, ed., *Autonomy and Ethnicity: Negotiating Competing Claims in Multi-Ethnic States* (New York: Cambridge University Press, 2000), p. 8.

²³ Ibidem, pp. 14-21.

²⁴ Hans-Joachim Heintze, "On the Legal Understanding of Autonomy," in *Autonomy: Applications and Implications*, Markku Suksi ed. (The Hague: Kluwer Law International, 1998), pp. 11-12.

foundation of such structure, which would guarantee development of distinctive minority culture. This structure avoids creation of new statehoods and implies cooperation of states which have to partly give up their sovereignty. The second general view focuses on the ability of autonomy to preserve state's unity and prevent secession. Majority of authors actually combine both of these views – one favoring minority, second favoring the state. Together they stand for flexibility which ideal autonomy should represent.

Importantly, although most of authors see particular advantage of autonomy in the preservation of state integrity and the easing of ethnic tensions, all of them are aware of importance of negotiations which lead to the final accommodation. This step is particularly essential as it may determine future development of the conflict. Autonomy in the end can turn out to be either a successful tool for accommodation of substate national groups or a dangerous weapon worsening the conflict. In some cases the combination of both can appear and this is the exact time when a proper peace negotiation should be employed in order to lead the development towards a successful end.

1.2. Substate Nations – Stateless Nations vs. Kin-State Minorities

Before turning to the case studies a further specification of the term substate nations need to be done, as this determines specific needs substate nations are looking for. At first, most of authors rather use the term national minorities which in classic United Nations inspired understanding refers to '*persons belonging to ethnic, religious and linguistic minorities.*' This

definition clearly restricts minority status to nationals or citizens of the state and excludes all 'new minorities' (refugees, aliens, immigrants or migrant workers).²⁵

Nevertheless, for my purposes I prefer usage of the term substate nations or national groups, as this term clearly excludes the group of indigenous people which stand for different type of minority group which also needs a different type of accommodation. Will Kymlicka employs this particular distinction. In his perception the term national minorities can be subdivided into two categories: substate nations and indigenous peoples. Substate nations are nations who currently lack state in which they would form a majority, but they may have had such state in past or may have sought for it. Substate national groups are in a position of sharing a state with other nations for many reasons: they might have been conquered or annexed by a larger state; they moved from one empire to another; they united with another kingdom. Indigenous peoples, on the other hand, have been usually overrun by settlers either after usage of force or through treaty arrangements. Basically, they were incorporated into a state by people whom they regard as foreigners. Their aim is mainly to maintain traditional ways of life.²⁶

In order to be clear we should also stress the difference between two types of substate nations. At first Montserrat Guibernau talks in her work on nations without states (stateless nations), which are cultural communities sharing common past, attached to a clearly demarcated territory and wishing to decide upon their political future which lack a state of their own.²⁷ Such minorities may be presented by radical nationalist and secessionist movements wishing separated statehood. Basques fall under this definition.

²⁵ Jennifer Jackson Preece, *National Minorities and the European Nation-States System* (Oxford: Clarendon Press, 1998), p. 19.

²⁶ Will Kymlicka and Magda Opalski, eds., *Can Liberal Pluralism...*, pp. 23-24.

²⁷ Montserrat Guibernau, *Nations without States...*, p. 1.

Second case is a kin-state minority (cross-border minority). Kin-state minority is a special kind of group which ended up on a territory of the state which is usually bordering with their original homeland. Such minority may have irredentist tendencies, meaning it seeks for reunification with its kin-state. Also the danger in such cases is potential for intervention by the kin-state in order to protect the interests of their people.²⁸ German-speakers in South Tyrol represent this type of substate nation.

In sum, the point of this distinction is to stress different reality these minorities face. Whereas stateless nations are usually nations which were conquered and ruled by majority population and incorporated into newly emerged state, cross-border minority usually ended up on the 'wrong' side of border as a consequence of a treaty which established new borders or as a consequence of migration trends in the border land. Based on that their radical aims and tools they use may differ. Stateless nation may seek for independence and own statehood, so it is in dispute with the state which protects its territorial integrity. Such dispute is generally perceived as a domestic issue, thus, the stateless national group fights for its rights alone. Cross-border minority, on the other hand, may look for the reunification with its kin-state. Kin-state plays an important role of protector and tends to intervene in negotiations with the host state. In the end the issue usually becomes internationalized and involves multiple actors in the game.

All these factors needed to be taken into account when testing impact of autonomous arrangements.

²⁸ Will Kymlicka and Magda Opalski, eds., *Can Liberal Pluralism...*, p. 65.

Chapter Two: The South Tyrolean Autonomy

South Tyrol (officially the Autonomous Province of Bolzano/Bozen) is a small province occupying a mountainous territory in northern Italy, which is part of the autonomous region Trentino-Alto Adige/Südtirol. It is one of the wealthiest areas in Italy, historically connected with Austrian empire. The area has never been isolated; conversely, it has always been a transit territory, since the Brenner Pass, which the area incorporates, has been for many centuries the easiest way of communication between Germanic and Latin worlds. As a gateway to the Alps the position of South Tyrol was strategically important.²⁹ Although the strategic importance does not seem significant anymore, the territory has its specific position because of its economic development and touristic attractiveness.

The autonomy primarily accommodates three ethnic (linguistic) groups which make up South Tyrolean population. The overall population of South Tyrol was according to the last census (2001) 462 999 (in 2009 population reached 503 434), out of which 69,38 % were German-speakers, 26,30 % were Italian-speakers and 4,32 % were Ladin-speakers.³⁰ Italy adopted particular measures while preserving the existence of unitary state. A decentralized model of internal redistribution of power was adopted without transforming the model into a federal one. The basic laws are the Constitution, respective statute and acts of autonomy. Autonomy

²⁹ Eduardo J. Ruiz Vieyetz, Markko Kallonen, "Territorial Autonomy and European National Minorities: South Tyrol, the Basque Country and the Aland Islands," *European Yearbook of Minority Issues* 2 (2002/2003): pp. 250-252.

³⁰ Autonomous Province of South Tyrol – Provincial Statistics Institute (ASTAT), *South Tyrol in Figures, 2010*, available at http://www.provinz.bz.it/en/downloads/Siz_2010-eng.pdf (accessed on April 10, 2011).

which is based on constitution is here perceived as a strong guarantee for conserving the self-government.³¹

Nowadays, South Tyrol is frequently regarded as an example of successful autonomy and cross-border cooperation. It is based on four principles of consociational democracy: grand coalition, segmental autonomy, proportionality and minority veto.³² But the route to this accommodation was very complex, especially because different actors pursued different goals.

This case study will first look into a particular development of the position of South Tyrol in Italy. What makes this case so unique is exactly this development from the territory ruled by ethnic conflict, which was caused by attempts to assimilation on one side and irredentist response on the other side, to a successful accommodation of the three ethnic groups. Second, the role of distinct actors in the conflict in particular will be analyzed. It is without doubt that the South Tyrolean case could not be successfully solved without particular involvement of not only Italian government and South Tyrolean local representatives, but also of Austria as a kin-state and international community. And third, certain controversies, mainly creation of parallel societies will be questioned as an important side effect of the minority accommodation.

³¹ Eduardo J. Ruiz Vieitez, Markko Kallonen, "Territorial Autonomy and European National Minorities...": p. 257.

³² Ibidem, p. 257.

2.1. Historical Developments in the South Tyrol Territory

South Tyrol and Italy

As mentioned South Tyrolean history is rather connected with German speaking environment. Before 1919, South Tyrol or any other part of old Tyrol land had never ever formed part of Italy – neither culturally, economically nor politically.³³ When South Tyrol became part of Italy, the province went first through a period of assimilation, then through a period of negotiations between several actors, and in the end South Tyrol became a prosperous province and one of the best examples of working autonomies in Europe. Going through those particular events in history and documents that were negotiated between all parties involved may help us understand the success of their autonomy.

At first, when in 1919 Austria awarded South Tyrol to Italy within the Peace Treaty of St Germain, Italy gave assurances for well-being of the German and Ladin-speaking minorities. However, instead of that a program of Italization was introduced when Mussolini took over the power in October 1922. This program aimed at the systematic destruction of the linguistic, religious and demographic foundations of the ethnic identity of the German-speaking group of South Tyrol. Even Hitler was not willing to sacrifice his plans for the fate of 300,000 German-speaking South Tyrolese and instead he offered them emigration to Germany. In the end only 70,000 left.³⁴

³³ Stefan Wolff, "The German-Speaking Community in Italy," in *The Ethnopolitical Encyclopaedia of Europe*, Karl Cordell and Stefan Wolff eds. (New York: Palgrave Macmillan, 2004), pp. 122.

³⁴ Ibidem, pp. 122-123.

It was not surprising that after the World War II, none of the parties was satisfied and even one part of South Tyrolean people demanded returning land to a restored Austria. This anti-Italian campaign was led mainly by the South Tyrolean People's Party (SVP),³⁵ which emerged in 1945 as a main defending force of German speakers. Consequently, after the war one of the central points of European politics was to reconcile the relationship between Austria and Italy. This aim was not based on the idea of protection of minority rights at that time, but upon political-strategic considerations. The primal idea was to assure that Italy, where the menace of a communist takeover was on the agenda, would choose the pro-Western attitude and develop a balanced environment in the country. So, the return of an economically strong Province of South Tyrol to Austria was not a suitable option, because it would have considerable economic impact on Italy. That is why the international community supported the idea of leaving the area with the Brenner Pass to Italy. However, they insisted on legal measures for minority protection to be established by Italy.³⁶

The Paris Agreement

As a result of previous negotiations the Italian and Austrian governments concluded the 1946 Paris Agreement which was attached to the peace treaty with Italy. In this document both parties proclaimed to 'safeguard the ethnic character and the cultural and economic development of the German-speaking element.'³⁷

³⁵ Antony Alcock, "The South Tyrol Autonomy: A Short Introduction," available at <http://www.provinz.bz.it/en/downloads/South-Tyrol-Autonomy.pdf> (accessed on January 20, 2011), p. 4.

³⁶ Stefan Wolff, "The German-Speaking Community in Italy...", pp. 123.

³⁷ *Ibidem*, p. 123.

This so called De Gasperi-Gruber³⁸ agreement basically led to a complete equality of rights with the Italian-speaking inhabitants. Concretely it granted:

- 1) elementary and secondary teaching in the mother tongue;
- 2) parification of German and Italian languages in public offices and official documents, as well as in bilingual topographical naming;
- 3) the right to re-establish German family names which were Italianized in recent years;
- 4) equality of rights as regards the entering upon public offices with a view to reaching a more appropriate proportion of employment between the two ethnical groups.³⁹

Additionally, the populations were granted the exercise of autonomous legislative and executive regional power. And finally, the Italian government promised to establish good neighborhood relations between Austria and Italy. In particular, the questions of citizenship, the validity of certain degrees and university diplomas, the free passengers and goods transit between Northern and Eastern Tyrol and frontier traffic and local exchanges of certain quantities of characteristics products and goods between Austria and Italy were stipulated in the document.⁴⁰

In the end, all these provisions of the Paris Treaty were annexed to the 1947 Italian Peace Treaty, so that the South Tyrol question was given an international standing and all negotiations on following autonomy had a legally and internationally established basis. Austria, as a kin-state had basically right to act as minority's protecting power and check if clauses of the Paris Agreement were fulfilled.⁴¹

³⁸ The agreement got its name after Italian Prime Minister Alcide De Gasperi and Austrian Minister of Foreign Affairs Karl Gruber.

³⁹ Antony Alcock, "The South Tyrol Autonomy...", p. 5.

⁴⁰ Ibidem, p. 5.

⁴¹ Ibidem, p. 5.

However, the agreement itself had several implications, which as a result would seriously jeopardize inter-community relations. One problem was that wording was generally vague. It was for example not clear whether the future autonomy would apply to South Tyrol only or to the entire populations of the two provinces. It was not clear what the word 'regional' means; whether it should be interpreted geographically or in an administrative sense. It was not clearly defined what the position of German language in the province was, what are public offices, how the schooling in the two languages would work in practice etc.⁴²

Yet, the second problem, perceived mainly from the Italian side, was that the autonomy did not contain Austrian renunciation of South Tyrol and even worse Austria itself felt very much dissatisfied with the fact that South Tyrolese were again denied their right to obtain the right to self-determination. The agreement was perhaps from their perception the best under certain circumstances, but this did not mean that Austria had renounced South Tyrol. Clearly, the agreement was a temporary one which meant for Italians to accept that Austria as a kin-state still can affect the territorial stability of the state.⁴³

Therefore, in the result the new autonomy statute which was based on the Paris Agreement was a restrictive one, because the degree of alienation and suspicion between groups was still strong. In addition, the Italian government had to bear on mind what an effect a new autonomy statute would have on similar minority situations elsewhere in the country, primarily in Val d'Aosta where a vivid French-speaking minority resides.⁴⁴

⁴² Antony Alcock, "The South Tyrol Autonomy...", p. 6.

⁴³ Ibidem, p. 6.

⁴⁴ Stefan Wolff, "Complex Power Sharing as Conflict Resolution: South Tyrol in Comparative Perspective," available at <http://www.stefanwolff.com/files/STCPS.pdf> (accessed on January 9, 2011), p. 10.

All those arrangements left all sides highly dissatisfied. Italy did not like to see intervention of Austria. Austria and South Tyrol were irritated about restriction Italy imposed.

The First Statute of Autonomy

When in 1948 a new autonomy statute finally passed the Italian parliament, it was perceived with a huge disappointment, since it did not contribute to a successful settlement of the problem. Quite oppositely, different interpretations of the statute appeared from different sides.⁴⁵ South Tyrolese remained dissatisfied mainly because the status included the province into the Trentino-Alto-Adige autonomous region (together with the Province of Trento), in order to have German-speakers outnumbered by Italians. This was very important matter in regard to distribution of legislative and administrative powers of the Regional Parliament.⁴⁶

In practice autonomy provided for institutional power-sharing which required that the distribution of portfolios reflects the ethnic composition of the two parliaments. Nevertheless, the Region was not obliged to delegate its administrative powers to the Provinces and also, since Italy is not a federation but a regional state, all regional matters (laws) required approval by the central government in Rome, what was certainly not in accordance with South Tyrolese's expectations.⁴⁷ The transfer of powers from region to the province was simply insufficient, which caused a big disappointment of the SVP at their failure to achieve planned economic and social objectives (control over immigration, language issues, public sector).⁴⁸

⁴⁵ Stefan Wolff, "Complex Power Sharing...", p. 10.

⁴⁶ Stefan Wolff, "The German-Speaking Community in Italy...", p. 124.

⁴⁷ Antony Alcock, "The South Tyrol Autonomy...", p. 7.

⁴⁸ Stefan Wolff, "Complex Power Sharing...", p. 11.

Additionally, there were other cultural measures. For example, South Tyrolese could use their language in public life, but German was not named an official language as Italian, which was indeed quite far away from the parification promised by the Paris Agreement. Also, although the education reflected ethnic lines, it was explicitly said that it was an internal part of the Italian national educational system.⁴⁹

Aftermath – From Compliant to the United Nations to the Package Solution

In the aftermath of establishment of the first statute Austria insisted that Italy fell short to fulfill the Paris Agreement and several unsuccessful negotiations between the two countries led to an attempt to internationalize the South Tyrol question at the United Nations in 1960 and 1961 and later at the emerging European institutions.⁵⁰

A big dispute started already in October 1956 when Austria proclaimed its concern regarding German-speaking minority living in Italy to Italian government and requested that talks be held to resolve the issue. The Italian government refused claiming that the current autonomy fulfilled the requirements stated in the Paris Agreement and that Austria is no longer in a position to be involved. Thus, Austria represented by its Foreign Minister Bruno Kreisky brought the South Tyrol question before the UN General Assembly and filled an interstate complaint before the European Convention on Human Right. The complaint stated that Italy refused to grant autonomy to the Province of Bozen and therefore Austria asks to bring about a settlement based on democratic principles by which the Austrian minority would enjoy a true autonomy so as the self-administration and self-government it had asked for. In other words, the problem was not presented as issue of self-determination, but as issue of minority

⁴⁹ Antony Alcock, “The South Tyrol Autonomy...”, p. 6.

⁵⁰ Stefan Wolff, “Complex Power Sharing...”, p. 12.

rights protection. Although Austrian delegation believed in self-determination, but in the end its internal not external (the right to determine one international status) version became the goal.⁵¹

Concretely, external self-determination would allow for determination of own international status, which was rejected as unfeasible. On the other hand, internal self-determination was based on full autonomy for the Province within the framework of minority protection. The same approach of distinction between meanings of self-determination was acknowledged by the United Nations. Ethnic, religious or linguistic groups were entitled to internal, but not external, self-determination.⁵² This agreement on definition of self-determination made the resolution of the previous conflict easier.

Finally, the General Assembly resolutions of 1960 and 1961 were the most important events of South Tyrolean history. Although they did not bring anything new and just reaffirmed the Paris Agreement, they encouraged negotiations and increased pressure on Italy to find a solution to this issue. The aim to obtain international attention was achieved. Italy responded by appointing the “Commission of 19” in September 1961 composed of 11 Italians and 8 South Tyroleans with aim to overlook the situation and find possible solutions. This was actually the first time when direct negotiations between South Tyrol and Italy took place. The Commission presented the final outcome in April 1964, which by the end of 1960s became the ground for the Package Agreement.⁵³

⁵¹ Melissa Magliana, *The Autonomous Province of South Tyrol. A Model of Self-Governance?* (Bolzano: European Academy of Bozen/Bolzano, 2000), pp. 37-38.

⁵² Jens Woelk, Francesco Palermo and Joseph Marko, eds., *Tolerance through Law. Self Governance and Group Rights in South Tyrol* (Leiden, Boston: Martinus Nijhoff Publishers, 2008), pp. 24-25.

⁵³ Melissa Magliana, *The Autonomous Province of South Tyrol...*, pp. 38-39.

The so called ‘package solution’ contained 137 single measures, 25 detailed provisions, and 31 rules of interpretation. This document basically devolved more powers to the Province, established German as a second official language in the Province and assigned a third constituency to South Tyrol for Senate elections. Moreover, the package established the principle of proportionality for the recruitment and appointment of staff according to ethnic proportions in the public sector and for distribution of public housing.⁵⁴ Consequently, the German speakers finally obtained what they wished – official recognition of their distinct identity.

2.2. Italian Regional System

The new autonomous statute was based on the above discussed ‘Package.’ The whole implementation was, however, largely dependent on already existing framework of the Italian regional system, which was established by the 1948 Constitution. The Constitution is, hence, the main point of reference here and need to be discussed before going into analysis of the Statute of Autonomy.

The Italian Constitution

The 1948 Constitution provided for the division of the country into 20 regions – 5 with special statutes (Trentino-Alto Adige, Valle d’Aosta, Sardinia, Sicily, Friuli-Venezia Giulia) and 15 with ordinary statutes. This system was basically inspired by the regional scheme of

⁵⁴ Stefan Wolff, "The German-Speaking Community in Italy...", p. 125.

the Second Spanish Republic, which provided high level of decentralization without turning to federalization of the country.⁵⁵

In summary, the Constitution acknowledges that regions should have powers and should become independent centers of decision-making. The State, on the other hand, should stand for the main frame of reference within which regions can regulate themselves and should also pass legislation to enable them to be financially autonomous. However, in practice the government has been always reluctant to give too much financial autonomy to local authorities. From the beginning, there has been an extensive conflict between regional authorities and the central government.⁵⁶ The regionalization was slow and perhaps not motivated by strong protests from side of regions, with the exception in South Tyrol, where terrorism occurred in 1940s and 1950s. Also, although the Constitution de facto created regional system, due to years of centralization the regions lacked structure and personnel. Thus, their establishment was highly depended on legislation passed by the central government.⁵⁷

As for the self-rule the new Constitution allows for creation of regional governments and grants them a privileged autonomy and the status of special regions to the areas where the quest for self-rule was most active. A parliamentary system was established in each region based on a legislative assembly, an executive, and a president who enjoy number of powers.⁵⁸

⁵⁵ Daniel J. Elazar, *Federal Systems of the World: A Handbook of Federal, Confederal, and Autonomy Arrangements* (Harlow, Essex, U.K.: Longman Current Affairs, 1991), p. 128.

⁵⁶ Donald Sassoon, *Contemporary Italy: Politics, Economy, and Society since 1945* (London: Longman 1991), p. 210.

⁵⁷ Ugo M. Amoretti, "Italy. Political Institutions and the Mobilization of Territorial Differences" in Ugo M. Amoretti and Nancy Bermeo eds., *Federalism and Territorial Cleavages* (Baltimore, Md.: Johns Hopkins University Press, 2004), p. 186.

⁵⁸ *Ibidem*, p. 186.

Yet, the degree of shared rule is very modest. One of institutional devices through which units can voice their opinions is politics of bicameralism. Regions are reflected in the bicameral constitution of the Italian Parliament which is divided into a 630-member Chamber of Deputies and a 315-member Senate. Deputies are elected directly for 5 years, but Senators are proportionally elected within each region; each region is granted 7 senators with exception of Valle d'Aosta which has only 1.⁵⁹

The system is somewhat based on direct control of the central government, which does not permit totally free development of regions. Both types of regions have complementary legislative powers in which regional council is limited to legislating within the framework of national legislation, and integrative legislative powers which allows for adaptation of national laws to specific needs and situation of each region. Among complementary powers are organization of regional offices, local government boundaries, local police, fair and markets, public charities, health and hospital services, vocational training, aid to schools, museum and libraries, town planning, tourism, transportation, services of regional interest, roads, aqueducts and public works of regional nature, lake navigation and ports, quarries, hunting and fishing, agriculture and forestry. In addition, special statute regions have competence over local and regional banking, mines, expropriation in the national interest, public health, publicly-owned housing, firefighting services, labor relations, social insurance, industry, commerce and land reclamation.⁶⁰

Hence, units have possibility to be represented in the upper house where are endowed with powers directly related to substate matters, which is so typical for federation. On the other

⁵⁹ Daniel J. Elazar, *Federal Systems of the World...*, p. 130.

⁶⁰ *Ibidem*, pp. 130-131.

hand, Italy as a typical unitary state does not provide regions with any institutional channels to play some significant role at the center.⁶¹

Now, the position of South Tyrol is particularly special. Current Constitution, revised in 2001, still defends asymmetrical approach to regions and lists five regions with a special statute. Yet, there is another asymmetry visible in today's Constitution which defines structure of the Trentino-Alto Adige Region. Concretely, point 2 of the Article 116 explicitly says that the Region of Trentino-Alto Adige consists of the Autonomous Provinces of Trento and Bolzano.⁶² In this sense the system is unique because the level of the strongest political power guaranteed by the Constitution is the provincial one, not the regional one.⁶³

The Current Statute of Autonomy

As mentioned above on the basis of the package, which included detailed operational calendar with a specific sequencing of events and steps for settlement to be completed,⁶⁴ a new autonomy statute was drafted and approved in 1972. This statute was implemented over a 20 year period and was further revised in 2001 through constitutional reform which allowed for even greater degree of autonomy enjoyed by South Tyrol.⁶⁵

As far as the structure is concerned, Trentino-Alto Adige/Südtirol represents a peculiar case within Italy and within its special regional framework, which is guaranteed by the

⁶¹ Ugo M. Amoretti, "Italy. Political Institutions...", p. 188.

⁶² *Constitution of the Italian Republic*, available at http://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf (accessed on April 5, 2011).

⁶³ Eduardo J. Ruiz Vieyetz, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 258.

⁶⁴ Stefan Wolff, "Complex Power Sharing...", p. 12.

⁶⁵ Stefan Wolff, "The German-Speaking Community in Italy...", p. 125.

Constitution. Like other regions with special statute, Trentino is governed by three primary organs: the Assembly, the Government, and its President. However, what makes Trentino different from others is its devolution of legislative and administrative powers and financial resources in between two provinces which constitute the Region. In other words, the Province of Trento and the Province of Bolzano (South Tyrol) are equal to regions in certain respects, since they hold the autonomous powers while the region as such is body with very few residual functions which cannot be transferred to regions or which are simply common interest for population in both provinces (municipal boundaries, land records, fire services, health services, hospitals, chambers of commerce, charitable institutions, credit agencies, community order). The final structure as it works now provides a hierarchy between various levels of government where the State-Province relationship gains importance.⁶⁶

Concretely, although the Region remained being the primary legislative power, all most important economic and social factors were transferred to the Provinces – agriculture and forestry, tourism and the hotel trade, protection of the countryside, public health and welfare, communications and transport of provincial interest, mines, nursery schools, school buildings and school welfare, public works, employment exchanges, and vocational training. Moreover, provinces obtained secondary legislative powers regarding teaching in primary and secondary schools, trade and commerce, apprenticeships, promotion of industrial production, hygiene and healthcare, and sport and leisure. Administrative offices related to these sectors were also transferred to provinces.⁶⁷

Additionally, the principle of proportionality plays a crucial role in the new statute. The Regional Parliament which is composed of 70 deputies, who are elected by proportional

⁶⁶ Melissa Magliana, *The Autonomous Province of South Tyrol...*, pp. 48-49.

⁶⁷ Antony Alcock, "The South Tyrol Autonomy...", p. 11.

representation, is divided between Trento and Bolzano. The number of delegates representing province is contingent upon their respective populations as measures in the most recent census (currently both provinces have 35 delegates). In addition, during the first half of the 5-year term the positions of the president and Vice-President of the Regional Assembly must be members of the Italian and German language groups and in the opposite order for the second half. Seat of the assembly also switches between Bolzano and Trento for the first and second half of the term.⁶⁸

The most importantly, the South Tyrolese government must reflect the ethnic proportions of the Parliament. In practice, that means that a regular majority in the parliament is not sufficient to create a government if that majority comes from only one linguistic group. Therefore, it is always necessary to seek a coalition.⁶⁹

The 1972 statute and its provisions were further developed by the revision of the Italian Constitution in 2001. First, in its Article 2 the Constitutional Law recognized internationally guaranteed nature of the South Tyrol, which basically meant that the autonomy cannot be brought into question. Second, laws of the South Tyrol Parliament no longer needed the approval of Rome in order to come into force and both provinces were able to decide on their own form of government and voting system. Third, last measures were connected to frequently avoided Ladin group which formed just 4 % of population and it was practically impossible for Ladins to get the highest political posts.⁷⁰

⁶⁸ Melissa Magliana, *The Autonomous Province of South Tyrol...*, pp. 49-50.

⁶⁹ Antony Alcock, "The South Tyrol Autonomy...", p. 12.

⁷⁰ *Ibidem*, p. 12-13.

In summary, the statute itself has now a double character of an instrument which first, regulates institutions and measures of decentralized self-government of the province and the Region and second, it also provides for the protection of the minorities. Its name – ‘Measures in Favor of the Protection of South Tyrol’ – clearly says that language issue and minority protection is only one of many issues to be settled by the statute. As mentioned in detail in previous paragraphs, the statute includes variety of regulations dealing with distribution of powers between different levels of government and ethnic groups. Importantly, the most of articles directly regulate and strengthen provincial autonomy and introduce instruments how to mediate between the groups.⁷¹

Basically, South Tyrolese obtained in the new autonomous statute much of what they always wanted, though they did not obtain break up from the Region or elevation of the Province into a Region. What was important was the change of attitude of the Italian state to its minorities.⁷² Needless to say, that the main aim of the new autonomy was to allow for three linguistic groups living in South Tyrol to live in harmony, promote their own culture, be no threat to each other or to Italian state and to create a bridge between them on a platform of the European Union.⁷³ These aims were successfully accomplished.

2.3. *The Plurality of Actors*

South Tyrolean autonomy is the case where multiple actors looked for a proper accommodation and each of them played certain role in the negotiation and provided for important guarantees. Stability of the region is mainly based on those guarantees of

⁷¹ Stefan Wolff, “Complex Power Sharing as Conflict Resolution...”, p. 13.

⁷² Antony Alcock, “The South Tyrol Autonomy...”, p. 11.

⁷³ Ibidem, p. 1.

institutional structures of horizontal and vertical power sharing and power dividing. This is essential in order to ensure that conflict parties will maintain the institutions as it was agreed. In principle, guarantees can be multilayered, they can work on international (hard or soft) or domestic level, and they can be part of the constitution or other legislation.⁷⁴

In the Case of South Tyrol we can perceive all these guarantees. As noted above, revised Italian Constitution offers direct guarantee to the Province of Bolzano to be treated with a special respect. In addition, the Autonomous Statute as such provides detailed guarantees directly focused on province. Furthermore, the Paris Treaty which was annexed to the Italian Peace Treaty in 1946 stands for a hard international guarantee. Another important act of putting the international guarantee into work happened in 1992 when Austria declared to the United Nations that its dispute with Italy over the implementation of the Paris Treaty (which was vast) was resolved by implementing variety of measures stated in the 1972 Autonomous Statute. Both countries subsequently agreed that any future dispute would be referred to the International Court of Justice.⁷⁵

At this point, further analysis needs to be done, because the final outcome is a result of negotiation between Italy, Austria and South Tyrol (concretely SVP), with a special involvement of the international community (the UN and the EU).⁷⁶ Each of these actors had particular role and impact on the case.

⁷⁴ Stefan Wolff, "Complex Power Sharing...", p. 24.

⁷⁵ Ibidem, p. 25.

⁷⁶ Eduardo J. Ruiz Vieitez, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 258.

Impact of Particular Actors

The role of Austria, as a kin-state which had interest in the situation of its minority, is perhaps the most fundamental factor in the establishment of the current autonomy. Above all, Austria succeeded as a powerful negotiator right after the WW2 and in the period of 1950s and 1960s. Its effort served to bring the affair in the entirely different realm. Importantly, since the talks were led on a bilateral level, the question of South Tyrol was not matter of domestic politics but of an international interest. In the case that the negotiations were led only between Italy and South Tyrol, the position of South Tyroleans would depend only on a good will of Italian government. Consequently, all results of Austrian involvement, namely the Paris Agreement were fundamental. Without this agreement, there would be no UN resolution and no 'Package'. The 1946 Agreement enabled the UN to consider the issue as international one, not domestic one, and passed those resolutions.⁷⁷

In other words, Austria continuously maintained kind of protectorate over the province. While South Tyroleans had indirect contact with Italian leaders, the negotiations were almost entirely led between Vienna and Rome.⁷⁸ Cooperation of the two countries created environment of constructive cooperation and particularly German-speaking minority was given an opportunity to establish cross-border institutions. With accession of Austria to the European Union in 1995 the cooperation could go even further, as integration of the region could be done within the European institutions. The EU as an international actor in general has had a very positive effect on the development in South Tyrol. Its support above all increased mentioned cross-border cooperation between neighboring regions.⁷⁹

⁷⁷ Melissa Magliana, *The Autonomous Province of South Tyrol...*, pp. 127-8.

⁷⁸ *Ibidem*, p. 128.

⁷⁹ Eduardo J. Ruiz Vieitez, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 278.

The contribution of the EU (EC) is here undeniable. The EU did not play the role in South Tyrol directly, but there were benefits for South Tyrol resulting from Italian participation in the EU from its beginnings. This environment served to foster the stability and growth as well as to introduce the province to the international community through far-reaching programs and initiative in agriculture, transport, the environment and mainly regional development.⁸⁰ Essentially, in 1997 the Schengen Treaty was adopted and the border between Austria and Italy was transformed into a mere administrative boundary reducing the division between the two countries.⁸¹ When Austria joined the Union in 1995, an official cooperation could be established. The European cooperation platform is called the Euroregion and encompasses cooperation with Trento and the Austrian *Bundesland* of Tyrol. This joint cooperation aims to promote economical development of the area and has its own representation in Brussels.⁸²

A bit more complicated was role of the Province itself as the division and mutual suspicion between groups was obvious. Italians supported the state, though some of them felt strong affiliation to the territory on which they resided for many decades. German-speaking group was at the beginning of disputes internally divided. Some of its members believed that German-speaking group was entitled to self-determination by the content of the Paris Treaty, while other perceived the autonomy provisions contained in the Package as a compromise generating a lasting peaceful solution for the South Tyrol question abandoning any claims to external self-determination.⁸³ This option was finally chosen as appropriate by the majority of population.

⁸⁰ Melissa Magliana, *The Autonomous Province of South Tyrol...*, pp. 132.

⁸¹ Jens Woelk, Francesco Palermo and Joseph Marko, eds., *Tolerance through Law...*, p. 24.

⁸² Eduardo J. Ruiz Vieyetz, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 262.

⁸³ Jens Woelk, Francesco Palermo and Joseph Marko, eds., *Tolerance through Law...*, p. 25.

Undoubtedly, South Tyroleans and German minority in particular, never considered itself to be a part of the Italian nation. This is the point all South Tyroleans agreed on. Since the region is very small comparing to others and so is the influence of their voice in the political arena, it was pointless for them to play on the same ground as the other regions. South Tyroleans represent less than 1 % of Italian population and less than 1,5 % of the national territory.⁸⁴ In other words, German-speakers became largely isolated.

Parallel Societies and Ethnic Tensions

In the end, the statute creators had to accept a difficult mission to accommodate all those disputes within a system which will recognize different identity of linguistic groups but will also assures their equality. Therefore, the statute established the system which is based on tolerance established by law, which can be form some point of view regarded as a serious threat to friendly environment. The development shows that ethnic division caused emergence of parallel societies that live next to each other while having relatively little in common.⁸⁵

Will Kymlicka assumes that this is a classic consequence of such arrangements of multination accommodation. They allow for creation of parallel societies co-existing alongside the dominant society, without necessarily much interaction between them.⁸⁶ The questions are first, whether such environment is healthy and in accordance with legal norms, and second whether the society in South Tyrol should move away from maintaining linguistic groups

⁸⁴ Jens Woelk, Francesco Palermo and Joseph Marko, eds., *Tolerance through Law...*, p. 46.

⁸⁵ Eduardo J. Ruiz Vieytez, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 277.

⁸⁶ Will Kymlicka, "Multiculturalism and Minority Rights...", p. 12.

separation and move toward promoting a multiethnic society, where the groups would interact with each other much more.⁸⁷

First of all, if we focus on ethnic tensions, we should note a certain development is apparent in South Tyrol. At the beginning when the system was implemented, it was particularly the proportional system which caused tensions between the language groups and particularly Italian feeling of disadvantage and discrimination. The system of ethnical proportions is among others the basis for the public employment in the region. This system was established in order to assure protection of German and Ladin-speaking groups and to ensure that italianization similar to those employed in the 1920s and 1930s would not occur again.⁸⁸

In practice, effects of old Mussolini's politics were visible even in 1975 when only 13,9 % of State employees were of German or Ladin origin although they composed 66,6 % of the population. So the goal of proportional system was to reflect actual composition of inhabitants (based on language groups), meaning that almost 70 % of public service positions needed to be occupied by German-speakers. As a result Italians lost their advantage maintained for several decades and felt discriminated on the basis of being Italian. This is what we mean by contribution to ethnic tensions between language groups on basis of proportional system⁸⁹ and this particular argument should convince us that autonomy caused instability and important disputes visible throughout the society, especially undesirable plurality of actors who pursue distinct goals clashing with each other.

⁸⁷ Eduardo J. Ruiz Vieyetz, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 278.

⁸⁸ Melissa Magliana, *The Autonomous Province of South Tyrol...*, p. 85.

⁸⁹ *Ibidem*, p. 85.

Ethnic divisions used to be very visible especially in the party system. In previous decades the system purely followed ethnic lines. The German-speaking and Ladin-speaking ethnic groups traditionally favored SVP, which after the World War II. gained 90 % of German and Ladin vote in all types of elections.⁹⁰ Its objective has been development of the German and Ladin ethnic groups and to ensure they remain the majority of their homeland – the factor of the ethnic rifts between the groups. Clearly, SVP did little to foster integration between groups.⁹¹

Originally, ethnic based tensions within the party system were only consequence of the general developments between the two language communities. Italians resided mainly in cities, German speakers were employed in service sector, the education was strictly divided etc. Needless to say, that the most of these results are directly supported by provisions in the Statute. Since 1970s cultural policy, schooling and education has fallen under competence of each language group. SVP has manifested its support for such separation, claiming that cooperation with Italian ethnic group is only possible if the cultural characteristics of German-speakers are not in jeopardy, cooperation must never result in ethnically indifferent South Tyrolese identity and also close relation with North Tyrol must have been sustained in order to preserve the historic cultural unity of Tyrol.⁹²

The problem became largely political and the political arena became the main forum in which rights and interests were contested between representatives of the two ethnic groups. The Italian state prevented development of any ties between the two groups since the very beginning and dominance of SVP and its influence on the political and civil sectors of society in South Tyrol helped the party to spread its politics of cultural and social separation on the

⁹⁰ Stefan Wolff, "The German-Speaking Community in Italy...., p. 125.

⁹¹ Melissa Magliana, *The Autonomous Province of South Tyrol....*, pp. 85-86.

⁹² Stefan Wolff, "The German-Speaking Community in Italy...., p. 128.

relationship between the two major ethnic groups. This politics is maintained SVP leaders till now.⁹³

All these factors created a persistent climate of mutual suspicion of either secession on German side or forced assimilation on Italian side. This environment prevented comprehensive social integration of the three ethnic groups and empowered intra-group cohesion and identity on the basis of ethnic (meaning also linguistic and religious) and socio-economic criteria. Interpretation of history and collective memory was also very much selective.⁹⁴

Insisting on ethnic separation had resulted in a partial cultural isolation of the South Tyrolean German-speaking group. Interestingly this strict approach caused many problems on Italian side as well. One of them was identity of Italians who had been living in South Tyrol for generations who were denied the right to feel as South Tyrolean as their German counterparts, although they might have felt close attachment to the place they were born in. This preservation of German cultural hegemony was in effect causing alienation in Italians and in turn it resulted in increasing cultural isolation of the German-speaking population itself.⁹⁵

Old problem persists till now, even though to lesser extent, especially because linguistic provisions in the statute indirectly support such division. One of such provisions is the obligation to declare linguistic origin at the time of census. This declaration has an important effect on distribution of public employment which is based on system of proportionality, and it also governs schooling and distribution of public housing. Now, the controversy is that

⁹³ Stefan Wolff, "The German-Speaking Community in Italy...", pp. 126-127.

⁹⁴ Ibidem, p. 127.

⁹⁵ Ibidem, p. 128.

there is no possibility to choose other language or mixed language. Many argued that this is against Article 3 of the Constitution which guarantees equality of rights for all citizens without distinction as to sex, race, language, religion and political belief.⁹⁶

Regardless the provisions concerning the census, there is a general effort in South Tyrolean public to foster interaction while assuring maintenance of particular identity per each group. The successful interaction between groups and implementation of all provisions of autonomy will be only dependent on the extent to which the groups will be defending their identity. The first step – willingness to live together – has been already done.

Recent developments show that there are already some changes in a political arena. SVP found itself under the pressure and had to face several challenges: popularity of inter-ethnic Green Party, emergence of radical ethnocentric right-wing parties representing German-speakers, establishment of exclusive Ladin List and there is an important challenge within the party as well, because one wing strived to choose catch-all party approach.⁹⁷ Although the support for SVP is still vast, all these changes may have a significant impact in future.

2.4. *Outcomes of Autonomy*

South Tyrol is in general often regarded as a rare example of solving violent ethnic conflict by introducing a functional territorial autonomy and establishing cross-border cooperation. It enjoys effective minority protection and its economy flourished. Italian state largely benefits from booming and stability of South Tyrolean economy and from usage of its natural

⁹⁶ Antony Alcock, "The South Tyrol Autonomy...", p. 16.

⁹⁷ Stefan Wolff, "The German-Speaking Community in Italy...", p. 125.

resources, especially its hydroelectric capacities which are valuable for the whole country.⁹⁸ Also the autonomy led to successful preservation of South Tyrolese (German) identity, high living standards, it reduced potential tension between the groups and it allowed for maintaining Italian unity without creating bitter conflict.⁹⁹

What is puzzling is the reason why parties, which were previously involved in a dramatic conflict, suddenly came to an agreement. The explanation might be quite simple. First, the situation after the World War II, when the two countries were not allied, was not suitable for negotiation. It took some time till parties that ended up on different sides in the war stopped to be suspicious to each other.

As far as the European institutions are concerned, back in 1950s it was probably too early approach newly emerged European institutions which were not able to mediate the conflict. Even now the EU struggles to find the way how to handle minority protection and impose the legislation on member states. Its approach is rather careful, so South Tyrolese case is very unique evidence of successful involvement of the EU in minority protection in this sense. Yet, the admission of Austria to the Union in 1995 made it possible to create official cross-border cooperation on the platform of the EU which fostered development of the region. In the end, all these parties, including rather radical SVP, found the common interest in development and stability of the wealthy region.

Although there might be a few objections about the current autonomy (it is still depended on the State, South Tyrol does not have own police force or full financial autonomy), South

⁹⁸ Eduardo J. Ruiz Vieytez, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 277.

⁹⁹ Ibidem, p. 278.

Tyrol has other extensive powers which count. Plus it is necessary to understand what was the main aim of this autonomy. Its success lies in the fact that it resolved the conflict which lasted for decades and the attainment of the situation which satisfies the parties involved. Currently both the State and the province benefit from the situation. Needless to say, that the major role plays the fact that autonomy is not finished. It is a dynamic autonomy, so there is always some room for change, evolution and development.¹⁰⁰

In addition, although we might be rather critical to creation of parallel societies, because they indeed led to certain hostilities and suspicions between the groups, we should try to look at the case from a different point of view. The existing arrangements are possibly the best option under the current circumstances, since there has always been aspiration of reincorporating the land into its kin-state or at least the recognition of the right of the South Tyrolese people to self-determination, which basically clashes with the state view of the territorial integrity of the Italian Republic.¹⁰¹

Therefore, particular accommodation through local autonomy is here undoubtedly the proper way how to face the conflict. The Package is basically a remarkable compromise, if we take into account the agendas of representatives of different actors. Italy had originally no intention of granting South Tyrol a regional autonomy, because this would be a threat for Italian sovereignty over its territory and it would complicate the free movement of the citizens in their homeland. On the other hand, South Tyroleans looked for no less than autonomy and many of them demanded complete separation from Trentino. Finally, the Package was

¹⁰⁰ Melissa Magliana, *The Autonomous Province of South Tyrol...*, p. 140.

¹⁰¹ Eduardo J. Ruiz Vieitez, Markko Kallonen, "Territorial Autonomy and European National Minorities...", p. 266.

approved by only a narrow majority of SVP, since it was perceived as insufficient because it did not allow for autonomy for South Tyrol of their own.¹⁰²

In the end, although the original purpose of the agreed autonomy was to ensure and protect the cultural and linguistic development of both the Ladin and German-speaking populations within the Italian state, currently, the autonomy is also territorial, meaning all inhabitants regardless of their origin can benefit from its self-governance.¹⁰³ Hence, given that the situation in South Tyrol was at one point characteristic for arrests, bomb attacks and accusations of torture, this compromise was clearly essential for further development.

To conclude, we should learn from South Tyrol that such accommodation may cost us certain risks. Creation of parallel societies in South Tyrol is an example of such risk. Perhaps proportional system or practice during censuses is the fairest way how to assure proportional participation of all groups and their peaceful co-existence. South Tyrolean official presents this settlement as a peace tool. Although groups are not fully integrated, they live side by side and the attitude of previous animosities and deliberate separation prevails, it has considerably lost its appeal. Groups respect one another to a greater extent and have understanding for their different needs within the province.¹⁰⁴

¹⁰² Melissa Magliana, *The Autonomous Province of South Tyrol...*, p. 133.

¹⁰³ *Ibidem*, p. 50.

¹⁰⁴ *Ibidem*, p. 88.

Chapter Three: The Basque Autonomy

The Basque Country (officially the Basque Autonomous Community) is rather a smaller region in Northern Spain inhabited by 2 169 038¹⁰⁵ people. Not all of them consider themselves being Basques. Due to the economical developments in the Basque territory, the region has had to face mass influx of migrant workers from other parts of Spain, who mixed with original population. In addition, smaller number of Basques lives in neighboring Navarra and three provinces in France.

Basques obtained their current autonomy some 30 years ago at the beginning of a new democratic era. The statute reflected their previous rights, including language statute and financial autonomy, but it has been accepted with severe reservations. One of its limitations is the fact that it was beneficial only for residents of the Basque Autonomous Community. Basques living in Navarra can, however, benefit from a similarly designed statute. The focus of this study is, nevertheless, the statute of autonomy of the Basque Autonomous Community, which had several other limitations apart from the territorial one.

In brief, the Basque case study can provide us with an example of accommodation of stateless nation with high level of nationalism which denominates local politics and social life. National affiliation is expressed in multiple ways by variety of groups diverse in socio-economic background, ideological interest and distinct objectives. This opinion diversity has

¹⁰⁵ Instituto Vasco de Estadística (EUSTAT), *Población de la C.A. de Euskadi por Ámbitos Territoriales y Sexo, 31-XII-2009*, available at http://www.eustat.es/elementos/ele0003200/ti_Poblacion_de_la_CA_de_Euskadi_por_ambitos_territoriales_ysexo_31-XII-2009/tbl0003278_c.html#axzz1NGi6PE2m (accessed on May 20, 2011). [Population of the Basque Autonomous Community According to Territories and Sex, 31-XII-2009.]

impact on the attitude to autonomy of particular groups and it influences overall stability in the region. Therefore, this internal plurality of opinions will be the leitmotiv of this case study. As the Basque nationalist sentiment is deeply rooted in the Basque society and also in its history, the first paragraphs will be devoted to evolution of their position in the Spanish Kingdom. This overview will reflect the complexity of Basque position in the historical context of the Spanish state and in the current system of regional autonomies. All those aspects should explain us stabilizing effects of current autonomy.

3.1. Historical Developments in the Basque Territory

Basques and Basque Territory

Although this thesis studies Basque autonomy in the Basque Autonomous Community, all the aspects of the original Basque territory and nation have to be mentioned, since many unsatisfied nationalists groups and movements refer to them. Basques can be defined as citizens living on a particular territory, speaking particular language and maintaining certain cultural heritage. Their territory can be also understood in a wider or narrower context.

Historically, Basques are the long-established inhabitants of the area on both sides of the western Pyrenees. They resided in the area for at least 1000 years and resisted rule of various groups including Romans, Moors, Visigoths or Castilians. Their origin is, however, unknown and their language is unrelated to any other language in Europe.¹⁰⁶ Sabino Arana, father of Basque nationalism, referred in his work to ancient origin and historically proved distinctiveness of the Basque nation, its values, culture and racial purity which have to be

¹⁰⁶ David Levinson, *Ethnic Groups Worldwide: A Ready Reference Handbook* (Phoenix, Ariz.: Oryx Press, 1998), p. 81.

preserved. Understanding of nation was here non-territorial; a nation was in his perception a group of people sharing certain biological and cultural characteristics.¹⁰⁷

Basque nationalists frequently mention importance of the language, which is the key component of Basque distinctiveness as it is the only non-Indo-European language still spoken in Western Europe. Here one of troubles is that its usage began to decline after a mass influx of immigrants to the Basque territories and kept declining later during Franco's authoritarian rule, when it was brutally suppressed.¹⁰⁸ Nevertheless, for Basque nationalist language has never lost its significance. Basque is for them the one who speaks Euskera in the zone in which it was traditionally spoken. This includes provinces of Navarra and three provinces in France.¹⁰⁹

Here we are getting to certain geographical difficulty. Geographically, the original area of the Basque Country was divided in 1512 by a Franco-Spanish border treaty between France and Spain, though most of Basques live in Spain. For the Basque nationalists the Basque Country (Euskadi) still consists of the four Spanish provinces Álava, Guipúzcoa, Vizcaya (making up the Basque Autonomous Community), and Navarra (a separated autonomous community), and the three French Provinces of Labourd, Soule and Lower Navarra.¹¹⁰ All those parts should be united into an independent state in their view.

¹⁰⁷ Siobhan Harty, "The Basque Community in Spain," in *The Ethnopolitical Encyclopaedia of Europe*, Karl Cordell and Stefan Wolff eds. (New York: Palgrave Macmillan, 2004), p. 140.

¹⁰⁸ Jeremy MacClancy, "Bilingualism and Multinationalism in the Basque Country," in *Nationalism and the Nation in the Iberian Peninsula: Competing and Conflicting Identities*, Clare Mar-Molinero and Angel Smith eds. (Oxford: Berg, 1996), p. 208.

¹⁰⁹ Maria Onaindia, *Guía para Orientarse en el Laberinto Vasco*, (Madrid: Temas de Hoy, 2003), p. 23. [Guide for Orientation in the Basque Labyrinth]

¹¹⁰ Minority Rights Group, ed., *World Directory of Minorities* (London: Minority Rights Group, 1997), p. 176.

Basque Position in Spain

Throughout the history Basques moved from the position of being a privileged group to the position of being a suppressed group. In the end they regained their old privileges. Particular moments in history had influence on their position and the emergence and strength of nationalism. This is especially important because the intensity of nationalism is directly influencing stabilizing effects of autonomy.

The first manifestations of nationalism logically appeared when the Basque territory was incorporated to Spain under a hegemonic power of the Province of Castile by the end of 12th century. Needless to say that even under Castilian rule, Basques still maintained a big level of self-government which was guaranteed by special royal charters called *fueros*. *Fueros* incorporated only inhabitants of a certain area and granted laws and liberties which meant exemption from general laws or taxes.¹¹¹ Concretely, *fueros* guaranteed Basque citizens they were not taxed directly by the state. The three provinces were taxed an agreed sum which they raised among Basque citizens as they wished.¹¹²

Basque nationalism became more and more apparent by the end of 19th century when demands for Basque self-determination and even reunification of the territories appeared due to the centralization of both French and Spanish kingdoms. Yet the response from the Spanish side showed quite opposite tendency when Spanish Basques lost their *fueros* as a punishment for their support of king's opponent in the Carlist wars. In return, this restriction further

¹¹¹ Jaime Vicens Vives, *Approaches to the History of Spain* (Berkeley: University of California Press, 1970), p. 58.

¹¹² Salvador de Madariaga, *Spain: A Modern History* (New York: Praeger, 1958), p. 233.

supported the Basque wish to gain more advanced autonomy and several political movements emerged at that point.¹¹³

Basques regained their privileges much later in 1930s. Under stimulus of Catalans, who were the first to gain autonomy under the rule of the Second Republic (1931-1936), Basque leaders were able to negotiate autonomy as well. The 1932 Draft Statute of Basque Home Rule applied only to the three western provinces, because Navarra, which was included in negotiations as well, did not approve the draft.¹¹⁴ Unfortunately, this autonomy did not last for long, because the Dictator Francisco Franco, who ruled the country since the civil war (1936 – 1939) till his death in 1975, established authoritarian rule which suppressed any expression of local culture, identity or self-government which Basques negotiated before the civil war. Certain liberalization came in 1960s when Franco realized economical development goes hand-in-hand with more liberal policies. This implied less pressure on regions, but the country still remained centralized. Basques had to wait till the regime collapsed.¹¹⁵

After the Franco's death the process of democratic transition started. Although Basques regained their lost autonomy, Basque nationalist rejected the Spanish Constitution, called for sovereignty, self-determination and demanded full independence. This dissatisfaction was the result of changes in the original plan. The original idea was to provide for autonomy and satisfy nationalist oriented demands of the three historic regions which were guaranteed autonomous statute before the civil war – the Basque Country, Catalonia, Galicia.¹¹⁶

¹¹³ James Minahan, *Encyclopedia of the Stateless Nations: Ethnic and National Groups around the World* (Westport, Conn.: Greenwood Press, 2002), p. 286.

¹¹⁴ Salvador de Madariaga, *Spain: A Modern History...*, p. 404.

¹¹⁵ Antonio Ubieto Arteta, *Dějiny Španělska* (Prague: Nakladatelství Lidové Noviny, 1995), p. 747. [History of Spain]

¹¹⁶ Audrey Brassloff, "Spain: The State of the Autonomies," in *Federalism and Nationalism*, edited by Murray Forsyth (Leicester, England: Leicester University Press, 1989), p. 31.

In the end ‘the fathers of constitution’ who were led by Adolfo Suarez decided to establish autonomy for all historic regions. The only difference was that the Article 143 of the Constitution guaranteed the slow route (*via lenta*) and the Article 151 guaranteed the fast route (*via rápida*) of process of autonomy gaining. The three mentioned regions gained autonomy through the speediest third route.¹¹⁷ Thus, not only Basques, Catalans and Galicians gained high degree of autonomy, but in the end all regions could obtain in certain period of time autonomous statute with a similar list of competences. This indeed dissatisfied Basques, as well as Catalans, who aimed at recognition of their distinctiveness.

Negotiations were indeed very sensitive at that point, since with the first statuses to be finished (Basque and Catalan) it seemed there is no ceiling on their regional powers and claims of other Autonomous Communities raised. All of them basically looked for the same level of autonomy as was this of Basques and Catalans. At that point the central government started to fear of the virtual disappearance of the central state. The logical consequence was that the Government attempted to limit negotiated statuses of Basques and Catalans. The most radical move was creation of the Organic Law for the Harmonization of the Autonomous Process (LOAPA) which sought to claw back some of the powers already agreed in prospective statuses. When Basques and Catalans brought this law before the Constitutional Court, the court clearly decided about its unconstitutionality.¹¹⁸

Nevertheless, the rests of LOAPA remained visible and were incorporated in other laws, which caused basically symmetric accommodation in the current autonomous system. There is no distinctiveness recognized for Basques as they wished it, and there are no second-class

¹¹⁷ Audrey Brassloff, "Spain: The State of the Autonomies...", p. 31.

¹¹⁸ *Ibidem*, p. 34.

communities as it may seem because they all got possibility to obtain the same areas and levels of responsibilities either in close or more distant future.¹¹⁹

Thus, the regional autonomy which Basques obtained in 1979 left some of Basques unsatisfied. The Basque Nationalist Party (PNV, the leading Basque nationalist party) which resisted Franco's dictatorship from exile continued its fight for greater autonomy. Marxist oriented terrorist organization *Euskadi Ta Askatasuna* (ETA) which emerged as a response to suppression of regional identity and rights during the dictatorship, and partly as a response to inability of PNV to regain those rights, proceeded with bombing campaigns.¹²⁰ Interestingly, the year 1980 (which is the first year after the adoption of autonomy) is the year with the biggest number of victims (92) in ETA's history.¹²¹

3.2. *The Spanish Autonomous State*

Nowadays, Basques are accommodated within *Estado de Autonomias* (The State of Autonomies) which divides the Spanish Kingdom into 17 *Comunidades Autonomas* (Autonomous Communities), smaller or bigger territorial entities with certain degree of own self-government, ruled by their prospective statuses. This settlement was established as an outcome of the period of democratic transition which followed Franco's death (1975-1978). Indeed, the first task of the restored monarchy was to dismantle centralized system and set up

¹¹⁹ Audrey Brassloff, "Spain: The State of the Autonomies...", p. 35.

¹²⁰ Minority Rights Group, ed., *World Directory of Minorities...*, p. 176.

¹²¹ Gobierno de España – Ministerio de Interior, *Víctimas de ETA*, available at http://www.mir.es/DGRIS/Terrorismo_de_ETA/ultimas_victimas/p12b-esp.htm (accessed on May 25, 2011). [Victims of ETA]

a system which would be acceptable for the country regions.¹²² Basques perceived this as a chance for restoring their rights and for recognition of their distinctiveness.

The 1978 Constitution which established the current system did not formally constitute Spain as federation as it may seem, because regional autonomies do not enjoy full constitutional protection. But to revoke these autonomies would be politically suicidal. So in the end, Spain is *de facto* federation.¹²³ This note is important to mention to better understand final disappointment of a significant part of Basque society with the state system, which treats all the regions equally.

The Spanish Constitution

The State of Autonomies is kind of a quasi-federal system, but the Constitution itself does not offer us this definition; it does not offer any definition of the type of state that it configures. It purely says: “The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed and the solidarity among them all.¹²⁴” What kind of information those sentences give us? First, that the Spanish Kingdom is unitary state (officially not federation); second, that the right to self-government is highly recognized and importance of the role of regions in the unitary state is explicitly stressed.

¹²² David Gilmour, *The Transformation of Spain: From Franco to the Constitutional Monarchy* (London: Quartet Books, 1986), p. 213.

¹²³ Thomas O. Hueglin, Alan Fenna, *Comparative Federalism: A Systematic Inquiry*. Peterborough, Ont. (Orchard Park, NY: Broadview Press, 2006), p. 19.

¹²⁴ *Spanish Constitution*, available at http://www.senado.es/constitu_i/indices/consti_ing.pdf (accessed on April 20, 2011).

Concretely, the Article 148.2 allows all statuses to be altered five years after their primal approval, which is absolutely against Basque understanding of the constitutional arrangements provided for regions. Basque nationalist leaders understand the 1978 Constitution in the way that it looked at the principle of autonomy as essential to resolve claims to self-government made by Basques. There was no room for generalization from their point of view.¹²⁵

The biggest issue concerning the Constitution is its wording. From one point of view, one can claim that the Spanish Constitution represents a differential fact. Differential fact means that the Spanish system of regional autonomies provides for asymmetrical distribution of power, which refers to the existence of variety of levels of autonomy enjoyed by different regional governments. In sum, every regional government enjoys the same level of constitutional protection, but their content and scope varies.¹²⁶ The Constitution and statutes of autonomy basically recognize specific cultural, social and political aspects of different regions. If we go back to the Article 2 which talks about “nationalities and regions” consisting Spanish nation, we can read it in the way that some peoples of Spain have greater sense of belonging to their own community than to others (Basques, Catalans), which in effect means there is a multinational reality in Spain.¹²⁷

As a result, this asymmetric accommodation causes different legal effects on different levels. One of such effects is for instance the usage of local language (important for Catalans and Basques). Usage of the second official language can go deeply in the institutional structures of the region – for example the educational system, the administration, the public

¹²⁵ Audrey Brassloff, "Spain: The State of the Autonomies...", p. 35.

¹²⁶ Pablo Beramendi, Ramon Maiz, "Spain, Unfulfilled Federalism (1978-1996)," in *Federalism and Territorial Cleavages*, Ugo M. Amoretti and Nancy Bermeo eds. (Baltimore, Md.: Johns Hopkins University Press, 2004), p. 135.

¹²⁷ Eliseo Aja, "Spain," in *Federalism and Civil Societies: An International Symposium*, Jutta Kramer and Hans-Peter Schneider eds. (Baden-Baden: Nomos, 1999), p. 322.

communications or the media. Moreover, this content of differential fact can be even mirrored in the general State institutions, such as usage of the local language during particular debates in Senate.¹²⁸

Yet from another point of view, which is preferred by Basque nationalists, the differences are basically of minor importance. The Constitution lays down three different concepts: unity, autonomy and solidarity. The ambiguity is the key to the problems that arose between the central government and the regions in the search for equality amongst them.¹²⁹ The biggest issue is not definition of Spanish nation, but definition of nationalities which has never ever been fully agreed. Basque nationalists certainly would like to use the term for their purposes and look for the maximal recognition of Basque distinctiveness.¹³⁰

The system is in the end very symmetric, since it offers the same range of competences to all regions under the Article 148. They are: the organization of institutions of self-government, town and country planning and housing, promotion of economic development, museums, libraries and music observatories, promotion of culture and research and the teaching of local language, promotion and planning of tourism, social assistance and health hygiene. Furthermore, the Article 149 lists the exclusive powers of the Spanish state as follows: nationality, immigration, emigration, status of aliens and right of asylum, international relations, customs and tariff regulations, foreign trade, defense and the armed forces, the administration of justice, civil legislation and legislation on intellectual property, taxation, promotion of scientific research, public safety and promotion of Spanish culture. Consequently, the Spanish Kingdom lets all autonomous communities to coordinate only

¹²⁸ Eliseo Aja, "Spain"..., p. 323.

¹²⁹ Audrey Brassloff, "Spain: The State of the Autonomies...", p. 31.

¹³⁰ *Ibidem*, pp. 30-31.

some of their cultural or environmental elements, but it did not allow for sharing of the most important state functions.¹³¹

The Autonomous Statute of the Basque Country

Based on provisions in the Constitution, each region has its statute of autonomy which has a form of a constitution that rules particular territorial area. The Basque Autonomous Community's powers are exercised through its Parliament which is inviolable, the Government and President or *Lehendekari*. Interestingly the number of deputies to the Parliament is same per each of three historic territories regardless the population. The focus of historic territories is apparent as they significance appears throughout the whole statute. This stresses the fact that the final agreement on the statute of autonomy was only possible if the people in Álava, Guipúzcoa and Vizcaya with different ideological claims negotiated it and found a common route in between foral rights defended mainly by Álava and strong socialism with significant influence of Arana defended by the other two provinces.¹³²

Concretely, Basques obtained territorial autonomy which rules the Basque Autonomous Community and competences which guarantees them the Constitution. It can organize its institutions of self-government, local government as such and administration, create rules on organization of internal elections, develop its Traditional, Regional and Special Civil Law, agriculture and livestock farming, fishing in inland waters, hydraulic projects, social welfare work, foundations and associations, culture, scientific and technical research, cultural

¹³¹ Siobhán Harty, "Spain" in *Handbook of Federal Countries, 2005*, Ann L. Griffiths ed. (Montreal: McGill-Queen's University Press, 2005), p. 329.

¹³² Emilio Guevara Saleta, "La Organización Institucional de Euskadi," in *El Discurso de Cambio en el País Vasco*, Cuidadania y Libertad ed. (Vitoria: Cuidadania y Libertad, 2009) p. 136. [Institutional Organization of the Basque Country; In The Discourse of Change in the Basque Country]

institutions, planning and development of economic activity, internal trade, industry, planning of inland territory, transport systems, tourism and sports, community development and other competencies stated in its proper statute of autonomy.¹³³

In addition to those provisions which guarantees the Constitution, Basques enjoy two special arrangements. First, the Basque Autonomous Community has its own Autonomous Police Forces which are supposed to protect persons and property on the autonomous territory. These police corps are commanded only by the Basque Government and can be directed by the state forces only in special cases of the state alarm or siege.¹³⁴ This particular provision reflects on occasions of mistreatment of Basque citizens by central police corps, which occurred mainly during Francoism.

Second, the Basque Country and Navarra as well obtained by the virtue of their previous historic rights (*fueros*) a special favorable financial regime which gives them wider tax-raising powers than are those of the 15 other communities, which have the common regime.¹³⁵ This arrangement is absolutely essential for successful economical development in the Basque Country.

So far, those are the only differences we can perceive in comparison with other Autonomous Communities. Basques living in the Basque Autonomous Community in the end obtained basically the same level of rights like the other communities, which dissatisfies a big amount of Basque nationalist (including radical and moderate wings). They can use their language,

¹³³ *The Statute of Autonomy of the Basque Country*, available at http://www.basques.euskadi.net/t32-448/en/contenidos/informacion/estatuto_guernica/en_455/adjuntos/estatu_i.pdf (accessed on May 21, 2011).

¹³⁴ *Ibidem*.

¹³⁵ Audrey Brassloff, "Spain: The State of the Autonomies...", p. 35.

which manifests their distinctiveness, but the distinctiveness is not officially recognized, since this would be against principle of indissoluble unity of Spanish nation stated in the Constitution.

The acceptance of the statute by the Basque society was thus indefinite. In 1982, shortly after approval of the statute only 43 % of the Basque population supported current autonomy arrangements and 42 % preferred more autonomy or independence. On the other hand, when Basques were asked if they believed autonomy improved life in the Basque country, 65 % of them said yes. Also only 8 % of Basques at that point supported ETA and 77 % of Basques opposed its violent activities. This is important because ETA reached the peak of the biggest violence during 1980s in response to a disappointing autonomous statute. At that point majority of Basques considered ETA as harmful to Basque interests.¹³⁶

Here, it is important to note that the position towards terrorism in the Basque public remains the same. According to Euskobarometro only 1 % of current Basque public fully supports ETA, 10 % agrees with its aims but not with its way of pursuing them and 64 % is fully against ETA.¹³⁷ Therefore, as the support for ETA is minimal, their presence and bomb attacks cannot serve as a proof of dissatisfaction with the current statute and also, it cannot be related to lack of stabilizing effect of current autonomy. In other words, ETA is basically an anti-system player; the fight against terrorism will not make the region more stable and will probably not radically improve effects of autonomous arrangements.

¹³⁶ Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, 1996), p. 275.

¹³⁷ Universidad del País Vasco, *Euskobarometro. Estudio Periódico de la Opinión Pública Vasca. Mayo 2009*, available at http://alweb.ehu.es/euskobarometro/index.php?option=com_content&task=view&id=78&Itemid=114 (accessed on May 25, 2011). [Euskobarometro. The Study on the Basque Public Opinion]

The problem is still rather ideological than security oriented. It lies in the wording of the Constitution which guarantees autonomy to the nationalities and regions, but only within the indissoluble unity of the Spanish nation. This provokes Basque nationalists since it implies hierarchical relation in which the Basque nationality is just a component of the Spanish nation. And finally, internal ideological disputes make the agreement with the Spanish state very problematic.¹³⁸

3.3. *The Plurality of Actors*

The Plurality of actors in the Basque Country is very different from the plurality we perceived in the South Tyrolean case. It involves much more internal actors; impact of external actors is only indirect. This internal plurality of opinions in the Basque society is the key to Basque problems and perhaps further analysis can answer us the question why the Basque autonomy has for now only limited stabilizing effects.

Internal Basque Plurality

The plurality of opinions can be perceived from many sides. We can divide Basque society into the group supporting nationalist ideas and the group favoring more monarchist approach. In connection with that, another division is between separatists and autonomy supporters. Classical political division between left-wing and right-wing voters also plays certain role, as well as the stratification in different territories. All those ideological affiliations and cleavages

¹³⁸ Gurutz Jauregui, "Basque Nationalism: Sovereignty, Independence and European Integration," in *European Integration and the Nationalities Question*, John McGarry and Michael Keating eds. (Abingdon, Oxon.: Routledge, 2006), p. 241.

cause a huge fragmentation of the society and the plurality of opinions on basic concepts presented in the Basque politics – self-determination, language and Basque identity, Basque territory, distinctiveness, or reform of the Statute and the Constitution.

To be more concrete we can present the survey led by Euskobarometro in 2008. According to that study 43 % of respondents felt being nationalist, while 51 % were not supporting nationalist approach. Yet 40 % of respondents supported autonomy, 29 % would rather see a federative settlement and only 24 % supported independence. Importantly, 42 % of Basques were partially content with current autonomy, 30 % of them were totally content and only 22 % were dissatisfied with current autonomy.¹³⁹ This survey gives as a picture about high level of diversity in opinions among Basques. Although the survey shows slightly more support for autonomist solutions, or perhaps wish for certain reform, separatist tendency is still visible and highly influential. This means there is no probability of compromise and a lack of consensus among Basques.

The best way how to demonstrate internal plurality among Basques, which is causing main instability, is through particular examples. First of all, there are different expressions amongst Basque public regarding aims and strategies how to pursue them. For example, the revival of the Basque language has been one of such aims.¹⁴⁰ The same aim is pursued by ETA and by PNV as well, which was for most of the time leading Basque political force. But because these actors stand ideologically on the opposite poles, their strategy differs. ETA looks at Euskera as a fundamental element of Basque identity. The problem is that the national identity

¹³⁹ Universidad del País Vasco, *Euskobarometro...*

¹⁴⁰ Benjamin Tejerina Montana, "Language and Basque Nationalism: Collective Identity, Social Conflict and Institutionalisation," in *Nationalism and the Nation in the Iberian Peninsula: Competing and Conflicting Identities*, Clare Mar-Molinero and Angel Smith eds. (Oxford: Berg, 1996), p. 230.

of Basques is part of a wider context which according to ETA prevents Basques to actually express it and develop. Consequently, for ETA it is only possible to attain its objectives in a political structure which guarantees the persistence of language and national identity, for example by achieving establishment of a politically independent Euskadi.¹⁴¹

On the other hand, PNV governments (current governments follows them) traditionally defended increasing of literacy among Basque citizens in their original mother tongue independently on their political aims. Once Basques got their autonomy back in 1979, the local government established the network of language academies called HABE, which considerably helped to increase the percentage of Basque speakers.¹⁴²

Another big dispute is over interpretation of the right to self-determination which is not provided by the Constitution. Needless to say, that this right is, first, not recognized in the document primarily because one of its aims is to prevent any attempts to dissolution of the state. Second, there are internal disparities among Basques – different groups look for different interpretation. The questions are: What are the conditions? Is self-determination meant to be for all provinces of Euskadi, or for Navarra and French provinces as well? Are different areas in the Basque Autonomous Community also ideologically divided or do their votes have value just for particular area and thus, should they be separately recognized? What happens if one of historic territories has different opinion? And finally do Spaniards have right to voice their opinion about the Basque self-determination?

¹⁴¹ Benjamin Tejerina Montana, "Language and Basque Nationalism...", p. 224.

¹⁴² Jeremy MacClancy, "Bilingualism and Multinationalism...", p. 212.

Those are only some of the questions which need to be answered. Needless to say, that the system itself is very dynamic and leaves opportunity for changes to be made. Therefore, especially for nationalists, autonomy means a provisional accommodation.¹⁴³

Political Parties and Elections Results

We can get a better insight into the Basque pluralism if we discuss diverse political parties, which represent different cleavages we talked about. Basque political arena consists of many ideological streams, which are far away from each other. So divided is the Basque public. This means it is hard for each of them to gain majority in important local elections and it is hard for the government to represent fragmented Basque society in front of the State with which Basques need to negotiate any changes in their autonomy. PNV represents Christian-democratic values, the Spanish Socialist Party (PSOE) social-democratic ideology, Popular Party (PP) liberal ideas, and ETA and Herri Batasuna (HB) populism with a Marxist orientation.¹⁴⁴

Thus, we can divide the spectrum of Basque local parties according to their nationalist and autonomist preference and according to their left-wing or right-wing affinity. For example, PNV is nationalist party with centre-right-wing Christian-democrat orientation. HB is also a nationalist party but with clear left-wing Marxist orientation. PP and PSOE are both parties with a general state influence, and therefore, their program is less radical and supportive towards autonomy.

¹⁴³ Antonio Rivera, "El Valor de Autonomismo," in *El Discurso de Cambio en el País Vasco, Cuidadania y Libertad* ed. (Vitoria: Cuidadania y Libertad, 2009), p. 23. [The Value of Autonomy; In The Discourse of Change in the Basque Country]

¹⁴⁴ Eduardo Uriarte Romero, "El Problema Esta En La Izquierda," in *El Discurso de Cambio en el País Vasco, Cuidadania y Libertad* ed. (Vitoria: Cuidadania y Libertad, 2009), p. 36. [The Problem is in the Left; In The Discourse of Change in the Basque Country]

As far as the autonomy question is concerned, not all nationalist parties are against it. PNV holds status quo and only some of its wings have slight separatist tendencies, which is visible in a particular rhetoric and speeches of its members. The official program, however, never talks about secession. It is rather about greater autonomy, modification of relationship with Spanish state and constitutional changes, as once attempted Ibarretxe. Euskar Askatasuna (EA), which separated from PNV in 1986 during its internal crisis, is more characteristic for its radical positions on autonomy statute and possibility of secession.¹⁴⁵

HB is very open about its secessionist strategy. Batasuna publicly supports terrorist strategy of ETA and ETA also shares animosity toward autonomous system. Its objective is self-determination in the classical sense, meaning independency and it perceives the relationship to the Spanish state as a war of the Basque nation against them.¹⁴⁶ HB's separatists visions about the independent Basque Country including also French provinces and Navarra were expressed in its program called KAS. Before it was banned in 2002 in constantly received 15 % of votes in regional elections and it is especially popular among young voters.¹⁴⁷

What does this political overview say? Certainly, it shows that party affiliations are ideologically very distant from each other what elevates the complexity and influences voting behavior which is very different in each of three historic territories. In Guipúzcoa around 60 % of voters traditionally vote for nationalist parties, in Bizcaia it is 53 % and in Álava it is

¹⁴⁵ Francisco J. Llera Ramo, "Política," in *Panorama Social de la Comunidad Autónoma De Euskadi*, EUSTAT - Instituto Vasco De Estadística ed. (Vitoria: Universidad Del País Vasco, Universidad De Deusto, EUSTAT and Gobierno Vasco, 2000), pp. 587-588. [Politics; In Social Panorama of the Basque Autonomous Community]

¹⁴⁶ Ibidem, p. 588.

¹⁴⁷ Jean Grugel, "The Basques," in *Contemporary Minority Nationalism*, Michael Watson ed. (London: Routledge, 1990), p. 110.

only 40 %. PNV is traditionally supported the most in Bizcaia, PP in Álava, EA in Guipúzcoa. PSOE is supported throughout the whole area independently on a historic territory.¹⁴⁸

The polarization in a local political arena clearly supports nationalist element and existence of anti-system parties like HB, which legitimates in its program terrorist actions. All this brings difficulties to self-government, establishment of relationship between parties and consequently, it highly influences electoral behavior which can be divided into two different periods: 1980-1986 period was characteristic for leading role of PNV; since 1986 all governments were established by coalitions.¹⁴⁹

The current government involves PSOE and PP. PNV, the oldest Basque regional party was, thus, not included for the first time in history. PNV held a very special position in the Basque Country. It constituted the Basque Government till 1986 when the period of coalitions started. All the symbols of the party – flag, anthem, emblem – were converted into symbols of the Autonomous Community.¹⁵⁰ But the party itself is very fragmented which affected its strength and caused a deep crisis (not the first time in its history) in 1986. For this reason, we cannot argue, that the decrease of votes in certain periods of time reflects support or non-support for radical solutions (secession) or dissatisfaction with and lack of stabilizing effect of autonomy. It rather reflects dissatisfaction with performance of the leading Basque party.

Indeed, the statistics show a slight decrease of support for all nationalist parties and increase of support for general state parties (PSOE, PP, UA, IU) by the end of 1990s. In 1986 67,6 % of Basque voters supported nationalist parties. Till this moment support for them was only

¹⁴⁸ Francisco J. Llera Ramo, "Política...", pp. 592-605.

¹⁴⁹ Ibidem, p. 578.

¹⁵⁰ Maria Onaindia, *Guía Para Orientarse...*, p. 63.

increasing, but after the crisis in PNV the political spectrum became more fragmented. Also a variety of bomb attacks performed by ETA made the public give less support to radical parties. Trust in nationalist parties and their ability to represent Basques was damaged. In 1998 elections nationalist parties gained only 53,9 % of all votes. On the other hand, general parties gained support. In 1986 only 32 % of Basque elected big catch-all Spanish parties, in 1998 it was already 44,8 %.

The trend stays the same even in the 21st century. The Basque party environment is fragmented which means it is difficult for any party to achieve a majority of seats in the Basque Parliament. In the last elections to regional parliament (2009) the seats were distributed as follows: 30 seats for PNV, 24 for PSOE, 13 for PP and 4 to 1 seats for other parties.¹⁵¹ Some scholars conclude that the resolution of the Basque conflict is simply dependent on ability of Basque nationalist parties to work together. Unfortunately, Basque citizens themselves are very skeptic about ability of their regional parties to resolve the crisis. Perhaps this is the reason why so many young people tend to support radical parties.¹⁵²

Relation between Basques and the State

Yet, a very crucial clash is between the Spanish Government and official Basque representatives. The State stands behind its constitution, Basques would like to see changes. At the beginning of the 21st century there was a very important attempt to change the Constitution. So called *Plan Ibarretxe* (the Ibarretxe Plan – called after the *lehendekari* Juan Ibarretxe) directly asked for a profound change in the system of autonomous government, concretely it proposed a confederal relation instead of a federal one for the Basque Country.

¹⁵¹ Gobierno Vasco – Departamento de Interior, *Elecciones al Parlamento Vasco 1-3-2009. Resultados Provinciales*. [Elections to the Basque Parliament 1-3-2009. Provincial Results.]

¹⁵² Siobhan Harty, "The Basque Community in Spain...", p. 149.

The text referred to a new model of relationship to the Spanish state based on a free association, which would be comparable to a multinational and asymmetric state. Ibarretxe stated in the plan that the Basque Country constitutes a people with its own identity among the people of Europe with its distinct patrimony situated in all seven provinces constituting historical area of the Basque Country. Hence, Basques as a distinct people have right to decide own future and therefore, a right to self-determination.¹⁵³

In the end this plan was not a proposal for secession in the classic understanding, but it was still unacceptable for the central government. Although it did not lead to independence, it established a high level of autonomy; the concept of free association was basically somewhere in between federalism and confederalism. It allowed the state to maintain a series of important competences which are related to Spanish nationality, defense and armed forces, the monetary system or international relation. But it has risen questions around sovereignty and self-determination of the Basque nation.¹⁵⁴ Those topics are indeed on the top of agenda in the Basque Country. In turn the Spanish government does not want to hear about them and focuses on the security dimension of the conflict in Euskadi.

Relation between Basques and the European Union

And finally, discussions have been led about the European integration. Basque nationalists have been always very pro-European, especially PNV, since they considered that the integration of the states in the union would weaken nation-states and that would simplify recognition of the Basque nation in the international and European community.¹⁵⁵

¹⁵³ Gurutz Jauregui, "Basque Nationalism...", p. 244.

¹⁵⁴ Ibidem, pp. 244-245.

¹⁵⁵ Ibidem, p. 253.

When Spain joined the EU in 1986, a Basque delegation in Brussels was established and it developed a leading role in the Committee of Regions, the Assembly of European Regions and the Congress of Local and Regional Authorities of the Council of Europe. Not surprisingly, pro-European position defended by nationalist parties in those bodies has been directed towards the recognition of the Basque claims by Europe.¹⁵⁶

Nevertheless, the EU has traditionally maintained that regional matters are subject to internal politics of the member states and so the reality of regions was not reflected in the European constitutional text in accordance with Basque wishes. That is why the most radical Basque political actors – EA, ETA and HB – have announced their vote against the approval of the European Constitution during the referendum in 2005. PNV did not maintain any clear position so in the end it abstained. Consequently, we can conclude that absence of solutions offered by the EU to the regional question currently favors the radicalization of the nationalists' claims.¹⁵⁷

3.4. *Outcomes of Autonomy*

The State of Autonomies had indeed certain stabilizing positive effects on the Basque Country. Surely it diffused many of the problems that had impact on relationships between the Basque Country and Spain. Autonomy turned out to be an effective instrument in the recovery of Basque identity which was previously suppressed. Basques have gained political organs with variety of competences which allow them to develop own policies. The region has its own public administration with decision-making capacity and special financial arrangements.

¹⁵⁶ Gurutz Jauregui, "Basque Nationalism...", p. 254.

¹⁵⁷ Ibidem, p. 256.

And importantly, autonomy makes it possible for Basques to resolve all conflicts in their proper dimensions. Many conflicts that were previously perceived as exclusively external, as conflicts between Euskadi and Spain, have been rooted within Basque society and this is now obliged to face own internal problems.¹⁵⁸

Internally, the Basque society remains divided and fractured and relationships between those who look for independence, those who seek modification of current autonomy and those who are more or less satisfied with the present statute are still to some extent tensed. Externally, the autonomy is not fully able to get rid of tensions between Spain and the Basque Country.¹⁵⁹

The system of autonomies continues exist following the same rules and the Constitution still does not permit the exercise of the right to self-determination. It supports the idea of autonomy, but it also talks about the indissoluble unity of Spain, which makes any recognition of distinctiveness and attempts to secede practically impossible.¹⁶⁰

Here, certain part of Basques will always see only limitations that occurred to Basques in history: during Carlist wars, during the dictatorship of Primo de Rivera, during the Second Republic, during Francoism and finally within the Constitution and the Statute of Autonomy.¹⁶¹

Yet from another point of view, stabilizing and destabilizing effect of Basque autonomy can be only measured from a multiple point of view, because those views are in the Basque case so far away from each other. State elites perceive maintenance of the state's territorial integrity as indicator of success. Peripheral nationalists look at the level of self-government

¹⁵⁸ Gurutz Jauregui, "Basque Nationalism...", p. 242.

¹⁵⁹ Ibidem, p. 242.

¹⁶⁰ Ibidem, p. 242.

¹⁶¹ Maria Onaindia, *Guía Para Orientarse...*, p. 248.

which is acceptable for them and which overlaps with their demands. Obviously, there are points where both groups conflict each other, thus, the success can be perceived in the fact that the current system avoided the temptation to revert to one of the extremes. But what is stabilizing now, may not work tomorrow.¹⁶²

In the end, the autonomy is not perceived by Basques as a compromise, since there is no compromise for several actors in the game whose ideas are so far away from each other. It is rather seen as a kind of intermezzo which provisionally satisfied those who wanted less and those who wanted to gain much more. Basically, the autonomy manages to accommodate very antagonistic demands. And the region, typical for its plurality, needs such intermezzos which leave unsatisfied everybody, but they are important because they help to reach the political situation which allows for continuity for each of actors in the game.¹⁶³

Needless to say, that the statute was only possible to achieve when all the political actors agreed on its core ideas. The statute is frequently represented as a pact between Basques and the rest of Spain and as an internal pact among Basques. It guarantees democratic environment and continuity of basic consensuses among Basques. In this sense the statute has a very important role of a platform, where the lack of consensus rules the politics.¹⁶⁴

Consequently, there is already some kind of agreement, which can be used as a suitable platform for further developments, though autonomy is a very tangible solution based on

¹⁶² Yash Ghai, ed., *Autonomy and Ethnicity...*, p. 137.

¹⁶³ Antonio Rivera, "El Valor de Autonomismo...", p. 28.

¹⁶⁴ *Ibidem*, p. 29.

many legal terms. It was important that the final document was not a rigid norm and it is still changeable. That is precisely why the responsibility of political actors is so high.¹⁶⁵

¹⁶⁵ Antonio Rivera, "El Valor de Autonomismo...", p. 27.

Conclusion

At the beginning of the thesis I presented a debate which listed a few important assumptions of scholars regarding effects, advantages and disadvantages of territorial autonomy. Authors pointed at the flexibility of autonomy when it is applied and its ability to have a positive effect on regions characteristic for ethnic conflict. Autonomy, they claimed, is able to ease ethnic tensions without creating a new statehood for the particular minority. Usually it leaves both sides (state and minority) not fully satisfied, so the agreement they conclude is basically a compromise.

Yet, many authors indicated their worries about destabilizing effects of autonomy and the dangerous effect of 'Balkanization.' Autonomy in their view could cause a lot of damage in many cases, so they refrained from its universal applicability. This overview of scholars' opinions was essential basis for the following case studies. After a careful analysis of both cases, we can now connect them with the theoretical framework, consult particular implications and lessons we can take from our examples. The comparison of the two cases is going to be central to this conclusion.

First, one of very visible arguments mentioned by variety of authors is ability of autonomy to ease ethnic tensions, silence nationalism and avoid secession. This argument should basically convince all countries to apply the model of territorial autonomy, because it leads to overall stabilization of the region in concern. In our two cases territorial autonomy undoubtedly led to certain stabilization.

Starting with South Tyrol, the stabilizing effects appeared only after implementation of the Second Statute of Autonomy, which finally properly reflected concerns of all parties. The system of proportionality and careful linguistic provisions made it possible to assure that those concerns will be successfully implemented. The statute was basically a compromise between all actors which was tailored exactly for South Tyrolean purposes. Ethnic tensions between linguistic groups are almost settled, parallel societies are on the way to interact with each other and the irredentist tendencies are not on the agenda.

Basque case, on the other hand, shows very slow implementation of stabilizing effects of autonomy. The current situation in the Basque Country is not as tensed as it was during the era of dictatorship or even during 1980s when the first disappointment about the autonomous statute appeared. The first disappointment has been to some degree diffused and autonomy clearly supported economical development in the region, especially particular financial regime that Basques gained. Autonomy in the end fostered stability in the region. Basques are, however, still far away from overcoming their frustration, which is dependent on their inability to come to one consensus. The Basque public remains divided, so are programs of political parties. It is not that there are simply different, but their aims are fair away from each other. This environment of mutual misunderstandings is not suitable for any negotiations.

Autonomy is in this case no compromise; it is just *intermezzo* which does not satisfy a significant number of Basques. Nationalist proclamations and secessionist tendencies did not disappear. Certain part of Basque society will simply continue supporting radical nationalist parties and their ideology. Even though those radical views are in minority, they are still present causing instability in the region. In addition, a big number of Basques is supportive toward the solution somewhere between independence and current arrangements. Autonomy

is currently unable to silence these opinions using strong arguments, because they require recognition of distinctiveness and establishment of confederal relation, which is totally opposite to views of the central government. Here application of autonomy reaches its limits.

Second, it is without doubt that autonomy successfully preserved the unity of both countries, though regionalization caused big asymmetry in relation to the Italian State and only limited asymmetry in relation to the Spanish Kingdom. In this sense, autonomy is undeniably favoring the state and its territorial integrity. It seems it is a tool, which will always more satisfy the State which is mainly concerned about its territory and is usually willing to give up some of its powers in order to foster stability on its lands, whereas it will always leave minorities dissatisfied. Even German-speaking South Tyrolese would probably in the end prefer reunification with their kin-state, if it was possible.

This leads us to a general applicability of those assumptions. Does a similar scenario appear in all cases? In most of CEE countries the application of territorial autonomy model is not accepted with a big enthusiasm. States are not willing to give up some of its powers in the sake of present minorities. Knowing that the most of minorities in this part of Europe are kin-state minorities, we can analyze the issue through our two cases.

In South Tyrol, the position of kin-state minority favored all following negotiations, whereas in the Basque Country lack of the outside actor left Basques fighting for their rights alone. It seems on the first sight, that position of a kin-state minority is better when it comes to minority rights struggle. CEE countries, however, do not confirm this theory. The main counter-argument is probably the fact, that the countries which are in conflict concerning minorities are not allied. Allied relations were also prerequisite for settling the conflict in

South Tyrol. Only after Austria and Italy get rid of mutual suspicions and found a common agreement and perceived benefits for both countries, the parties could have begun final negotiations.

Yet, getting back to the Basque case, we cannot claim that if Basques had a kin-state which would take on the role of protector, this would ease their situation. Also we cannot expect that presence and intervention of other actors in the Basque Country would lead to the stability in the Basque region. Any intervention is dependent on variety of factors. For example, presence of the EU in South Tyrol definitely fostered cooperation between two EU member states that were previously not allied. Its deeper intervention in the Basque Country would, however, not solve internal disputes. The problem in the Basque Country is not between two countries, because French involvement is not on the agenda at all. The problem remains being largely domestic issue. In such case the international community is not only not willing to intervene, but its involvement is also limited to violation of human rights or denial for reasonable claim to self-government. Involvement would be only possible if Spain did not respect basic rights of minorities recognized by international documents. Plus, any involvement of other international actor can be only successful as long as some internal consensus is reached; meaning that the substate national group clearly defines its aims and agrees on them as a whole group. Hence, it seems to be a circle. The only solution for the Basque Country might be to keep trying to find a consensus among themselves.

This brings us to the role of sequencing. Comparing the development in our cases, Italy started to develop on a democratic platform after the World War II. The first statute brought disappointment, but further pressure of Austria and involvement of international community made it possible to implement changes in less than 20 years in the second statute, which was

implemented for another period of 30 years, when the constitutional reform was applied. The statute did not bring stability right in the beginning; it took time till the parallel societies learn to live next to each other in peace.

Spain, on the other hand, is still quite recent democracy. Democratic developments in the country started in 1975, only more than three decades ago from now; also the statute is now almost as old as the new regime. Basically, we can argue that it is too early for any conclusions. Currently the Spanish autonomous system is designed in the way that it does not allow any compromises for its substate nations. Although all autonomies are dynamic, all regions and nationalities have to accept their equal position, similar to the organization of a federal state. The system is, however, not finished and there might be room for changes, but only if the attitude of the Spanish Kingdom allows it.

This attitude is dependent on many factors. We can undoubtedly claim that ETA has an indirect impact on the view of the Spanish State which continuously perceives the Basque case mainly as a security problem and as such it treats it. At present there is very little effort from the Spanish side to change their view and negotiate any progress. The attitude might change if the level of pressure from regions increases. In other words, if Basques find certain consensus and present themselves as a coherent group with clear aim, they might in future successfully negotiate autonomy tailored for their purposes.

Here autonomy shows its flexibility. In both cases we came across dynamic autonomies which are not finished. There is room for changes, but only if all actors permit it. This, on the other hand, confirms a big limitation of autonomy. It is simply a tool, largely dependent on state's will and on variety of other factors. It is not universally applicable to all cases. Where

disputes are too big, autonomy cannot be simply adopted in order to stabilize the conflict. At first careful negotiations should prevail, in order to prepare a proper platform.

At this point we are getting to our framework of plurality of actors that was used for this thesis. Negotiations and role between diverse actors appeared to be the main determinant for particular development in both cases. Final outcome of that development now influences stability of the region and overall success of autonomy, which is designed in response to those negotiations. While South Tyrol is for now stabilized, the Basque Country's future is very uncertain and far away from stable model.

South Tyrolean success is based on multiple negotiations led between the kin-state minority itself, the State (Italy), kin-state (Austria), with involvement of international community. The final outcome which gives the region stability was only possible if all those actors agreed on it. South Tyrol case is peculiar because it shows development from previous lack of consensus to the final common agreement. This common agreement was only possible due to right sequencing and timing of events that contributed to the stabilization of situation. First of all, the original transfer of territory from Austria to Italy was a matter of international politics. This element played a decisive role, because Austria as a kin-state could constantly intervene in the case when the provisions of international treaties were not being fulfilled.

But even though South Tyrol has been from the beginning internationally protected, its position was fully dependent on attitude of Italian state. Only at the moment, when all sides were able to see benefits that currently wealthiest region in Italy can bring them, it was possible for them to negotiate certain compromise. South Tyrolean autonomy, therefore,

confirms ideas of many authors mentioned in the theoretical introduction, who indicate importance of proper negotiation, which generally lead to compromises between all parties.

On the other hand, based on lessons from the Basque Country we can conclude that autonomy is not a universal tool which always facilitates reaching of compromise between the parties involved. Some cases simply need more time, till tensions get diffused and till the democratic environment develops to the degree which supports negotiations. For this reason, South Tyrol cannot be used as a model, because each case needs a proper accommodation. We can, however, take lessons from South Tyrol case and compare the case to others as it was done in this thesis. The comparison of two very different experiences helped to see strengths and weaknesses in both areas. Further research in this field should, therefore, focus on such studies.

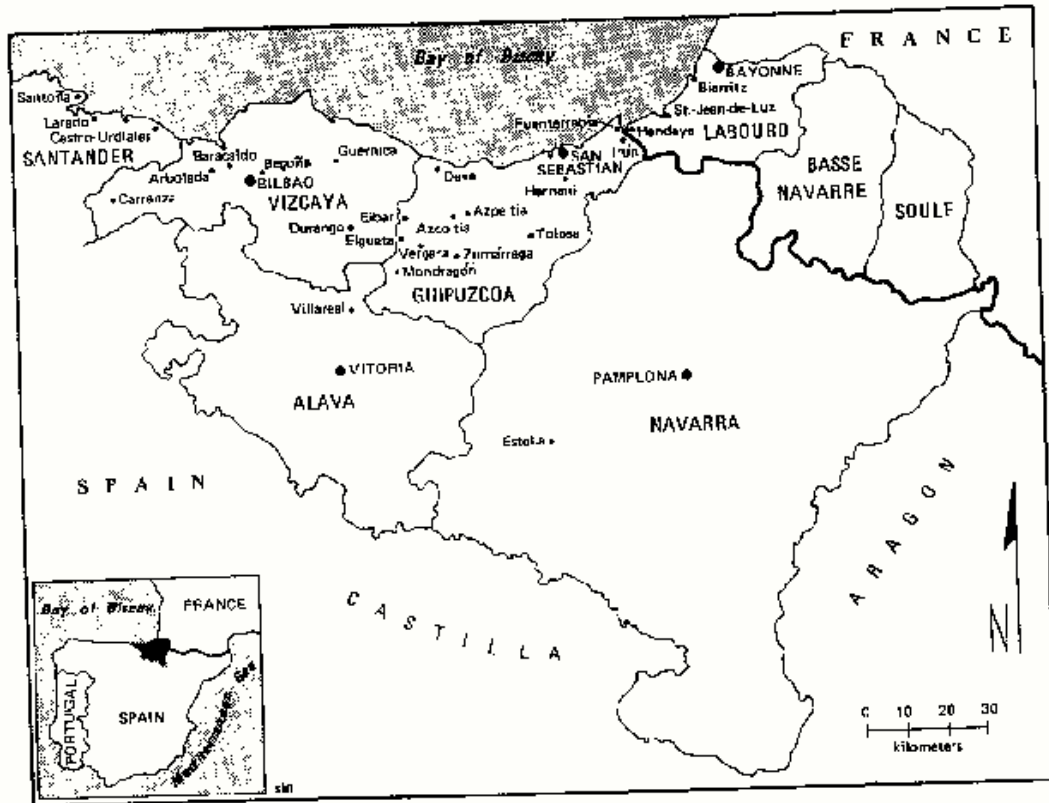
To summarize my research I would generally support most of arguments that were stated at the beginning of this thesis. Territorial autonomy might be a proper tool for easing ethnic tensions and fostering stability in the concerned region. It can indeed have very positive effects on economical, political and social developments in the country. Both our cases confirm that assumption, because they are one of the wealthiest regions in their host countries. Autonomy in those cases achieved preservation of minority identities and guarantees them control over important local issues. Yet autonomy definitely did not have damaging effects, but it reached its limits regarding some matters. In South Tyrol the stability was achieved for the cost of creation of imperfect parallel societies. In the Basque Country a full stability could not be achieved even within advanced autonomy, because of multiple aims of different groups. In other words, autonomy is very useful tool for accommodation of substate nations,

but all its positive effects are visibly limited. The final outcome is mainly determined by proper negotiations of multiple actors and by sequencing of events.

Appendices

Appendix 1

Map 1. The Basque Country



The Basque Country.

Source: Stanley G. Payne, *Basque Nationalism* (Reno: University of Nevada Press, 1975).

Appendix 2

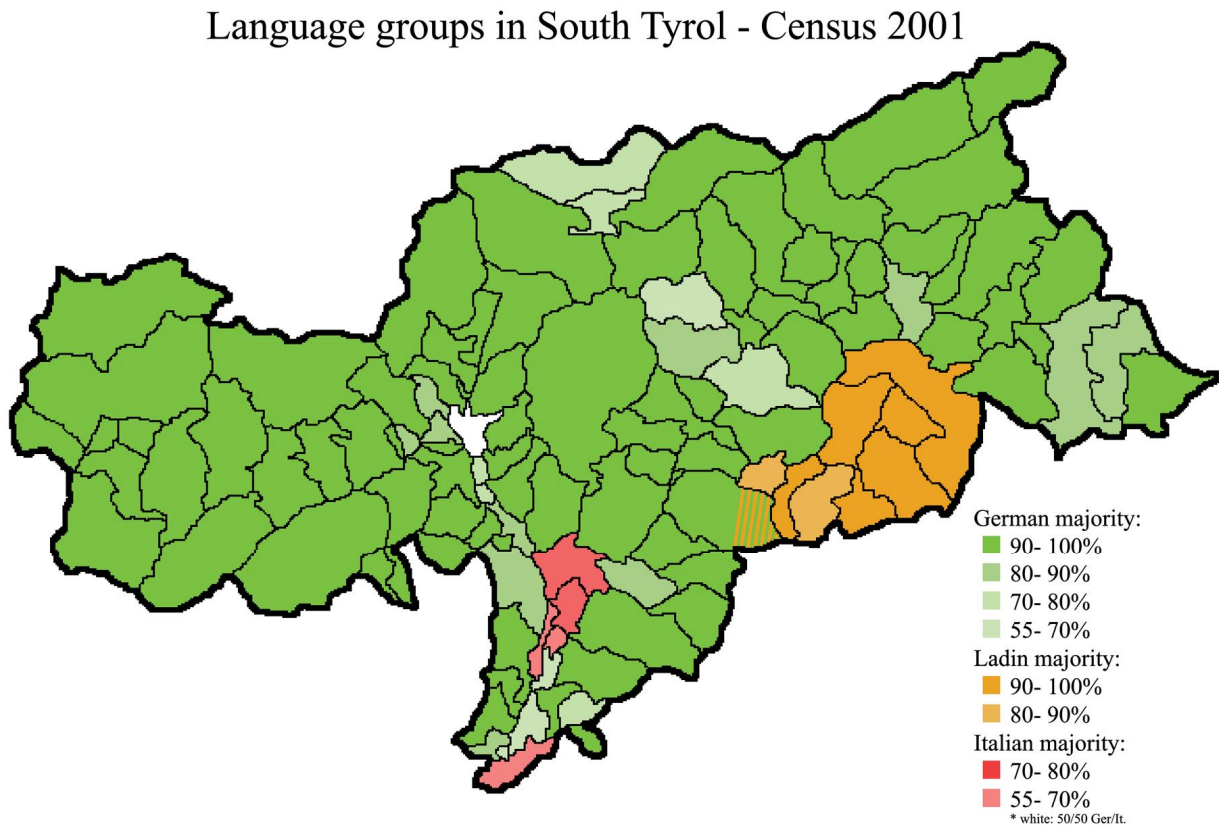
Map 2. Position of South Tyrol



Source: Magliana, Melissa. *The Autonomous Province of South Tyrol. A Model of Self-Governance?* Bolzano: European Academy of Bozen/Bolzano, 2000.

Appendix 3

Map 3. Language Groups in South Tyrol According to 2001 Census



Source: Autonomous Province of South Tyrol – Provincial Statistics Institute (ASTAT), *Language Groups – Census 2001*, available at <http://www.provinz.bz.it/astat> (accessed on May 30, 2011).

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