

REGIONAL AUTONOMY MOVEMENTS IN EUROPE: NATIONAL GOVERNMENTS  
AND THE EU

BY

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## **ABSTRACT**

This thesis investigates whether the success of a regional autonomy movement within a nation state belonging to the European Union (EU) is determined by the actions of the national government or activities on behalf of the autonomy within the EU. Case studies are made of the autonomy movements in the Åland Islands, Catalonia, Scotland and Flanders, and the results are compared through a matrix typology. The level of autonomy of a region is determined by its “independent fiscal ability,” defined as the region’s ability to raise revenues or to receive automatic transfer payments from the national government. The actions of a central government affecting the region’s level of autonomy are defined as those that affect the region’s independent fiscal ability. Activities within the EU on behalf of a region’s autonomy are defined to include the region’s own paradiplomatic activities at the EU as well as actions of EU institutions on behalf of that autonomy. These indicators are generalizable and can be applied to all regional autonomies in nations belonging to the EU. It is found that the success of a regional autonomy movement is determined by the actions of a national government and not the activities on behalf of the region’s autonomy within the EU. The results have implications in the understanding of the EU’s three-tiered system of federalism.

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*To my mom and dad*

## TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION.....	1
CHAPTER 2: LITERATURE REVIEW .....	4
CHAPTER 3: THEORY.....	17
CHAPTER 4: TYPOLOGY.....	23
CHAPTER 5: METHODOLOGY .....	28
CHAPTER 6: HYPOTHESES.....	41
CHAPTER 7: ÄLAND.....	43
CHAPTER 8: CATALONIA.....	54
CHAPTER 9: SCOTLAND.....	71
CHAPTER 10: FLANDERS .....	82
CHAPTER 11: DISCUSSION.....	96
CHAPTER 12: CONCLUSION .....	104
REFERENCES .....	108

## CHAPTER 1: INTRODUCTION

A major issue confronting Europe today is the relationship of regions within nations to national governments. It has been estimated that throughout Europe, there are 100 movements in 29 countries that are seeking either greater autonomy within the framework of an existing nation state or complete national independence (Campanella). The emergence of the European Union (EU) as a true supranational body has given a new option to autonomy movements in promoting their cause. As was always the case, they can work for autonomy on the national level by seeking to persuade national governments to expand regional governmental powers. A new option available to regional autonomy movements is to work within the EU and its institutions to promote the cause of their autonomy. As many governmental competences are shifted from the national to the European level, and as the EU increasingly gains the stature of a major governmental entity in its own right, the question arises whether active participation by regional autonomy movements in EU institutions is an effective strategy on their part.

This thesis will attempt to answer this question by examining four separate European autonomies, those of the Åland Islands (Åland), Catalonia, Scotland and Flanders. As will be described in detail below, each of these autonomies presents a separate situation in terms of the attitude of the national government toward granting a greater level of regional autonomy and the activity within the EU on behalf of that autonomy.

Based on evidence derived from the comparative experiences of these four regions, the question is addressed whether the success of an autonomy movement is dependent on the policies of the national government, on activities within the EU, or on both. The thesis begins with a literature review that explores the concept of autonomy as it has been developed in previous scholarly studies. Additionally, the literature review examines previous literature that

distinguishes the EU's complex, three-tier federal structure with the two-tier federal structure of nation states and hypothesizes how this three-tier structure may be supportive of regional autonomy movements.

A theoretical section follows. The first part of this section defines the key terms that are essential to the following discussion. Most critically, the thesis develops a measurable test of the degree of autonomy of a region that is based on the degree of a region's budgetary control. This test has general application and can be used effectively regardless of the specific characteristics of a regional autonomy. A typology is then developed for classifying different autonomy movements within the EU in terms of two basic criteria: 1) the support or opposition of the national government to greater autonomy for the region; 2) activities within the EU relating to the autonomy movement. The four case studies are matched to each element of this typology. Each of these cases presents a separate combination of regional activity or inactivity within EU institutions, and of activity or inactivity within EU institutions.

This discussion is followed by an explanation of the methodology used. The purpose of the methodology is to reach testable conclusions as to the role of the EU, as it is currently structured, in influencing autonomy movements. In furtherance of this purpose, the time frame selected covers the approximately decade-long period following the signing of the Lisbon Treaty in 2009. Source materials are primarily limited to governmental sources, available in English and reliable explanations of those sources. The indicators used seek to determine two basic facts for each case studied: First, whether the level of autonomy has increased during the time period considered; and second, whether there has been activity on behalf of the region's autonomy within the EU.

The theoretical section concludes with the presentation of two alternative hypotheses that are tested in the remainder of the thesis. Under the first hypothesis, the actions of a nation state are determinative for the success of a regional autonomy movement. Under the second hypothesis, it is the activity on behalf of the region within the EU that is determinative in this regard.

The four case studies are then presented. For each case, there is an introductory section that puts recent regional developments in a longer historical context so as to provide a better perspective on the present situation. Detailed evidence is then presented that answers the two basic questions of whether the region's level of autonomy has grown and whether there has been activity on behalf of that autonomy within the EU.

A summary of results considers which of the above two hypotheses is confirmed by the evidence presented. It is found that only one of the alternative hypotheses fits the recent historical facts presented. Additionally, the summary of results presents ideas on how the present study can be extended to encompass additional autonomies as well as future developments within the EU.

As will be examined in detail below, the common thread in all of the cases examined here is that the EU leadership still views the EU as a treaty of nations rather than a union of its citizens, and for this reason consistently defers on matter of autonomy to the interests of nation states.

## CHAPTER 2: LITERATURE REVIEW

The present literature review is divided into three parts. It begins with a discussion of the meaning of “autonomy” as previous scholars have attempted to define it. This discussion is a prerequisite to the entire consideration of regional autonomies in the remainder of the thesis. The review then proceeds to literature addressing the EU’s three-tier federal structure and its potential importance in fostering autonomy movements. Finally, this section reviews primary EU source materials, including provisions of the Treaty of European Union (TEU), statements of EU officials and a landmark decision of the European Court of Justice that have bearing on the status of autonomous movements under this three-tier federal system, together with scholarly analyses of these source materials.

**Concepts of autonomy:** Several separate but complementary concepts of political autonomy developed by previous authors are considered here.

*Autonomy as governmental power:* Harhoff defines autonomy as a transfer of powers from a national to a regional government. According to Harhoff, local autonomy “[implies] a region’s partial independence from national/central governmental influence” (Harhoff at 31). Under such an autonomy scheme, specified areas of governance are transferred to a regional or local authority, and other specified powers are reserved by the national government. Some powers may be exercised concurrently at the national, regional or local levels. Harhoff asserts that the degree of autonomy of a region or locality can be measured by the extent of the powers transferred away from the national government. At the high end, autonomy may be a “state-like sovereignty” in which almost complete powers are transferred to the autonomous region. On the lower end of autonomy, a national government will grant only advisory powers to the regional or local governing body. The range of issues that can be addressed in an autonomy arrangement is

large. A partial list includes taxation, social welfare, labor market affairs, trade, natural resources, transportation, and communications (Harhoff 31). Harhoff speaks in general, conceptual terms, and provides no exact way to measure the level of a particular autonomy.

*Measures of autonomy:* Accepting Harhoff's basic definition of autonomy, later authors have sought to develop a more systematic method for measuring the degree of a region's autonomy. Hannum, Lapidoth, Suksi, and Ghai distinguish at least four broad levels of autonomy: personal (the lowest level which extends only to the individual citizen); functional (which covers only a few issues such as the right to education in a particular language); administrative (conferring limited rights regarding several issues); and legislative (the highest level of autonomy). Legislative autonomy requires a broad spectrum of rights and a local legislative body with the power to enact enforceable local laws (Tkacik 372-373).

Tkacik develops this typology further by developing two separate theoretical frameworks intended to provide more sensitive measures of the degree of a region's autonomy. Under his first typology, he divides governmental powers into "tiers." For purposes of measuring the degree of an autonomy, he ranks governmental competences in "tiers." Tkacik groups those governmental competences he deems most significant in a "Tier One." Under his analysis, a strong autonomy is one in which the local government has control over many of the "Tier One" competences that he lists. These Tier One competences include control over local affairs, clear boundaries for the autonomous territory, level of independence of the local legislature, power of the local executive to enforce local laws, "entrenchment" of the autonomous arrangement (that is, the ability of the national government to unilaterally change the terms of the autonomy), official use of the local language, judicial power to settle disputes, and the right of a region to participate in the affairs of the national government as they relate to regional affairs (Tkacik

383-391). Legislative autonomy requires a region to have control over at least one of these Tier One issues (Tkacik 383).<sup>1</sup>

Tkacik's separate typology views autonomy as being present on three separate axes. The first axis is the scope or aggregate number of issues that can be controlled by the autonomous entity. The second axis is the depth of autonomous control, and the third axis is the degree of spatial or geographic separateness of the autonomous area. According to Tkacik, "[a]n autonomy that includes a large number of issues (scope), along with a great deal of control held by the autonomous region (depth), and existing in a distinct and insular territory would be considered more extensive than one which did not" (Tkacik 370).

The large number of variables used by Tkacik for measuring the scope of an autonomy, together with his use of the two separate typologies, makes a determination of the relative autonomy levels of different regions difficult under his theoretical analysis. Tkacik does not describe a way to rank the strengths of two autonomies if one of them ranks higher on the first of his typologies (analysis of Tier issues) but lower on the second one (axes of autonomy). Even using the Tier system alone raises difficulties in ranking autonomies. For example, if two regions have control over the same number Tier One issues but these issues are different for each region, Tkacik does not provide a method for comparing the relative strengths of their autonomies. Likewise, in his "axis" typology, if one region has a higher autonomy score than another on one axis but a lower score on another axis, there is no basis for ranking the autonomies of the two regions.

*Autonomy as an "on or off" condition:* Unlike the previous authors, Hannum's concern is limited to a condition of what he terms "full autonomy." By establishing an "on-off" test for

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<sup>1</sup> Tkacik also lists Tier Two, Tier Three, and Tier Four issues. The higher the tier, the less essential is the issue for determining the strength of a legislative autonomy (Tkacik 393-401).

determining whether full autonomy is reached, he turns it into a measurable characteristic. According to Hannum, “full autonomy” requires “territorial integrity...a local legislature with constitutional or other deeply entrenched powers” which “was not subject to veto in its areas of competence, a locally selected executive and an independent local judiciary” (Tkacik 372). Hannum’s test does not allow for the same analysis of degrees of autonomy as the sliding scale analyses of Harhoff and Tkacik. His definition of full autonomy is basically an “on” and “off” test. Full autonomy is triggered “on” only when his specific test is met. His test is less explanatory than those previously described in that it does not evaluate degrees of autonomy that fall below the “full” level. As the case studies below will illustrate, however, Hannum’s definition is important for helping to understand the point at which populations living within a region can be expected to begin to favor complete separation from their nation states. That point can come when regional populations feel that despite their wishes, the central state will not allow their current, limited autonomy to reach the full autonomy set forth in Hannum’s definition.

Although the above concepts of autonomy differ from one another, they are in basic agreement as to what factors should be considered in evaluating the level of an autonomy. The list of autonomous features developed by Harhoff is consistent with those set forth by Tkacik and Hannum. The typology of Tkacik and Hannum’s “on-off” switch for full autonomy likewise highlight features of autonomy consistent with the other definitions<sup>2</sup>.

**Two-tier and three-tier federalism:** In considering the development of regional autonomies, it is essential to consider the comparative roles played by different forms of federal governmental structures. Central to this analysis as it will be developed in this thesis is the work

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<sup>2</sup> Other authors have developed additional methods for classifying autonomies. Autonomies can be distinguished “according to beneficiaries of autonomy, according to the purpose of the autonomy (e.g., conflict resolution, protecting a specific identity, transition to independence, whether autonomy was negotiated ‘top-down’ or ‘bottom-up.’ ” (Takcik n. 4). None of these methods will be used in the present thesis because they provide no way to compare the relative strengths of different autonomies.

of Noutcheva et al. In their article, “Europeanization and Secessionist Conflicts: Concepts and Theories,” these authors distinguish between two-tier and three-tier federalism. Two-tier federalism involves a governmental relationship between a nation state and its regional parts in which specific governmental functions are delegated to each. Three-tier federalism means a governmental structure in which there are not only regions and a nation state, but also a supra-national institution that encompasses both of these. Governmental authority is divided between the three levels of governance. The EU is the world’s leading example of a functioning three-tier governmental system.

Noutcheva et al. identify several ways in which a three-tier governmental system can help to resolve secessionist conflicts. First, by taking over some governmental competences, the supra-national tier can help to resolve conflicts between the first tier (region) and second tier (nation state) over their respective roles in governance. Examples of the EU’s assumption of competences can be found in agriculture, the environmental and trade policy, where the EU now has a dominant role. The presence of the EU as an important element of the government structure can also make it easier to resolve constitutional conflicts between the region and the nation state. Finally, the EU can help to increase the authority of a region without interfering with the integrity of the nation state by giving the region opportunities in EU governance, for example, by providing for regional representation in the Council of Ministers or expanding contacts between the region and EU institutions (Noutcheva 5-10).

The second basic way in which the EU can help to resolve regional conflicts is by serving as a mediator between the region and central state. Noutcheva et al. argue that “a third level of governance may create new incentives and expectations in a settlement process, and may even lead to a redefinition of the interests and identities of the parties involved in a secessionist

conflict. This is particularly the case when the federated entities can be integrated into the third level of governance.”

Although Noutcheva et al. address separatist movements, their analysis is equally applicable to regional autonomy movements seeking increased autonomy short of full national separation. In fact, because the EU has been supportive of limited regional autonomies while it has opposed separation movements, it can be expected that EU institutions will be more useful in resolving efforts by regions to gain greater autonomy short of independence. The analysis of Noutcheva et al. has received support from Connolly, who has pointed out the many specific ways in which the EU structure can facilitate the resolution of regional disputes. These include the following:

- *Subsidiarity principle*: Article 5 of the Treaty on EU (TEU) establishes a preference for decision-making at the regional or local level if this is practicable. Regions can argue the subsidiarity principle in support of greater control over their own affairs.
- *Regional representation*: Regions are represented in the EU in the Committee of Regions (CoR). The 2009 Lisbon Treaty requires consultation by the European Commission, Council, and Parliament with the CoR on matters concerning local or regional government. Furthermore, the CoR can challenge EU laws before the European Court of Justice on the basis that they violate the subsidiarity principle. In this way, regions can use the EU’s constitutional structure to press for greater regional control.
- *Paradiplomacy*: European separatist parties in Catalonia and Scotland have actively lobbied EU institutions and other national governments on behalf of regional separation and have established “informational offices” in Brussels.

- *EU “rights regime”*: The rights regime ensures cultural and linguistic protections for minority groups within nations.
- *Growth of regional parties*: The various European regional parties supporting increased autonomy or national separation are grouped together in the European Parliament in coalition with the Greens as the Greens-European Free Alliance. This grouping gives them a parliamentary influence and coordination (Miadownick and Cartrite).
- *Representation on Council of Ministers*: Regional representation may extend even to direct Council of Ministers representation on issues affecting the region, as will be discussed below in the case of Flanders

Bourne, however, has argued that that the forces working against separatism with the EU are outweighed by the absence of “support from sufficiently authoritative European actors.” She has linked this absence of support for regional separatist movements to the EU’s continued use of a “just cause” rather than “democratic choice” test for secession. A question to be explored empirically is whether the absence of “support from sufficiently authoritative European actors” extends also to a lack of meaningful EU support for increased regional autonomies short of independence. The formal EU structures supporting regional governments have been listed above, but this does not answer the question of whether these structures can actually be used effectively by regional governments seeking to expand their autonomous powers within a nation state.

**EU source materials and their scholarly interpretation:** Possessing the most fully developed three-tier federal structure in the world, the EU provides a laboratory for determining whether a three-tier federal structure can ease the transition between autonomy within a nation state and full national separation of the autonomous region. In fact, the EU has taken contrasting

positions towards regional autonomy short of independence on the one hand, and full national separation on the other hand. The EU has supported the first while opposing the second. The support of the EU towards autonomous arrangements extends even to regions with very high levels of autonomy approaching, but not quite reaching, national independence. (Flanders is an example of such a region, as will be illustrated below).

The EU has adopted a “just cause” for national separation (Bourne). This test is much more difficult to meet than the alternative “democratic choice” test which can be met simply by a majority vote by the inhabitants of a region in a referendum on separation. In contrast, the “just cause” test can only be met in two situations: 1) cases of colonialism (which do not generally apply to European countries); or 2) where there is a denial of the “core values democracy and rule of law” (Dayton). In other words, for the EU to accept a national separation within a member state, it must conclude that the nation state is acting against the affected region in a fashion that is both undemocratic and violates the rule of law.

The extreme difficulty in meeting the “just cause” test is reflected in the statements made by two European Commission presidents on the requirements for admission to the EU of a breakaway region claiming national independence. In response to a question from a Member of the European Parliament from Wales, Commission President Romano Prodi said in 2004 that such a state would have to apply to the EU under the accession procedures of Article 49 of the Treaty on EU (TEU). As explained by Prodi:

An application of this type requires, if the application is accepted by the Council acting unanimously, a negotiation on an agreement between the Applicant State and the Member States on the

conditions of admission and the adjustments to the treaties which such admission entails. The Admission is subject to ratification by all Member States and the Applicant State (Kenealy and McLennan 593).

A letter expressing the same position was issued by then Commission President José Manuel Barroso in 2012, in response to Lord Tugendhat, a member of the United Kingdom's House of Lords. This correspondence was issued in response to an inquiry by the Economic Affairs Committee of the House of Lords into "The Economic Implications for the United Kingdom of Scottish Independence." President Barroso first stated that every case of separation would have to be decided on its individual facts:

...the European Commission has noted that scenarios such as the separation of one part of a Member State or the creation of a new state would not be neutral as regards the EU Treaties. The European Commission would express its opinion on the legal consequences the legal consequences under EU law upon request from a Member State detailing a precise scenario."

Barroso then expressed the Commission's general position that a region separating from its member state would be expelled from the EU:

"The EU is founded on the Treaties which apply only to the Member States who have agreed and ratified them. If part of the territory of a Member State would cease to be part of that state because it were to become a new independent state, the Treaties would no longer apply to that territory. In other words, a new

independent state would, by the fact of its independence, become a third country with respect to the EU and the Treaties would no longer apply on its territory” (“Scotland and the EU: Barroso’s reply to Lord Tugendhat”).

In their statements, Prodi and Barroso made no distinction between the entry into the EU of a region that has seceded in conformity with the laws of the state to which it currently belonged (for example, following a successful independence referendum approved by the central state), and a region which is currently attempting to break away in defiance of an EU member state’s national laws. As will be described below, Scotland and Catalonia are potential examples of these two types of regions.

Both of these European Commission presidents rejected the entry of a breakaway state into the EU under Article 48 TEU. Article 48 contains the so-called “ordinary revision procedure” that involves the amendment of existing treaties with ratification by all EU states. Admission of a new state to the EU under Article 48 can be expected to be both quicker and more likely to achieve success than admission under the alternative Article 49 procedure that requires the full accession process applicable to an entirely new EU member state (Kenealy and MacLennan at 601).

The EU’s general opposition to national separation by regions within EU member states is based on the language of the Treaty on EU (TEU) as amended by the 2009 Lisbon Treaty. Article 1 TEU states that the “High Contracting Parties establish among themselves a European Union.” Article 4 (2) TEU requires the EU “to respect the [member countries]...essential state functions, including ensuring the territorial integrity of the State[.]” Article 52 TEU has been interpreted to mean that the EU has “derivative” rather than “original” sovereignty, meaning that

decisions as to national borders rest entirely with the member states (Keating). These three provisions, taken together, provide support for the argument that the EU is a treaty of existing nation states, and that the EU therefore has no authority to accept the entry of new states without the unanimous consent of EU members.

However, there are other provisions of the TEU can be interpreted to support of the right of regions to separate from their central states. Article 2 TEU sets forth the EU's "core values of democracy and rule of law." Regional separatists have cited this article in arguing that a "democratic choice" test rather than a "just cause" test should be used by the EU with regard to separatist movements (Dayton 7).

Additionally, Article 20 TEU states that "[c]itizenship of the EU is established" and that "[e]very person holding the nationality of a Member State shall be a citizen of the Union." Article 20 lists EU citizenship rights as including the right to free movement among member states, to vote and run for office in any of the EU states, to protection of the diplomatic and consular authorities of any member state, and to petition the European Parliament and apply to the European ombudsman. Kenealy & MacLennan have written that: "[r]ecent jurisprudence of the ECJ has brought into question the derivative nature of EU citizenship. It is clear...that the Court no longer regards EU citizenship as being subordinate to Member State citizenship. If anything, the Court takes quite the opposite view" (Kenealy & MacLennan 606).<sup>3</sup>

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<sup>3</sup> In the *Van Gend & Loos* case, the European Court of Justice held that the European Economic Community:

"[C]onstitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only Member States but also their nationals. Independently of the legislation of Member States, Community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the Treaty, but also by reason of obligations which the Treaty imposes in a clearly defined way upon individuals as well as

If EU citizenship is considered equal to, or even more important, than member state citizenship, then it cannot be taken away by a change in national borders. A strong argument can be made that the citizens of a region which has separated from a member state have the right to retain their individual EU citizenship even after the separation has taken place and the new state no longer belongs to the EU. A very complicated situation would then arise in which the territory of the separating region would be outside the EU, but its citizens still would have EU citizenship rights. How the EU could ensure citizenship rights outside the borders of its member countries is not at all clear, as the question of the EU citizenship rights of individuals in a separating region has not yet been decided.

The territories of these breakaway regions will have already formed part of the EU, and their residents will have already acquired EU citizenship. Thus, “their situation of ...independence [is]...qualitatively different from accession conventionally understood” (Kenealy and MacLennan 601).

What this means to national separation movements from a practical viewpoint is that the previously expressed positions of EU officials toward breakaway regions are not fixed and unchangeable but instead have a normative character. As the concept of EU citizenship becomes increasingly important, the attitudes of EU officials toward national separations may change. Instead of turning their backs on separation efforts, they may become more willing to work with separatist regions to try to ease their way back into the EU through the use of the Article 48 procedure and cooperative efforts between the regions and EU governmental bodies. Whether such a change in attitude is actually occurring can only be determined by looking empirically at

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upon the Member States and upon the institutions of the Community” (*Van Gend & Loos* at 11).

specific cases of European separatist movements and their attempts to influence EU bodies toward their way of interpreting applicable TEU provisions.

### CHAPTER 3: THEORY

This section sets forth definitions of “autonomy,” “activities within the EU” and “paradiplomacy” as they are to be used in the remainder of this thesis. These definitions provide the theoretical underpinning for the research questions posed and the interpretation of the evidence collected.

#### **Autonomy:**

The thesis will follow Hannum’s basic conception of autonomy in a modified form. Hannum establishes a threshold, measurable level at which autonomy can be considered to have turned “on.” Until a region has reached this threshold level, it cannot be considered to be a true autonomy. The present thesis takes a differing approach by including within the universe of autonomies all regions that have any level of governmental separation from their nation state. The “on-off” test that will be used here is whether a particular autonomy can be said to have increased from its previous state. To answer this inquiry, it is necessary to define the threshold point at which the autonomy has transitioned to a new level.

Instead of Hannum’s “full autonomy,” this thesis will term this threshold level as “real autonomy.”<sup>4</sup> The distinguishing characteristic of this real autonomy is “independent fiscal ability,” defined as the budgetary capacity of a regional government to implement a governmental competence independently from assistance by the nation state.<sup>5</sup> An independent fiscal ability must be distinguished from a governmental competence. A competence gives a government substantive legal authority to legislate and regulate in a particular area of governance but it does not provide the financial resources for it to do so. Independent fiscal ability provides the government with financial resources, separate from those under the control

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<sup>4</sup> For the rest of this thesis, the terms “real autonomy” and “autonomy” will be used interchangeably.

<sup>5</sup> The term “independent fiscal ability” will also be abbreviated below as “fiscal ability.”

of the national government, to actually implement a competence. Without independent fiscal ability, a governmental competence exists only on this basis because its exercise requires the budgetary consent of a higher level of government.

Independent fiscal ability can be attained in three ways: 1) through independent taxing authority; 2) through automatic transfer payments from the central government which the central government does not have authority to veto; or 3) through a combination of “1” and “2”.

“Real autonomy”, as defined here, has a lower threshold than the “full autonomy” of Hannum. Hannum’s “on-off” switch requires complete, independent legislative control of all governmental functions by a regional parliament. The “on-off” switch proposed here for real autonomy here does not have to apply to the full range of governmental actions. It only requires that a region have budgetary powers in a single area of governance. The purpose of this lower threshold is to define autonomy as including situations where a region has actual power to finance one or more of its operations independently, even if that power falls short of complete control over its finances.

There is another important difference between Hannum’s “full autonomy” and the “real autonomy” proposed here. Hannum’s “full autonomy” can only operate at one fixed level with an independent legislature and judiciary. In contrast, there can be greater and lesser degrees of “real autonomy” once it is triggered. The amount of “real autonomy” possessed by a region can go up or down as the region gains or loses budgetary and taxing powers in different areas of governance, and this increase or decrease can be measured in terms of the number of areas of governance in which the region has independent fiscal ability, as well as in terms of the degree of fiscal ability within each area of governance (for example, with regard to education expenditures, a region’s real autonomy would increase if it became able to independently finance one-half

instead of one-quarter of expenditures). This allows for a more sensitive determination of changes in the level of a regional autonomy.

This budgetary test of real autonomy proposed here is consistent with the analyses of Harhoff, Tkacik, and Hannum. Harhoff's concept of transfer of powers as a test of autonomy depends on the ability of a region to actually implement these powers on an independent basis, and that in turn requires independent budgetary authority by the region. Under Tkacik's "Tier" test, a region can only be considered to exercise control over a Tier issue if it has ability to tax and appropriate funds for the issue. Likewise, under Tkacik's "three-axis" analysis, the number of issues controlled by an autonomous region, and the depth of this control all depend on the region's fiscal ability.<sup>6</sup> Finally, Hannum's "on" switch for full autonomy is consistent with the definition proposed here, as a region that reaches Hannum's "full autonomy" would gain more control over its taxing and spending powers, and so would also experience an increase in its "real autonomy."

Two closely related concepts frequently arise in discussions of autonomy, namely, "devolution" and "national separation." The concept of autonomy developed above can be applied to both of these concepts. "Devolution" has been defined as a transfer of powers from national governments to sub-state governments (MacKinnon 47). Typically, devolution to a particular region does not take place all at once but is "a process, not an event" (MacKinnon 49). The numbers and types of powers that are transferred to a sub-state government can vary widely. Devolution can involve the transfer of only a single governmental competence such as housing (Silvius). Alternatively, it can involve the transfer of diverse competences in many areas of governance. There are as many varieties of devolution that can take place as there are possible

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<sup>6</sup> Tkacik's axis of geographical separateness is not, however, covered by the definition of "real autonomy" proposed here.

varieties of autonomy. The reason for this is that the devolution of power to a region and the region's corresponding increase in real autonomy, are mirror images of one another. If devolution is occurring, autonomy is increasing to exactly the same extent. The definition of real autonomy used above can therefore be used to test whether and to what extent devolution is occurring.

“National separation” can be viewed as the most extensive possible form of real autonomy. A region that has achieved national separation has become a newly independent state. Real autonomy short of independence and national separation exist on a continuum. A region can gain such a high level of autonomy that it closely approaches independence. Through a further increase in autonomy it can then cross the threshold to complete national separation. Because they differ only in degree and can be measured in the same way, both autonomy short of independence and national separation can be analyzed using the same research methodology. Within each region considered in the case studies below, there are proponents of increasing the autonomy to the level of national separation.

**“Activities within the EU”:**

This phrase will be deemed to encompass both the actions of a region to promote its autonomy within the EU (paradiplomacy as defined below) and the actions taken by EU institutions themselves in response to these regional activities. These two types of activities must be considered together because the importance of the EU with respect to autonomy movements is not confined to the concrete actions taken by EU bodies. Besides the specific actions it takes on behalf of a regional autonomy, the EU may have significance to an autonomy movement just by the space it provides as a transnational body to which extensive competences have been transferred by its member nation states. It may be hypothesized that regional autonomy

movements can gain confidence and strength in relation to their national governments because both the region and the national government have the perception that the region has the power to go around the national government and obtain EU help. It will be up to the region to build this perception through its interactions with EU institutions.

As diagrammed in the typology section below, a region's "activities within the EU" is one of the two independent variables used in this thesis, the other being the actions of the national government toward the region.

**Paradiplomacy:**

This is a term coined to describe the diplomatic activities of sub-national governments. A clear definition of this term is important here because paradiplomacy is one of the two components of a region's activities within the EU as defined above. Paradiplomacy is the method by which a region seeks to influence EU institutions. Grydehøj has defined "paradiplomacy" as "a political entity's extra-jurisdictional activating targeting foreign political entities." Wolf provides a longer definition, characterizing "paradiplomacy" as "the foreign policy capacity of substate entities: their participation, independent of their metropolitan state, in the international arena in pursuit of their own specific international interests." Under either of these definitions, paradiplomacy has two components. First, it includes interactions between representatives of the regional government and the representatives of other nations, supra-national institutions such as the EU, or international organizations such as the United Nations. Within the EU, these interactions can include representation of the regional government in EU bodies, as is the case with Flanders. Second, the above definitions of paradiplomacy also cover less formal lobbying and publicity efforts by a region that aim to influence the policies of other governmental entities.

The nature of paradiplomacy in an EU context will be further explored in the methodology section below.

## CHAPTER 4: TYPOLOGY

The goal in developing the typology used in this thesis has been to select key variables that are critical in determining the success or failure of regional movements for greater autonomy within EU states. The variables selected have been the position of the national government towards greater autonomy for a region, and the activities within the EU on behalf of such greater autonomy. As developed in this thesis, these variables have a “yes or no” and “on or off” character because at any given time, a national government either supports greater autonomy or it does not, and a region either is making use of EU institutions to promote its autonomy or it is not. A granting of increased autonomy by a nation state to a region need not occur across all areas of governance. As will be explained in detail in the methodology section below, for purposes of the present study an increase in autonomy will be deemed to occur if a region increases the level of its autonomy in even a single area of governance as long as there are no reductions in other areas of governance. There can be changes over time in the positions of a national government with respect to increases in a regional autonomy as well as in activities within the EU on behalf of that autonomy. For this reason, it is necessary, in making a determination whether a regional autonomy has increased, to confine the study to a clearly demarcated time frame.

With this approach in mind, the case studies examined in this thesis are divided into four categories. The first category in the typology is central government opposition to greater autonomy and lack of activity within EU institutions on behalf of greater autonomy. For this category, the case selected is Åland. At least since the date of the Lisbon Treaty in December 2009, Finland has been unwilling to expand Åland’s real autonomy beyond the parameters of the 1921 League of Nations treaty that originally established Åland as an autonomous region of the

country. Despite an active Åland independence movement, the regional government of Åland has not requested the EU's help in expanding the scope of its long-standing autonomy arrangement with the national Finnish state and EU institutions have taken no action on this topic.

The second category in the typology is opposition to greater real autonomy by the national government coupled with EU activities seeking to promote these autonomy goals. The case selected here is Catalonia. The regional parliament of Catalonia, having been denied greater real autonomy by the central Spanish state, has lobbied extensively within the EU for a full national separation from Spain, establishing its own paradiplomatic corps to do so.

The third category is central government support for greater autonomy and inactivity within EU institutions on behalf of the autonomy). Here the selected case is Scotland. Through a series of devolution acts, the parliament of the United Kingdom has granted progressively greater autonomy for Scotland that includes even a possible national separation accomplished through a referendum consented to by the nation state. Scotland, however, despite its strongly European orientation, has not sought the help of the EU to assist in this ongoing devolution process and EU institutions have taken no actions in this regard.

Finally, the fourth category in the typology is support by a central national government accepts greater real autonomy and EU activity to promote this increase in autonomy. The region selected to represent this category is Flanders. Flanders, as will be described below in its case study, has progressively increased the extent of its autonomy with the full support of the federal Belgian government while its governmental representatives work within EU institutions to promote its regional goals.

A careful selection of cases was essential to fully and accurately examine the respective importance of nation states and the EU in determining the success of an autonomy movement. In

light of the importance of this selection process, several criteria were developed. First, the region needed to have a politically active regional autonomy movement within the entire time frame of the study. Second, the actions of the central government within this time frame needed to show whether it supported or opposed greater autonomy for the region. Third, the actions of the regional government within the time frame needed to show whether or not it had sought the assistance of the EU in achieving regional autonomy.

This process of case selection is represented in the following table:

**Table 1. Actions of regional and national governments in relation to regional autonomy efforts—greater autonomy achieved?**

	EU activity takes place on behalf of greater regional autonomy (paradiplomatic activity by region or action by EU institutions)	EU activity does not take place on behalf of greater regional autonomy.
National government supports greater regional autonomy.	Hypothesized case: Flanders	Hypothesized case: Scotland
National government does not support greater regional autonomy.	Hypothesized case: Catalonia	Hypothesized case: Åland

This matrix typology allows an examination of all of the possible combinations of possibilities involving:

- 1) Support or opposition to regional devolution by a national government in relation to a region; and
- 2) Activity or lack of activity by a regional government to obtain support for its autonomy efforts within EU institutions.

The method of qualitative analysis used in this analysis provides a uniquely useful method of uncovering the primary factors determining the success of regional political

movements seeking greater autonomy from their nation states within the EU. The strength of the qualitative method selected here lies in its strength of detail over time. The case studies presented here set forth the historical arc of four separate autonomy movements within widely differing nations. A purely historical recounting of these separate movements would not provide a rigorous basis for comparison. A comparative approach based purely on current evidence would not shed sufficient light on the historical evolution of each autonomy movement. But by basing its comparative approach upon observed historical events, a collection of related evidence can be derived that give a tentative general answer to the question of whether the actions of nation states or those of the EU are more important essential in establishing the success or failure of the efforts of a European region to achieve greater autonomy.

The evidence considered here will be used to answer three “yes” or “no” questions for each region considered: First, does the national government support greater regional autonomy or not? Second, is there activity within EU institutions aimed to promote this increased regional autonomy? Third, has the region achieved greater autonomy or not? The matrix structure structures the responses in a manner that will provide an answer to these questions.

An objection to the above typology is that it will not provide useful information because a national government always must agree to expansions of the autonomy of one of its regions. The answer to this objection is that if it operated effectively as a three-tier federal system, the EU would have the capacity to influence the national government into changing its position of opposition to more autonomy to a position of support. If the national government changed its position on the conferring of greater autonomy only in response to EU intervention on behalf of the region, there should be confirming documentary evidence contained within governmental materials from both the national government and the EU. On the matrix above, the national

government's position would be recorded as opposition to greater autonomy (its position before EU intervention).

## CHAPTER 5: METHODOLOGY

### **Components:**

There are three key components of the methodology used here, namely, the time frame selected, the indicators used, and the source materials chosen. The evidence used to reach the conclusions of this study are limited by how these three items are selected. The time frame is the historical period over which evidence for the study is collected. The source materials are those types of documents items whose contents are deemed admissible as evidence. Finally, the indicators are those elements of evidence that will be reviewed to arrive at a conclusion whether the central hypothesis presented is confirmed or denied.

*Time frame:* The time frame selected for the present thesis begins on December 1, 2009, the date the Lisbon treaty became effective, and extends to the end of calendar year 2018. The reason for the selection of this beginning date is that the Lisbon Treaty established the current structure of EU institutions. By significantly revising the structure of EU governance, the Lisbon Treaty expanded the range of opportunities of regional governments to seek the assistance of EU institutions in their efforts for greater autonomy.

To obtain an accurate picture of the EU's ability to affect the course of autonomy movements, it is essential to look at these EU institutions in the form that they exist today. Evidence obtained from earlier stages in the EU's evolution when the potential influence of the regions on EU institutions and policies were much smaller could lead to incorrectly minimizing the ability of the EU to promote greater regional autonomy. That is the justification for considering only evidence from the time of the enactment of the Lisbon Treaty when the EU took its current form.

One of the most significant changes brought about by the Lisbon Treaty is this treaty's strengthening of the powers of the European Parliament (EP), so that it is on an equal footing with the Council of the EU (European Parliament). Under this bicameral system, it became a more valuable activity for regions to lobby their position on behalf of greater autonomy within the EP and its committees. The EP is more accessible to regional governments than is either the European Commission or Council of Ministers. There are two basic reasons for this. First, there are several hundred members of the EP compared to the 28 members of both the Council of the EU and the European Commission. The larger number of EP members makes it much easier for regional representatives to interact with at least some of them on a personal level. The rank-and-file MEPs occupy lower governmental positions than the members of the Council of the EU and European Commission who hold high governmental positions within their home countries. Being closer to the people, rank-and-file MEPs can be expected to be more easily accessible to regional lobbyists. Additionally, some of the MEPs will represent national governments that include the regions themselves. Supporters of greater regional autonomy can work to elect MEPs from their home countries who share their regional autonomy goals. If elected, these MEPs can then advance their autonomy agenda through conversations and lobbying with other MEPs. These MEPs can also work to draft and sponsor parliamentary initiatives promoting the cause of regional autonomy (for example, resolutions calling upon the EU to act as a mediator in disputed issues between the region and its central government).

Although the evidence used to test this thesis's hypothesis will be limited to events beginning in December 2009, a full discussion of each region for the purposes of this thesis will also require background summaries of key earlier events within the selected regions to place more recent developments into context and making them understandable. The actions of the

United Kingdom in devolving more power to Scotland since 2009, for example, can only be fully understood by considering the full process of devolution that began with the Scotland Act of 1998, and so it is appropriate to include this earlier act as background although it will not be used as a evidence point. Likewise, recent events in Åland can only be understood by taking into account the 1921 League of Nations agreement that created that region's autonomy, events in Catalonia need to reference the entire history of disputes between that province and the Spanish state, and events in Flanders should take into account the different stages of that region's increasingly large powers of self-government. A strength of qualitative studies is that they can make use of information other than the evidence collected to place their results into a bigger picture and suggest avenues for future research that would not be evident if narrower sets of evidence were used.<sup>7</sup>

*Source materials:* The information relied upon here is limited to governmental materials available in English and reliable secondary summations in English that directly help to answer the questions posed in the typology matrix. All sources will be used purely for the factual information contained within them. Generalizations of evidence contained in the sources will not be used. A generalization will be considered to be any statement that describes evidence without presenting the evidence itself. For example, a statement that "Scotland has attained an increased amount of independent control over its budget" will not be included as source material because it comments on other evidence regarding Scotland's budget without actually presenting any additional evidence. Subjective interpretations of evidence and editorializing also will not be relied upon. These will be deemed to include any statement that goes beyond the actual evidence presented. For example, a statement that the Spanish government is opposed to greater autonomy

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<sup>7</sup> An example of how more distant history can put recent events in context is found in the case study on Åland, where it is shown that the attitude of the Finnish government towards granting more autonomy changed after 1991 from one of support to one of opposition.

for Catalonia because of its philosophical belief in a unitary state would be rejected for being subjective and editorializing, as it does not have a basis in the evidence provided as to the Spanish government's actual activities regarding Catalanian autonomy.

The following primary sources will be used if available: enacted and proposed laws in the national parliament; decisions of a national supreme court; executive orders and actions of the highest executive authority of the national government, and material in official government publications.

To determine whether a national government has granted greater fiscal ability to a region in any area of competence, the primary materials to be considered will be laws and official publications that indicate the region's ability to raise taxes or receive automatic transfer payments from the national government to finance the competence. These may be supplemented by reliable secondary sources providing analyses of a region's fiscal ability.

To determine whether a region is working within EU institutions to advance its autonomy, this thesis will consider documents providing evidence of the region's paradiplomatic efforts to influence EU institutions or indicating the lack of such efforts. These documents consist of publications issued by the regional government or its affiliates,<sup>8</sup> the national government or the EU, including copies of resolutions and summaries of the agency proceedings and addresses to EU bodies. Reliable summaries of regional activities within the EU from non-governmental sources will also be used to the extent the information they provide is purely factual.

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<sup>8</sup> Documents from private affiliates will be used where a region's paradiplomatic efforts are conducted as part of a public-private partnership, as has occurred with Catalonia and Scotland.

To determine the actions of EU institutions with respect to increases in a region's autonomy, the documents to be relied on are official resolutions, enactments or other documentation of EU bodies, and the statements of EU officials regarding the autonomy.

All of the above sources are used only to the extent that they provide objective information relating to fiscal matters and specific governmental and paradiplomatic actions by a region or a nation state. It is presumed that for this purpose, governmentally supplied evidence and the actions of governments and governmental officials in the spheres of legislation, agency actions, judicial rulings and issuance of statements and documents are considered to be the most reliable. There are several reasons for this conclusion. First, the reliability of fiscal information provided by EU member nations is enhanced by the fact that it is subject to review and evaluation by the European Commission (Commission). EU Regulation 473/2013, adopted in 2013, “[requires] the monitoring of national numerical fiscal rules by independent institutions and the independent production or endorsement of macroeconomic forecasts” (“European Semester Thematic Factsheet National Fiscal Governance” 2). The Commission regularly reports to the EP and the Council on the reliability of the fiscal data reported by the member EU states (“Report from the Commission to the European Parliament and the Council on the quality of fiscal data reported by Member States in 2016” 3). This reporting process serves as a cross-check on the reliability of the fiscal information reported by EU governments and thereby adds to confidence in the reliability of the fiscal information.

Even before it acquired auditing powers in 2013, the Commission concluded in 2010 that “EU fiscal data were generally of high quality and Greece represented a one-off problem.” In accord with the Commission's conclusion, the president of the European Central Bank stated that

“while the government finance statistics of the overwhelming majority of the member states is reliable, this does not yet apply to all of them” (Castro et al. 5).

The nation-states under consideration in the present thesis all have high standards of fiscal reporting. With respect to Finland, the International Monetary Fund reports that “[f]iscal reporting in Finland is transparent and meets good or advanced practice in all areas” (Hansen et al. 7). A peer review study of the national statistical institute of Spain concluded that “the statistics produced and disseminated are said to be objective and impartial, of high quality and reliability” (Snorrason et al. 12). The United Kingdom government’s web service Data.Gov.UK has been cited as “a leading example of governments’ provision of open data” that includes a wide variety of fiscal information (Granickas 6.1.2). Recent fiscal information presented by the government of Scotland can also be expected to be objective and accurate, as in April 2017 Scotland established the Scottish Fiscal Commission as “the independent fiscal institution for Scotland” (Scottish Fiscal Commission 3). As to Belgium, the International Monetary Fund (IMF) concluded that “the basic government finance processes are supported by a sound institutional and legal framework. ...[f]iscal information is provided through regular publications and extensive use of the internet”<sup>9</sup> (Depler and Ter-Minassian 1).

Non-fiscal evidence that includes enacted legislation and administrative rules, official policies and judicial decisions can be safely relied upon as long as they come from an official source.<sup>10</sup> These types of documents stand on their own as records of government action. The only way in which the reliability of these documents could reasonably be doubted is if the integrity of the national government itself in recording its activities came into question. The high

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<sup>9</sup> The IMF also stated, however, that “[t]here is room to improve the quality and openness of budget processes” (Depler and Ter-Minassian 1).

<sup>10</sup> This conclusion of credibility excludes the possibility of data tampering, which is always a possibility when electronic records are considered.

standards of the four national governments considered in this thesis with respect to fiscal reporting gives confidence that their policies of information accuracy and transparency apply to non-fiscal information as well.

Records of activity within the EU on behalf of a regional autonomy can be of four basic types, the credibility of each must be considered separately. These are: 1) statements of top EU officials concerning a regional autonomy; 2) reports by EU bodies on any official activities (legislative, administrative, judicial or policy-making) in relation to the autonomy; 3) reports by regions as to their activities in an official capacity within the EU;<sup>11</sup> and 4) summaries of regional paradiplomatic activities. These types of information have different degrees of reliability. Assuming the integrity of EU-generated records, the statements of EU officials regarding a particular autonomy can be relied upon for their contents provided they have been memorialized within official correspondence or official press releases of EU bodies. Likewise, EU transcriptions and summaries of official EU actions are entitled to a high degree of credibility. The official actions of regions within the EU on behalf of their autonomy can be given the same degree of credibility, as these will also appear in official EU documentation.<sup>12</sup>

The credibility of reporting by regions as to their unofficial paradiplomatic activities are not as individually credible, as there are no checks on their accuracy and they can be misrepresented either by regional representatives themselves or by those reporting on them. The key check on credibility here is the consistency of multiple paradiplomatic actions on the part of the region under consideration that establish a pattern of activity. For example (as will be described below), the government of Catalonia has undertaken a multifaceted paradiplomatic

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<sup>11</sup> For example, the reports by the government of Flanders regarding its appointments to the European Council for delegated competences, as will be described in the Flanders case study below.

<sup>12</sup> “The EU has pioneered the use of electronic media in providing information and many official documents are now available online through the EU web server, [Europa](#), and its legal service [Eur-Lex](#), both of which provide information in all official EU languages” (Overy)

campaign within the EU over several years to press the cause of Catalonia's national separation from Spain. Considered together, these paradiplomatic activities paint a convincing portrait of action by the Catalanian government to garner the EU's support for an increased autonomy that crosses the threshold of national separation.

The paradiplomatic activity of any region can involve a hybrid of actions that include lobbying of individual EU officials, statements by regional representatives before EU bodies, informal receptions attended by EU officials, regional position papers and publicity sheets distributed within the EU, and political advertising in different forms of media. Conclusions can only be drawn as to a region's paradiplomatic activity by establishing a composite picture of a region's actions, or lack of actions, in these areas considered as a whole. A definitive conclusion can be reached that a region has sought to promote its autonomy through paradiplomatic action when, based on all of the evidence presented, it can be shown that the region has pursued a pattern of working for this goal through multiple actions directed to the same underlying purpose. A single instance, or even a few instances of paradiplomatic activity within the EU on behalf of a region's autonomy that are insufficient to show a consistent pattern, will not be sufficient to cross this high evidentiary threshold.

Every effort has been made in this thesis to rely on the evidence provided by primary government sources. Where the evidence that could be compiled from these primary sources has been deemed insufficient, however, secondary sources deemed reliable have been used.<sup>13</sup> Secondary information from scholarly sources has been preferred. The test for the use of secondarily-derived information is whether it can be cross-checked against information expected to be contained in the primary documents cited in the secondary source. The application of this

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<sup>13</sup> A practical problem faced by the author in the use of primary sources is her lack of fluency in Finnish, Swedish, Spanish, Catalan or Dutch—languages in which many of the primary sources regarding three of the regions under consideration are written.

requirement ensures that any incorrectly presented secondary evidence can be tested and, if necessary, falsified by later research. The one exception to this falsifiability standard lies with regional paradiplomatic activities, where the activities of regional lobbyists can involve activities that cannot be confirmed in official transcripts or summaries. Given the lower level of credibility of any reported single paradiplomatic effort, falsifiability can occur here if contrary evidence is presented showing that the region's paradiplomatic activities have consistently differed from those reported in this thesis.

Selected in the manner described above, the evidence used in this thesis can be expected to yield accurate conclusions as to the proper placement of each studied region on the typological matrix.

In the specific instance of Catalonia where events have continued to unfold at a rapid pace, journalistic reports of recent events during 2017 and 2018 are cited. These reports add context to the actions of the Spanish and Catalanian governments. As with the other regions studied here, all conclusions as to changes in the scope of Catalonia's autonomy and actions of the national and regional government are based on official sources and reliable explanations of those sources.

For the historical summaries of each region covering the period before the 2009 Lisbon Treaty, a broader range of reliable secondary sources is used. The reason for this is that these longer-term historical reviews are not being used as evidence but rather to place the results within a broader context that may help to indicate its full significance and suggest directions for future research. For this purpose, reliable secondary historical materials sources are an acceptable resource.

Website information has been deemed equally valid as information from printed sources only if it comes from an official governmental website.

*Indicators:* A two-part test will be used to determine if a central government has conferred greater autonomy upon a region as shown by an increase in the region's independent fiscal ability. The first part of the test is whether the percentage of a region's budget that is under regional control has increased. Such an increase in regional budgetary control can be implemented either through greater regional taxation power or the increased ability of the region to collect automatic monetary transfers from the nation state. The second part of the test is whether the region has gained additional independent fiscal ability over particular competences without losing fiscal ability in any other competences. This is a separate question from the region's aggregate independent fiscal ability because it is possible for a region's overall independent fiscal ability to remain the same but to be spread over more competences.

Meeting either part of this test will be deemed to demonstrate an increase in the level of the region's autonomy as long as the other part of the test does not yield a contradictory result. It is possible that in conferring upon a region an increase in its overall fiscal ability, the national government will not increase the number of competences within the region's control. In this situation, the first part of the test—the percentage of a region's total budget that is under its budgetary control—will still be met and the region will be deemed to have increased its real autonomy. It is also possible that a national government could increase the governmental competences that are within the budgetary control of a regional government while not increasing the percentage of a region's total budget that is within its control. In that event, the region also would be deemed to have increased the level of autonomy because of its increased fiscal ability over a greater number of individual competences. If, however, the increase in regional

competences was accompanied by a reduction in the region's overall independent fiscal ability, the region's autonomy would not be considered to increase, as the two tests would give contradictory results. Likewise, if an increase in a region's overall fiscal ability was accompanied by a reduction in regional competences, the region's independent fiscal ability would not be considered to increase, as again the two tests would give contradictory results. This distinction is theoretically important because under such a set of contradictory results, a definite placement on the typological matrix cannot be made using the methodology of this study.

With respect to regional activities within the EU there are two indicators. The indicator for determining whether a region seeks the assistance of the EU is whether the region has taken actions designed to gain the support of EU institutions for its effort to achieve greater autonomy. For purposes of this methodology, "seeking the assistance of EU institutions" will include any effort by a region to gain the EU's support for a greater level of real autonomy as defined here. This support can be sought either as part of a regional representation within a governmental body of the EU or through efforts to influence EU policy from the outside. Outside efforts will include lobbying efforts by the region as well as public declarations by the regional government on pending EU legislation or on EU policies affecting the region's autonomy status.

The indicator for determining whether an EU institution has taken a position in support of greater regional autonomy will be consistent evidence from official EU documents and the statements of EU officials that the EU institution has taken such a position.

If either of the last two indicators are positive, it will be concluded that there is EU activity in support of greater autonomy for the region.

In all of the case studies selected, the levels of autonomies actually achieved fall short of the full autonomy goals of the respective regional autonomy movements. The methodology

selected here addresses these situations. Under the methodology selected, a regional autonomy movement will be considered successful even if it falls short of its original autonomy goals as long as it is able to increase the level of its real autonomy. For example, an autonomy movement that fails to achieve its original objective of national separation but is able to increase the governmental competences over which it has independent fiscal ability will be considered a success under the methodology used here.

The above indicators are generalizable to all autonomies within the EU and are not limited to the particular case studies selected here. The independent fiscal ability of a region, both with regard to its overall budget and in relation to particular competences, can be determined for any region using the methodology described above by examining the region's independent control over its aggregate budget as well as over individual competences. Likewise, it can be determined whether there is activity within the EU on behalf of any region's autonomy by examining its activity within the EU on behalf of the regional autonomy, as defined above. What is being looked for here are specific EU actions designed to persuade the national government to accept a greater level of autonomy for the region. An EU body such as the EP could take direct action by, for example, enacting a resolution endorsing an expansion of a region's fiscal ability where there is a dispute between the region and the national government. As will be shown below, the government of Flanders uses its official representation at the Commission on matters within its competence to seek to craft EU policies that dovetail with the policy objectives of the regional government. Alternatively, a region may engage in paradiplomatic activity within the EU in one of the many forms described above. Any of these activities, when spotted with respect to any European regional autonomy, would be an indication that there is activity within the EU on behalf of the region's autonomy.

As in the four cases evaluated in the present thesis, when additional European regions were considered, high credibility would be given to individual, officially recorded actions of EU bodies. But for the paradiplomatic activities of regional lobbyists where verification is more difficult, a consistent pattern of action would need to be established through a composite evaluation of all of the region's reported activities at the EU.

Using these indicators developed in this thesis, it can thus be determined whether any region within the EU has increased the level of its autonomy.

**Alternative methodology:**

Under a possible alternative methodology, results would be ranked along a "greater" and "lesser" continuum. Essentially, a number line would be created that could be broken down into intervals of any amount. Two possibilities for measuring national actions on such a number line would be the changes in each region's fiscal ability expressed as percentages, or the percentage of competences transfer the region's control from among a selected list applied to all of the studied regions. A possibility for numerically measuring activity within the EU would be to count the total numbers of separate regional paradiplomatic activities and official EU actions that are intended to have an impact on the autonomy.

A meaningful analysis of continuously varying evidence would require a much larger number of case studies than four used to fill out the matrix described above. Later studies may attempt to build on the present research by selecting particular evidence categories determined to be most important, developing quantitative scales to measure them, and then applying the measurements to a large sample of case studies that include many of the autonomy movements within Europe. This is a potential evolution for a later study that builds upon the present, qualitative research.

## CHAPTER 6: HYPOTHESES

The typology and methodology developed above will enable the testing of two alternative, hypotheses. These two hypotheses, tested in conjunction, can provide an empirical answer to the question of whether it is the actions of the affected national government or the activities within the EU on behalf of a region's efforts towards greater autonomy that determine the success of an autonomy movement.

**H1: The success of a regional autonomy movement in achieving greater level of autonomy depends on whether the national government supports or opposes greater autonomy.**

The logic behind this hypothesis is that the EU, despite its supranational characteristics, remains a treaty between independent nation-states that retain sole control over their territorial borders. Evidence for such an understanding of the EU can be found in the language of Articles 1, 4(2) and 52 of the TEU cited above, as well as in the statements of EU officials cited in this thesis.

If this hypothesis accords with the results of the four case studies, the two upper boxes in the typology in Table 1, for which Flanders and Scotland have been selected as the case studies, will represent successful separatist movements and the two lower boxes, represented by Catalonia and Åland, will represent unsuccessful ones. This hypothesis will be refuted under any other combination of results. Specifically, the hypothesis will be refuted if one or both upper boxes represent an unsuccessful separatist movement or if one or both lower boxes represent a successful separatist movement. Either of those results would show that the actions of a national government are not determinative in the success or failure of regional autonomy movements.

**H2: The success of a regional autonomy movement in achieving greater autonomy depends on activities within the EU in support of the region's greater autonomy.**

The logic behind this hypothesis is that the EU has emerged as a new form of three-tier, supra-national federalism in which extensive competences have been transferred from the national to the European level and regions have assumed a significant role through the representation of their members in EU institutions. As such, the EU can be expected to wield extensive influence over regional autonomy issues within nation states, and activities within the EU can be anticipated as having an effect on the success of autonomy movements.

If this hypothesis accords with the results of the four case studies, the two boxes on the left of the typology in Table 1, represented by Flanders and Catalonia, will represent successful separatist movements and the two boxes on the right, represented by Scotland and Åland, will represent unsuccessful ones. The hypothesis will be refuted under any other combination of results. Specifically, the hypothesis will be refuted if one or both boxes on the left represent an unsuccessful separatist movement or if one or both boxes on the right represent a successful separatist movement. Either of those results would show that activities within the EU on behalf of a region's greater autonomy are not determinative in the success or failure of regional autonomy movements.

## CHAPTER 7: ÅLAND

*Historical background:* The autonomy of the Åland Islands<sup>14</sup> is distinguished by both its longevity (dating back nearly a century) and its foundation in an international treaty. More than 95% of the population of the islands is Swedish-speaking. When Finland became independent in 1917, most Åland residents wanted to rejoin Sweden but Finland was not willing to cede the islands. The Finnish government was, however, willing to grant to Åland a high degree of autonomy. The Finnish government enacted an Autonomy Act in 1920 which stated that “Ålanders should have the ability to arrange their own lives as freely as is possible for a region that is not a state” (Simolin 20). The issue of Åland’s status was brought to the League of Nations for consideration. In June 1921, the Council of the League of Nations declared that Åland would remain a part of Finland under an autonomy arrangement. Under this arrangement, Finland was required to provide Åland with a broad amount of self-government and to preserve its Swedish language and culture (Vieztez & Kallonen). It has been argued that the League of Nations agreement also has the status of a treaty between Sweden and Finland (Seyersted 25). In 1922, the Finnish government incorporated the terms of the League of Nations ruling into an Act of Guarantees for Åland that supplemented its 1920 Autonomy Act. (Simonin 16)).

Subsequently, the Finnish government enacted Autonomy Acts in 1951 and 1991 that expanded the scope of Åland’s autonomy. The 1920 Autonomy Act included a list of competences under the control of the national government. The regional parliament of Åland had authority to legislate in all areas that were not on this list. However, there were no guarantees that Åland could keep its autonomous powers because the national government had the power to add new areas of governance to its powers. In contrast, the 1951 Autonomy Act enumerated areas of competence held by the government of Åland. Any changes to this list of regional

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<sup>14</sup> Hereinafter referred to as “Åland”.

powers required a qualified majority of two-thirds of both the Finnish national parliament and the Åland parliament. Åland's regional competences included social welfare, housing, municipalities, public order, the environment, forestry, agriculture, fishing, mining rights, and radio and television. The 1951 Act also expanded the principle of domicile first contained in the 1920 Act. Under the earlier Act, Finnish citizens from outside the islands had to reside in Åland for at least 5 years in order to vote or run for office in regional elections (Simolin 16). The 1951 imposed the same 5-year requirement on the ownership of real estate and practicing a trade or profession (Hepburn 472).

The 1991 Autonomy Act provided that taxes, duties, and fees would be collected by the national government (Simolin 27-28). In return, Åland would receive an annual lump sum from the Finnish national government equal to 0.45% of total national revenues. The government of Åland was given full discretion how to spend this lump sum (Hepburn 475). The 1991 Act also established a list of competences currently held by the Finnish government that could be transferred to Åland in the future through ordinary legislative majorities of the national and regional parliaments rather than two-thirds votes in favor (Simolin 27).

Under the 1991 Autonomy Act, the scope of Åland's autonomy is entirely defined by national legislation. Åland has a 30-member legislature (the Lagting). Administrative duties are divided in 7 departments, each headed by a minister who is a member of parliament. The chief minister is known as the "premier" of the autonomy. The governor of Åland is the representative of the Finnish government. The president of Finland selects the governor in consensus with the Åland premier. If the two cannot agree on a nominee, the Finnish president appoints the governor from among 5 candidates selected by the Lagting (Vieyetz and Kallonen 260). The Åland delegation is a 5-member body with 2 representatives each from the Åland and Finnish

governments, with the governor of Åland serving as chair. The purpose of the Åland delegation is to mediate disputes between the national and Åland governments (Vieyetz and Kallonen 261).

The 1991 Autonomy Act strictly divides the powers that are within the jurisdiction of the Lagting and those which are within the jurisdiction of the Finnish national government. Even for matters within the national jurisdiction, the Finnish government must obtain an opinion from the Åland government on matters of special importance to Åland (Hannikainen 184). The Lagting can legislate only on matters within its competence. It has no judicial authority and very limited taxing authority. The Finnish Supreme Court plays an important advisory role in Åland's autonomy arrangement. All legislation enacted by the Parliament of Åland is presented to the Supreme Court for a determination whether the Lagting has exceeded its authority (Hepburn). This report is then sent to the president of Finland, who has final authority whether to approve the legislation (Hepburn 474).

There is a separate Åland citizenship. To be a naturalized citizen of Åland, a person must reside in the islands continuously for 5 years and have proficiency in Swedish. This requirement for regional citizenship is important in a country where more than 94% of the people speak Finnish as their first language, as it guaranteed that there would not be an influx of new Åland citizens from other parts of the country who would weaken Åland's Swedish character. Only Åland citizens can vote in regional elections, own real property, and practice a trade or profession (Hannikainen 185-86). Åland has the ability to express an independent voice in affairs affecting all of Scandinavia, as it has 2 out of 87 seats in the Nordic Council of Scandinavian nations (Hannikainen 185).

Following the enactment of the 1991 Autonomy Act, the next stage in the development of Åland's autonomy involved Åland's relationship with the EU. Finland entered the EU under the

1994 Treaty of Accession. The country has a system under which international treaties entered into by the country must be adopted as part of national law. Whenever a treaty contains a term that falls within the competence of the Åland government, the 1991 Autonomy Act requires the Lagting to give consent or the treaty does not enter into force in Åland (Silverström 263). Åland thus had the power to accept or reject entry into the EU. Following an advisory referendum in which 74% of Åland voters approved EU membership, the Lagting voted 26-4 to enter the EU in connection with Finland's accession ("Åland and the EU").

Article 299 (5) of Finland's 1994 Treaty of Accession provides that it shall apply to Åland in accordance with a separate Protocol No. 2 (OJ C 241, published August 29, 1994). The preamble to the protocol "states that the treaties shall apply to Åland with certain derogations, which are justified with reference to the special status Åland enjoys under international law" (Silverström 268). The first derogation relates to regional Åland citizenship. The second derogation relates to "turnover taxes, excise duties, and other forms of indirect taxation [and]...ensures the continuation of tax-free sales on ferry traffic to and from Åland (Silverström 268).

The question of Åland's relation to the EU arose again at the time of the Lisbon Treaty. Finland ratified this treaty in June 2008. The Parliament of Åland, however, did not approve the treaty immediately and made its approval of the treaty contingent on the granting of four requests. One of these requests was a right for Åland to appear before the European Court of Justice. The second request was for greater input by Åland within the EU Council of Ministers. A third request was participation by Åland in the application of the principle of subsidiarity, that is, in determinations whether a competence should be exercised at the EU, national, or subnational level of governance. Finally, Åland requested a seat in the European Parliament

(Skoutaris). The Finnish national government granted the first three of the above requests but did not accept the request for an Åland representative in the European Parliament (Skoutaris).

Instead, on April 23, 2009 the Finnish government stated that it would “contribute to develop the possibilities for the Åland Islands to influence the process in the European Parliament [and]...“will when future negotiations in the EU regarding distributions of seats in the European Parliament will be held, keep this in account[.]” (Legitimate representations of the Åland Islands in the European Parliament). On November 25, 2009, one week before the Lisbon Treaty was to take effect, the Åland parliament approved the treaty.

Åland has had an active independence movement. An Åland Independence party, Ålands Framtid, was established in 2001. As of 2017, the party holds 3 out of 30 seats in the Lagting. The party seeks a referendum on independence. (“Åland’s separatist party wants an independence referendum”). So far, no steps toward such a referendum have been taken.

*Åland’s autonomy under the Lisbon Treaty:* The national government has implemented a system under which Åland has the right to provide input on EU matters within the Finnish national government. The latest amendments to the Autonomy Act, added in 2004 and 2009, add a chapter on Åland’s participation in the EU (Hepburn 476). Åland has the right to participate in the preparation of Finland’s national positions on issues before the EU. The Ministerial Committee on EU Affairs, chaired by the Finnish Prime Minister, develops “Finland’s EU policy guidelines for the formal and informal meetings of the Council of the EU...The chairman of the government of Åland has the right to be heard by [this committee]...when the matter falls within the mandate of the Åland Islands or is otherwise of special importance to Åland” (Finnish Government Ministerial Committees). Additionally, the Finnish Parliament has established a Grand Committee that formulates the parliament’s stance on legislative, budget, and treaty issues

being decided by the EU. The single Åland representative in the Finnish Parliament is entitled to participate in Grand Committee meetings (Parliament of Finland). If the Finnish and Åland positions cannot be harmonized, Åland can present its position separately to the EU Council of Ministers.

Åland's formal EU representation is limited to the Committee of the Regions. Within the Committee of the Regions, Åland has one regular and one alternate member (European Committee of the Regions "National delegation of Finland"). No indication has been found that Åland engages in any paradiplomatic activities within EU institutions. The Åland government has not established an EU office.

Åland's lack of representation in the European Parliament has been a source of contention between the regional and national governments and continues to be so. In 2007, the Finnish parliament rejected a proposal from Åland to grant the region one out of the 14 European Parliament positions belonging to Finland (Silverström 269). As noted above, Finland refused to back down on this refusal even in 2008 and 2009 when the Åland parliament threatened to reject the Lisbon Treaty based on this issue. The government of Åland has declared on its website that the Finnish government's rejection of its representation in the EU parliament is unacceptable ("Åland and the EU"). The president of the European Free Alliance, noting that Finland's seats in the European Parliament may rise from 13 to 14 following Brexit, wrote in April 2018 that "[t]he Finnish government is, despite the promises to strive for an extra seat for Åland, opposing any redistribution of seats in the European Parliament" ("Concerning: the legitimate representation of the Åland Islands in the European Parliament"). There is a question why Finland would reject the modest proposal to give Åland a single EU parliamentary seat. A possible answer is provided by Ackrén and Lindström, who point out that Finland has adopted "a

legally and politically restrictive interpretation of the autonomy, meaning that all policy areas which were not explicitly addressed in the Autonomy Act as home rule competences were regarded as metropolitan state competences” (Ackrén and Lindström at 499).

The issue of Åland’s representation within the EU directly relates to the strength of its autonomy. Because of Finland’s entry into the EU, Åland’s government actually may be actually be losing some of its autonomous authority. The reason for this because of Finland’s EU membership, competences formerly reserved by nations to the national or regional levels have been transferred to the European level of governance. Examples of such competences are in agriculture, fisheries, and the environment. Another example of an EU law that aroused great concern in Åland at the time of the signing of the Lisbon treaty was the ban on the sale of the smokeless mouth tobacco known as “snus” that was a source of substantial income to Ålanders. There was resentment in Åland that the Finnish government did not support Åland in its desire to keep snus legal (Dowling).

Elisabeth Naclaur, a member of the Finnish Parliament representing Åland, has described the region’s loss of governing authority under the EU as “leaking competences. (Hepburn 476). An important way that Åland can prevent a loss of regional autonomy due to Europeanization is to have a meaningful voice within the EU Parliament. The Finnish government’s continuing refusal to grant Åland with EU Parliament representation deprives the region of this voice. The refusal of the government of Finland to grant Åland an EU parliamentary seat can therefore be seen as an indication that the national government is not supportive of Åland’s autonomous powers even in their present form.

The Finnish government is on record as opposing changes to the Autonomy Act that would have the effect of expanding Åland’s autonomy. Simolin has analyzed the contents of

three recent reports on the Åland autonomy: a 2010 report prepared by an Åland parliamentary committee; a 2013 report by a working group of the Finnish parliament; and finally a 2013 report prepared by a joint committee of the Finnish and Åland parliaments. The joint committee report was published in the form of a Finnish government proposal in 2017 (Simolin 17). The three reports contain major differences with respect to transfers of competences from the Finnish to the Åland governments as well as on the issue of taxation.

Concerning transfers of competences, the report of the Åland parliamentary committee suggested that there should be a single listing of competences under the control of the national government. This listing would replace the present language in the Autonomy Act that separately sets forth the competences that are in the hands of the national and regional governments. The committee further proposed that the Åland government alone should have authority to decide which competences should be transferred from the national to the regional level, using a simplified procedure. Under this proposal, the extent of Åland's autonomy would be entirely determined by the Åland government itself (Simolin 25-26). This change in the autonomy would bring Åland very close to national independence, as the national government could no longer effectively place limits on the region's governmental powers.

The Finnish government report took an opposite approach, insisting that any change in the autonomy scheme must gain the approval of both the national and regional governments. The Finnish report stated that any changes in Åland's competences should be based on “‘real need’ and a thorough evaluation of the consequences.” Furthermore, the changes could go either way—towards an increase or reduction in regional competences (Simolin 26).

The joint Finland-Åland committee suggested leaving the present allocation of competences unchanged for the present, with any future changes depending on changes in

society. The joint committee did, however, support changes in the autonomy that would make transfers of competences easier than under the present system under which most transfers require two-thirds approval of the national and Åland parliaments. As a substitute for the present system, the joint committee proposed to allow transfers of competences in a way modeled after that of the Faroe Islands. Under the joint committee proposal, competences would be divided into three categories. For competences in the first category, transfer to Åland could occur only through a supermajority vote of both parliaments. For competences in the second category, transfer could be approved under the ordinary legislative procedure requiring simple majority votes (as is already provided for some competences under the 1991 amendments to the Autonomy Act). Finally, competences in the third category could be transferred to Åland following consultation with the national government. This is a procedure that does not currently exist, and it would become significantly easier to transfer the competences that fell within this third category (Simolin 26-27).

For purposes of the present study, the joint Finnish-Åland parliamentary report will be considered the best available information concerning the present position of the Finnish government concerning the transfer of national competences to Åland. This appears a reasonable conclusion both because of its very recent, 2017 date of publication and because it represents final positions arrived at following a process of interaction and consultation between members of the Finnish and Åland parliaments. The joint committee report indicates a willingness by the Finnish parliament to ease the process of transferring some competences from the Finnish national government to Åland at some future date if changes in society make this desirable. The extent of the possible transfers in competence is left unclear and depends entirely on the specific tier placements of each specific competence—a topic the report does not address.

The three reports also differed significantly with taxation issues. The Åland parliamentary report favored a strengthening of the Åland government's regional taxation powers. It asserted that the present system, under which a fixed percentage of national revenues are transferred to Åland, does not have the flexibility to take into account the changing fiscal needs of the region and is not cost-efficient. The report cited other autonomies under which there is both regional taxing authority and transfers of revenues from the central government. The Åland report also suggested an increase in the percentage share of national tax revenues transferred to Åland from its current level of 0.45% (Simolin 28). In contrast, the Finnish parliamentary report stated that the present taxation system worked well. This report rejected both a delegation of taxing authority to Åland and any increase in the transfer amounts from the national government. The joint committee report basically took the Finnish parliamentary position but proposed some minor revisions after considering several alternatives (Simolin 29-30). Again accepting the joint committee report as the best available evidence of the current attitude of the Finnish government towards tax changes, it appears that the national government is not willing to significantly change the current system in which Åland has very little independent taxing power and is dependent for its finances on a fixed percentage transfer of national tax revenues.

*Summary:* Åland's system of autonomy has now lasted nearly a century. Throughout most of this period, the national Finnish state proved itself willing to support gradual increases in the region's autonomy implemented through a series of legislative changes contained in the Autonomy Acts of 1951 and 1991. Since Åland entered into the EU in 2009, however, there have been no further transfers of competences from the Finnish nation state to Åland. Åland has, in fact, lost competences during this period to the EU. Finland's refusal to grant Åland a seat in the

European Parliament shows that the Finnish national government does not oppose this trend toward “competence leakage.” Furthermore, the national government of Finland has indicated its refusal to allow Åland to either impose its own regional taxes or to receive a greater share of national revenues than those provided under the transfer formula in the 1991 Autonomy Act. This means that Finland is unwilling to increase the fiscal ability of Åland, as it was defined in the theory section. It must be concluded that despite the willingness of the Finnish nation state to gradually grant more autonomy to Åland in the years before the Lisbon Treaty, since that treaty took effect in 2009 the national government has opposed further increases in the scope of Åland’s autonomy. Further research is required as to why the Finnish nation state has reversed its previous position in support of increased autonomy for Åland.

Åland has not significantly attempted to work within EU institutions to increase its autonomy. It has not engaged in paradiplomatic activity to promote its autonomy efforts and has not even established an EU office. The only indication that Åland may have tried to influence EU institutions is found in the statement by the president of the European Free Alliance (EFA), cited above, in support of an EU parliamentary seat for the region. As discussed above, however, Åland is not seeking representation in the EU Parliament to increase its autonomy within the Finnish nation state but rather to prevent leakages in its autonomy to European institutions.

No evidence has been found that Åland has worked within the EU to change the terms of its autonomy arrangement with Finland, and no indication of action by EU institutions on behalf of Åland’s autonomy has been found. Åland is thus an example of a region in which the nation state opposes greater autonomy and there has not been activity within EU institutions to attempt to increase the level of this autonomy.

## CHAPTER 8: CATALONIA

*Historical background:* Under the Spanish constitution of 1978, Catalonia is one of the 17 autonomous communities of Spain and is designated as a “historic nationality.” The Spanish Constitution of 1978 established Spain as a unitary state. Section 2 of this constitution declared that it was based on “the insoluble unity of the Spanish nation.” This section also “guarantees the autonomy of the nationalities that are part of [Spain] and the solidarity between all of them.” Section 137 of this constitution provided that each of the country’s municipalities, provinces, and independent communities were separate autonomies (Spanish Constitution). Not all of these autonomies are on an equal footing with respect to their possibilities for self-government. Until the 1990s, Catalonia was among a select group of autonomies designated as a “historic nationalities.” This designation gave it among the broadest opportunities for autonomy that are possible within the Spanish Constitution. By the mid-1990s, however, the Spanish central government had removed the distinction between historic nationalities and other autonomous communities (Elias & Mees 144).

Section 92 of the Spanish Constitution allowed referendums on “political decisions of particular importance.” This section gives Catalonia authority to conduct consultative (non-binding) referenda that can include referenda on issues of regional autonomy. Such referenda had to be proposed by the Spanish President and authorized by Congress. The national government, however, retained ultimate power over all regional autonomy efforts, and can stop them if it so decides (Spanish Constitution).

Section 155 of the Spanish Constitution contains the so-called “nuclear option” providing that “if a self-governing community does not fulfill the obligations imposed upon it by the Constitution or other laws,” or acts in a way that is “seriously prejudicial to the general interest

of Spain,” the central government, following approval of the Senate, “may take all measures necessary to compel the community to meet such obligations, or to protect the aforementioned general interest.” Section 155 was never put into effect until October 2017, when the government of Spanish Prime Minister Mariano Rajoy used it to strip the Catalanian parliament of its powers and take direct control of the province. From these constitutional provisions, it is evident that, although autonomy of various degrees is possible for the Spanish regions, it is always subject to the Spanish state’s ability to revoke it. Independence for Catalonia is prohibited under Spain’s unitary government structure.

Unlike the autonomies of the Spanish regions of Navarre and the Basque Country, the autonomy of the Catalanian provincial government does not extend to fiscal matters. Under the so-called “foral” system, the Basque Country and Navarre “write a check to Madrid at the end of the year” and receive reimbursement for the governmental expenses. This system, in effect, gives these regions full fiscal ability. Catalonia, in contrast, has remained under the “common system” that relies upon appropriations decided upon by the Spanish government (Council on Foreign Relations). 76.7% of Catalanian provincial revenues come from taxes “ceded” at the time of collection by the national government and 22.2% of revenues come from an “equalization transfer” from the national treasury as well as other funds from the EU (Andreu 116). The “equalization transfers” have the effect of disadvantaging Catalonia financially. As one of Spain’s wealthiest regions, each year Catalonia pays approximately €10 billion more in taxes than it receives from the nation state than it receives. (In contrast, Andalusia, Spain’s poorest region, receives €8 billion more annually in transfer payments than it receives) (Berwick).

Although Catalonia has limited taxation powers, these represent a small percentage of total provincial tax revenues. Income, company, and value-added taxes are all collected by the

national government and totaled about €42 billion annually as of 2016. The Catalanian government collects taxes on wealth, inheritance, gambling and transport that totaled about €3 billion during the same year (Berwick). Thus, provincial taxes amount to less than 7 percent of total tax revenues.

The Catalanian regional parliament, the Generalitat, was re-established in 1977 after 40 years. The Generalitat codified its autonomy in the 1979 Statute of Autonomy for Catalonia. This statute divided the authority of the Catalanian government into three categories: powers held “exclusively” by the Catalanian government; powers deemed exclusive but which were limited by the Spanish government’s “rules for organizing economic activity;” and finally, powers for which Catalonia could only act “[w]ithin the framework of basic Spanish legislation and as appropriate, under the terms established by the relevant legislation.”<sup>15</sup> The major problem with the 1979 autonomy arrangement turned out to be the Catalanian government’s inability to collect taxes. Catalonia is Spain’s fourth wealthiest regional economy (Boylan 765). During the

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<sup>15</sup> Powers held “exclusively” by the Catalanian government included institutions of self-government, the development of Catalanian civil law, heritage (artistic, historic, and scientific), tourism, the local government system, regional planning, housing, internal transport, internal public works with no outside impact, welfare, transport, fishing in inland waters, culture, sport, gambling, and provincial statistics (Article 9).

Powers deemed “exclusive” but which were limited by the Spanish government’s “rules for organizing economic activity.” These included, among others, provincial economic planning, industry, agriculture, internal trade, consumer protection, and credit institutions (Article 12). Education was declared to be an exclusive Catalanian power within constitutional limitations (Article 15). For other governmental functions, the government of Catalonia possessed more limited authority, as it was directed to act. These functions included (among others) administration of the Catalanian government, government contracts, the civil service system, labor relations, the organization of credit, banking and insurance, mining and energy, employment and labor relations, and environmental protection (Article 10).

The Catalanian government was directed to enforce Spanish law in several areas that included (among others) penal institutions, employment, and intellectual and industrial property (Article 11).

In matters relating to health and social security, the Catalanian government was directed both to enforce Spanish law and to develop legislation (Article 17).

The statute allowed the government of Catalonia to establish an autonomous police force (Article 13) but also provided that national security forces could intervene “on their own initiative, when they consider the interests of the State to be seriously compromised, and with the approval of the Security Committee [made up of an equal number of Spanish and Catalanian members] (Article 14).

Even though Catalanian civil law was under the control of the province, the King of Spain appointed the president of the Catalanian High Court of Justice and high court magistrates were to be appointed in a manner provided by Spanish law (Article 21).

The 1979 Statute of Autonomy left the Spanish central government fully in control of defense, international relations, administration of justice (outside of Catalan civil law) and taxation (Mermel 13).

worldwide economic recession that began in 2008, Catalanian state finances suffered severely.<sup>16</sup> This reduction forced cuts in government programs for social services and immigration (Catalonia was at this time receiving substantial numbers of poorer immigrants from southern Spain) (Barcia 403). Faced with this unfavorable fiscal relationship with the Spanish central government, it is no wonder that the Catalanian government and people sought a new autonomy scheme in which they could collect their own taxes. It was the immediate and pressing fiscal concerns of the region that drove the process of greater autonomy forward with such urgency.

The 2006 Statute of Autonomy of Catalonia significantly expanded the province's autonomy. Unlike the earlier statute, it identified Catalonia as a nation.<sup>17</sup> The statute contained 223 articles defining Catalonia's specific powers in substantive areas of law compared to 57 articles in the earlier autonomy law (Andreu 99). The Catalanian government gained important new authority in the area of executive powers through a new rulemaking authority (Andreu 106). Similarly to the 1979 law, the 2006 statute categorized the authority of the Catalanian government as consisting of "exclusive powers" of the Generalitat, "shared powers," and "executive powers." The areas of exclusive provincial power were laid out in much greater detail than before (Articles 110-173). The purpose of this more specific enumeration was to clarify the exact scope of the Catalanian government powers so that they could not be infringed upon by the Spanish state (a process referred to by the Catalonians as "blindage") (Andreu 99-100). An important new provincial power relating to use of the Catalan language was added by Article

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<sup>16</sup> The Catalanian population of approximately 7.54 million in 2012 represented approximately 16% of the total Spanish population, but accounted for 18.7% of Spanish GDP as of 2011 (Barcia 419-420). Catalonia consistently gives more in tax revenues to the Spanish state than it receives in government benefits, contributing about 19% to the Spanish central government's total tax base but receiving only about 14% back in return. The Catalanian deficit rose from 8% of GDP in 2007 to more than 25% of GDP in 2012. Because of the economic recession, the amount of funds distributed to the Catalanian government from the Spanish central government fell drastically, from 72.8 million euros in 2011 to only 5.2 million euros in 2013—a reduction of 92% (Boylan 765).

<sup>17</sup> The preamble stated that "[i]n reflection of the feelings and the wishes of the citizens of Catalonia, the Parliament of Catalonia has defined Catalonia as a nation by an ample majority."

143, entitled “Catalonia’s own language.”<sup>18</sup> Article I of the 2006 Statute of Autonomy (Articles 15-54) was entitled “Rights, obligations and governing principles). The 1999 autonomy statute had only referred to rights and duties under the Spanish constitution. In contrast, Article I listed a large variety of rights under Catalan law. The new statutory rights cover a wide variety of areas. Chapter 1 of Article I list civil and social rights and obligations including the rights of the elderly, women and minors, death with dignity, high-quality education, equal access to culture, health services and welfare, health and safety standards at work, decent housing, a sustainable environment, and consumer protection. Chapter II lists political rights that include the rights to participate equally in public affairs, access to government services, and evidence protection. Chapter III guaranteed citizens the right to communicate with government authorities in the language of their choice and to receive an education in the Catalan language. Chapters IV and V put enforcement power behind the listing of rights. Chapter IV provides in part that any act that undermined the rights listed in the first three chapters can be appealed before the Supreme Court of Catalonia. Article 39 (1) of Chapter V stated that the public authorities of Catalonia should “direct public policy in accordance with the governing principles established by the Constitution and this Estatut [statute],” and authorized “the public authorities of Catalonia [to]...promote and adopt any measures necessary to guarantee their full effectiveness.”

Title III of the 2006 autonomy statute made the High Court of Justice of Catalonia “the supreme jurisdictional body of the legal system in Catalonia and it is competent, under the terms established by the corresponding organic law, to hear the appeals and cases of the different

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<sup>18</sup> Article 143 (1) provided that “the Generalitat of Catalonia has exclusive power over the matter of Catalonia's own language. This power includes, in any case, determination of the scope, uses and legal effects of its official status, and also the linguistic normalisation of Catalan.” This provision was reinforced by Article 8 of the Preliminary Title which stated that “Catalonia's own language is Catalan. As such, Catalan is the language of normal and preferential use in Public Administration bodies and in the public media of Catalonia, and is also the language of normal use for teaching and learning in the education system.”

jurisdictional areas, and to protect the rights recognised in this Estatut.” Formerly, supreme judicial authority over the Catalanian legal system was held by the Spanish *Tribunal Supremo* (Supreme Tribunal) (Andreu 107).

Major expansions of Catalonia’s taxation authority were contained in Title VI of the 2006 autonomy statute entitled “Funding of the Generalitat.” Article 202 (1) of this title declared that “[t]he Generalitat has autonomous finances and sufficient financial resources for the proper exercise of self-government.” Article 203 (1) provided that “[t]he Generalitat has the capacity to determine the volume and composition of revenues falling within its financial powers, and also to freely apply its resources to expenditure items as it deems fit.” Article 204 created the Taxation Agency of Catalonia that would be “responsible for management, collection, settlement and inspection of all Generalitat of Catalonia taxes and also, when delegated by the State, of State taxes which are totally ceded to the Generalitat.”

Under Article 203 (2), the Generalitat could “[participate] in the income arising from State taxes ceded to Catalonia.” Article 206 (3) provides that “[t]he financial resources available to the Generalitat may be adjusted to enable the State financing system to have sufficient resources to ensure leveling and solidarity with other autonomous communities.” Article 210 established a joint Spanish-Catalonian Joint Economic and Fiscal Affairs Commission that would monitor and make recommendations concerning the distributions of Spanish tax revenues to Catalonia. Taken together, Articles 203, 206 and 210 were intended to ensure that Catalonia receives national tax revenues on a more equitable basis than was previously the case.

For a new autonomy statute to be enacted into law in Spain, it must first be passed by the Catalanian parliament, then approved by the Spanish parliament, and finally approved by the voters of Catalonia in a referendum. In September 2005, the Catalanian parliament approved a

new Law on Autonomy that it presented to the Spanish parliament. After months of negotiations between the two governments, the Spanish parliament passed the statute in March 2006. The majority party in Spain at that time was the Spanish Socialist Workers' Party (PSOE), which was more sympathetic to increased Catalanian autonomy than its main political rival, the conservative Partido Popular (Boylan 763). On June 18, 2006, Catalanian voters approved the new autonomy statute ("Catalonia endorses autonomy plan").

*Events in Catalonia since the signing of the Lisbon Treaty through 2018:* Following the enactment of the 2006 Statute on the Autonomy of Catalonia, the conservative Partido Popular challenged the constitutionality of the law before the Spanish Constitutional Court. On June 28, 2010, the Constitutional Court entered its judgment (Constitutional Court Judgment No. 31/2010). The Constitutional Court struck down major portions of the statute. It ruled as unconstitutional language in the statute's preamble declaring Catalonia to be a nation. It declared that the new taxing scheme, in which Catalonia could collect its own taxes, was unconstitutional. It also struck down the provisions establishing the Catalanian Court of Justice as the highest judicial body in the province. With regard to the Catalan language, the court declared that Catalan could be the preferred language of education but not of government administration. The Court stated that the duty of Catalan citizens to master the Catalan language (as provided in the statute) was of secondary importance to their duty to master Castilian Spanish, the country's official language (Pericay; Mermel 25-27).

The Constitutional Court's decision was the turning point that led a large portion of the Catalanian populace away from their struggle for greater autonomy into an effort for full independence (Calamur). The first actions in the independence struggle occurred at the local level. From September 2009 to April 2011, more than half of the 547 Catalanian municipalities

held informal independence referenda. Massive popular demonstrations in favor of independence followed these local referenda (Barcia 399). In December 2012, the leaders of Catalonia's two major regional parties, *Convergència i Unió* (CiU) ("Convergence and Union") and *Esquerra Republicana de Catalunya* (ERC) ("Republican Left of Catalonia") reached agreement to hold a non-binding independence referendum in 2014. The Spanish Constitutional Court, however, struck down this proposed referendum. The Catalanian government responded by calling a referendum without central government approval. The vote was labeled as a "non-referendum popular consultation on the future of Catalonia." A majority voted in favor of an independent state (Medir 268).<sup>19</sup>

The provincial election of September 2015 was widely seen as another vote on Catalanian independence (Elias & Mees 149). The Catalanian nationalist coalition *Junts pel Sí* ("Together for Yes") fell short of an absolute individual majority but was able to form a majority in coalition with a smaller party, the *Popular Unity Candidacy* (CUP) ("Catalonia vote: Pro-independence parties win elections"). The new Catalanian government called for a popular referendum on independence that was held on October 1, 2017. In contrast to the 2014 consultative referendum which was non-binding, the new "self-determination referendum law" was declared to be binding and to serve as a means for initiating Catalanian independence.<sup>20</sup> The "yes" side received approximately 90% of the vote although turnout again was low at only about 42 % (Soares). As voting was taking place, Spanish police seized ballot boxes and physically attacked voters (Edwards). On October 17, the Spanish Constitutional Court declared the referendum to be illegal ("Catalonia: Spain's constitutional court declares Catalan referendum

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<sup>19</sup> 2.3 million people voted out of an electorate of 6 million (Erikson). The low turnout cast doubt on the strength of the independence movement.

<sup>20</sup> The question on the ballot was "do you want Catalonia to become an independent state in the form of a republic"? (Child & Mitchell).

law void”). On October 21, Spanish Prime Minister Mariano Rajoy approved the implementation of Section 155 of the Spanish Constitution that allowed the Spanish government to take back the budgetary powers of the Catalanian government (Jones). On October 27, the Catalanian parliament voted to unilaterally declare independence. On the same day, the Spanish government dissolved Catalonia’s parliament and called for new Catalanian elections on December 21 (Parra & Giles). In these December 21 elections, the pro-independence parties gained a narrow victory.

A new Spanish government headed by the Socialist Pedro Sánchez came to power on June 2, 2018. Six days later, on June 8, 2018, Spain’s new government lifted spending controls on Catalonia under Article 155 and returned provincial budgetary authority to the Generalitat (“New Spanish government to return Catalonia’s autonomous financial powers”). Even under the new government, however, Catalonia’s autonomy crisis was not resolved, as the Spanish government continued criminal proceedings against members of the Catalanian government.<sup>21</sup> Spanish Prime Minister Sanchez said in parliament that “the movement for a Catalan state is based on ‘lies’” and promised a “forceful” response if the Catalanian government breaks the law (“Spanish government vows ‘forceful’ response if Catalonia breaks law”).

*Catalonia and the EU:* Section 149.1.3 of the Spanish Constitution of 1978 provides that the Spanish state shall have exclusive competence in foreign relations. When Spain acceded to EU membership in 1986, Catalonia, the Basque Country and Galicia established regional offices in Brussels. The Spanish government challenged the constitutionality of the Basque EU delegation before the Spanish Constitutional Court (Lecours 11). In 1994, the Spanish Constitutional Court in 1994 affirmed the constitutionality of the regional EU offices but limited

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<sup>21</sup> Nine Catalanian government leaders remain imprisoned in Spain on charges of rebellion, sedition, and misuse of public funds. Carles Puigdemont, the Catalanian President at the time of the 2017 independence referendum and several other Catalan government officials are currently in exile from Spain facing the same charges (CatalanNews, December 18, 2018).

their scope (Spanish Constitutional Court Judgment 165/1994). According to the Constitutional Court, the regional EU offices were subject to the rule of *in foro interno, in foro externo*. Under this principle, the actions of the regions abroad could not exceed their internal powers. The regional offices in Brussels thus could not enter into treaties, represent the Spanish State abroad or “create international obligations and responsibilities” for the Spanish state, as these were powers that the Spanish Constitution reserved to the national government (Vicuña 22-23).

In several of its provisions, the Catalanian Statute of Autonomy of 2006 envisions a close linkage between Catalonia and the EU.<sup>22</sup> The 2010 decision of the Spanish Constitutional Court that limited Catalonia’s autonomy did not strike down any of the above provisions. Catalonia was thus free under Spanish law to pursue EU diplomacy within the general limits that the Constitutional Court had established in its earlier, 1994 decision relating to the permissible activities of regional diplomatic delegations.

Initially, the Catalanian delegation to the EU was a public-private partnership entitled the Patronat Català pro-Europa. In recent years, however, Catalanian diplomatic efforts have been

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<sup>22</sup> Article 3.2 of that statute, which is part of the Preliminary Title, states that “Catalonia has its political and geographical space of reference in the Spanish State and the EU, and it incorporates the values, principles and obligations implied by being a part thereof.”

Chapter II of Title V of the statute, containing nine articles (Article 184 through 192), is entitled “Relations of the *Generalitat* with the EU.” Some of the key provisions of this chapter are the following:

Article 184 states that the *Generalitat* participates, under the terms of this statute and Catalan legislation “in affairs related to the EU that affect the powers or interests of Catalonia.”

Article 185 provides for review by the *Generalitat* of EU treaties (Article 185.1) and authorizes participation of Catalanian representatives in the negotiation and adoption of treaties “affecting the exclusive powers of the *Generalitat*” (Article 185.2).

Article 186.1 provides for participation by the *Generalitat* in the formation of positions “in matters concerning the powers or interests of Catalonia...”

Article 187.1 states that “[t]he *Generalitat* participates in Spanish delegations to the EU that deal with affairs within the legislative power of the *Generalitat*, and especially to the Council of Ministers and the consultative and drafting bodies of the Council and Commission.”

Article 187.4 provides that the Catalanian “[p]arliament may establish relations with the European Parliament in areas of common interest.”

Article 190 states that “the *Generalitat* is responsible for the management of European funds in matters within its jurisdiction.”

Article 192 authorizes the *Generalitat* to “establish a delegation to better defend its interests before the institutions of the EU...” (Generalitat de Catalunya. “Text of the Statute approved in 2006”).

placed entirely under the control of the Catalanian presidency. A 2010 presidential decree brought all Catalanian diplomacy under the direct control of the President of Catalonia (Departament de la Presidència 2010, Art. 3.1.8) (Vicuña 27). A 2013 presidential decree created the Secretariat of Foreign Affairs and the EU within the Department of the Presidency (Art.44.2 of presidential decree 80/2014). Among its other duties, this secretariat is responsible for the delegation of the Generalitat to the EU (Vicuña 27).

The assumption of presidential control over EU matters demonstrates an increased concern and involvement by the Catalanian government in EU affairs. Catalonia has also been seeking to influence EU policymaking in a broader range of policy areas. During the first decades of Catalanian representation at the EU, Catalanian lobbying efforts focused on regional economic promotion and cultural affairs (Vicuña 47). The Spanish Constitutional Court decision of 1994 had authorized lobbying by regional diplomatic delegations in these areas. More recently, however, Catalanian lobbying at the EU has included subjects prohibited by the 1994 Constitutional Court ruling by taking positions on political matters that the national Constitution has reserved to the Spanish government.

A review of the activities of Catalonia at the EU in 2017 and 2018 shows the large extent to which the Catalanian EU delegation has entered into the realm of European affairs and has sought to influence the EU to act on its behalf to strengthen its position with the Spanish state:

On September 13, 2017, Amadeu Altafaj, the representative of the Catalanian government to the EU, hosted an EU reception in which he spoke in support of Catalonia's independence referendum and stated in part that "[w]ith one million on the streets, any European country would realize there is a political problem...[o]ur aim has always been to reach an agreement with the Spanish government but this has proved impossible."

On February 14, 2018, the Catalanian government announced that it had “decided to take a stand on each of the European programs relevant to Catalonia in order to ensure the regionalization of the funds.” These specifically included funds for agricultural subsidies. Catalonia’s General Director of Economic Promotion, Competition and Regulation “insisted on the need to increase coordination among all involved agents, both to make Catalonia more influential on the European level, and to increase the positive impact of the proper management of European funds.”

On the same day, the Catalanian EU delegation presented its position “on the future of the EU Research and Innovation policy (Horizon Europe)...[to stress] the need of regional and local dimension to be taken into account.”

On June 6, 2018, Amadeu Altafay condemned the negative response of EU institutions to the Catalanian independence movement (described below). He said that:

So far, the EU has been shown itself as a private club of states at uncertain hours, harassed by problems such as Brexit or the loss of credibility in the eyes of a large number of citizens, and with the three main institutions presided by members of the prime minister Rajoy’s political family. The most worrying is that in Madrid some have interpreted the EU’s shyness as a blank check for a repressive response and, eventually, the suspension of Catalonia’s autonomy and of Catalan institutions.

On August 1, 2018, Merritxell Serret, the new representative of the Catalanian government to the EU, met with the EU’s Minister for Foreign Action, Institutional Relations and Transparency. Serret said that “”[t]he main challenge is to bring Catalonia closer to Europe

and Europe closer to Catalonia, for there to be mutual respect.... We want to contribute to the construction of our common project for Europe, a people's Europe." According to Serret, "the objective of the delegation of Catalonia to the EU is to participate in each and every one of the areas affecting citizens, from the future of the Common Agricultural Policy to helping to find solutions for the refugees arriving in Europe."

On October 16, 2018, the government of Catalonia filed a formal complaint with the EU ombudsman on the Spanish government's alleged violation of digital rights through the shutting down of websites "during the days running up to and following the October 1 referendum last year." (Generalitat de Catalonia Ministry for Foreign Action, Institutional Relations and Transparency).

These examples of Catalan activities at the EU show that Catalonia's EU delegation is working toward three objectives: First, it is seeking to establish Catalonia's role as an integral part of the EU and to strengthen Catalonia's role in European affairs. Second, by becoming involved in specific EU programs such as that for agricultural subsidies, the delegation is seeking to ensure that Catalonia receives equitable distributions under these programs. Finally, Catalonia is using the EU to protect the rights of Catalonia and its citizens in relation to the Spanish state, as shown by its protest to the EU ombudsman of an alleged Spanish violation of digital rights.

All of these efforts by Catalonia at the EU have the goal of expanding the scope of Catalonia's autonomy. By strengthening Catalonia's ties with the EU, the Catalan delegation hopes to gain European recognition of the region's status as a separate actor in Europe with its own policy objectives that are entitled to European recognition. By ensuring that Catalonia is treated equitably under EU programs such as the agricultural subsidy program, Catalonia's delegation is attempting to improve the financial situation of the region and the individual

finances of its citizens. By protesting alleged Spanish abuses, the delegation is seeking to use EU institutions to protect its autonomy. Through all of these activities, Catalonia's position within the EU in the past two years has been that of a national government with interests that are independent from those the Spanish state. By asserting this position of national separateness Catalonia is seeking to advance EU recognition of the independent national status that its government is now claiming.

Despite Catalonia's paradiplomatic efforts at the EU, the EU's top officials have responded to Catalonia's independence efforts in a negative manner and sided entirely with the Spanish state's position. On October 27, 2017, the President of the European Council Donald Tusk stated that: "For EU nothing changes. Spain remains our only interlocutor. I hope the Spanish government favors force of argument, not argument of force" (Saeed).

European Parliament President Antonio Tajani said that "no one in the EU is going to recognize this declaration [of independence from Spain]" (Saeed).

The Commission issued an official statement that the "[independence] vote in Catalonia was not legal" and that "this is an internal matter for Spain that has to be dealt with in line with the constitutional order of Spain." The Commission declared that "[if] a referendum were to be organized in line with the Spanish Constitution it would mean that the territory leaving would find itself outside of the EU."

Further, the Commission stated that: "Beyond the purely legal aspects of this matter, the Commission believes that these are times for unity and stability, not divisiveness and fragmentation. We call on all relevant players to now move very swiftly from confrontation to dialogue. Violence can never be an instrument in politics. We trust the leadership of Prime Minister Mariano Rajoy to manage this difficult process in full respect to the Spanish

Constitution and of the fundamental rights of citizens enshrined therein” (Statement on the events in Catalonia).

Speaking at the university in the Spanish city of Salamanca, Commission President Jean-Claude Juncker said on November 9, 2017 that “[n]ationalisms are a form of poison that prevent Europe from working together...[and] I say ‘no’ to any form of separatism that weakens Europe and further widens the existing fissures” (Saeed).

In contrast to these statements against Catalanian independence by top EU officials, there have been statements of support for the civic rights of Catalonians by some EU Parliament members. On September 17, 2017, Philippe Lamberts, the co-president of the Greens/EFA grouping in the European Parliament, wrote a letter to Commission Vice-President Frans Timmermans objecting to the arrests of Catalanian government officials, restrictions on public debate and political advertising in Catalonia and the intended seizure by the Spanish government of Catalanian government accounts (Letter of Philippe Lamberts to Frans Timmermans).

On November 3, 2017, a letter was co-signed by 118 members of the European Parliament, other politicians, scholars and public intellectuals objecting to the “violation of the Rule of Law in Spain” during the Catalanian independence referendum. Although the letter did not take sides on the “substance of the dispute on territorial sovereignty” regarding Catalonia, it alleged that the EU leadership had “implicitly condoned the actions of the Spanish police” in using “violence...as an instrument of politics.” This letter was a call to the EU to intervene in the Catalanian independence controversy to the extent of assuring the “Rule of Law” (“Upholding the Rule of Law in the EU”).

On March 28, 2018, François Alfonsi, the president of the Greens/European Free Alliance (EFA) grouping in the European Parliament, wrote a letter addressed to the presidents

of the Council of the EU, Commission, and European Parliament, stating that the prosecutions of Catalanian governmental leaders by the Spanish government “puts basic European values at stake.” The letter “[called] upon the EU...and its Member States to demand Spain to refrain from further repressive actions and to stop regression in democratic and civic rights and to engage in constructive dialogue” (Alfonsi letter of 28 Mar 2018).

On April 23, 2018, Stefano Grassi responded to the above letter on behalf of Commission President Juncker. He wrote that “we have taken note of its contents with attention” and that the letter had been transmitted to Věra Jourová, the Commission member responsible for Justice, Consumers and Gender Equality, who “is looking into the points you have raised and will respond to you rapidly.” (Jiménez). Jourová’s response, if any, has not been located.

Although none of the letters addressed by EU parliamentarians to top EU officials go so far as to support the substantive rights of Catalonia to independence, they all insist that Spain must follow legal procedures and avoid the use of suppressive tactics and violence in dealing with the Catalanian independence movement. They are expressions of support for the right of Catalonians to use the peaceful methods of referendum and parliamentary action in seeking independence from Spain. As such, these letters constitute activities within the EU on behalf of increased Catalanian autonomy.

*Summary:* The government of Catalonia has persisted in seeking greater autonomy in the face of continued opposition from the Spanish state. Since the date of the Lisbon treaty, Spain has not consented to any expansions of Catalonia’s autonomy. In 2010, the Spanish Constitutional Court actually reduced the region’s fiscal ability by declaring as unconstitutional the provision in the 2006 Statute of Autonomy of Catalonia allowing the region to collect its own taxes. This decision began the transformation of Catalonia’s original efforts for increased

autonomy within into a struggle for national independence. This struggle is ongoing and is facing a harsh response from the Spanish government through the jailing and criminal prosecutions of Catalanian government leaders.

The Catalanian delegation to the EU has worked diligently within EU institutions to expand the scope of its autonomy. These efforts have not brought the region any success. On the contrary, the EU has taken a hard line against the Catalanian independence referendum and its declaration of independence, and has sided entirely with the Spanish state. Letters to top EU officials by EU parliamentarians and the Greens/EFA parliamentary grouping on behalf of the civil rights of Catalonians have likewise achieved no change in the EU position on this issue.

Catalonia is thus a prime example of a region in which there has been EU activity on behalf of greater autonomy but whose efforts at greater autonomy are opposed by the national government.

## CHAPTER 9: SCOTLAND

*Historical background:* England and Scotland today form two parts of the United Kingdom (UK) that also includes Wales and Northern Ireland. Relations between the UK and Scotland continue to be governed by the 1707 Acts of Union. This is considered to have no higher status under UK law than any other law, and can be repealed by the UK parliament. (Happold 17-18). The UK parliament in Westminster retains the power to legislate on any matter that has been devolved to Scotland but under the “Sewel convention” incorporated into the Scotland Law of 2016, the UK parliament has declared that it “will not normally legislate with regard to devolved matters without the consent of the Scottish parliament.” The UK House of Lords has ruled, however, that the Sewel convention is not enforceable by the judiciary. (“Gina Miller case”).

The beginnings of renewed Scottish autonomy took place in 1997. In that year, UK Prime Minister Tony Blair initiated a program of “devolution” for Scotland, Wales, and Northern Ireland. He said that devolution would “lance the boil for independence” (Keating 213).

Three laws enacted by the UK parliament have conferred progressively greater autonomy on Scotland. The 1998 Scotland Act re-established a Scottish parliament for the first time since 1707.<sup>23</sup> This act contained a list of competences reserved to the UK government. The Scottish government had authority to legislate on competences not on the list. The list of reserved competences was extensive and included constitutional matters, foreign affairs and defense, international development, the Civil Service, financial and economic issues, most energy regulation (including electricity, coal, oil and gas, and nuclear energy), transportation into and out of Scotland (including air and rail and international shipping), employment, social security,

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<sup>23</sup> It is commonly referred to as “Hollyrood” for the Hollyrood area of Edinburgh in which it is located.

broadcasting and equal opportunities. Powers devolved to Scotland included health, social work, education and training, local government including housing, justice and policing, agriculture, forestry and fisheries, the environment, tourism, economic development, and internal transport (“Devolution Settlement: Scotland”). The Scottish Government had only very limited revenue-generating authority under the 1998 Scotland Act even for its devolved powers. Devolved revenue (that is, taxes raised by the Scottish government) as a percentage of devolved expenditures was only 9%. Devolved revenue as a percentage of total expenditure in Scotland (from both the UK and Scottish governments) was 6% (“The Scottish Parliament Citizens’ Guide to Scottish Devolution”). The taxes levied by the Scottish government were local taxes on property (council tax on property and local business rates) as well as the power to amend the income tax rate up or down by up to 3 percent of income (“Devolution of tax powers to the Scottish Parliament: the Scotland Act”).

*Scottish autonomy since the Lisbon Treaty.* The 2012 Scotland Act gave the Scottish government only modest new substantive powers that included drunken driving regulation, a national speed limit, and the administration of elections to the Scottish Parliament (The Scottish Parliament “The Scotland Act”). The major changes in the 2012 Act related to increases in Scottish government’s borrowing and taxing authority. The Scottish government gained the power to borrow up to £2.2 billion for capital expenditures and up to £500 million for revenues (“The Scottish Parliament Citizens’ Guide to Scottish Devolution”). With respect to taxation, the Scottish government gained the authority to impose a landfill tax and a tax on waste disposal (“Devolution of tax powers to the Scottish Parliament: the Scotland Act 2012”). Most importantly, the 2012 Scotland Act enabled the Scottish government to establish a Scottish rate of income tax. UK tax law provided for a “basic” rate of 20%, a “higher” rate of 40%, and an

“additional” rate of 45%. The national UK government collected these taxes. For all Scottish taxpayers, the 2012 Act reduced these tax rates by 10% of income. Thus, for example, the 20% basic rate fell to 10%. Scotland gained the authority to impose its own taxes to supplement the national rates (GOV.UK “Guidance Scotland Act 2012”). As a result of the 2012 tax changes, total annual taxes collected by the Scottish government more than doubled from £3.870 million to £8.630 million. Devolved revenue as a percentage of devolved expenditures rose from 9% to 21% and devolved revenues as a percentage of total expenditures (from both the UK and Scottish governments) rose from 6% to 13% (“Citizens’ Guide to Scottish Devolution: Scotland’s new financial powers”).

The Scotland Act 2016 is the most recent piece of Scottish devolution legislation. Under this legislation, the Scottish government gained powers over the Crown estate (lands owned by the monarch), on-shore oil and gas leasing, employment programs for the long-term unemployed and disabled, energy efficiency programs, transport, abortion, consumer advocacy and advice, equal opportunities, gaming machine licensing, parking, policing of railways, speed limits, and traffic signs (“Hollyrood gains new powers under Scotland Act 2016”). It also acquired authority to enact 11 new types of social security payments, including disability living allowances, “attendance allowances” to help senior citizens continue to live independently, allowances for “carers,” winter fuel payments, compensation for industrial injuries, and discretionary housing payments (Berry and Kidner; “The Scottish Parliament Citizens’ Guide to Scottish Devolution”).

Under the Scotland Act 2016, the Scottish government’s capital borrowing authority increased from a £2.2 billion to a £3.0 billion limit. The annual limit on resource borrowing remained the same at £600 million per year but an overall limit of £1.75 billion was established. A “Scotland Reserve” borrowing of up to £700 million was authorized.

The 2016 Scotland Act also significantly increased the taxation powers of the Scottish government. Scotland now had complete control over its income tax rates and bands. It gained authority to impose an “aggregates levy” on sand, gravel and rock that was dug, dredged or imported. It could now impose an air passenger duty. A percentage of the Value Added Tax collected by the UK government was now allocated to Scotland<sup>24</sup>. The Auditor General of Scotland estimated that these new taxing powers, taken together, would generate over \$17 billion in additional annual revenues for the Scottish government. Scottish tax revenues as a percentage of devolved expenditures would rise from 21% to 36%<sup>25</sup>, and tax revenues as a percentage of total expenditures in Scotland (by the UK and Scottish governments) would rise from 13% to 23% (Auditor General for Scotland).

The 2012 and 2016 Scotland Acts show that the national UK government has been willing to devolve greater autonomy to the Scottish government since the time of the Lisbon treaty. Even beyond the increased autonomy provided by these two acts, the UK parliament has conferred upon the people of Scotland the power to opt for complete independence separation if this is their choice as demonstrated by their vote in a referendum on separation. The Scottish National Party (SNP) has taken the lead in pressing for Scottish independence. This party bases its arguments for independence on Scotland’s long history as an independent until the eighteenth century, the continued perception of many Scottish people that they belong to a separate nation, and a belief that its development is being curtailed by Westminster. Alex Salmond, the First Minister of Scotland from 2007 to 2014, has said that an independent Scotland, with its share of the North Sea oil wealth, would become one of the world’s richest countries (Brooks). The

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<sup>25</sup> This is an estimate of the Devolution (Further Powers) Committee of the Scottish Parliament. The Scottish Auditor General has estimated that under the 2016 Scotland Act, 52% of devolved expenditures would be paid for out of Scottish revenues (“Scotland’s new financial powers”).

beginnings of renewed Scottish autonomy took place in 1997, when the British Labor Party, under Prime Minister Tony Blair, took office in Westminster. Blair initiated a program of “devolution” for Scotland, Wales, and Northern Ireland. He said that devolution would “lance the boil for independence” (Keating 213).

Since the 1980s, the SNP has taken a pro-European position with a slogan of “independence in Europe” (Keating 201). In a 2013 document entitled “Scotland’s Future,” the Scottish Government led by the SNP expressed support for Scotland’s membership as an independent country in the EU (“Scotland’s Future” 03). In contrast to Åland, whose autonomy is based on the Swedish character of the islands, the Scottish independence movement has been primarily civic rather than ethnic, stressing the independence of the Scottish nation rather than the Scots as an ethnic group. It has been written that “[t]he Scottish National Party...has been quite successful in crafting an image of ‘Scottishness’ that is cosmopolitan and open to diversity” (Sanjay et al. 1232).

Under Schedule 5 of the 1998 Scotland Act, the status of the United Kingdom is a matter reserved to the UK Parliament. The Scottish parliament, however, has power to issue a “Section 30 Order” for an independence referendum. Under the Edinburgh agreement entered into between the UK and Scottish governments, the referendum must be conducted in a manner consistent with the framework established by the Political Parties, Elections and Referendums Act of 2000 (Armstrong 186).

In 2011 elections, the SNP won a majority of seats in the Scottish parliament. The Scottish parliament then scheduled an independence referendum that was held on September 18, 2014. On the question “should Scotland be an independent country?” the “no” vote was 55.3% and the “yes” vote was 44.7%. More recent polling shows that support in Scotland for a second

independence referendum by 2024 is 66% (Borg-Barthet 414). Scottish First Minister Nicola Sturgeon has said that a referendum is a duty where Scottish interests are harmed. Among the “red lines” that she said would cause her to ask for a new referendum are withdrawal from membership in the single market and protections for EU citizens and Scottish workers. It has been reported that British Prime Minister Theresa May would “strongly consider blocking or delaying” a second Scottish independence referendum (McCorkindale 360-361).

*Scotland in the EU:* Both the people and government of Scotland have been overwhelmingly supportive of continued membership in the EU. In the June 23, 2016 UK referendum on EU membership, Scottish voters chose to remain in the EU by a margin of 62% in favor and 38% opposed. In contrast, 52% of the electorate in the UK as a whole voted to leave the EU, with 48% voting in favor of staying (“Scotland in Europe”). The Scottish government stated following the Brexit vote that “we believe that remaining in the EU would have been the best option for the UK as a whole and for Scotland” (“Scottish Government Policy Europe”). One year prior to the Brexit vote, an SNP-led Scottish government publication cited increased participation in the EU as a reason that Scotland should seek independence. The publication took note that in an independent Scotland, the Scottish First Minister would participate on an equal basis in meetings of the European Council. Likewise, the Scottish government would participate in meetings of the Council of the EU. At the Committee of Permanent Representatives, Scotland could take part “at every level in the EU legislative and policy process.” The number of Scottish representatives in the EU Parliament (currently six) could be expected to double, based on the EP representation of other EU members with similar populations (“Scotland in the EU”).

Following the Brexit referendum, the Scottish government has supported an exit deal that would provide for the greatest possible continuing involvement of the UK in the EU. On

November 15, 2018, Scottish Constitutional Relations Secretary Michael Russell stated that “[t]he Scottish Government’s established and evidence-based policy is that, short of staying in the EU, remaining in the single Market and Customs Union is the best outcome for Scotland and the UK as a whole” (Scottish Government “News Brexit Deal”). The Scottish government has declared that even if the UK leaves the single market, Scotland should be allowed to remain in it. Furthermore, the Scottish government has sought to “[ensure] that powers ‘repatriated’ from Brussels are returned to Scotland, in line with the current devolution settlement, to safeguard Scotland’s interests within the UK” (Scottish Government “Policy Europe”).

Various bodies of the Scottish government specialize in EU issues. In July 2016, the Scottish First Minister’s Standing Council on Europe was established. Members of this body “will consider the impact of proposed changes to the UK’s relationship with the EU on Scottish interests, and advise Ministers throughout our Brexit negotiations on the best way to secure Scottish interests and objectives” (Scottish Government “Standing Council on Europe”). Within the Scottish parliament, the Culture, Tourism and External Affairs Committee is charged with considering the “[implications of the EU referendum on Scotland] as well as “EU legislation [and] European Communities or EU issues” (Scottish Parliament Culture, Tourism and External Affairs Committee).

The Brexit negotiations have been a source of tension between the UK and Scottish governments. To help deal with issues of devolution, the UK government in 1999 established the Joint Ministerial Committee (JMC). This committee consists of ministers from the UK and the devolved governments (Scotland, Wales and Northern Ireland). Two subcommittees of the JMC—JMC Europe and JMC Europe negotiations—deal with relations between the UK and EU (“Devolution and the Joint Ministerial Committee”). The Scottish government has expressed

dissatisfaction with Scotland's limited role within the JMC in relation to European matters. On February 6, 2018, Scottish First Minister Nicola Sturgeon wrote to UK Prime Minister Theresa May that "[we] have been frustrated that discussions in the JMC (EN) have fallen short of the original aim of the committee and of the Prime Minister's own commitment to 'full involvement' of the devolved administrations. However, we continue to engage in this forum and remain committed to improving dialogue between the administrations, to influence the shape of the UK approach and objectives for negotiations" (Scottish Government "Call for more engagement on Brexit"). In response to First Minister Sturgeon's criticisms of the JMC process, the UK government established a Ministerial Forum which "will sit beneath and complement engagement at the JMC (EN) (Scottish Government "Policy Europe EU negotiations").

Scotland's desire for a continuing, close engagement with the EU is the key for understanding its activities within the EU. Scotland actively participates in EU affairs. Scotland House in Brussels is the geographic base of Scotland's EU activities. Scotland House has partnered with the Scottish government as well as two private organizations that promote Scottish interests: Scotland Europa (a membership-based organization which includes Scottish universities, businesses, and civic organizations) and Scottish Enterprise/Scottish Development International (Scotland Europa Scotland House). In 2017 and 2018, Scotland House hosted several events focusing on Scotland's role in Europe. These included forums on sustainable energy transition, methods for enhancing innovation in rural areas, Scotland's collaborative place in Europe with a focus on science and innovation, the economic importance of sporting and cultural events, the importance of civil society, elderly health care, a young peoples' conclave in which the participants exchanged ideas on the future of Europe, and a panel discussion hosted by the Scottish Secretary for Culture, Tourism and External Affairs on the document "Scotland's

Place in Europe” written by First Minister Nicola Sturgeon. There was also a fisheries reception, a showcasing of Scotland’s culinary heritage, and a “Burns supper” in commemoration of the Scottish poet Robert Burns. What all of these events have in common is that they represent efforts to integrate Scotland within European society in a broad range of endeavors that include economic development and innovation, civic engagement, and cultural life (“Scottish Government events in Brussels 2018”; “Scottish Government events in Brussels 2017”).

As well as the Scotland House events described above, Scottish government ministers make visits to the EU headquarters in Brussels on a regular basis. In 2018, for example, Scottish ministers made the following visits:

- Paul Wheelhouse, Minister for Business, Innovation and Energy, held a series of round-table discussions on energy efficiency and renewable energy in which he “expressed his commitment to working with European partners.”
- First Minister Nicola Sturgeon met with the EU’s chief negotiator Michel Barnier. She also “hosted a round table discussion with representatives of think tanks and the business community in Brussels” and officially reopened the refurbished Brussels House.
- The Cabinet Secretary for Culture, Tourism, and External Affairs held a policy seminar entitled “a sporting legacy-contributing to Europe’s competitiveness in a global marketplace.”
- The Minister for Further Education, Higher Education and Science set forth Scotland’s position on the “Framework Program 9” (relating to digital technologies and skills). He also participated in events dealing with jobs, investment, and innovation and hosted an event on “Scotland’s collaborative place in Europe.”

- The Scottish Lord Advocate made a presentation on “Tackling Transnational Crime: A Scottish perspective.”
- The Cabinet Secretary for Culture, Tourism, and External Affairs hosted the annual Burns supper at Scotland House and “promoted the Scottish government’s message and key messages set out in ‘Scotland’s Place in Europe: People, Jobs and Investment’” (“Ministerial visits within Europe 2018”).

What all of the Scotland House events and ministerial visits to Brussels have in common is that they are outreach efforts by the government of Scotland to promote Scotland’s continuing integral place within Europe. Whether they address business innovations, cultural and sporting matters, or civic engagement, these conferences and addresses by Scottish officials all express a position supportive of a close relationship between Scotland and the EU. As far as the present research has determined, in none of these events have Scottish government representatives or private Scottish organizations sought to use EU institutions as a mechanism to promote greater Scottish autonomy within the UK.

*Summary:* The national government of the UK has supported a progressive strengthening of Scottish autonomy that has been accomplished by means of successive UK parliamentary acts. The UK government has even been willing to accept a complete separation of Scotland from the UK if this action is supported by the results of a regional referendum. Unlike Åland, Scotland takes an active role in EU affairs. An examination of recent Scottish activities within the EU, however, shows that Scotland is not using EU institutions to promote its regional autonomy. Rather, in the aftermath of the Brexit vote, the Scottish government and private Scottish organizations such as Scotland Europa are trying to strengthen Scotland’s ties to the EU in diverse areas that include business, technology, cultural life, and civic affairs. Scotland is not

using the EU to weaken its relationship with the rest of the UK but rather to maintain and strengthen its European role. Scotland is thus a prime example of a region in which the central government has supported greater autonomy and the region does not seek to promote its autonomy within EU institutions.

An examination of the Scotland Acts of 2012 and 2016 shows that Scotland has succeeded in raising the level of its autonomy by increasing its fiscal ability. The region's taxing and borrowing powers have greatly increased under these acts, and Scottish revenues account for an increasing percentage of Scottish government expenditures. The list of competences within Scottish control has grown across the entire spectrum of government activities.

Scotland is thus an example of a region that has achieved greater autonomy with the support of the nation state in the absence of EU activity on behalf of this increase in autonomy.

## CHAPTER 10: FLANDERS

*Historical background:* Flanders is the northern, Dutch-speaking portion of the Kingdom of Belgium. When Belgium gained recognition as a separate nation in 1830, it became a unitary state without a regional delegation of powers. This began to change in 1970 with the first of what were to be six “State Reforms,” each of which gave the Flemish part of the country progressively greater levels of autonomy.

Under the Belgian Constitution, all regional delegations of power must be approved by the national legislature as constitutional amendments. Constitutional amendments require two-thirds majorities of each major linguistic group (French and Dutch) in both houses of the national parliament, the Chamber of Representatives and the Senate, with two-thirds of the members the members of each chamber being present (Goossens and Cannoot E-32). Through this constitutional process, each increase in the autonomy of Flanders has gained the formal endorsement of the Belgian government.

The First State Reform of 1970 established Flemish and French “cultural communities” as well as a smaller German cultural community in the southeast of Belgium. Under the Second State Reform of 1980, the cultural communities were renamed simply “communities.” Each community had a separate legislative council and government. The communities acquired jurisdiction over health care and social services. The 1980 law also created a Flemish region and a Walloon region, each of which also were granted a council and government. The basic concept was that the communities would have jurisdiction over delegated competences affecting the person, while the regions would have jurisdiction over delegated competences involving territory. In keeping with this distinction, the regions had distinct geographic boundaries whereas the communities’ membership was based on linguistic affiliations. A basic asymmetry between

Flemish and Walloon autonomy was the result of geography. The Flemish region was geographically contiguous. The French part of the country, however, was divided into two separate parts, Wallonia and the Brussels-Capital area. Brussels, where over 85% of the inhabitants speak French as their first language, is a linguistic island surrounded by Dutch speakers.

As a result of these asymmetries, Flemish autonomy took a different path than the autonomy of the French-speaking areas. Almost immediately following the Second State Reform, the Flemish Community and Region merged into a single government. In the French-speaking part of the country, the region and community remained separate.

The Third State Reform of 1988-1989 established the Brussels-Capital area as a third, separate region. Until this time, the inhabitants of Brussels had not belonged to a region. Additionally, the Third State Reform increased the powers of all of the communities by giving them competence in education (a person-based competence) and increased the powers of the regions by giving them competence transport and public works (a territory-based competence).

The Fourth State Reform of 1993 fundamentally changed the Belgian state into its present federal form which is unique in the world. The first clause of the first article of the Belgian constitution had formerly provided that “Belgium is divided into provinces.” This clause was amended to state that “Belgium is a federal state which consists of communities and regions.” For the first time, all of the members of the regional and community legislatures were democratically elected. The Fourth State Reform established a principle of equality between the national government and the governments of the communities and regions. The national, regional, and community governments each had sole jurisdiction over areas of government that had been allocated to them. There was supposed to be no overlap in functions, although there

could be differing opinions as to which governmental unit exercised competence over a particular program. This is in contrast to a federal system such as that of the United States, in which different levels of government (national, state, and local) may all have the power to enact laws in the same subject areas (for example, education), and there is a hierarchy of powers between the different levels of government, with the federal judiciary having the power to overturn state that conflict with federal statutes or violate the federal constitution.

The entire Belgian federal structure has been described as a “consociational democracy.” In this form of government, “sharing power between segmental elites, instead of excluding minorities from power, is what turns centrifugal forces into constructive forces for democratic stability” (Romainville 233). There are some limits, however, on the political equality generally enjoyed by the regions and communities. Under the so-called “alarm bell procedure,” decision-making authority is transferred to the national Council of Ministers “whenever a linguistic group of the Federal Parliament or of the Parliament of the Brussels-Capital region considers that its rights are or will be infringed” (Romainville 233).

There are frequently uncertainties as to which Belgian governmental unit has control over a particular governmental program. These issues of jurisdiction are usually resolved through inter-governmental conferences. A variety of bodies have been established to conduct these inter-governmental gatherings. The “Consultation Committee” includes the Belgian Prime Minister and the Minister Presidents of the regions and communities. There are also working groups in specific areas, for example, a working group for European affairs (Crickemans 8). A National Court of Arbitration can annul legislation that violates the division of powers, and a

Council of State “advises on the constitutionality of legislation and can rule administrative acts unconstitutional” (“Division of Powers Belgium”).<sup>26</sup>

Since the Fourth State Reform, the powers of the regional and community governments have extended to foreign affairs. The legal principle applicable here is “*in foro interno, in foro externo*.” This means that “if a Belgian regional government is competent internally for a material domain, then it also automatically becomes competent externally” (Criekemans 2). Under the principle of *in foro interno, in foro externo*, the Belgian regions and communities have the ability to “send their own diplomatic representatives and to conclude international treaties with third parties” (Criekemans 2). Examples of such international diplomacy are the treaties that Flanders has entered into with Poland, Hungary and the Baltic States (Criekemans 20). When a foreign policy issue affects the competences of more than one government, the affected governments need to reach agreement on their joint position (Criekemans 6).

The Fifth State Reform was enacted in 2001. Among its many provisions, this reform transferred additional powers to the regions including those concerning agriculture, fisheries, foreign trade, auditing of financing expenses and supplementary financing of the political parties. The reform also granted the regions the authority to levy a small surcharge or allow a small deduction on federal income taxes (Swendon 8).

*Flemish autonomy since the Lisbon treaty:* The expansion of Flemish autonomy continued with the Sixth State Reform of 2012-2014. This reform substantially increased the

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<sup>26</sup> To add to the complexity of the Belgian federal system, there are provinces and communes whose powers are described by the Belgian government as “extensive.” According to the Belgian government, “[i]n theory, a commune can do anything that it is not prohibited from doing...[the communes] are mainly charged with the police forces, maintaining the registers of births, deaths and marriages, plus the registers of the population” (“The powers of the communes”). The provinces “have devised initiatives in the fields of education, social and cultural infrastructures, preventive medicine and social policy. They also deal with the environment, highways and waterways, the economy, transport, public works, housing, use of official languages, etc.”. The provinces exercise their authority under the supervision of a community, region, or the national government, depending on the area of governance (“The powers of the provinces”).

fiscal ability of the regions. Until the enactment of this latest reform, the Belgian fiscal system financed the regions and communities in the following way: The regions and communities were not limited by the national government in their expenditures (“Division of Powers Belgium”). Financing for the regional and community governments came mainly from the national government. Regions and communities received a share of personal income tax revenues. The total pool of personal tax revenues available to the regions was indexed from a 1989 base figure according to inflation and economic growth (Spahn 9). The amount of money which each region and community received from the pool was proportional to the personal income taxes collected from that region or community (Spahn 8). In addition, the national government paid an “equalization grant” to the poorer regions (Spahn 9-10).

The regions also had the ability to collect certain taxes other than income taxes. These included property taxes, taxes on amusement devices and gambling, motor vehicle taxes and registration fees (Spahn 13). It was estimated that as of 2003, the taxes raised by the regions themselves amounted to only 10 to 15 percent of their expenditures (Swendon 8).

Besides their receipt of a share of the personal income tax, the communities also received a share of value-added tax (VAT) revenues. The amount of VAT money that each community region received was based on the resident population of school age (Spahn 15).

The Sixth State Reform left the above system in place but increased the fiscal ability of the regions by allowing them to levy unlimited surcharges on the personal income tax. Additionally, a region could increase or decrease the basic tax rate on the taxes used to finance the region’s competences. The regional surcharges and tax increases allowed by this new law became the “regional personal income tax” that had not existed before (Goossens and Cannoot E-42).

Under the Sixth State Reform there was also a significant transfer of substantive governmental powers to the regions. Important portions of labor market policy and road safety were transferred to the regions, and tourism was almost entirely transferred to them (Goossens and Cannoot E-45).

The communities did not receive increased fiscal ability under the Sixth State Reform but they received new substantive powers in the areas of family benefits, care for the elderly and health care (Goossens and Cannoot E-42). Both the regions and communities became responsible to pay a greater share of pension costs beginning in 2016. Their contributions for the public financing of the State and the cost of caring for the elderly also increased (Goossens and Cannoot E-45).

The Sixth State Reform increased the proportional share of regional and community government expenditures. Before the Sixth State reform, it was estimated that regional and community expenditures, taken together, amounted to 28% of total government expenditures among all Belgian government units (this total includes the expenditures of the national government, communes and provinces, as well as the regions and communities). Once the Sixth State Reform took full effect in 2015, it was estimated that regional and community expenditures, taken together, amounted to over 30% of total expenditures (“Division of Powers Belgium”). “Revenue autonomy” is defined as a governmental unit’s own revenues compared to the total revenues available. The Belgian regions’ revenue autonomy is now estimated at approximately 25 percent. This is a considerable increase from the 10 to 15 percent revenue autonomy that was estimated in 2003 (“Division of Powers Belgium”).

After the Sixth State Reform, “[t]he Flemish budget has now indeed become larger than the federal budget, if one does not take into account the federal power and budget concerning social security” (Goossens and Cannoot E-45).

The extensive devolution of powers to the regions and communities<sup>27</sup> has forced the national government, regions, and communities to cooperate closely in what has become a fragmented power structure in which “[t]he transfers of powers are very detailed and often include exceptions” (Goossens and Cannoot E-45).

Despite the extensive powers devolved to the combined Flemish regional and community government, there exists substantial popular support in Flanders for complete separation from the Belgian state. There are two Flemish political parties seeking regional independence. The smaller of these in terms of its support is Vlaams Belang, a party with fascist roots but which now describes itself as “a nationalist party on the right committed to achieving independence for Flanders with Brussels as its capital” (Erk 494).<sup>28</sup>

The New Flemish Alliance (Nieuw Vlaamse Alliantie or N-VA) has been described as a “nationalist, conservative, and separatist political movement striving for an independent Flemish state” (Rosetti). It is considered a more moderate party than Vlaams Belang. N-VA is currently the largest party in the Flemish Parliament, holding 43 out of 124 parliamentary seats. In the Flanders elections of 2014, N-VA received 31.88% of the vote (Maly 266). This high vote total

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<sup>27</sup> The powers still reserved to the national government after the Sixth State Reform consist of: [T]he judicial system, the army, the federal police, social security and the important laws in the field of social security (unemployment, pensions, child benefit, health insurance), public debt, monetary policy, prices and incomes policy, protection of savings, nuclear energy, State-owned companies (such as Belgian Railways, the Post Office), the federal scientific and cultural institutions, etc. Furthermore, the Federal State is responsible for the obligations of Belgium and its federalised institutions towards the EU or NATO. (“The Federal Government’s powers”).

<sup>28</sup> Vlaams Belang is the successor party to Vlaams Blok, which disbanded in 2004 after the Court of Cassation ruled that it stood in violation of the law against racism (Erk 494). Vlaams Belang currently holds 6 seats in the 124-member Flemish Parliament.

shows that despite Flanders' very high level of autonomy, there is strong popular support in Flanders for complete separation from the Belgian state. The independence of Flanders from Belgium, however, would require the complete scrapping of all of the elaborate constitutional arrangements that have been developed between Flanders and the national government since 1970 under the six state reforms.

*Flanders in the EU:* At the time of the signing of the Lisbon Treaty, the Kingdom of Belgium issued Declaration 51 in relation to its activities at the EU. This declaration stated that:

The Kingdom of Belgium wishes to make clear that, in accordance with its constitutional law, not only the Chamber of Representatives and Senate of the Federal Parliament but also the parliamentary assemblies of the Communities and the Regions act, in terms of the competences exercised by the Union, as components of the national parliamentary system or chambers of the national Parliament.

Flanders is extensively involved in the EU through the General Representation of Flanders to the EU ("General Representation of the Government of Flanders to the EU"). The Flemish representation at the EU is "in close contact with the European institutions, the members of the Government of Flanders and their staff and the Flemish administration. The Representation also cooperates with the Liaison Agency Flanders-Europe (Vleva), whose mission is to get Flemish civil society and local authorities involved in European matters" ("General Representation of the Government of Flanders to the EU"). One of the EU institutions in which Flanders is actively involved is REGLEG, the group of EU regions with legislative powers (Crickemans 24). The Flemish minister responsible for foreign policy plays a liaison role

by keeping the Flemish Parliament and Government informed about EU developments (“General Representation of the Government of Flanders to the EU”).

To service its extensive EU activities, Flanders has a large permanent EU staff. In addition to a General Representative and Deputy General Representative of the Government of Flanders, there is a General Economic Representative and 19 specialized policy officers (“General Representation of the Government of Flanders to the EU”).

In its dealings with the EU, Belgium applies the principle of *in foro interno, in foro externo*. Communities and regions have the same competences at the EU as they do internally. As explained by the government of Flanders:

Since the Maastricht Treaty (1992), it is possible – partly because Belgium and Flanders insisted – for Ministers from federated states to represent their Member State in the Council of Ministers. Arrangements regarding the representation of Belgium in the Council are laid down in an internal Belgian cooperation agreement between the different competent authorities. This cooperation agreement sets forth the manner in which Belgian positions in the Council must be adopted, ensures a democratic basis, and establishes a connection between the EU and the Flemish policy levels (“Flanders and the EU”).

The 1994 cooperation agreement breaks down policy areas into six categories with respect to representation in the Council of the EU. In *Category I* policy areas, the federal (national) government has exclusive representation. These areas include foreign affairs, economic and financial affairs, justice and home affairs, budget, telecommunications, civil

protection and consumer protection. In *Category II* policy areas, there is federal representation with an assessor from the “federated entities” (regions and communities) providing assistance. These include transport, energy, domestic market, employment and social affairs, and public health. In *Category III* policy areas, there is “empowerment of the federated entities with a federal assessor.” These include industry, research, and the environment. In *Category IV* policy areas, there is exclusive representation of the federated entities. These include culture and audio-visual affairs, education, youth, sport, tourism, spatial planning, housing, and regional policy. The *Category V* policy area of fisheries is exclusively represented by Flanders. In *Category VI*, which applies only to agriculture, there is federal representation with assistance from the regions. Except in agriculture, the regional and community representatives to the EU serve on a rotating basis. A representative from a particular region or community represents all of the regions or communities in a particular policy area for six months and is then replaced by a representative from another region or community. The representatives express the unified regional or community position on the issue as it has been previously negotiated (“Coordination of the European Policy and the Representation of Belgium”).

The specific policy issues before the EU to which the government of Flanders assigns priority are the following:

- Brexit;
- EU agenda for implementing the United Nations’ Sustainable Development Goals;
- European semester (“[aligning] the fiscal, macroeconomic and socio-economic policies (Europe 2020) of the EU member states);
- Multiannual financial framework for the period 2021-2027;
- European Trade Agreements; and

- Minimum quality requirements for reused water

(“General Representation of the Government of Flanders to the EU”).

What all of these priority issues have in common is that they have a major impact on the economy and quality of life in Flanders, while also being issues of concern to all of Europe. With respect to the key EU issue of Brexit, for example, the Flemish government points out that “the impact of Brexit on Flanders will be significant” (“General Representation of the Government of Flanders to the EU”). The Flemish government says of its involvement in European affairs that:

In order to help shape ...European policy cooperation, we require a strong European awareness throughout the Flemish administration. Only then, Flanders will be able to have an impact on the EU agenda...a strong Flanders in a strong Europe....that is our mission, because a strong EU and a solid economic base are vital to protect the prosperity and welfare of all (“General Representation of the Government of Flanders to the EU”).

In general, the government of Flanders views its diplomatic efforts within the EU as an indispensable part of a continuing devolution of national governmental powers to the region.

According to the Flemish government:

Almost every European decision has either a direct or indirect impact on Flemish citizens. This continues to grow as a direct result of the ongoing devolution of political power from the federal state to the regions and communities of Belgium. Monitoring and influencing European decisions are key to the future of the region

(“General Representation of the Government of Flanders to the EU”).

What the above statement does not mention is that active EU involvement by Flanders is necessary to allow Flanders to continue to influence competences that have been transferred through EU legislation to the European level. Notable among these competences are those relating to the environment and agriculture that the Belgian nation state has devolved to the regions. Thus, Flanders’ active involvement in EU affairs serves in part as a defensive measure to limit reductions in the scope of its autonomy caused by Europeanization.

Beyers and Bursens argue that the need for the regions and communities to reach a coordinated position on policy issues before the Council of the EU gives the national government an important “gatekeeper” function. According to these authors, “the most important body in the coordination process is the Directorate European Affairs (DEA) within the federal [national] Ministry for Foreign Affairs...[i]n sum, the 1994 Cooperation Agreement makes the federal Ministry for Foreign Affairs a crucial player, because it is the central arena for coordination meetings and because all meetings are prepared and chaired by federal administrative and political officials.” Thus, Flanders’ diplomatic efforts in the EU may have the double effect of not only helping to strengthen the region’s autonomy but also conferring a new and important role on the national government (Beyers and Bursens 1064-1065).

*Summary:* Through a continuing process of devolution that began in 1970 and has continued since the 2009 Lisbon Treaty, Flanders has transformed from a part of a unified Belgian state into an autonomous region with very extensive autonomy. This devolution has been accomplished through a series of constitutional amendments known as State Reforms that have been enacted by the Belgian Parliament. Under the unique form of Belgian federalism, the

Flemish region and community (which have consolidated into a single government) have sole competence in all areas of governance that have been delegated to them. Most recently, Flanders' fiscal ability has been significantly strengthened by the Sixth State Reform of 2012-2014.

Flanders plays a very active role in EU affairs. Within the Council of the EU, the regions and communities represent the Belgian government in areas within their competences. The Flemish government views its participation in the EU as an important means to preserve and strengthen its autonomy. The transfer of many regional competences to the EU makes Flanders' EU participation essential to avoid a reduction in its policymaking powers in those competences. Flanders prioritizes issues before the EU that will increase its influence in European affairs.

Flanders is thus an example of a region for which the nation state has supported greater autonomy, and which has also worked within EU institutions to strengthen and expand that autonomy. Ruling over a territory whose French and Dutch components had differing interests and had evolved separate political structures even before the national government began to devolve its powers, Belgium has been able to craft a federal system that places its regions and linguistic communities at a level of near-equality to the national government by giving them authority over a large number and variety of competences. Transfers of fiscal ability to the regions have been so significant that regional budgets now exceed those of the national government except for debt repayments. But problems have arisen because of the great complexity of the federal system that has been created. There are frequent uncertainties as to which level of government—national, regional or community—has competence over a particular governmental program or part of a program, and an elaborate system of intergovernmental conferences has evolved to try to resolve these issues when they arise. Despite the ingenuity that has gone into creating the Belgian federal system, the results of the latest election in Flanders

show that parties seeking full national separation remain very strong. These election results indicate that the question of whether Belgium will remain a single nation state or will eventually break into parts has not been resolved. Whether the nation state of Belgium will ultimately support full national separation for Belgium cannot be known from the evidence presented here.

In summary, Flanders is a region for which the nation state has supported progressive increases in autonomy and in which there is extensive activity within EU institutions on behalf of that autonomy.

## CHAPTER 11: DISCUSSION

This comparative case analysis of four autonomous regions within the EU supports H1, which hypothesizes that the success of a regional autonomy movement depends on the position of the nation state towards that autonomy. The analysis contradicts H2, which hypothesizes that the success of a regional autonomy movement depends on activities within the EU in support of that autonomy.

In three of the four regions studied, the national governments have taken consistent positions in supporting or opposing greater autonomy. The Spanish government has continued its opposition to greater autonomy for Catalonia and has consistently refused to grant the region greater fiscal ability since the signing of the Lisbon Treaty. The governments of the United Kingdom and of Belgium, on the other hand, have accepted progressively more expansive autonomy arrangements for Scotland and Flanders, respectively. In the case of Scotland, the United Kingdom's Westminster Parliament has enacted a series of laws beginning in the late 1990s, each of which gives Scotland a greater level of fiscal ability, and has even accepted an independence referendum. Since 1970, Belgium has transformed itself from a unitary to a federal state, and the Flanders region and community, which have unified as a single government, have gained one of the most extensive autonomies in the world with extensive primary competences in widespread areas of governance and the ability to enter into international treaties and represent Belgium before international bodies such as the EU when those competences are addressed.

The one region studied where the attitude of the nation state towards greater regional autonomy appears to have changed is Åland. Before 2009, the Finnish Parliament enacted successive statutes of autonomy that gave progressively greater autonomy to the region. But since 2009, the beginning date for evidence collected in this study, Finland has opposed further

expansion of Åland's autonomy. This sequence of events shows that the stronger EU that emerged after the Lisbon Treaty has not facilitated greater regional autonomy for Åland.

With reference to the typology matrix in the hypothesis section above, Flanders and Scotland, the two regions where autonomy movements have succeeded under the criteria developed in this thesis, lie in the two upper boxes. Catalonia and Åland, the two regions where autonomy movements have not been successful, lie in the two lower boxes. This placement is consistent with H1, as the upper boxes represent regions where the nation state supports autonomy movements and the lower boxes represent regions where the nation state opposes them. The placement is inconsistent with H2, however. The left boxes indicate regions where EU activity takes place on behalf of an autonomy movement. In the upper left box (Flanders), the autonomy movement has succeeded and in the lower left box (Catalonia) it has not succeeded. The right boxes indicate regions where there has not been EU activity on behalf of an autonomy movement. In the upper right box (Scotland), the autonomy movement has succeeded and in the lower right box (Åland), it has not succeeded.

The historical approach used in comparing these four regions makes possible a more confident analysis as to a national government's position towards regional autonomy because it is based on the pattern of actions of the national government over time. Such confidence would not be achieved if particular decisions of the national government were analyzed outside of any historical context, as it would then not be possible to determine whether the particular evidence selected, taken out of any context, were representative of the totality of the national government's position. When, however, a wide variety of governmentally based evidence leads to the conclusion that a national government has acted in a consistent fashion towards an autonomy

movement over a sweep of many years, a much higher level of certainty can be reached on this issue.

This value of such an historically based approach applies even in relation to Finland and Åland, where two historical intervals can be distinguished, one period lasting from the 1950s until at least the early 1990s, when the Finnish government was willing to grant greater autonomy to the region, and the last decade in which Finland has appeared to reverse its position. During this last period, Finland has taken a consistent position against granting greater autonomy that is reflected in the evidence presented here.

With respect to EU activities on behalf of a region's autonomy, the focus here has been on detail, concentrating on specific actions of the regional governments in Brussels both within and outside the EU institutions. Listings of these activities were deemed to be an effective way of determining whether the region had a paradiplomatic strategy of using its participation within the EU to promote its autonomy. In addition, actions of EU institutions and officials relating to a regional autonomy were considered where they existed. In the case of Catalonia, these actions consisted of condemnations of the national separation movement by top EU officials. In the case of Flanders, the Flemish government directly participated in the consideration of legislation by the Council of the EU that had an impact on Flanders' complicated autonomy scheme. For Åland and Scotland, there were no such EU actions to report.

Using the methods of analysis employed in the present study, it has been possible to conclude that for the regions studied, the critical factors in determining whether the region succeeds in strengthening its autonomy are the actions of the respective national governments rather than activities within the EU. The contrasting examples of Catalonia and Flanders indicate that EU participation is not a determining factor for the success of an autonomy movement. Both

Catalonia and Flanders have vigorously participated in EU activities but with completely different results. Within EU bodies, Catalonia has sought to assert its status as a region that should be deemed as a separate national entity with its own interest and standing apart from Spain. The Spanish state, however, has not lessened its total opposition to greater Catalanian autonomy in response to these Catalanian paradiplomatic efforts and top EU officials have shown a total lack of support for Catalonia's efforts towards national separation.

Flanders has likewise used EU institutions to seek to develop its autonomy. In areas where Flanders holds national competence, Flanders is entitled to represent the Belgian state in the Council of the EU with the prior consultation of the other Belgian regions and communities. The Flemish government states that its activities in the Council have the goal of monitoring and influencing EU decisions and policies so that they coordinate with the region's increasingly devolved powers. Flanders can achieve these results in the Council because it has the full support and coordination of the nation state that is actually written into Belgium's constitution as it has been amended.

In both Catalonia and Flanders, there is no indication based on the evidence compiled that EU activity has had any impact on the consistent, long-term position of the nation state either for or against increased regional autonomy. This is a surprising conclusion for two reasons. First, the EU's well developed, three-tier structure gives an institutional voice to regions that could be expected to influence the policies of nations that are EU members. Second, the transfer of a large number of competences away from the national level to the European level can reasonably lead one to expect a growth in EU influence at the expense of national governments. But the evidence compiled here indicates that with regard to autonomy issues, Europe basically still functions as it did in the era of nation states before the emergence of the

EU as a supra-national body. As a practical matter, autonomy movements therefore can be most effective by focusing their efforts at the national rather than at the EU level.

In the two regions studied that have not made use of EU institutions to promote their autonomies, the position of the nation state again is shown to be the critical factor in determining whether the level of autonomy increases. As already noted, since at least the time of the signing of the Lisbon Treaty, the position of the Finnish government towards the granting of increased autonomous powers to Åland has changed from one of support to one of opposition. Åland has not raised the issue of its autonomy within EU bodies nor has the EU considered this matter on its own. The change in position of the Finnish government concerning Åland's autonomous status was one taken entirely at the national level.

Scotland, likewise, has not attempted to use the EU to influence the policy of the United Kingdom with respect to its autonomy but has nevertheless succeeded in vastly increasing the scope its autonomous powers. The United Kingdom's consistent support for extensive devolution of powers to Scotland has been taken entirely apart from any EU involvement.

The results of the present study have important policy implications. It has been hypothesized that under the EU's system of three-tier federalism, national competences that have been transferred to the European level are weakening the importance of the nation state. If this proposition is true, it would be expected that activities within the EU institutions on behalf of a regional autonomy will correlate with more favorable decisions by the national government on behalf of granting increased economy. Likewise, it would be expected that a failure of a region to seek to influence EU institutions on behalf of its autonomy would correlate with a more resistant attitude on the part of the nation state toward greater autonomy, as there then would be no

outside European pressures to drive the national government to attempt to resolve autonomy disputes.

The present study gives no support to these expectations and in fact indicates the opposite, namely, that the position of the nation states towards an expansion of regional autonomy is the sole determining factor for whether the regional autonomy increases. This shows a deficiency in the effectiveness of the EU's three-tier system as it currently functions that can have serious negative repercussions. Autonomy movements have attained significance throughout Europe and, as in Catalonia, have the potential to develop into situations of confrontation and even violence. The EU's current failure to successfully address autonomy issues within member nations thus demonstrates fundamental weakness in an important area of governance that is an important part of "creating an ever closer union among the peoples of Europe" as stated in Article 1 TEU.

Four regions have been examined here where issues relating to autonomy have gained widespread attention in Europe and beyond. To strengthen confidence in the results found in this study, the scope of the study could be expanded to include many more of the regions of Europe that are seeking expanded autonomy from their nation states. The way autonomy is defined in the present study encompasses every level of devolution of national powers. Regions whose legislative councils have very limited legislative authority and fiscal ability fall within the category of autonomous region, as do regions that are on the threshold of national independence. Any increase in even the most limited autonomy, for example, a slight expansion of the very limited self-governing powers of a regional council, fall within this definition. The definition of autonomy used here could thus be used to examine all of the diverse autonomies of Europe using the same typology applied in the present study.

It is predicted that such further studies will yield similar results to those arrived at here as long as the leadership of the EU continues to view the EU as a treaty of nation states rather than a government of European citizens. As long as such a viewpoint persists, the EU will not deem it appropriate to intervene in the internal affairs of a nation state on behalf of a region's autonomy efforts. Paradiplomatic efforts by regions within EU institutions will be countered by an attitude among top EU officials that questions of regional autonomy should be left strictly within the domain of nation states.

In particular, the statements of EU officials in absolute opposition to the Catalanian independence referendum indicate that these officials still consider the EU as a treaty of nations, with the EU always supporting the positions of national governments and lacking authority to alter regional relations within each sovereign nation state. Under this concept of the EU, the EU cannot be expected to become deeply involved in contested autonomy issues, and the paradiplomatic efforts of regions within the EU can be expected to have little influence on the decisions of the national governments to grant or withhold greater autonomy.

The results of the present study offer many possibilities for additional research. The analysis of the four autonomies examined in this thesis can be extended into later time frames to see if the conclusions reached here remain valid. Concerning a region's paradiplomatic activities within the EU, the detail of analysis could be increased by focusing on regional diplomacy within particular EU institutions, for example, the Committee of the Regions or committees of the European Parliament.

The specific actions of regional delegations within the different political parties of European Parliament could also be considered. This type of analysis would be particularly valuable in situations where EU activity is shown to influence national policy. Based on these

results of research studies that show which particular types of EU activities are effective in this regard, regional paradiplomatic delegations could focus their efforts on promoting these activities. Additional empirical guidance for specific policy choices could be provided by quantitative studies, as described in the methodology section above, that used as variables selected aspects of the actions of nation states and of EU activities.

The methodology used in the present study could actually be used to test whether the concept of a Europe of citizens is strengthening within the EU. If the EU evolves into a truly effective three-tier system where national and regional interests are given equal consideration, then the concept of a Europe of citizens would stand on a much firmer footing. Regions could make the argument that the democratic choice of European citizens should include the ability of regional citizens to vote to strengthen their autonomies. Should the EU evolve in such a manner, it can be expected that future studies on this topic will show that activities within the EU can influence the policies of national governments towards the scope of their autonomies.

## CHAPTER 12: CONCLUSION

The present thesis is an effort to use empirical evidence to determine the relative importance of national governments and the EU in influencing changes in regional autonomies. It provides an initial empirical answer to the question of whether the actions of nation states or of the EU are key to determining whether a region seeking greater autonomy will succeed in its goals. Throughout history, issues of autonomy were decided entirely between nation states and their component regions. But the transfer of extensive governmental competences from the national to the European level particularly since the time of the Lisbon Treaty, and the emergence of a three-tiered system of federalism that includes the EU and its member nation states as well as subnational entities, raises the possibility that the EU's supranational institutions can play a constructive role in resolving regional autonomy disputes. This possibility has been explored empirically in the present study using a qualitative analysis that compared four regional autonomy movements.

A theoretical hurdle in this analysis was to develop a definition of autonomy that was readily measurable and provided an accurate indicator of changes in a region's autonomous status. There are a vast range of governmental competences that can be considered in making evaluations of the levels of regional autonomies, but the common thread in all of them is that they are dependent for their exercise on the possession of budgetary control. With this insight in mind, two definitions of primary importance to the present analysis have been developed, those of "independent fiscal ability" and "real autonomy." "Independent fiscal ability" is defined deemed as the capacity of a regional government to implement a governmental program that it has enacted into law, achieved either through its regional taxing authority, automatic transfers of funds from the national government, or a combination of these two. "Real autonomy" has been

defined as the possession of independent fiscal ability. Increases in independent fiscal ability translate into increases in real autonomy. Using these terms, changes in autonomy can be measured and compared across regions. Furthermore, this measurement of real autonomy encompasses all levels of autonomy, from strictly limited powers within a regional governing council to complete separation from a nation state, and thus can be applied not only to the four case studies presented here but also generally to all autonomy movements within the EU.

To determine the respective impacts of national governments and the EU in determining the success of regional autonomy movements, two alternative hypotheses have been developed. Under the first hypothesis, increases in the real autonomy of a region are dependent on actions of the national government. Under the second alternative hypothesis, increases in a region's real autonomy are dependent on activity within the EU, a term that has been defined to include both a region's own activities to promote its autonomy within EU institutions and the actions of the EU institutions themselves in support of greater autonomy for the region.

To test these alternative hypotheses, four case studies have been undertaken. Together, these case studies cover every possible situation under the above two hypothesis. In the first situation, exemplified by Åland, the national government has opposed greater autonomy and there has been no activity within the EU on behalf of that autonomy. In the second situation, exemplified by Catalonia, the national government has also opposed greater autonomy but there has been activity within the EU on behalf of that autonomy. In the third situation, exemplified by Scotland, the national government has supported greater autonomy but there has been no activity within the EU in support of greater autonomy. Finally, in the fourth situation, exemplified by Flanders, the national government supported greater autonomy and there has been activity within the EU in support of an increase in autonomy.

In all four of the case studies, it has been found that the actions of the national government have been the sole determining factor whether a region achieves increased real autonomy, and that the actions of a region to promote its autonomy within EU institutions have not influenced the outcome. The opposition of the national government of Finland toward greater autonomy for Åland, and the opposition of the national Spanish government towards greater Catalanian autonomy have coincided with a failure of both these regions to increase the level of their real autonomy since the time of the Lisbon Treaty. The end result has been the same in both regions even though Åland has not promoted its desire for greater autonomy within the EU and Catalonia is diligently working within EU institutions to gain European support of its bid for national separation.

Likewise, the support of the government of the United Kingdom for greater Scottish autonomy and that of the Belgian government for enhanced Flemish autonomy has coincided with increased real autonomy for both of these regions. Very high levels of autonomy have been achieved in both regions despite their contrasting positions within the EU, as the Scottish government has not promoted its autonomy within the EU and the government of Flanders considers its EU representation to be an integral part of the ongoing process of the devolution of its regional powers from the Belgian state.

The use of historical evidence from a broad range of governmental sources increases confidence in the consistency and strength of its conclusions. The methodology used in this study could be applied to other autonomous movements throughout Europe. These additional studies would serve to confirm or refute the present results. Future research also could apply a more detailed, quantitative approach by selecting specific indicators of independent fiscal activity within specific areas of governance and of specific types of activity within EU

institutions that can be numerically compared. These more detailed quantitative studies could potentially provide predictive models of the effects of specific policy choices by national and regional governments as well as EU institutions..

Ultimately, the results of the present research study, and of future studies that it inspires, tie back to fundamental issues about the nature of the EU. If the EU's leadership continues to view the EU as merely a union of states possessing only those powers specifically granted by treaty, then national governments will continue to have control over the success or failure of regional autonomy movements. This is so because the EU will not consider it a proper role to intervene in internal national affairs. If, however, the EU begins to be perceived as a union based on a common European citizenship, regional interests will be increasingly viewed as coming within its jurisdiction. With citizenship as the basis of the EU, the interests of nations will no longer automatically be considered to have precedence over those of regions. A true three-tier system will emerge in which the EU will play a key role in balancing the interests of nations, regions and individual citizens. Research studies such as the present one, which evaluate the comparative roles of nation states and the EU in affecting the course of autonomy movements, can be used as indicators of whether such an evolution in the basic conception of the EU is taking place.

Recent developments in Catalonia are a warning that issues of autonomy have the potential to lead to violence when a national government refuses to devolve its powers against the will of the people of a region. As long as decisions as to the extent of autonomy rest entirely with the nation states, this possibility of violence will persist. Only a genuinely three-tiered EU governance, founded on the rights of its citizens and accepting a principle of regional self-determination, can guarantee that Europe will not violently break up along its regional lines.

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