

THOUGHTS ON THE REGIONALIZATION PROCESS IN COMPARATIVE LAW

CLAUDIA GILIA*
ADRIAN ȚUȚUIANU**

Abstract

Regionalization is a complex and smooth process in terms of territorial organization of the states which chose this form of organization, but also from the perspective of how the regional systems understood to exercise their competences. The regionalization process did not only yield profit for the inhabitants of those administrative entities, but it also caused problems to national governors (e.g. demands for the federalization of the state in question, proposals to gain independence from the state they are part of, issues related to state security – terrorists attacks etc.).

Our paper shall conduct an assessment over two states which chose this form of regionalization: The United Kingdom of Great Britain and North Ireland and Spain. Given the context of the upcoming constitutional and legislative changes envisaged by the Romanian government, we consider that our research can be regarded as a useful tool, designed to develop certain constitutional directives, which are intended to acquire the best solutions from European experiences.

Keywords: regionalization, state, devolution, administrative reform, tasks

Introduction

The aim of our study is to analyze the administrative-territorial organization systems within two regional states, that is UK and Spain, as well as the problems they have to face given the independence actions coming from some local entities.

The following paper is relevant because it displays an interdisciplinary approach on the regionalization issue. It also highlights the recent course of the transition to independence process in those two countries. In this paper, we used both the analytical and comparative approach in our attempt to provide quality and relevant information for the researched area.

In our study, we stressed the fact that the initiatives took by Scotland and Catalonia in their search of independence represent constitutional challenges of high importance not only for the central governments, but also for the European Union, who would face a new political and judicial situation in case the citizens in these two regions will share a positive vote during the referendums in 2014.

The study also manifests interest from the perspective of the upcoming administrative reform in Romania, because the political decision-makers must take into consideration the administrative-organizational role models in the states that chose regionalization, and also to pay attention to the risks of a strong regionalization, that may lead either to state federalization or recession.

1. How regionalism is reflected in the organization of the United Kingdom and Spain

Regionalism – is associated with a geographical, political, administrative, linguistic and spiritual situation, with roots in the history of development of a unitary state. Due to this situation, the unitary state chooses to merge the sovereign attributes of a centralized administration with the

* Associate Professor, Ph.D., Faculty of Law and Political Sciences, “Valahia” University of Targoviste (claudiagilia@yahoo.fr).

** Lecturer, Ph.D., Faculty of Law and Political Sciences, “Valahia” University of Targoviste (adrian.tutuianu65@yahoo.com).

assignment of a large autonomy over some regional collectivities¹. A type of regionalism is political regionalism. Regionalism becomes political when the competences of a region transcend those of an average administrative district with local autonomy. A territorial-administrative area provided with political regionalism holds the prerogative of self-government within a preset constitutional frame.

Concerning the local administration in the United Kingdom, its modern structure dates back to the 19th century, and to a large extent is the result of the new conditions triggered by the industrial and agricultural revolutions. The United Kingdom is a unitary regional state that acknowledges the existence of four regional nations across its territory: England, Scotland, Wales and Northern Ireland. All these nations have their own decentralized institutions and dispose of important political and administrative tools. Despite its name, the United Kingdom of Great Britain and Northern Ireland have always cherished diversity.

Terms such as: “United Kingdom”, “Great Britain” or “England” are often used as synonyms. But the term “United Kingdom” marks the whole territory of the Kingdom, while “Great Britain” stands for the island which integrates England, Wales and Scotland. England and Wales were politically united in 1536. In 1707, the Act of Union led to the creation of Great Britain. In 1801, there was the Union of Great Britain and Ireland under the official name of the United Kingdom of Great Britain and Ireland. In 1922, the Republic of Ireland becomes an independent state, thus leading to the United Kingdom of Great Britain and Northern Ireland².

Up until May 1997, Great Britain didn't have a decentralized regional level. There was a state secretary in charge with the issues of Welsh, Scottish and Irish men. But soon as the labourist Tony Blair became the head of the Government, decentralization blossomed into a reeling process, at the same time with other major political events: the reform of the House of Lords, the suspension and restoration of the Northern Ireland Assembly, the agreement of the Treaty of Nice³.

Decentralization of authority means, on one hand, devolution of the state central authority at regional level by means of developing local parliaments and governments, endowed with real legislative and executive competences, thus the assignment of responsibilities won't be an easy task. On the other hand, decentralization of authority means administrative decentralization, in the truest sense of the word, by the reestablishment of the local councils and the election of mayors in each town and city, London included⁴.

Through *British devolution*, the state actually redefined its policy, administration, economy, while the autonomy of Welsh, Scottish and Irish people led to an unusual regionalization, but highly effective⁵.

One specific thing for the United Kingdom is the regulations concerning the local territorial collectivities which differ from one region to another. Other differences occur when talking about the territorial-administrative organization of these regions⁶.

In UK, the government system is *unitary*, meaning that sovereignty consists only of one central government. Being elected by the Parliament, the Central Government has a constitutional authority at the highest level, so the local government body rather acts like an agent of the central government. Local authorities are supposed to get involve only in activities up to their competences and they have to carry out only those tasks they are being charged with. Their authority is assigned through statutes or the General Act which is applied to all local authorities. Their competences can also be established by in-house acts, of local interest, that can be applied only to individuals or

¹ Cristian Ionescu, *Tratat de drept constituțional contemporan*, Second edition, (Bucharest: C.H. Beck Publishing House, 2008), 138.

² Frederique Roux, *La devolution en Grande Bretagne*, (Paris: Dalloz, 2009), 1.

³ Check the website: <http://www.open.gov.uk>, accessed March 11, 2013.

⁴ Ioan Alexandru, Claudia Gilia, Ivan Vasile Ivanoff, *Sisteme politico-administrative europene*, Second edition, (Bucharest: Hamangiu Publishing House, 2008), 453.

⁵ For further details, please check: <http://www.open.gov.uk>, accessed March 11, 2013.

⁶ Liviu Coman Kund, *Sisteme administrative europene*, (Sibiu: „Tribuna” Publishing House, 2003), 112.

groups of individual authorities. Local authorities mainly consist of councils elected over a three years term of office, of which one third is annually reelected. Local councils must get together at least four times a year, but the number of meetings is usually higher. Local authorities are free to close their own agreements concerning the management of local problems. The cost control is exercised by the whole council, but there is also a professional control, exercised by the Finance and Treasury Board. At the fiscal year-end, the account control is carried out by the District Auditor, appointed by the Central Government. British specialists in political sciences notice there is a low interest in local elections and notes that the structure of the local system of administration is outdated because there are a lot of small authorities which develop light connections with modern economic and social units⁷. The evolution of the British local public administration is a historical process because well-organized local collectivities came in sight before the emergence of the central system. This explains why local government in England blossomed, especially after World War II, although there have been signs of reform inside this sector ever since 1834.

In the United Kingdom of Great Britain and Northern Ireland, the reforms that had been done over the century led to a slight connection between the citizens and the local structures. These local structures are perceived rather as a cluster of public services than certain elements of local democracy⁸. Despite having lots of debates over the upgrading of local administration, there haven't been drafted yet new organizational forms at local level designed to replace the already existing ones⁹.

Devolution has been defined as “*an appointment of certain administrative responsibilities from central authority towards local authority, for the benefit of the elected representatives by the citizens of this province*”. Prime Minister Tony Blair considered the aim of the devolution process was to reinforce the state, not to undermine it. Devolution was a key element for the upgrading program of the constitutional system during the election campaign of the Labour Party led by Tony Blair. After winning the elections in September 1997, Tony Blair applied the program introduced during the campaign, holding referendums in Scotland and Wales. The laws regarding devolution have been voted by the Parliament in 1998 and the first elections for the Scottish and Welsh Parliament were held in 1999 for the first time. Devolution stood as a radical constitutional reform which led to a brand new form of government in the United Kingdom¹⁰. We are talking about the national entities who acknowledged the right to take part in the process of exercising authority on a free basis. Devolution thus created new constitutional relationships between different parts of the United Kingdom, looking pretty much alike those between member states of a federation. Devolution triggered a new balance between central and local authority. The first feature of devolution was its distinctiveness adapted to each nation. According to Tony Blair, Scotland was a proud historical *nation* of the United Kingdom, while Wales was appointed as a *region*.

Devolutive process has its own history. Wales, Scotland and Ireland have been gradually reunited with England, so that these three countries gave up their local parliaments by means of conventions which yet granted a remarkable autonomy of civil societies. This explains to a large extent the characteristics of the present judicial and educational system in Scotland, diversity of religion in Ireland, or the survival of dialects in almost all regions. Up until 70's, Great Britain acted as a strongly centralized state, that hardly appointed an Office for Scotland and one for Wales. But due to riots in Northern Ireland, its autonomy has been completely removed and the country was governed from London. In the early 80's, some reforms were made, but the conservative

⁷ Ioan Alexandru, Claudia Gilia, Ivan Vasile Ivanoff, *Sisteme*, 453.

⁸ Dana Apostol Tofan, *Instituții administrative europene*, (Bucharest: C.H. Beck Publishing House, 2006), 135.

⁹ Ioan Alexandru, Claudia Gilia, Ivan Vasile Ivanoff, *Sisteme*, 454.

¹⁰ Except the Irish experience between 1921 and 1972. The Southern part of Ireland, following the succession in 1922, became the independent state of Ireland and adopted in 1937 the name of Republic of Ireland. The United Kingdom officially acknowledged the status as an independent republic through the Ireland Act in 1949.

governments at that time promised to appoint only a relative autonomy to historical regions of Great Britain. It was only back in late 90's when the first steps towards a genuine decentralization are taken, but in a different way in each province.

The legislative framework of devolution was regulated by the following documents:

1. Scotland Act 1998;
2. Government of Wales Act 1998;
3. Northern Ireland Act 1998.

The devolution system is different for each part of the United Kingdom of Great Britain and Northern Ireland. Devolutive process in Northern Ireland is linked with the peace process in this country, and the problems concerning this area triggered the suspension of the Northern Ireland Assembly on four occasions between 1999 and 2002.

In the framework legislation concerning devolution, the British Government clearly stated that the Scottish Parliament, the National Assembly of Wales and the Assembly of Northern Ireland are *subordinate to Westminster Parliament*. The parliaments of these parts of the Kingdom can only enact in the areas they were appointed to by the Parliament of Great Britain. This is the result of a basic principle that governs Great Britain for centuries: *the sovereignty of the Westminster Parliament*.

The Westminster Parliament extends exclusive competences in areas such as:

- constitutional issues;
- foreign policy, defense, the relationship of the United Kingdom with the European Union;
- macro-economic policy and taxes;
- overseas trading;
- labor legislation;
- social insurances;
- broadcasting etc.

When the Parliament issues norms for devolutive authorities, they have to take counsel with them beforehand.

Devolution is no longer just an institutional or organizational change. The new system appoints not only a mere decentralization process within a unitary state. Territorial entities have their own assemblies that hold deliberative authority, an executive body and they are enabled to adopt norms designed to govern people's businesses around those territories. The United Kingdom can be regarded as a *Union of Nations*, each one of them having its own identity and institutions¹¹.

It has been stated in the doctrine that "the Westminster Parliament became a federal parliament"¹² in terms of its organization and structure. Along with the devolutive process, Westminster experienced the extinction of certain areas from its legislative competence. In Scotland, all the areas that made the subject of the Scottish minister's competence are subject of the Scottish Parliament's competence since 1998. In Wales, the primary legislative power hasn't been transferred yet, but the delegated powers exercised before by the state secretary have been transferred to the Welsh National Assembly. Thus the majority of primary legislation that used to govern Scotland and the secondary legislation that used to govern Wales were no longer the responsibility of the Westminster Parliament.

Scotland and Welsh have their own national bodies and legislative and executive ways for self-governance. Although these nations understand to distinguish themselves from the "English partner", they are still members of the British Union and continue to be an integral part of the central decision-making process. Consequently these new relationships that emerged following the process of devolution have to be rearranged inside the multinational Parliament / the Westminster Parliament thus becoming the guardian of the Union.

¹¹ Frederique Roux, *La devolution*, 16.

¹² Frederique Roux, *La devolution*, 124.

As a guardian of the Constitution, the Westminster is the only one or at least the only legitimate one to represent the will of the Union of people or the Scottish, Welsh, Irish and English nation. In order to preserve this role, it has to turn into something else to become the Parliament of a Union that acknowledges territorial diversity of the United Kingdom and to take account of different territorial levels in the process of its reorganization.

Devolution involves redefining the powers of the British Parliament. By adopting the devolution laws in 1998 and the Welsh Act in 2006, the British Parliament has to revise its way of service in order to deal with the consequences that come out of this distribution of powers. From now on, its competences are limited and so is its influence on the Scottish legislation. From this point on, it has to enact in areas that belong to the British or English and/or Welsh resort.

The principle of absolute sovereignty, as it is provided by the laws concerning devolution, empowers the British Parliament to enact laws for Scotland and Wales as it think it proper. Thus the Parliament of Scotland and the National Assembly of Wales, from 2007 on, are able to enact laws in each area that is not intended for the British Parliament. The large diversity and quantity of areas intended for the British Parliament mirrors the power of the Westminster. Divided into two parts, the areas are classified on a tapering basis with respect to their importance. Thus:

Title I – *General reservations* – includes an image of the political responsibilities that are specific to a state. For instance: defense, foreign affairs, British Crown, the succession to the Throne and regency, the Parliament of the United Kingdom, the High Court of Justiciary etc.

Title II – *Specific reservations* – cover particular areas of transferred competences, listed under 11 “heads”: economical, fiscal and budgetary policy, fiscal taxes, control over public expenditures in the United Kingdom, issues related to Bank of England, the energy field, transport, TV and broadcasting rules, the right to work, commercial right, trade, industry, the electoral system regarding the election of the House of Communes, the European parliament.

Although Scotland and Welsh have their own Parliaments, they are still represented by the houses of British Parliament.

On the last elections of 6th of May 2010, the representation of nations in the United Kingdom was as follows:

650 members of the House of Communes ¹³			
England	Scotland	Wales	Northern Ireland
533	59	40	18

Devolution process also led to new relationships between the executives in Scotland, Welsh and the Central Government. Ever since the transfer of competences took place, the ministerial departments were those that kept in touch the devaluated institutions and the Central Government, while their secretaries act as territorial counselor in the British Cabinet. The Scotland Ministers – Scotland Office¹⁴ - and the Welsh – Walles Office¹⁵ - have been created to manage the governmental positions. The state secretaries are agents of the Central Government, in charge with keeping a direct representation bond inside the Scottish and Welsh territories of the Central Government. The Welsh and Scottish secretaries have become guardians and observers of the devolution process.

The United Kingdom has to preserve a common political structure, a common pedestal on which different theories should be grounded on and to preserve a certain political cohesion.

¹³ Further details on: <http://www.parliament.uk/mps-lords-and-offices/mps/>, accessed March 13, 2013.

¹⁴ *Scotland Office* has 50 employees.

¹⁵ Wales Office consists of 48 members. Welsh ministers hold their office in 24 committees. They are in charge with introducing the primary legislation for Wales before the Parliament. As it is known, primary legislation is developed by the Westminster Parliament, and Wales Office is in charge with providing a bond between the British Department, on one hand, and the Welsh National Assembly, on the other hand.

Two governmental institutions have been charged to represent the interest of territories:

1. Joint Ministerial Committees – JMC
2. British/Irish Council

Joint Ministerial Committees – is made of ministers of the British government, Scottish ministers, members of the Cabinet of the Welsh National Assembly and ministers of the Executive Committee of Northern Ireland. The plenary meetings are chaired by the British minister in charge. JMC have been created to solve possible conflicts that may occur during intergovernmental negotiations. JMC convenes under three distinct formats:

1. The administrations meet once a year at least in a plenary meeting with the British Prime Minister, the Vice Prime Minister, the Scottish Prime Minister, a Scottish minister, Welsh Prime Minister, a Welsh minister, Prime Minister of Northern Ireland, Vice Premier and three territorial state secretary.
2. JMC's are also held under a functional form through the meetings between Ministers of Education, Health and Transport as well as the government from Scotland, Welsh and Northern Ireland.
3. Two JMC's have been created in order to put into practice an advice concerning the European matters. They are chaired by the minister of foreign affairs and the *Cabinet Office*¹⁶.

The *Spanish regional state model* has been drafted for the first time in the Constitution of Spain of 1931, as an *integral statute*. The State is organized territorially into *municipalities*, *provinces* and the *Self-governing Communities* (Comunidades Autónomas)¹⁷. All these bodies shall enjoy self-government for the management of their respective interests.

Spanish Constitution recognize and guarantees the right to *self-government of the nationalities and regions of which it is composed and the solidarity among them all*¹⁸.

Each Independent Community enjoys self-governing, having a Legislative Assembly, a Council for Government and a High Court of Justice. The Constitution appoints in each Self-governing Community, apart from its authorities, a delegate of the Government who is in charge with *running the state administration of those communities* and, whenever possible, he has to *synchronize* it with the administration of the Community itself. Self-governing communities are represented in the Senate of Spain¹⁹, which consists of 250 members. Each province is assigned an equal number of offices, that is *4 senators*, no matter how many citizens does the province have²⁰.

The matters that are not clearly assigned to the State through Constitution can be assigned to self-governing communities, with the observance of their Statutes. The competence of the matters that haven't been committed through their Statutes of autonomy is assigned to the State, whose norms shall prevail in case of conflict over the norms of Self-governing Communities, in everything is not assigned to their exclusive competence. The state of law has, in all circumstances, a substitute nature comparing to the law of Self-governing Communities. The most important competences related to state governance are still in the hands of the central state. According to Section 149 of the Spanish Constitution, there are 32 fields that make the subject of the exclusive competence of the state. The State shall have *exclusive competence* over the following matters: regulation of basic conditions guaranteeing the equality of all Spaniards in the exercise of their rights and in the fulfilment of their constitutional duties; nationality, immigration, emigration, status of aliens, and

¹⁶ Frederique Roux, *La devolution*, 164.

¹⁷ In Spain are: 17 Selfgoverning Communities, 50 provinces, 8089 Municipalities.

¹⁸ Section 2 of the Spanish Constitution.

¹⁹ Section 69. 1 of the Spanish Constitution: “*The Senate is the House of territorial representation*”.

²⁰ In order to elect the Senate, there are two systems in use: a) *208 senators* are directly elected in the 52 multinominal electoral circumscriptions (each one with 4 senators). The voting system is limited. Each elector votes a number of 3 candidates at most, not a list with candidates. b) the *other senators (51)* are indirectly elected. They are appointed by the legislative Assemblies of the Self-governing Communities.

right of asylum; international relations; defence and the Armed Forces; Administration of Justice; commercial, criminal and penitentiary legislation; procedural legislation; Labour legislation, without prejudice to its execution by bodies of the Self-governing Communities; Civil legislation, without prejudice to the preservation, modification and development by the Self-governing Communities of their civil law, foral or special, whenever these exist, and traditional charts; legislation on copyright and industrial property; customs and tariff regulations; foreign trade; Monetary system; General financial affairs and State Debt; External health measures, etc.

According to Section 148 of Spanish Constitution: “*The Self-governing Communities* may assume competences over the following matters: organization of their institutions of self-government; changes in municipal boundaries within their territory and, in general, functions appertaining to the State Administration regarding local Corporations, whose transfer may be authorized by legislation on local government; town and country planning and housing; public works of interest to the Self-governing Community, within its own territory; railways and roads whose routes lie exclusively within the territory of the Self-governing Community and transport by the above means or by cable fulfilling the same conditions; ports of haven, recreational ports and airports and, in general, those which are not engaged in commercial activities; agriculture and livestock raising, in accordance with general economic planning; woodlands and forestry; management of environmental protection; planning, construction and exploitation of hydraulic projects, canals and irrigation of interest to the Self-governing Community; mineral and thermal waters; inland water fishing, shellfish industry and fish-farming, hunting and river fishing; Local fairs; promotion of economic development of the Self-governing Community within the objectives set by national economic policy; handicrafts; museums, libraries and music conservatories of interest to the Self-governing Community; The Self-governing Community's monuments of interest; The promotion of culture and research and, where applicable, the teaching of the Self-governing Community's language; the promotion and planning of tourism within its territorial area; the promotion of sports and the proper use of leisure; Social assistance; health and hygiene; the supervision and protection of its buildings and installations. Coordination and other powers relating to local police forces under the terms to be laid down by an organic act”.

The Self-governing Communities shall enjoy financial autonomy for the development and exercise of their powers, in conformity with the principles of coordination with the State Treasury and solidarity among all Spaniards²¹.

The Constitutional Court has jurisdiction over the whole Spanish territory and is entitled to hear the *conflicts of jurisdiction* between the State and the Self-governing Communities or between the Self-governing Communities themselves.

Although Self-governing Communities are given the authority to apply self-governance, thus making Spain to get really close to the federal state type, the Constitution of Spain clearly states that: „*Under no circumstances shall a federation of Self-governing Communities be allowed*”.

Nevertheless, Spain had to deal over the years with secessionist movements, ending with terrorist attacks.

2. Scotland and Catalonia – new nations in Europe?

The large autonomy that has been given to territorial collectivities in the above mentioned states triggered a number of consequences at political and administrative level. In certain areas of the regional state, both the United Kingdom and Spain have lately encountered an increasing tendency towards the beginning of a process whose aim is to regain the independence.

Despite being the region with the greatest autonomy in the United Kingdom, *Scotland* still aims to gain *independence*. In 2011, the Scottish National Party (SNP) won the parliamentary elections with the promise to properly govern this region.

²¹ Section 56. 1. of the Spanish Constitution.

On the 9 January 2011, Alex Salmond announced that referendum from independence of Scotland would be held in autumn 2014. Alex Salmond, the First Minister of Scotland and David Cameron, The UK Prime Minister sign the referendum agreement²² in Edinburgh on 15 October 2012 which will enable a vote on Scottish independence to take place in 2014. The UK government has given ground by allowing the referendum to be held in 2014 – London had originally favoured next year – and not blocking Salmond from allowing 16- and 17-year-olds to vote.

The Scottish Government proposes asking Scots: “*Do you agree that Scotland should be an independent country?*”

The Scottish National Party leader said: “*It is right that our young people should have the chance to play their part in decisions about their community and their country. Independence, in essence, is based on a simple idea: the people who care most about Scotland, that is the people who live, work and bring up their families in Scotland, should be the ones taking the decisions about our nation's future. No-one else is going to do a better job of making Scotland a success. No-one else has the same stake in our future. The people of Scotland should be in charge.*”²³

The opposition parties, except the Green Party, reject the idea of a referendum and believe the top priority in Scotland is to relaunch the economy after the financial crisis, not to set up popular debates.

In order to meet the targets appointed by the Edinburgh Agreement, there have been set the following steps:

- *February 2013* - The section 30 order, which amends the Scotland Act 1998 that originally set up the Scottish parliament in Edinburgh, will be agreed by the Privy Council in London, formally conferring that temporary power to stage the referendum to Holyrood.

- *Spring 2013* - The Scottish government will present a referendum bill to Holyrood, setting out the question, putting limits on campaign spending and confirming whether 16- and 17-year-olds will be allowed to vote.

- *November 2013* - After a final vote expected in October 2013, the Queen is expected to give royal assent to the referendum bill. The Scottish government will publish a white paper finally detailing its “prospectus for independence”, setting out the Scottish National party's vision for an independent Scotland.

- *June 2014* - The final 16-week referendum campaign is expected to start, when both pro-independence and pro-UK campaigns will intensify.

- *Autumn 2014* - The Scottish independence referendum takes place, probably in October²⁴.

Spain, in its turn, had to deal over the years with several movements for independence coming from autonomous Communities, such as the Basque Country or Catalonia. In recent years, the loudest voice for separatism came from Catalonia. The question is: *Could Catalonia be the bonding agent for a new wave of separatism in the European Union?*

Spain is not facing only a major economic crisis, but also the perspective of a constitutional crisis. It is a constitutional crisis at large scale, with the survival of the Spanish state-nation within its present boundaries at stake. This situation occurs in the context of the problems and financial crisis in

²² “*Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland*” was signed by: The Rt. Hon. David Cameron MP Prime Minister, The Rt. Hon. Alex Salmond MSP First Minister of Scotland, The Rt. Hon. Michael Moore MP Secretary of State for Scotland, Nicola Sturgeon MSP Deputy First Minister of Scotland.

²³ “*Vers la fin de l'Union anglo-écossaise en 2014?*”, *Le Monde*, octobre 16, 2012, accessed March 5, 2013, http://www.lemonde.fr/europe/article/2012/10/16/vers-la-fin-de-l-union-anglo-ecossaise-en-2014_1775948_3214.html.

²⁴ Severin Carrell, Nicholas Watt, “*Alex Salmond hails historic day for Scotland after referendum deal*”, *The Guardian*, October 15, 2012, accessed 6 March, 2013, <http://www.guardian.co.uk/politics/2012/oct/15/alex-salmond-scotland-referendum-deal>. For more details: Severin Carrell, “*Scottish independence: the essential guide*”, *The Guardian*, October 16, 2012, accessed 6 March, 2013, <http://www.guardian.co.uk/politics/scottish-independence-essential-guide>.

the Euro zone. The Catalan Government wants to have the right to collect its own taxes, something that is already taking place in the Basque Country and Navarra. With an economy the size of Portugal, Catalonia gathered the largest debt load among the Spanish regions. The Catalan officials and economists say that the economy could regain its solvability if it would have similar conditions with the citizens living in the Basque Country and Navarra, who transfer to central fiscal authorities a poll tax ten times smaller.

The fiscal agreement suggested by Artur Mas, the governor of Catalonia, which was rejected by the center-right government led by Mariano Rajoy, was a tactic gantry designed to spark a large movement for independence²⁵. The wide scope of this movement has been revealed to Spain on 11th September 2012, which was taken by surprise on the National Day of Catalonia, when over one million of separatist activists crowded the streets of Barcelona. The manifestants' slogan was "*Catalonia, the new state of Europe*". Artur Mas generated a shock wave in Spain and on the financial markets when he called for anticipate regional elections at the end of 2012. He also promised a referendum on the independence of Catalonia from Spain in 2014. But the center-right group – Convergence and Union alliance (CiU), led by Artur Mas, lost 12 Parliamentary offices during the elections on 25th November 2012. So Mas was forced to call for an alliance with ERC (Republican Left of Catalonia), despite sharing a different ideology. As political opponents, but allies for the emancipation of Spain, the two political leaders, Artur Mas and Oriol Junqueras, signed on 18th December 2012 an agreement designed to prepare a referendum that would edge Spain to split-up in 2014. On 23rd January 2013, the Parliament of Catalonia (Parlament de Catalunya) adopted a resolution²⁶ which states that this Self-governing Community is a "sovereign political and judicial topic"²⁷.

The central government tries to reject the Catalan movement for independence using the law, saying that Catalan nationalists have to observe the Constitution of the country. And according to the Constitution, a referendum over the independence is illegal²⁸. The conservative government led by Mariano Rajoy claimed that it will appeal this "unilateral initiative" at the Constitutional Court²⁹. The Catalan nationalism is very present among everything that means life in Catalonia. A vote for the independence of Catalonia from Spain may be a boost for other Self-governing Communities as well, who want the same thing (for instance, the Basque Country – ETA) and may open Pandora's Box inside the European Union, where more and more regions want to be independent from the central states, on ethnicity basis.

²⁵David Gardner, „Artur Mas – omul care are viitorul Spaniei în propriile mâini”, (<http://www.presseurop.eu/ro/content/article/2793121-artur-mas-omul-care-are-viitorul-spaniei-propriile-maini>) - accessed March 11, 2013).

²⁶ The Resolution has been voted with 85 votes "for", 41 votes "against" and 2 refusals.

²⁷ Resolució 5/X deth Parlament de Catalunya, pera quau s'apròve era Declaracion de sobeiranetat e deth dret a decidir deth pòble de Catalunya Tram. 250-00059/10 e 250-00060/10: "(...) D'acòrd damb era voluntat majoritària exprimida democraticaments peth pòble de Catalunya, eth Parlament de Catalunya acòrde iniciar eth procès entà hèr efectiu er exercici deth dret a decidir entà qu'es ciutadans e es ciutadanes de Catalunya poguen decidir eth sòn futur politic collectiu, d'acòrd damb es principis següents: Prumèr. Sobeiranetat. Eth pòble de Catalunya a, per arrasons de legitimitat democratica, caractèr de subjècte politic e juridic sobeiran (...)" /("In accordance with the will democratically expressed by the majority of the people of Catalonia, the Parliament of Catalonia agrees to initiate the process to exercise the right to decide so that the citizens of Catalonia may decide their collective political future in accordance with the following principles: 1. *Sovereignty*. The people of Catalonia has, for reasons of democratic legitimacy, the nature of a sovereign political and legal subject)." For details: <http://www.parlament.cat>, accessed March 12, 2013.

²⁸ Catalonia has 7,3 millions Spanish citizens among a population of 47 citizens – and it is one of the richest region in the country. Losing this region would be a great shock for Spain.

²⁹ Deputy Prime Minister Soraya Sáenz de Santamaría said that: "*the assertion of autonomy by Barcelona infringes the indissoluble unity of the Spanish nation, and the only nation acknowledged by the Constitution is Spain.*"

Conclusions

The analysis we have made shows that both the United Kingdom and Spain are facing not only economic problems, but also new constitutional challenges. The issue concerning the independence of those two local entities, Scotland and Catalonia, cannot be analyzed given only the internal background, but also with respect to the European Union³⁰. *What is going to happen with the two local entities if they will gain their independence from the central state? Will they become member states of the European Union or they will have to negotiate with EU their future statute as a member of the Union?*

Given these equations in the political games, we must not forget about the citizens of these two regions. The opinion polls conducted in Scotland in 2012, have shown that a quarter of the population is for independence. In Catalonia, although it seems to be a higher interest regarding independence, we'll see the real results on voting day. The assessments conducted by specialists clearly state that these regions make the most of them within the regional states, not separately. In order to stop the separatist trend, central governments should find solutions to solve the financial problems which generated the struggle between regions and center, and they have to put the constitutional relationships in a new light that shall fit the economic, social and cultural realities and to provide these regions with wider liberties to express themselves if they want the unity of the state.

For the Romanian state, which is going to perform a deep administrative reform by introducing a new administrative level – the region – the way these two European states have succeeded or failed to improve the relationship between regions and the central government should be some food for thought when tracing the regions' boundaries or when their competences and resources are going to be assigned.

References

- I. Books
- Alexandru Ioan, Gilia Claudia and Ivanoff Ivan Vasile, *Sisteme politico-administrative europene/ European Political-Administrative Systems*, Second edition, Bucharest: Hamangiu Publishing House, 2008.
- Apostol Tofan, Dana, *Instituții administrative europene/European Administrative Institutions*, Bucharest: C.H. Beck Publishing House, Bucharest, 2006.
- Ionescu, Cristian, *Tratat de drept constituțional contemporan/ Contemporary constitutional law*, Second edition, Bucharest: C.H. Beck Publishing House, 2008.
- Kund, Liviu Coman Kund, *Sisteme administrative europene/European administrative systems*, Sibiu: „Tribuna” Publishing House, 2003.
- Roux, Frederique, *La devolution en Grande Bretagne/The Devolution in Great Britain*, Paris: Dalloz, 2009.
- II. Documents
- United Kingdom.
- *** Scotland Act 1998.
- *** Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland.

³⁰ We have to remind that other states also face the problem of independence of the regions, a real challenge for the central government. For instance, Belgium, that was more than once on the edge of split-up (the Flamands and Valons wanted the separation). Italy is another member state of the European Union that is fighting against separatism. The Northern League, one of the most influential Italian separatist movements, has recently given up to its claims regarding the independence of the industrialized North from the agricultural South. In France, the Corsican nationalist groups were extremely violent in their attempt to claim independence etc.

- Spain
 - *** Constitution of Spain.
 - *** Estatuto de Autonomía de Cataluña.
 - *** Resolution 5/X of the Parliament of Catalonia, adopting the Declaration of sovereignty and right to decide of the people of Catalonia.

- III. Website
 - *** <http://www.parliament.uk> - Parliament of United Kingdom.
 - *** <http://www.open.gov.uk> - Government of United Kingdom.
 - *** <http://www.gencat.cat/> - The Generalitat of Catalonia.
 - *** <http://www.parlament.cat/> - Parliament of Catalonia.