

A Regional Rescue of the Nation-State: Changing Regional Perspectives on Europe

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Introduction

It is now around 20 years ago that regional¹ governments began seriously to try and influence EU decision-making. This paper is an attempt to map out a series of shifts in how an important group of ‘legislative’ regions has tried to secure that influence. They have done so in the context of a union comprised of member states which are represented in EU decision-making in almost all key respects by their central governments. Regions remain, despite two decades of effort, marginalised by the structure of EU decision-making. The argument developed here is that while regional governments set out 20 years ago with a transformative project designed to challenge the centrality of the member state in the EU, legislative regions have in the last few years come to endorse, even buttress the centrality of the member state.

The terminology of ‘legislative’ regions is relatively new and has become current since the establishment of the lobby group ‘Regions with Legislative Power’, or RegLeg, in 2000. An earlier, equivalent terminology was that of ‘strong’ regions (Jeffery 1994: 22). Legislative, or ‘strong’ regions have elected parliaments which make laws with direct effect on the public goods and services provided to citizens in the region. Most of the bigger EU member states have legislative regions – Germany, Spain, Italy and the UK – as do Belgium and Austria (plus special status island regions in Finland and Portugal). Most of these make laws on health, education, environmental policy, local government and regional economic policy, and some do on internal security matters and taxation.

The qualifier ‘legislative’ was introduced to mark out such regions as a special group with interests in European integration distinct from other kinds of regional and local authority across the EU. The essence of that distinctive interest is to preserve the meaning of regional law-making powers in the context of European integration. There have been three preservation strategies. The first, already downgraded by the mid-1990s and now largely abandoned, was focused on the formal recognition of the regional level – the ‘third’ level (Bullmann 1994), after member states and the union itself – as a participant in EU decision-making. Regions would become full-fledged partners in EU-level decision-making, sharing responsibility for those competences allocated to them under domestic law in a European frame.

¹ The terminology of ‘regions’ is in many places contested. It is, however, a standard terminology for comparative analysis, offering a shorthand route through the various and politically complex terminologies of that tier of government below central government and above local government, and it will be used here.

The second strategy was that of co-determining the member state's position in EU matters affecting regional competence through new structures of central-regional government coordination. It unfolded alongside the 'third level' strategy, though increasingly supplanted it during the 1990s. It too has revealed clear limits to its effectiveness as some regions have come to prioritise a narrow focus on distinctive regional interests which intergovernmental coordination has been unable to reflect. This narrowing of focus is discussed below as a process of 'denationalization', or regionalisation of conceptions of citizenship across EU member states.

The first two strategies sought more effective means of regional participation in EU decision-making. The third strategy for legislative regions has been defensive, that is focused on preventing the further Europeanisation of issues falling under their domestic legislative powers, even rolling back the reach of EU regulation. The concern is to retain autonomy, and increasingly legislative regions have viewed a strong member state structure as the best guarantee of that autonomy. The initial 'third level' strategy was in part about escaping the member state and finding new policy-shaping opportunities at the EU level; the more recent, defensive strategy, which was pursued with vigour especially in the European constitutional debate in the early 2000s, is about working through the member state to hold Europe in check.

The adoption of this third, defensive strategy provides the analogy signalled in the title of this paper with Alan Milward's (1992) classic work *The European Rescue of the Nation-State*. Milward's book was an iconoclastic challenge to some of the imagery evoked by postwar European federalists of European integration as a somehow inevitable process that would supplant nation-states through the establishment of European federation. Milward's view was that the founding fathers of European integration, including Schuman, Monnet, de Gasperi, Spaak and Adenauer, were first and foremost intent on rebuilding a European nation-statehood which, by 1940, had conclusively failed to do what it aspired to do, namely provide freedom, security and prosperity for citizens. Against that background European integration was a conscious, instrumental decision by nation-state central governments to pool sovereignty in order to underpin nation-states with the robust foundations they evidently lacked.

Milward's work has been influential in the intergovernmentalist traditions of analysis of the EU. This paper is not meant in any direct sense as a contribution to the debates intergovernmentalists have had with others. The analogy with Milward is first and foremost about how governments at one level can (try to) instrumentalise the resources and opportunities available to governments at another. For Milward 'nation-state' (that is, member state²) central governments fostered and instrumentalised an emergent transnational structure of government to achieve their own interests. This paper argues that regional governments have increasingly sought to instrumentalise member state central governments as a means of achieving their interests, that is preserving the meaning of regional law-making powers. It commences with a discussion of the conditions which prompt regional 'mobilisation' (Hooghe 1995) in the EU before examining in turn the three distinct strategies through which legislative regions have sought to realise their aims in the EU.

² There are plenty of objections to the use of the term 'nation-state', not least because in many of the states which contain legislative regions the congruence of nationhood and statehood is imperfect, ambiguous and often contested.

1. Why regional ‘mobilisation’?

Back in the mid-to-late 1990s there was a slew of publications which documented the various forms of regional mobilisation within the EU, that is the growing engagement of regional government actors with the institutions and processes of EU policy-making (Jones and Keating 1995; Rhodes 1995; Hesse 1996; Hooghe 1996; Bomberg and Peterson 1998; Jeffery 1997; Le Gales and Lequesne 1998). Though in some cases this mobilisation may have reflected an idealistic commitment to integration or attempts to circumvent a domestic conflict by instrumentalizing new opportunities for regional action at the EU level, mostly it had a simple source: as European competence expanded, in particular from the Single European Act onwards, it reached increasingly into fields of policy which within member states fell under the competence of regional governments. Generally regional governments were not able to set the terms under which their competences became EU competences. Central governments set those terms as privileged interlocutors of the member state with the EU. The mantra ‘member states are masters of the treaties’ establishing the EU meant, in effect, that central governments were, and still are, masters of the treaties. Those central governments then convened as the EU’s Council, its most powerful institution, to regulate policy fields which under domestic law had been regional responsibilities. In other words central governments, as a result of European integration, get to exercise regional decision-making powers.

Regional governments across the EU responded, logically enough, by seeking compensatory rights to act in EU decision-making within the framework of their domestic competence. Widening EU competence reached most into regional competence where regional competence was most extensive, that is in the strong, legislative regions. Logically enough those regions tended to respond by mobilising more intensively in EU politics than others with more modest domestic competences. As Marks et al (2002: 15) put it, ‘regions that are most entrenched in their respective national polities are most intent on influencing European decision-making’.

The initial phase in this regional mobilisation unfolded in and around the negotiations in the Intergovernmental Conferences (IGCs) which concluded in December 1991 in Maastricht. It was broadly led by the German Länder which, alongside the Belgian regions, were the only regions with some grip over central government negotiating positions in the IGCs. Their aims were supported on a wider front through transnational lobbies in which German Länder were the driving forces: a conference of ‘strong’ regions convened by Bavaria, and the more broadly-based Assembly of the European Regions, in which Baden-Württemberg was the lead player (Jeffery 1994: 9, 22-3). This multi-pronged, and heavily German-accented approach put regional access to EU decision-making onto the European constitutional agenda at Maastricht and at all subsequent IGCs.

At Maastricht it produced an ambiguous outcome. On the one hand the Committee of the Regions (CoR) was established as an advisory body on European legislation. For many in the Länder the CoR was the first step towards a legislative chamber of regions, just as the Council of Ministers was a legislative chamber of the member states, and appeared to bring the notion of a three-level union a closer (Hoppe and Schulz 1992). The other significant gain at Maastricht was for the Council of Ministers to be opened up to ministers from the regional level. That gain was carefully hedged. Regional ministers in the Council had to be in a position to commit their member state. This was not a general empowerment for regional ministers, but rather a possibility which had to be activated within the member state. And it could only be realised in practice in negotiation processes committing central and regional

governments to represent a single and shared member state position. In all these respects it was a provision whose effect was to tie regions into the logic of member statehood, and therefore of a more conventional two-level union.

To put it another way, what emerged from Maastricht were *options* for the German Länder and other legislative regions: a) that of working through the ‘third level’ route of the CoR, outside the framework of the member states; and b) that of negotiation and joint decision-making on EU policy with central governments. Building on what they achieved during the ratification of the Single European Act, the Länder used Germany’s ratification process for the Maastricht Treaty to put a more systematic option b) in place. Constitutional changes adopted in 1992 established a new Article 23 of the Basic Law which set out how the German federal and Länder governments would cooperate in EU decision-making, when the Länder would have the decisive say, and when they would speak for Germany in the Council of Ministers. Subsequently procedures for central-regional government coordination on EU policy were established in Belgium, Austria, the UK and most recently Spain.

2. Plan A: A Europe of the Regions

Much of the earlier attention of observers of regional mobilisation was focused on the ‘third level’ route, made manifest with the inaugural meeting of the CoR in March 1994. Very quickly after that the German Länder and other legislative regions such as some of those in Spain (Jeffery 2003: 153) became disillusioned with the CoR. There are four reasons for this volte face (Jeffery 2002):

1. First the CoR had an unclear founding purpose, with the European Commission wanting on the ground expertise from within the member states to implement regional policy, and the German Länder and some others an institution with a genuinely representative function. This ‘compromise without consensus’ (Kalbfleisch-Kottsieper 1995) prevented the CoR from hitting the ground running with a clear strategy.
2. Second the CoR was given only a limited advisory role, and no power to make its opinions count. So the Council of Ministers and European Parliament never listen to it and the Commission arguably only pretends to.
3. Third it has a very diverse membership of local and regional governments across the EU, in all their cultural and institutional diversity. This membership mix has not made for assertive decision-making, and the CoR has rarely produced crisp and forceful opinions. More importantly it leaves legislative regions as a minority group; RegLeg claims 74 members while the CoR has 317 members in total. That minority status is amplified by a basic divergence of interest between legislative regions and other ‘weaker’ regional and local governments in EU decision-making. That divergence has to do with power. European integration, by absorbing regional level competences at the EU level has tended to disempower legislative regions, to *reduce* their scope to influence public policy on their territory. The founding conception of the CoR of the German Länder and others was as a mechanism which would help compensate for this disempowerment. That conception was not shared by the majority of the CoR membership. The domestic functions of non-legislative regional and local authorities are not typically law-making, but rather the coordination and implementation of central government policies in regional and local contexts, often within tightly defined frameworks allowing only limited decision-making autonomy. Engagement with EU decision-making, often nurtured by the European Commission in its search for

expertise in policy implementation (Tömmel 1998), has opened up new policy-shaping and learning opportunities whose effect is to *increase* the scope to influence public policy on the regional or local territory. For non-legislative regions and local authorities the CoR, even with its modest powers, opens up new possibilities for exchange of experience, coalition-building and, at the margin, policy-shaping. The majority of the CoR membership has a contradictory interest in mobilising for Europe to that of the legislative regions.

4. And fourth, there were and are for legislative regions in particular other and better routes to pursue their interests in European decision-making: through representative offices in Brussels, transnational networks like RegLeg and, above all, through the member state, through domestic EU policy-making processes.

For legislative regions which had envisaged the CoR as a powerful ‘third level’ institution, the reality was in other words a profound disappointment. The result was the abandonment by the legislative regions of any serious attempt to build up the CoR as a structure for engaging an EU-wide ‘third level’ with EU decision-making. They increasingly broke away from the wider mass of regional and local authorities and instead ‘returned’ to the member state, placing a new emphasis on member state channels as the most effective way of shaping or – more recently – deflecting EU policies with an impact on domestic regional competences.

3. Plan B: Accessing the EU through the Member State

The ‘member state strategy’ – so to speak the Plan B of the legislative regions – had always been a parallel track for the Belgian and German regions, and by the time the CoR was in operation, formal rights had been established in both countries for the regional level to shape and in some cases determine the member state’s policy on EU matters falling under the domestic competence of the regions. Similar rights were established in Austria on its accession to the EU in 1995. Less formalised and generally less far-reaching practices of central-regional coordination in EU policy have also been established in Spain (though with a more formalised system of access emerging), and in the UK. The main mechanisms of central-regional government coordination within these member states are set out in Table One.

Regions in Belgium, Austria, Germany, Spain and the UK all have rights of access to relevant information on EU matters, and in all cases a routinised system has been established for forwarding information on from the EU, via central government, and onward to the regions. And in all these cases arrangements have been established to formulate regional opinions, and to feed these into the EU decision-making of central government authorities. These arrangements vary widely. In Belgium, following a radical decentralisation process, there is no hierarchy of status between regions³ and central government. The lead role in EU policy-making varies by issue; the level of government which holds the corresponding domestic competence for the issue concerned takes the lead. But in order to maintain a coordinated Belgium-wide position across issue areas, in practice each level of government is involved in all issue areas. All governments, central and regional, are therefore involved as equal partners in a systematic, collective EU policy formulation process, and each represents Belgium in the EU Council whenever it holds the domestic competence for the issue area concerned (Kerremans and Beyers, 1996).

³ Belgium has two largely overlapping forms of regional government, Regions, and Communities. For simplicity’s sake we use ‘region’ to include both.

Table One: Central-Regional Coordination on EU Policy

| Mechanism | Belgium | Germany | Austria | UK | Spain |
|---------------------------------------------------------------------------------|---------|---------|---------|----|-------|
| Full information on EU developments | √ | √ | √ | √ | √ |
| Decisions have binding effect on centre in fields of regional competence | √ | √ | √ | X | ? |
| Participate in meetings to instruct Permanent Representative | √ | X | √ | √ | X |
| Represent member state in Council of Ministers in fields of regional competence | √ | √ | √ | √ | ? |
| Contribute to member state decision-making in IGCs | √ | √ | √ | X | X |
| Run Presidency of EU Council jointly with the centre | √ | X | X | X | X |

In Austria and Germany, policy formulation has two stages: a first in which the regions come to a collective viewpoint; and a second where the collective regional position is connected with central government's decision-making process. That process is constitutionally codified in the both cases, and allows the regions a 'decisive' voice where EU matters directly affect regional competences. In those cases (subject to caveats at the margins) a collective regional opinion is binding on central government, and the centre must represent that opinion in EU bodies. Equally the regions have the right to lead delegations in the EU Council on issues which touch on the 'heartland' of their exclusive legislative competences in the domestic arena. It should be noted that neither the Austrian nor the German federal system allocates a wide range of exclusive legislative competences to the regions; so Austrian regional participation in the Council is rare and German participation has been limited to four main areas, education, culture, media, and justice and home affairs, with a periodic presence also on research matters (Börzel 2002: 81). More recently the range of policy areas the German Länder lead on for Germany has been narrowed to school education, culture and broadcasting, though with a more fully established right to lead in those fields as a quid pro quo (Jeffery 2007a: 17). In both Germany and Austria the real 'meat' of participation in EU matters is in domestic coordination processes between centre and regions, not in the Council.

In Spain central governments have traditionally resisted the award of *rights* of participation in EU affairs to regions. So while a range of intergovernmental conferences exist for regional-central exchanges of views, these lack constitutional underpinning and have as a result at best an advisory role. There is no obligation for the centre to represent any collectively held regional view nor to allow a regional presence in the EU Council. In any case the Spanish regions have been slow to develop a practice of collective opinion-formation on EU (and, indeed, other) matters, not least because asymmetrical regionalisation has encouraged inter-regional competition and bilateral deal-making with the centre (Börzel 2002: 98-100). A new deal struck early in 2005 appears to have established new formal procedures for the collective representation of regional views in core areas of competence, and to allow the regions access to the EU Council. It remains unclear as to whether the traditional patterns of central-regional suspicions and inter-regional competition will be overcome sufficiently to give the new procedures the clout their equivalents have in Austria and Germany.

In the UK the devolution reforms in the late 1990s established a practice of information-sharing and inclusion of devolved government representatives from Scotland in particular which has been on paper quite extensive. These practices are not, however, embedded in law and depend on goodwill between central and devolved government. There is some evidence that even in the atmosphere of broad goodwill that has existed since the launch of devolution in 1999 the levels of openness and sensitivity across central government departments to devolved interests has been variable, with some ignoring and others actively frustrating those interests (Aron 2007). That variable pattern unfolded in a period of cooperation between a Labour UK government and a Labour-dominated coalition in Scotland. The transition in 2007 to a minority government in Scotland led by a separatist Scottish National Party is likely to usher in a period in which the UK government is rather less inclusive of at least Scottish interests in EU policy.

Clearly the impact of these practices of intergovernmental coordination varies. In Belgium each region effectively has a veto over all aspects of Belgian EU policy. In Spain, where central government until recently tried to resist regional input to central state decision-making, and where the regions have failed to build a common front to get maximum concessions from the centre, regional influence is much more limited. The reliance in the UK on 'goodwill' rather than law as a basis for the inclusion of devolved governments in member state decision-making may well mean that a Scottish government which is uncongenial to the UK government is marginalised. In a less abrupt way, party politics has played a role in Germany, where for almost all of the period since German unification in 1990, the federal government coalition has been faced by a set of governments in the Länder dominated by the federal opposition.

Party politics, in other words, may complicate the process of aggregating and reconciling the interests of the relevant players. That process is in any case inherently difficult. With the exception of the UK, all the other cases in Table One now have regional rights in co-determining member state EU policy which have to be used collectively. There has to be one regional view. That means finding a common position among six Belgian regions, nine Austrian, sixteen German, seventeen Spanish. Inevitably that view takes a fairly low common denominator, watering down competing regional priorities, and generally imposing, however impressive the right to a 'decisive' view or even a veto power might sound, fairly modest conditions on member state central governments (Jeffery 2007a: 22). The logic of compromise inherent in intergovernmental coordination in EU policy underlies the shift from a Plan B of participation through the member state to a more defensive Plan C focused on regional autonomy. A process of trading off interests with other regions and with central governments on a statewide scale has, as the following excursus suggests, become inimical to the way at least some regions have come to understand their relationships with both the states of which they form part and the EU.

Excursus: A Regionalisation of Citizenship?

T.H. Marshall's classic work (1992 [1950]) on Citizenship and Social Class is a useful framework for capturing that understanding. Marshall made a landmark contribution to the understanding of the citizenship rights members of the UK enjoyed at the mid-point of the 20th Century, in particular their extension to include social rights in the postwar welfare state. Marshall's work, in particular its connection to understandings of the welfare state, remains

influential in the UK (King 1987, Pateman 1988, Lister 2005) but also in Germany⁴ (Rieger 1992, cf. Flora/Alber 1981), and beyond (e.g. Banting 2006).

Marshall distinguished three components of citizenship in the UK: civil rights, political rights, and social rights. In their modern form these emerged in sequence, each the precondition of the next (Table Two). Civil rights, protecting individual freedoms, emerged in something like the modern form in the 18th century in part as a set of defences of individual liberty versus the state, in part as a set of abolitions of restrictive practices which opened up the space for a market economy. Modern political rights – the right to participate in the exercise of political power through voting or standing as a candidate – emerged during the 19th century as new social interests exploited freedoms of speech and association to open up a political system dominated up to then by privileged groups of aristocrats, landowners and industrialists.

Table Two: The Evolution of UK Citizenship Rights

| UK | 18 th Century | 19 th Century | 20 th Century |
|-------------------------|--------------------------|--------------------------|--------------------------|
| Civil Rights | √ | √ | √ |
| Political Rights | | √ | √ |
| Social Rights | | | √ |

Social rights followed the final expansions of the franchise in the early 20th century which, by 1945, had enabled a majority Labour government buoyed by the votes of the working class to come to power. Social rights were embedded in the postwar, national welfare state. They consisted of minimum standards of welfare, guaranteed by the state, so that the working class in particular was protected from risks of ill-health, old age, unemployment and so on, paid for as an expression of statewide social solidarity through taxation.

Marshall's is a compelling analysis, echoed in similar analyses of the evolution, and accumulation of functions, of the modern state (Leibfried and Zürn 2005). There are, though, two qualifications which need to be entered, both concerning the assumption in Marshall that citizenship rights are a uniform feature of what he called nation-statehood.

The first has to do with Marshall's own elusiveness on territory. Marshall (1992 [1950]: 9) claimed that the citizenship whose history he wanted to trace was 'by definition, national'. That 'nation' might appear at first glance to be the UK as a whole. But as Daniel Wincott (2006: 181) has stressed, Marshall in fact 'equates the nation with England'. He simply ignores Scotland, Wales and Northern Ireland. That equation matters because successor analysis has read into Marshall the notion that social rights should have a statewide reach, that rights to welfare should be driven by need, not by where one lives, and that they therefore act as a force of statewide integration, an expression of a statewide political community extending beyond England to encompass the whole of the UK.

There is a line here between advocacy and social science which has often been blurred, and which has obscured the point that in the UK (and elsewhere), the services guaranteed by the welfare state have never been territorially uniform. They have not been uniform in part because governments have never been capable of delivering uniformity (or even committed to uniformity, even within England – Bulpitt 1983: 141); and they have not been uniform because in Scotland, Northern Ireland and Wales there have long been different arrangements,

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Marshall had been Commissioner for Education in the postwar British Occupation Zone in Germany.

laws, spending levels and so on which mean that the reality of, say, Scottish welfare is rather different than that in England.

Nonetheless Marshall's (mythical) imagery of a territory-blind, national welfare state has persisted, reified by a 'methodological nationalism' (Leibfried and Zürn 2005) which assumes that societies organised as 'nation-states' are 'the natural social and political form of the modern world' (Wimmer and Glick Schiller 2002: 302). One aspect of that reification is a tendency to freeze-frame Marshall to support a particular understanding of the national welfare state that emerged after World War II. Yet Marshall viewed citizenship as dynamic, ever-changing, as its various components interacted to produce shifting outcomes. It is worth quoting him on this point, from the celebrated lectures on citizenship he gave in 1949, shortly after the UK National Health Service had been established, when he described his three sets of citizenship rights as a kind of championship steeplechase extending over centuries:

Before long they were spread far out along the course, and it is only in the present century, in fact I might say only within the last few months, that the three runners have come abreast of one another (Marshall 1992 [1950]: 9).

Logic suggests that if the three sets of citizenship rights only came abreast of one another in 1949, there is no reason that they should have stayed there in a synchronised canter ever since. Table Three sets out the territorial scales at which Marshall's three sets of rights are realised in the early 21st century. While the statewide scale is clearly still *a* location for the rights of citizens, it is not the only one. It was perhaps a near-exclusive location for those rights for a short period in the middle of the 20th century, but more or less at the point when Marshall had lined up his three sets of rights as definitions of a *national* political community, they began to diffuse to other territorial scales, both European and regional.

Table Three: Territorial Scales of Citizenship Rights in the 21st Century

| 21st century | Region | State | European Union |
|------------------|--------|-------|----------------|
| Civil Rights | | √ | √ |
| Political Rights | √ | √ | (√) |
| Social Rights | √ | √ | √ |

For example, Marshall's civil rights included freedoms to trade without restrictive practice. The main framework for realising such freedoms has long been a European one, beginning with the first steps in European economic integration in the 1950s, and now significantly more important in regulating economic activity than national law. And should the European Constitution ever come into force, European citizens will have a constitutional charter of fundamental rights as a guarantee of their civil rights additional to national-level guarantees. The EU is also an arena for exercising rights of political participation, though these remain of a 'second order' (Reif and Schmitt 1980; Schmitt 2004) quality behind state-level rights. And social rights are beginning to take on a European dimension alongside their state-level ones, often – as Marshall might have suggested – as a consequence of EU-level civil rights such as freedom of movement, which have begun to make access to social rights portable across state borders within the EU (Greer 2006).

As striking as these developments in the Europeanisation of citizenship has been a parallel regionalisation of citizenship. This has to do in particular with the devolution of powers of

government in Europe over the last thirty years or so – with Spain, Belgium, Italy, France and the UK emerging as regionalised states alongside the established federal states of Germany, Switzerland and Austria.

As a result political rights are now exercised at both statewide *and* regional scales in these places, and are expressed through different patterns of voting behaviour, party competition and government composition at those different scales of political community. And one effect – again consistent with Marshall’s understanding of the way different sets of citizenship rights interact – is that social rights are now being understood and delivered by regional governments in ways which increasingly depart from the traditional imagery of the national welfare state, with its emphasis on uniform public services across the whole state territory (McEwen and Moreno 2005; McEwen 2006; Jeffery 2006; Wincott 2006).

This process of regionalisation of citizenship appears most pronounced when one, or both, of two factors is present (Jeffery 2006; 2007b). The first concerns inter-regional economic disparity. Elite and/or public opinion in parts of Belgium, Germany, Italy, Spain and the UK show evidence of a growing unwillingness on the part of economically stronger regions to share wealth and equalise welfare risk on a statewide scale where there are wide disparities between richer and poorer regions. The second concerns sub-state territorial identity. Elite and/or public opinion in parts of Belgium, Germany, Italy, Spain and the UK which have strong sub-state identities show evidence of a growing desire for fuller ‘ownership’ of decision-making (that is, more powers) at regional levels of government. In some places – in Bavaria, Flanders, Catalonia, parts of northern Italy – regional wealth and territorial identity coincide as powerful, dual challenges to all the accumulated imagery of the ‘nation-state’ as the ‘natural social and political form of the modern world’.

4. Plan C: The Regional Rescue of the Nation-State

In these ways some regions pose challenges to the established functions of European states. Places like Bavaria, Catalonia, Flanders, Lombardy and Scotland find the scale or obligations of statewide political community in some ways to be incompatible with their understandings of regional political community, and have sought in response to maximise their decision-making autonomy within the state. In the German case I described this as a new ‘Sinatra-doctrine’ of (some of) the Länder, involving a renunciation of older norms of equality and solidarity and focused instead on ‘doing it my way’ (Jeffery 1998). The same analogy could be applied in broad brush in Belgium, Italy, Spain and the UK.

But, as Table Three indicates, regions focused on autonomy-maximisation are not engaged in a simple two-level game. Functions that were once concentrated at a statewide scale, and the decision-making powers that go with them, are now dispersed both inward to regions and outward to the EU. There is a three-level game at play. In that three-level game – for reasons set out in part 1. of this paper – regional governments have traditionally been marginalised, and central governments empowered, when the EU has taken responsibility for functions (once) held by regions under domestic law. For that reason places like Bavaria, Catalonia, Flanders, Lombardy and Scotland have also come to find the scale and obligations of political community in the EU to be as problematic as, perhaps more problematic than, those at the level of the state. That is why regions like these have been at the forefront of efforts to compensate for the distorting effect European integration has on the balance between regional and central governments within member states.

The first of those efforts – Plan A, embodied in the CoR – foundered on the unclear purpose, weakness of powers and diversity of membership of the CoR. Plan B has been at best a qualified success because of need to establish collective positions horizontally among regional governments and then vertically between regional and central governments. For reasons of economic disparity and sub-state identity some regions are less and less of a mindset to trade individual interests, and the autonomy to pursue them, for a collective common denominator. Sinatra-doctrines do not just apply to domestic politics, but are also exported into the EU. But Plan B is about ‘our way’, not ‘my way’.

Enter Plan C, which is associated with regions in the RegLeg grouping, and has over the last decade or so, and in particular in the debate on the European Constitution, focused on establishing more robust constitutional safeguards around regional-level competences in the context of European integration.

What the legislative regions brought to the constitutional debate were vigorous arguments for defining the limits of EU-level powers more clearly. They did so with more vigour, and more effect, than even traditionally Eurosceptic member state central governments. In fact the definition, and limitation, of EU powers in the Constitution is pretty much that put on the agenda in an influential speech by a German regional prime minister in 2001 (Clement, 2001 - which itself drew on a paper prepared by the German Länder in the context of the 1996-7 IGC which culminated in Amsterdam; cf. Jeffery 2004: 9).

Some legislative regions went further by arguing for re-nationalisation, that is returning powers currently exercised at the EU level to the member states. And legislative regions were at the heart of debates about policing the reach of EU powers through tougher provisions on subsidiarity, the principle that the EU should only act when effective action by lower-level governments is not possible. One of the outcomes was a new ‘early warning system’ to allow national parliaments to protest about EU legislation on subsidiarity grounds.

The common denominator in all of this is how regions have adopted the member state as their favoured interface with the EU. There was much less emphasis than in the past on reforming EU-level institutions to open up space for a more participative regional contribution. There was much more emphasis instead on hardening the boundaries of the member state as a means also of ring-fencing regional autonomy within the member state: if the limits of EU powers vis-à-vis the member state were defined more tightly, then so would be their limits vis-à-vis regions within member states; if competences were to be renationalised, then under domestic law, the effect in many cases would be re-regionalisation; if national parliaments won greater rights to police the subsidiarity principle, then regional institutions could argue for a share in those rights through appropriate procedures within the member state (and this indeed is what they have done in the UK, Belgium, Germany and Austria – Ziller and Jeffery 2007).

It is in that sense that legislative regions have ‘rescued the nation-state’. Given the way the three-level game of European integration is loaded against legislative regions, and in order to maximise their decision-making autonomy, they have increasingly found it opportune to tuck themselves in behind the battered carapace of the member state as the best way of securing their distinctive interest of preserving the meaning of their law-making powers. Perhaps this might be termed, post-Sinatra, the Garbo-doctrine of the legislative regions: now they just want to be left alone.

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