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COMPARATIVE ANALYSIS OF TERRITORIAL AUTONOMY – EXAMPLES OF SERBIA AND ITALY (VOJVODINA, SOUTH TYROL)***

Resume

The paper analyzes the similarities and differences between two types of territorial autonomy in two countries with different organizational structures. Both Vojvodina and South Tyrol are autonomous territories with some similarities in history, up until World War Two. After the war, both autonomous territories were created, and their further history, prior to this day, is very different. Both of them have ethnic minorities in a high percentage of population, both have similar number of people, both of them have

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*** This paper emerged as a result of inspiration sparked by lectures given by Prof. Dr. Enrico Albanese from the Faculty of Law at the University of Genoa. Following a lecture on South Tyrol held at the Faculty of Law at the University of Belgrade, we engaged in a discussion that gave rise to a desire to compare these two regions. Later, with regular consultations, Assistant on Constitutional Law Aleksa Nikolić supported our work and guided the entire research process. On this occasion, we express our gratitude to Prof. Albanese and Ass. Aleksa Nikolić for the time and attention they dedicated to us during the development process. Our work was awarded by the Alan Watson Foundation for the best student paper of 2023 on the topic of legal transplants. Additionally, the paper was recognized as the best scientific research paper at the University of Belgrade in the field of social and human sciences for the year 2023.

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rich potential for financial growth. The objective of the paper was to examine three specific questions: 1) What are the similarities and differences in the creation and justification for the existence of these two territorial autonomies? 2) How are territorial autonomies defined in relation to the Constitutions of Italy and Serbia? 3) What are the competencies of the autonomous territory and how does its organization correspond to the statute?

Keywords: South Tyrol, Vojvodina, Italy, Serbia, Territorial autonomy.

1. INTRODUCTION – WHAT WOULD IT MEAN FOR A TERRITORY TO BE AUTONOMOUS?

Autonomy, in the context of the state territorial organization, represents an independent framework of rights and obligations possessed by a larger community. In Serbian legal theory, the idea of territorial autonomy is explained as “a supplement to state authority, which is permitted and determined, and therefore always relative and proportional” (Mitrović 2003, 418). This is rather consistent with the definition in the Constitution of the Republic of Serbia, where Autonomous Provinces are defined as “autonomous territorial communities established by the Constitution, in which citizens exercise the right to the provincial autonomy” (Art. 182). In the theory found in Italy, the definition of autonomy is explained in a slightly different manner – “real autonomy presupposes the right to regulate its own norms, either in exclusive competence or in concurrent competence, within the framework of sectoral legislation and the limits of central authority” (Benedikter 2009, 26). Otherwise, there is nothing else, only the decentralization of administrative or executive functions. The decentralization system involves sharing responsibilities between the state and units that correspond and answer to it. Such a system is organized for various reasons; they may be cultural and historical compromises, but above all, they must have a practical application to fulfill. Forms of territorial autonomy differ and evolve over centuries; this concept of organization should not be seen as something new and recently created. Examples of autonomous cities can also be found in Serbian legal history, such as Novo Brdo, Kotor, and Dubrovnik (Mitrović 2019, 29–47).

If we describe the legal organization of territory and territorial legislation of a country as a nice picture in a beautiful frame, different territorial systems would be depicted in entirely different ways. In a unitary system,

the picture would be on a single wood carving board, and from that same board, a frame would be created, all representing an inseparable artistic declaration. In a federal system, the federal units would represent parts of the frame and the picture, each unit constituting its piece of the frame and picture, like a unique puzzle piece contributing to the whole. On the other hand, in a regional system, as well as in some systems with truly autonomous units, the constitution and basic legislation would be framed, while the picture would be painted by the autonomous units. For regionalism imagine Van Gogh, and his famous painting “Starry Night”, each part of the painting (sky with stars, village, etc.) can be looked at separately, but they are all in one frame (Jovičić 1993, 127–135).

The Italian Republic and the Republic of Serbia, two states whose examples of territorial autonomy we examine in this paper (South Tyrol and Vojvodina), have different examples of autonomous cities and regions in their histories. South Tyrol, similar to Vojvodina, was annexed by Italy after the First World War. This Italian region still has a predominantly German, or Austrian, population today. This is one of the differences compared to Vojvodina, as the territory of Vojvodina was predominantly inhabited by South Slavic peoples at that time, but there was a significant presence of Hungarians, Romanians, and Germans.¹ Territorial autonomy was not much discussed during the interwar period, at least not in the character as it is today. The territorial organization of both states acquired its modern form after the Second World War, when both South Tyrol and Vojvodina obtained their specific autonomous status (Petrov i Stanković 2020, 390–394; 401–407). Many constitutional law theorists cite Italy as a true example of a regional state, while Serbia would be a unitary decentralized state. However, strictly from a legal perspective, Article 5 of the Italian Constitution defines the republic as “one and indivisible” (ita. *una e indivisibile*), while the relationship between the Republic and the regions is defined in the following manner, “[...] it recognizes and promotes local self-government; in public services, it implements administrative decentralization in the broadest sense, adapting the principles and methods of legislation to the needs of local autonomy and decentralization”.²

¹ Census from 1931 is available at the following online address: <http://publikacije.stat.gov.rs/G1931/Pdf/G19314001.pdf>, 28.12.2023.

² Constitution of Italian Republic from 1947 states the following: ([...] *riconosce e promuove le autonomie locali; attua nei servizi che dipendono dallo Stato il più ampio decentramento amministrativo; adegua i principi ed i metodi della sua legislazione alle esigenze dell'autonomia e del decentramento*”).

With this paper, the authors aim to answer several questions. First, what are the similarities and differences in the emergence and justification for the existence of these two territorial autonomies? Second, how are territorial autonomies defined in relation to the Constitutions of Italy and Serbia? Third, what are the powers of the autonomous territory, and what does its organization look like?

2. HOW WAS TERRITORIAL AUTONOMY FORMED?

2.1. Vojvodina

The Autonomous Province of Vojvodina is one of the two autonomous provinces in the Republic of Serbia. The territory that Vojvodina encompasses today became part of the joint state with Serbia only after the First World War, in the newly established Kingdom of Serbs, Croats, and Slovenes (Micić *et al.* 2014, 87-88). The kingdom was primarily divided into districts, later into provinces. At that time, Vojvodina fell under the Danube Banovina, which also included Baranja and Šumadija. The name of this region originates from the period of Austrian rule over this region, more precisely from 1848 to 1860 when the autonomy of the “Voivodeship of Serbia and Tamiš Banat”³ was established in the territory of the then Banat. Simović, based on this *de facto* false autonomy that the Serbian people had in Austria-Hungary, bases his stance that the autonomy of Vojvodina cannot even historically be classified into the constitutional identity of the Republic of Serbia. Unlike Simović’s opinion, which has a rough argumentation, the authors of this paper would argue that the autonomy of Vojvodina in present-day Serbia, even if it lacks a long constitutional identity, primarily serves the practical purpose of successfully realizing the human and minority rights for all national minorities currently residing in the northern province.

At first, Vojvodina was established as an autonomous province only after the Second World War by the 1946 Constitution. At that time, besides Vojvodina, autonomous status was also granted to Kosovo and Metohija⁴, so the second Yugoslavia was composed of six republics and two autonomous

³ This quasi region, that is autonomy, that had been given to Serbs in Austria-Hungary empire, in practical sense had not brought much. This region did not consist of a lot of municipalities where Serbs were majorities, but consisted of municipalities where Romanians were majority.

⁴ AKMO – Autonomous region of Kosovo and Metohija, was proclaimed as Autonomous province in 1963, but before that, in 1959, the territory of AKMO has been granted several municipalities from Central Serbia.

provinces. Vojvodina was initially formed as a Military Administration for Banat, Bačka, and Baranja after the liberation of these regions in 1944, and then, in 1945, the Autonomous Province of Vojvodina was composed of Banat, Bačka, and Srem; Srem was divided by the Danube, and its western part and Baranja were given to Croatia. In late July of the same year, the Assembly of Vojvodina convened and voted for its annexation to Serbia, and in September 1945, the Law on the Establishment and Organization of the Autonomous Province of Vojvodina was adopted. Therefore, the province defined and determined itself before the state's Constitution did so (Simović 2019, 805–811). Unlike Italy and its regions, autonomous provinces have undergone significant changes over time up to the present. These changes were more of a legal and political nature and were reflected in changes in the competences of the AP in the federal constitution. Through three constitutions of the second Yugoslavia, as well as one Constitutional Law, the presence of territorial autonomy in this Socialist Federation existed only in name, while the competences of the APs were practically identical to those of the republics. The greatest freedom for APs was granted by the 1974 Constitution, which gave them the right to adopt their own constitutions. Thus, on February 28, 1974, the AP of Vojvodina had its first and only constitution. It is a valid thought mentioned today in discussions of the political and territorial organization of the SFRY that autonomous provinces with such autonomy resembled republics more than provinces. By the 1990 Constitution of Serbia, the rights of provinces were drastically reduced, with the abolition of constitutions and numerous provincial rights. The position of provinces during the 1990s and the beginning of the twenty-first century was colored by political events. Vojvodina gained a new status with the 2006 Constitution of the Republic of Serbia, the Act on Determining the Competences of the Autonomous Province of Vojvodina from 2009, as well as the decision of the Constitutional Court which annulled numerous provisions of this law in 2012, and finally, the Statute of the Autonomous Province of Vojvodina from 2014.

2.2. Trentino-Alto Adige/Südtirol

The South Tyrol region is one of the twenty regions in the Italian Republic. This region is also one of the five special regions. The main difference drawn between special and ordinary regions lies in the much broader scope of competences entrusted to special regions. However, these five regions have different scopes of competence that reflect the specific position of each region.

The region of South Tyrol acquired its specific position in the constitutional order of Italy because it formed part of the Italian territory after the First World War. The following period up to the end of the 20th century was marked by gradual but intermittent improvements in the situation of the inhabitants, predominantly those who speak the German language in that area. The city of Bolzano, primarily populated by German-speaking inhabitants, faced the majority of the problems. In Bolzano today, 69.41% of the population speaks German, 26.06% Italian, and 4.53% Ladin (South Tyrol in figures 2012, 18). Historically, Tyrol came under the territory of the Habsburg Monarchy in 1363. Being at the crossroads of trade routes, this region attracted various nationalities, which is one of the reasons why it remains heterogeneously populated today. Over time, Tyrol was divided into areas: South Tyrol, Trentino, North Tyrol, and East Tyrol. By the Treaty of Saint-Germain in 1919, the areas of South Tyrol (today's Italian province of Bolzano) and Trentino (today's Italian province of Trento) were separated from Austria and contributed to Italy. Woodrow Wilson's plan, outlined in his Fourteen Points, advocated for the establishment of new borders along national lines ("A readjustment of the frontiers of Italy should be effected along clearly recognizable lines of nationality", Woodrow Wilson, point nine).⁵ Had this principle been adopted, perhaps there would never have been problems in this area. King Vittorio Emanuele III of Italy gave hope to Austrians living in South Tyrol that they would live normally in the new state (Alber 2021, 174). However, Italy underwent a coup when Benito Mussolini led the March on Rome in 1922. Under the new regime, problems arose for all those who did not identify as Italians. As they aimed for a pure race, state authorities banned the use of the German language and the cultivation of German culture throughout the country, especially in Bolzano. The German population was forcibly assimilated; their names were changed, and they were compelled to speak Italian. During the Second World War, by the agreement between Hitler and Mussolini, 75,000 people left South Tyrol and resettled in the Third Reich. After the war, when most people returned to South Tyrol, a petition was initiated aiming to return Bolzano to Austria. About 124,000 people, representing almost all eligible voters, signed the petition (Peterlini 2022, 7). Despite the desires expressed by the inhabitants of Bolzano, major powers decided to prevent the realization of their idea. The position of the Austrian population had to be improved. The

⁵ The fourteen points by Woodrow Wilson, point 9, available at: https://avalon.law.yale.edu/20th_century/wilson14_4.4.2025.

Gruber-De Gasperi Agreement guaranteed equality of the Italian and German languages in schools and the public sphere. The province of Bolzano was established, where Austrians formed the majority. However, the greatest significance of this agreement lay in the fact that it served as the basis for the first statute of the South Tyrol Region. The measures prescribed by this statute intended to improve the position of the Austrian population. Although the measures did not immediately materialize because Austrians remained a minority in the region, all powers were granted to them by the statute. This meant that no decision could be made without the support of the Italian population and their representatives. With this statute, Austrians finally gained the right to restore their names, which had been taken from them during the fascist regime. Dissatisfaction grew, eventually leading Austria to appeal to the United Nations, which in 1960 and 1961 imposed a requirement on Italy and Austria, to find a solution for South Tyrol. The result of their work was the act adopted in 1969, based on which the second statute of the region would be adopted in 1972 (Woelk 2013, 126–137). Since then, the Statute, Constitution, and Gruber-De Gasperi Agreement have been the three main documents on which the position of South Tyrol relies. With the second statute, the original competences of the region were divided into two categories. The first category includes competences related to culture, tourism, transportation, trade, industry, agriculture, civil protection, etc. All laws and regulations that the region adopts in these areas can be enacted independently, but still respecting the Constitution and European legal tradition as *lex superior*. The second category comprises competences related to education, health, and sports. In these areas, the region must adhere to the principles and achieve the goals set by the state, but the way in which these issues are regulated remains entirely within its competence. The third category consists of those regulations prescribed by the state, which the region must strictly adhere to and implement without any modifications. These include regulations in the areas of immigration, defense, police, legislation, and finance. This improved version of an act, in a sense of writing and design, will satisfy the people and the Austrian government, which in 1992 sent a report to the United Nations on the resolution of the South Tyrol dispute. With the idea to further improve the position of the inhabitants of South Tyrol, the region's budget consists entirely of taxes collected in that territory. Only one-tenth of the taxes collected is set aside and given to the state, while the rest is used at the local level.⁶

⁶ Also see: Manuale dell'Alto Adige con lo Statuto di autonomia, Giunta provinciale di Bolzano, 2023.

3. HOW ARE TERRITORIAL AUTONOMIES DEFINED BY THE CONSTITUTION?

3.1. Vojvodina

In the Serbian constitution, autonomy appears as a concept in the second paragraph before the preamble of the constitution in the context of the territorial sovereignty and the territorial organization of the Republic of Serbia over the territory of its southern province ([...] starting from the premise that the Province of Kosovo and Metohija is an integral part of the territory of Serbia, that it has the position of essential autonomy within the framework of the sovereign state of Serbia, and that from such a position, the Province of Kosovo and Metohija follows the constitutional obligations of all state bodies to represent and protect the state interests of Serbia in Kosovo and Metohija in all internal and external political relations [...]). The right of citizens to territorial autonomy and local self-government is defined as a constitutional principle by Article 12, as one of the fundamental principles. The question of what this principle means has two answers. One answer is provided by Lilić in the commentary on the Decision of the Constitutional Court: “The Constitutional Court has assessed that the right of citizens to provincial autonomy cannot be considered an individual or collective human right, the level of which is guaranteed by the Constitution, but rather it is a constitutional guarantee of decentralization as a guiding principle of the constitutional order (Lilić 2012, 24-36). The second answer is provided by the Statute of Vojvodina, which leads readers into a deeper debate: “The right to provincial autonomy is held by citizens in AP Vojvodina in accordance with the Constitution” and “Citizens in AP Vojvodina exercise their right to provincial autonomy directly, through popular initiative and referendum, and through their freely elected representatives, in accordance with the Constitution and the law” (Statute of the Autonomous Province of Vojvodina from 2014, art. 4).

The legal status of Vojvodina is currently only defined by the Constitution and the law of the Republic of Serbia. Further definition and determination of the organization, distribution, and rights of territorial decentralization are defined in the seventh part of the constitution under the title “Territorial Organization” from Article 176 to Article 193. The seventh part of the constitution is divided into three sections: (1. Provincial autonomy and local self-government; 2. Autonomous provinces and 3. Local self-governments) (Constitution of Republic of Serbia from 2006, Articles 188–193).

3.1.1. Provincial Autonomy and Local Self-Government

As stated earlier, territorial decentralization in the form of autonomous provinces and local self-governments is one of the constitutional principles right at the beginning of the constitution. The delineation of competencies between provinces and local self-governments is left as a constitutional reserve. Thus, in 2009, the Law on Determining the Competencies of the Autonomous Province of Vojvodina was enacted, which was amended by the Constitutional Court due to unconstitutional provisions in 2012. In Article 179 of the Constitution, we come across a mention of the province's statute: "Autonomous provinces, in accordance with the Constitution and the statute of the autonomous province, [...] independently prescribe the organization and competence of their organs and public services". Prior consent of the National Assembly is required for the adoption of the statute, which is almost identically stated twice in Articles 99 and 105 when the constitution maker speaks about the competencies and decision-making of the National Assembly.

The only official body defined by the constitution for provinces is the Assembly of the Autonomous Province. The Assembly of the Autonomous Province is its highest body, consisting of deputies elected by direct secret ballot for a term of four years.

3.1.2. Autonomous Provinces

The Republic of Serbia Constitution defines autonomous provinces in article 182, paragraph 1 of the Constitution as "autonomous territorial communities established by the Constitution, in which citizens exercise the right to provincial autonomy".⁸ Subsequently, para. 2 of the same article lists two Autonomous Provinces: "The Republic of Serbia has the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija". This provision further defines the asymmetry in the status of these two Autonomous Provinces. Kosovo and Metohija are designated as a constitutional reserve, where the "essential autonomy" of Kosovo and Metohija would be determined.⁹ One novelty introduced here compared to

⁷ Arts. 182–187.

⁸ This could be used as a definition of art. 12, that is, of the phrase "right to provincial autonomies". Here we could also ask a question: what would be a difference between provincial autonomy and local government in the eyes of constitution?

⁹ Art. 182, para. 2, subpara. 2 states: "The substantial autonomy of the Autonomous province of Kosovo and Metohija shall be regulated by the special law which shall be adopted in accordance with the proceedings envisaged for amending the Constitution". The way this law must be

the previous Serbian Constitution from the year 1990, is the possibility of establishing new autonomous provinces, as well as the merger of existing ones, according to the procedure prescribed for amending the Constitution (Marković 2006, 13). Article 183 extensively defines the competencies of autonomous provinces. In paragraph one of the mentioned article, the right of provinces to regulate delegated competencies is primarily determined, including “the election, organization, and operation of the organs and services they establish”. Paragraph two and the rest of the article provides a division of areas that the autonomous province should regulate:

“Autonomous provinces shall in compliance with the law, regulate the matters of provincial interest in the following fields:

- 1. Urban planning and development,*
- 2. Agriculture, water economy, forestry, hunting, fishery, tourism, catering, spas and health resorts, environmental protection, industry and craftsmanship, road, river and railway, transport and road repairs, organizing fairs and other economic events,*
- 3. Education, sport, culture, health care and social welfare and public informing at the provincial level.*

Autonomous provinces shall see to exercising human and minority rights, in compliance with the law.

Autonomous provinces shall establish their symbols, as well as the manner in which they shall be put to use.

Autonomous provinces shall manage the provincial assets in the manner stipulated by the law. Autonomous provinces shall, in compliance with the Constitution and the law, have direct revenues, provide the resources for local self-government units for performing the delegated affairs and adopt their budget and annual balance sheet”.

The issue arising from Article 183 is that all competencies are then limited by laws. Any further specification of these competencies is left to the law, which is enacted and amended through the procedure provided for any other law. All reservations left are essentially grouped into one law (the Act on Determining the Competencies of the Autonomous Province of Vojvodina). Thus, if we interpret the state of positive law, the law and statute constitute the constitution of Vojvodina in a material sense, as noted by Marković (Petrov & Stanković 2020, 403–404). The problem can also be

adopted emphasizes its importance. This act was not adopted up to the present day, seventeen years after the Constitution.

observed in the National Assembly, where there has been almost no peaceful and professional debate or discussion. In such an environment, which did not arise yesterday, so we can understand the constitutional legislator who put the simplicity of changing the competencies of provinces at the level of changing an ordinary law, we have a situation where each new government can freely add and subtract competencies. Another issue is that practically, the province then does not possess those competencies because it does not regulate them freely with its statute but they are regulated by law.

The legal acts adopted by the province are limited to the statute enacted by its assembly, with the consent of the National Assembly, and to decisions and other general acts within its competence. The government can initiate proceedings before the Constitutional Court to assess the constitutionality and legality of the province's decisions before they enter into force, thereby delaying their enforcement. The body designated by the province's statute has the right to appeal to the Constitutional Court if any of the state bodies or bodies of local self-government units prevent it from performing its duties. Similarly, the body designated by the statute can "initiate proceedings to assess the constitutionality or legality of laws or other general acts of the Republic of Serbia or general acts of the local self-government unit that violate the right to provincial autonomy".¹⁰

If we look at the previously mentioned Article 183, we can identify several issues, besides those already mentioned, there is also a problem of terminological nature. Vojvodina should take care of human rights "[...] in accordance with the law". Let's assume that this refers to the ratified European Convention on Human Rights, while it seems that there has been an omission of the sixty-three articles of the Constitution that address human rights. Conversely, in Article 183, Section 6, the drafters did not overlook the responsibility towards the Constitution and the law when it comes to original revenues and the province's budget.

3.2. Trentino-Alto Adige/Südtirol

The Constitution of Italy practically evaluates this state as unitary, while simultaneously organizing broad autonomy resembling a federal type. Therefore, we shall, once again, cite the "Principles of the Constitution", Article 5 of the Constitution of the Italian Republic: "The Republic, one and indivisible, recognizes and promotes local self-government; In state services, it implements administrative decentralization in the broadest sense,

¹⁰ Art. 187 – Protection of the provincial autonomy.

adapting the principles and methods of legislation to the needs of local autonomy and decentralization”.¹¹ Also relevant to our topic is Article 6, which states: “The Republic protects the rights of linguistic minorities in accordance with certain legal provisions”.

In the fifth section titled “Regions, Provinces, Municipalities”, the Constitution defines the territorial organization of the Republic, from Article 114 to Article 133. Italy is territorially divided into twenty regions, and South Tyrol is divided into two provinces. We, the Constitution, analyze in the form in which it exists today, without the articles that were abolished by the constitutional reform of 2001.¹²

Article 114, paragraph 1, prescribes that the Republic “[...] consists of Municipalities, Provinces, Cities, Regions, and the State”. Furthermore, in the same article, municipalities, provinces, cities, and regions are defined as self-governments, with their own statutes, powers, and functions that must be “in accordance with the principles defined by the Constitution”. Article 116 defines special regions: Friuli-Venezia Giulia, Sardegna, Sicilia, Trentino-Alto Adige/Südtirol¹³, and Valle d’Aosta. The Constitution does not specifically use the terms “*special*” and “*ordinary*” regions; this terminology can be found in various works, based on how the regions’ statutes are named. The constitutional framers approach asymmetry differently, explaining that these regions “have special forms and conditions of self-government based on special statutes accepted by constitutional law”. Attention should be paid to paragraph 3 of Article 116 because it shows that the position and rights of special regions will be determined causally, i.e., on a case-by-case basis. What will be noticed in the position of special regions is that they do not have the same rights; instead, each has its set of powers granted by the central government. Therefore, although regionalism in Italy is nominally binary, divided into ordinary and special regions, we observe that the practice is not so straightforward (Palermo 2021, 136–151).

Paragraph 3 of Article 116 states: “Further forms and special conditions of autonomy [...] may be granted by state law to other Regions, upon

¹¹ The authors underline the mistake in the translation of the Constitution to english. The translator have clearly changed the order of the words, punctuation marks, so that the article sounds almost contradictory to itself: *The Republic is one and indivisible. It recognises and promotes local autonomies, and implements the fullest measure of administrative decentralisation in those services which depend on the State. The Republic adapts the principles and methods of its legislation to the requirements of autonomy and decentralisation.*

¹² Arts. 115, 124, 128, 129 and 130. For more regarding constitutional reforms see Palermo & Vilson 2013.

¹³ Art. 116, para. 2 separates Trentino Alto Adige to Trento and Bolzano.

the initiative of the same Region, after consultation with local bodies and in accordance with the principles set out in Article 119. The law is approved by an absolute majority in the Chamber of Deputies and in the Senate on the basis of an agreement between the State and the Region itself. The agreement between the central government and the regional government is executed on a parity basis”.

Article 121 defines regional institutions and their role. The regional institutions include the Regional Council (*ita. il Consiglio regionale*), the Board (*ita. la Giunta*), and its President. These bodies represent the legislative and executive authority of the region.¹⁴ The Regional Council has legislative authority in the Region and may “propose laws to the Chamber of Deputies and the Senate”. The role of the Regional Board and its President is perfectly defined in Article 121, paragraph 3: “The Regional Board is the executive body of the Region. The President of the Board represents the Region; leads the Board’s policy and is responsible for it; promulgates laws and issues regional regulations; manages administrative functions for which the State has empowered the Region, in accordance with the instructions of the Government of the Republic.” A notable difference from the Constitution of the Republic of Serbia is the sole provision of the Provincial Assembly and its function, while the province is given the right to organize its other bodies. Another distinction is that the Serbian Constitution, in the same article, also determines the Assembly of local self-government, creating confusion in distinguishing between local self-government and autonomous provinces. The electoral system of these bodies is prescribed by regional law, which must be based on state law and guided by the same principles. Regions are given the freedom to determine the length and duration of their representatives’ mandates. The Constitution also stipulates the principle of incompatibility, prohibiting an individual from being a member of any two bodies at the same time, whether they are regional, state, or within the representative bodies of the European Union. The President of the Regional Council is elected by the members of the council, and within the election process, they also appoint the presidential cabinet. The President of the Regional Board is elected by general and direct suffrage, and afterward, appoints and dismisses the members of the Board. The Constitution allows for the Regional Statute to prescribe a different election procedure for the President of the Regional Board, as stated in Article 122, paragraph 5. South Tyrol has a special organization of its Regional Council, which is composed of the councils of the provinces of Bolzano and Trento.

¹⁴ Art. 121, para. 2.

Financial autonomy and the relationship of finances between regions and the state are defined by Article 119. The financial organization in the state is such that regions, municipalities, cities, and provinces have the right to organize taxes in accordance with the Constitution, the principles of coordinating public finances, and the tax system. All regions to a certain extent have the right to a share of the tax revenue collected in their territory. Regarding special regions, each of them has reached a different financial agreement in their statutes. As Palermo (2021, 141) states, financial arrangements are quite lenient towards special regions compared to others”.

Each region has its own statute, which determines the form of the Board and its mode of operation. The statute is adopted by the Regional Council, and it can also be amended independently after the law amending or supplementing the statute is approved twice by an absolute majority in the Regional Council. The statute should organize a regional referendum and initiative. The will of the citizens is not mandatory for the adoption of the statute, but if one-fiftieth of the voters or one-fifth of the members of the Regional Council request a referendum within three months after adoption, then the people are consulted on the highest legal act of the Region. This can be interpreted as a good solution because it requires citizens to actively follow and participate in political and legal life, but it raises the question of whether it would be within the principles of democratic organization of power. The Italian Constitution adopts an interesting solution for the relationship between regions with higher autonomy thresholds and local self-governments. Article 123, paragraph 4, states that in each region, the statute determines “the relations in the Council of local self-government, as an advisory body between the Region and local institutions”.

4. WHAT ARE THE COMPETENCES OF AN TERRITORIAL AUTONOMY AND HOW DOES ITS ORGANIZATION LOOK LIKE?

4.1. Vojvodina

The legal acts that more comprehensively regulate the competencies of Vojvodina, as discussed in the previous chapter, are the: Act on Determining the Competencies of AP Vojvodina. along with the decision of the Constitutional Court by which numerous articles were repealed or amended, and the Statute of Vojvodina. The statute consists of 65 articles, while the law comprises 91 articles. As previously mentioned, with such an omnibus

law and statute, a de facto constitutional act of the province is established. Interestingly, the position of Vojvodina in Serbia's public law life was not resolved for some time, and the Law recognizing the boundaries of the province was adopted only in 2009, despite the Constitution being adopted in 2006 (Korbec 2008, 355–372).

First and foremost, it is necessary to emphasize once again that this act encompasses a rather broad range of matters for which the Constitution left reserves, consolidated into a single act. The original version of this act granted broader autonomy to Vojvodina, but after several interventions by the Constitutional Court, the province's jurisdiction was modified. Our focus remains on the decision regarding this law. Former President of the Constitutional Court, Dr. Dragiša Slijepčević, stated: "The Act on Determining the Competencies of AP Vojvodina, whose constitutionality is challenged, is the most important and challenging issue that has appeared before the Constitutional Court from its inception to the present day", a sentiment echoed by Beretka and Korhec (Slijepčević 2012). This decision reflects a sense of fear of statehood, or rather, a fear of any form of constitutionalism in Vojvodina. Furthermore, such actions by our institutions raise questions about who regulates the position of autonomous provinces. They are not organized across the entire territory of Serbia, and functionally, only one is regulated.

"On the other hand, provincial regulatory activity can only create new rights and obligations within the territory of AP Vojvodina. Outside of it, these matters either remain unregulated or the legislature regulates them separately through specific laws. Considering the obligation of AP Vojvodina to respect legality even in these cases, the question arises about the extent of autonomy it possesses if the law extensively regulates almost every relationship in matters that would otherwise fall under provincial regulation. In such cases, provincial regulation amounts to nothing more than a simple transcription of legal texts into provincial legislation" (Korhec & Beretka 2018, 90–116).

What autonomy does Vojvodina have if the law regulates almost everything? Firstly, the statute defines Vojvodina as an autonomous territorial unit of the Republic of Serbia where "citizens exercise the right to provincial autonomy in accordance with the Constitution and the law", the province is an "integral part of the Republic of Serbia and nurtures European principles and values" (Statute of AP Vojvodina, Art. 1). By a decision of the Constitutional Court from 2012, the act was amended to remove the phrase "as a region where European principles and values are traditionally

nurtured”, and another controversial aspect removed was the right of the province to establish representations in European regions, specifically in Brussels, within its jurisdiction.¹⁵ Article 3 of this act prescribes interregional cooperation as follows:

“The Autonomous Province of Vojvodina cooperates with appropriate territorial communities of other states within the framework of the foreign policy of the Republic of Serbia, respecting the territorial unity and legal order of the Republic of Serbia.

The Autonomous Province of Vojvodina concludes interregional agreements within its jurisdiction.

The Autonomous Province of Vojvodina may become a member of European and world associations of regions, in accordance with the law and the Statute”.

Korhec and Beretka made a fairly accurate division regarding the real competencies of the province: “In the social areas listed in Article 183 of the Constitution, the Act on competencies either 1) *does not prescribe any normative competence for the Autonomous Province of Vojvodina* (spatial and urban planning, agriculture and rural development, animal husbandry, veterinary medicine, water management, forestry, hunting, fishing, environmental protection, preschool education, and primary, secondary, and higher education, health care, public information); or 2) *prescribes normative competence, but without specifying its content* (development planning, tourism, informal adult education and education of national minorities); or 3) *unambiguously prescribes normative competence* (spa and resorts, road, river and rail transport, organization of fairs and other economic events, sports - but in delegated competence, culture, social protection)” (the emphasis is made by the authors). It is strange that there are no open competencies for Vojvodina in agriculture, water management, forestry, hunting, and fishing, considering it as one of the regions in Europe with the greatest potential for these branches. Reading the statute and the law, it is noticed that there is almost literal transcription of articles, for example: Act article 4 paragraphs 1 and 2 – Statute article 3; Act article 7 – Statute article 11; Act article 5, paragraph 1 – Statute article 15; Act article 3, paragraph 1 – Statute article 16 paragraph 1; Act article 10 paragraphs 2 and 3 – Statute article 27 paragraphs 1; Act article 10 paragraphs 14 and 15 – Statute

¹⁵ Constitutional Court of the Republic of Serbia (Ustavni sud Republike Srbije), IUz-353/2009, 10.07.2012.

article 27, point 2 paragraphs 3 and 4; Act article 8 – Statute article 58; Constitution article 184, paragraph 4 – Statute 57.

The problem arising in practice when drafting important documents of this nature, where content is copied from one to another, becomes particularly pronounced when a higher legal act is amended. Such a change then necessitates a vertical adjustment of all documents in the hierarchy. This method of copying clauses not only reflects a lack of legal culture but also proves economically inefficient and undermines the concept of discretionary legal regulation.

3.2. Trentino-Alto Adige/Südtirol

As stated, the South Tyrol Region consists of two provinces - Bolzano and Trento. The Special Statute of South Tyrol comprises 115 articles and holds constitutional or rather, constitutional status. In the statute, the basic organization of the region and provinces is defined in Chapters I, II, and III. The first article of the statute repeats what has been said in the study and what has been highlighted as essential from the constitution: “1. Trentino-Alto Adige, which includes the territories of the Provinces of Trento and Bolzano, constitutes an autonomous region with legal status within the political structure of the Italian Republic, which is unique and indivisible, based on the principles of the Constitution and in accordance with the present Statute. 2. The capital of the Trentino-Alto Adige Region shall be the city of Trento”.¹⁶ It should be noted here the similarity, if not identity, with Article 5 of the Constitution of the Italian Republic.

The region and provinces have legislative powers regulated by this statute, in Article 4 for the region and in Article 8 for the provinces.

In Article 4, paragraph 1, it is stipulated that the region, when enacting laws, must regulate its legislation “in accordance with the Constitution and the principles of the legal system of the Republic, respecting international obligations and national interests - including the protection of local language minorities - as well as the basic principles of socio-economic reforms of the Republic [...]”. The region is given the authority to regulate regional services and their personnel, para-regional bodies, local authorities and their subdivisions, the establishment and maintenance of land registries,

¹⁶ Article 1: 1. Il Trentino-Alto Adige, comprendente il territorio delle Province di Trento e di Bolzano, è costituito in Regione autonoma, fornita di personalità giuridica, entro l'unità politica della Repubblica italiana, una e indivisibile, sulla base dei principi della Costituzione e secondo il presente Statuto; 2. La Regione Trentino-Alto Adige ha per capoluogo la città di Trento.

the organization of health institutions and chambers of commerce, the development of cooperatives and their supervision, and expropriation for public use. The obligation of regional laws to be within the framework of national legislation is prescribed in Article 5: “Within the framework of the preceding article and the principles established by state laws [...]”. Based on these boundaries set forth in Article 4, the statute later regulates the functions of the provinces in Chapter III, with Article 8 prescribing the legislative powers of the provinces in 29 points. Here we will present a part of the authorities that are important for this topic, although legislative regulation is mostly dedicated to human rights for national minorities in the region.

Provinces, like the region, have the authority to organize and regulate the personnel of provincial services. Toponyms in the province of Bolzano are regulated bilingually, in Italian and German.¹⁷ Considering that this region is located in northern Italy, at the foot of the Alps, there are several interesting solutions that contribute financially to the provinces. Provinces have the right to regulate by law: lake ports; markets; mines, including mineral and thermal waters, quarries, and gravel pits; hunting and fishing; alpine pastures and parks for the protection of flora and fauna; roads, aqueducts, and public works in the province; tourism and the hotel industry, including guides, sticker carriers, ski instructors, and ski schools.

As already mentioned, the regional bodies consist of the Regional Council, the Regional Government, and the President of the Region. The Regional Council consists of members of the provincial councils of Trento and Bolzano. The Regional Council exercises legislative authority delegated to the Region and other functions entrusted to it by the constitution and statute. Similarly, the provinces have bodies such as the Provincial Council, the Provincial Government, and the President of the Province. Regarding the jurisdiction of the region, as mentioned above, the region can freely decide, subject to the limitations of the constitution and other international acts adopted on the subject. The statute also addresses matters not within the jurisdiction of the region, in Article 35: “Matters not within the jurisdiction of the region but of special importance to it may be voted on and proposed by the Regional Council. The President of the region submits both

¹⁷ As a comparison Vojvodina apart from Serbian recognised five more languages, that are used in municipalities where Serbs are not majority. For example, linguists and people that are familiar with specifics of a language and script can tell by the name of the street what nation lives in that town or village.

to the government, which will represent the region's wishes to the lower house of parliament and are transferred to the Government Commissioner".¹⁸

It is not uncommon in Italian theory to hear that South Tyrol would be an ideal example of conflict resolution, given its organization as presented above and considering the rights of the region. Also, the history that has been presented is relevant. Despite some minor ethnic motives that could be heard through politics and political actions in the region, no conflict has existed for many years. The assumption of both authors of this work is that many autonomy models could be presented as conflict resolution systems if they had the finances available to South Tyrol and if they were part of a strong military-economic alliance, such as the European Union and NATO.

4. CONCLUSION

Professor Slobodan Jovanović stated in his monograph "About the State" that the people are all individuals subject to one authority, regardless of how that authority is established, and nationality represents a sense of linguistic, cultural, and historical identity. The essence of modern states is that power is democratically vested in the hands of the people. We inherit this idea to a certain extent from socialism, where the dose of democracy we would like to practice today did not exist, but the idea itself still holds true. Territorial decentralization must exist in a well-ordered system so that all people have the opportunity to regulate their environment, or "their courtyard." Democracy and the practice of local political action must exist independently of central authorities; cities are, after all, older than states. It is difficult to expect that there will be sufficient quality in organizing the economy, tourism, agriculture, water management, protection of various natural resources, and their proper and just exploitation if the organizational system is strictly centralized. Vojvodina is part of the Republic of Serbia, full of various cultural and economic riches that are not utilized to their full potential. Visible differences in organization are noticed between South Tyrol and Vojvodina. Primarily, the autonomy of South Tyrol and its two provinces is much greater than the autonomy of Vojvodina. The statute of South Tyrol is an act of constitutional rank, difficult to change, and it gives the region, as well as the provinces, the opportunity to regulate

¹⁸ Nelle materie non appartenenti alla competenza della Regione, ma che presentano per essa particolare interesse, il Consiglio regionale può emettere voti e formulare progetti. Gli uni e gli altri sono inviati dal Presidente della Regione al Governo per la presentazione alle Camere e sono trasmessi in copia al Commissario del Governo.

their legislative and executive powers. The authorities we have mentioned in the previous chapter show that regions and provinces have the ability to regulate areas that can be extremely profitable. Such a solution leaves more freedom to the region because it depends less on the revenues delegated to them by the parliament. This can be seen as not being the case here; for each of the powers held by Vojvodina, even in distorted legislation (issuing decisions, resolutions, declarations, decisions, orders, etc.), they must be in accordance with the laws adopted by the National Assembly. This solution does not provide real freedom to the province to regulate its own affairs but practically turns the organs of “provincial autonomy” into unnecessary bureaucracy.

The issue of Vojvodina in the current period has several important factors. Unlike other provinces, Vojvodina, as a province, has no desire or reasons for secession. This is logical from the aspect that the majority of the population are Serbs who have no reason to live outside Serbia. In connection with this, the question often arises as to whether the province is necessary, considering that the majority nationality lives in it and in other parts of the country. As emphasized to some extent already, the autonomy of Vojvodina should exist so that human and minority rights and freedoms can be respected, and because, if autonomy related to agriculture, water management, and other economic sectors were expanded, we believe that significant financial success could be achieved. Currently, Vojvodina is the only province fully legislatively defined within the system of the Republic of Serbia. The southern province of Kosovo and Metohija is still not, and it remains a topic for the political sphere, which can justifiably be said to be questionable (Nikolić & Cvetković 2022, 109–117). If there is a desire for peaceful and democratic reintegration of our southern province into the system of the Republic of Serbia, then the position of Vojvodina as an example of a successful province that is already fully defined must be better organized. The only thing that is currently successful in Vojvodina is the existence of a territorially defined provincial organization, which, from a legal standpoint, is somewhere between local self-government and central authority, but its position is not sufficiently defined to demonstrate the hierarchy of organs. With the current organization, Vojvodina does not have representative free powers to exercise the constitutionally guaranteed “right to provincial autonomy”.

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КОМПАРАТИВНА АНАЛИЗА ПРАВНОГ ПОЛОЖАЈА
АУТОНОМНЕ ПОКРАЈИНЕ ВОЈВОДИНЕ
И РЕГИОНА ЈУЖНИ ТИРОЛ

Сажетак

Овај рад анализира сличности и разлике између два типа територијалне аутономије у две државе са различитим организационим структурама. И Војводина и Јужни Тирол су аутономне територије са извесним историјским сличностима све до Другог светског рата. Након рата, обе аутономне територије су формиране, али је њихова даља историја до данашњег дана веома различита. Обе имају значајан удео етничких мањина у укупној популацији, сличан број становника и значајан потенцијал за финансијски развој. Циљ овог рада је био испитати три конкретна питања: 1) Које су сличности и разлике у стварању и оправдању постојања ове две територијалне аутономије? 2) Како су територијалне аутономије дефинисане у односу на уставе Италије и Србије? 3) Које су надлежности аутономних територија и како њихова организација одговара статуту?

Кључне речи: Јужни Тирол, Војводина, Италија, Србија, територијална аутономија.