Foreword

Malcolm Chisholm MSP, Chair, European and External Relations Committee of the Scottish Parliament

The Treaty of Rome, signed 50 years ago last year, heralded a new political landscape. As the European Union has evolved, regions have faced a challenge – and opportunity – to establish their own role and maximise the mechanisms to effectively represent their interests within this process. As the European Parliament's powers have grown over this period, the role of MEPs within the process has also developed and grown.

Devolution within the UK, a process started nearly 10 years ago, changed the constitutional make up of the United Kingdom and the Scottish Government now has obligations relating to European legislation falling within devolved competencies. This has focussed attention on the role of the Scottish Parliament, primarily through the European and External Relations Committee and subject committees, in scrutinising the Scottish Government in regard to these obligations.

In these early days of devolution, when the foundation for future scrutiny of European issues is being laid, it is important for us to reflect on how Scotland – through its Government, Parliament and MEPs – can work together effectively to ensure that Scottish interests are represented within the European Union process.

For this reason, I welcome the Europa Institute's essay competition and chance for students across Scotland to contribute to this debate.

Welcome

Brian Taylor, Political Editor, BBC Scotland

The issue of Scotland's voice in Europe lies at the core of current constitutional debate.

When the Holyrood Parliament was established, it was fudged. Relations with the European Union were reserved in the Act while the preceding White Paper acknowledged that the new devolved administration would seek a role in liaising with the European Union, via the UK Government.

That deliberate fudge – perhaps understandable in terms of the wider devolution project – has persisted to this day and is now under greater strain: not least because the administration in Edinburgh is of a markedly different political colour to that in London.

Further, the Holyrood Parliament is seeking to enhance its role in scrutinising European legislation in devolved fields. At the same time, law-making regional assemblies across Europe are looking to strengthen their stake in EU affairs.

I look forward with enthusiasm to participating in this debate.

Introduction to the winning essays

Jo Shaw, Europa Institute, University of Edinburgh

We present here the winning entries in the Europa Institute's Essay Competition on the general topic of ***The Treaty of Rome, the European Parliament and the Regions and Substate Nations in the European Union***.

Entrants were invited to place their own 'spin' on the essay competition title; contrasting approaches are very evident in the results. Some essay writers adopted the title of the competition as their own, and others created a new one just for their essay. While each of the four essays reprinted here won a prize, we would also like to thank, and to congratulate, each and every one of the essay competition entrants. Each made a thoughtful contribution to the debate on the evolution parliamentary democracy in a multi-level system and thus to the debate about the future of the European Union. Each individual entrant thus gave the lie to the hypothesis which underpinned the whole idea of holding an essay competition, namely that young people are turning away from engagement with the details of issues such as European integration and from politics more generally!

In this pamphlet, the winning essays are not presented in an order of merit, but rather in an order which makes most sense when the essays are read as a set of four short contributions to the debate about parliaments and democracy in the European and within the Member States.

We begin with an essay by **Adam Gilbert** which sets the scene, setting out some background to the European Parliament, and its members, as well as other parliamentary bodies which operate in the multi-level system which is the EU and its Member States. It focuses in particular on relationships which the Scottish Government has forged across the EU with regions and nations within other Member States. The essay also introduces us to important bodies such as REGLEG, which brings together regions with legislative powers across the Member States, which reappear in later essays.

Gavin Barber's essay introduces some central conceptual clarifications, in the context of the evolution of modern European statehood, arguing that it is the informal developments in state-substate relations which are as significant as the formal constitutional changes which have occurred. Barber identifies the crucial question: the state in the European Union faces formidable challenges, not only to retain its significance in the face of the process of European integration, but also to identify appropriate responses to challenges from below, from the regions. In this context, the question of parliamentary powers and the legitimacy of the political community which elects parliamentary representatives is one of the keys to understanding how powers are shared within a multi-level system.

The theme of the relations between the EU, the Member States and the regions is taken up once again by **Gerd Koehler**. He identifies the risk that supranationalism, far from fostering regionalism, might also hinder its development. Taking a more EU-centric approach, Koehler submits the existing arrangements to a close legal analysis, identifying the difficulties for regions and substate nations when they raise claims to better representation and voice within the European Union political system.

The final essay, by **Daniel Kenealy**, turns the focus back to Scotland, and specifically some of the issues and challenges which have arisen since the election of May 2007 brought an SNP minority government to power. He analyses in detail both the state of democracy within the EU, and finds it rather lacking, as much for reasons of political legitimacy as for institutional reasons. The problem is that of the *demos*. There is no European 'people'. Juxtaposing this with the SNP policy in relation to the evolution of the European Union, Kenealy identifies some important tensions between the hopes of the SNP for Scotland's position as an independent state within a European *confederation* and the prospects for further conferment of powers on the European Parliament, within an increasingly *federalised* system.

The debate about the future of European integration moved forward rapidly through the autumn of 2007, in ways not fully reflected in the prospectus for the essay competition. In particular, the Member States successfully negotiated and signed the Treaty of Lisbon, a controversial amending Treaty which reflects much of the work which was built into the ill-fated Constitutional Treaty, rejected by referendum votes in France and the Netherlands in 2005. Many of the essays comment upon the implications of the **Treaty of Lisbon**, not least because one of its most substantial contributions, should it come into force, will be further to strengthen the role of the European Parliament within the EU's legislative process, whilst at the same time giving a new and distinctive voice to national and – potentially – subnational parliaments in that context. To that end, this pamphlet should also be seen as a significant Scottish contribution to the debate about the Treaty of Lisbon, although not all of the essays are written from a specifically Scottish point of view. However, their distinctive contribution overall is to place that Scottish experience of a multi-level governance system – Scotland in the UK, in the European Union – into a wider context, reflecting upon the experiences of other regions and substate nations, and helping to clarify some of the conceptual vocabulary with which we engage with these political, legal and constitutional questions.

These notes, however, by no means exhaust what are rich and sophisticated essays, full of ideas and illumination. Above all, the essays are not intended to close debate, but to provoke it. We look forward to your reactions!

A note on the essay competition and the production of the pamphlet

The essay competition was open to all students registered at institutions of higher education in Scotland, and the Europa Institute was assisted in its endeavour to involve as many institutions and as many students as possible by a network of contacts, whom we thank on the inside back cover of this pamphlet. We are very grateful to them for their assistance, and also to the organisations that assisted us in holding launch events for the essay competition across Scotland in September and October 2007. Again, you can find details at the back of the pamphlet.

A selection of the best essays were submitted by the network for further consideration. These essays were considered anonymously (and with no indication of the institutional

affiliation of the entrants) by three judges, and a consensus was reached on the prize winners.

Given lack of time, it has not been possible to invite the competition winners to proofread or correct their essay texts reproduced in this text. Basic proofreading has been done by the essay competition organisers, but corrections have been limited to basic grammatical and typographical errors, and some reformatting. To save space, we have also omitted some additional bibliographies which students submitted with their essays, although we have retained footnotes in full. Inevitably many differences in style and referencing format remain, but we felt it important that we should not try to homogenise excessively the individual work of the authors. For example, some authors have chosen the still legally correct designation 'Scottish Executive', and others have chosen the now commonly used designation 'Scottish Government'. The essays are reprinted here essentially as submitted, and represent the personal views of each of the individual authors, and not those of the other persons or organisations involved in the organisation and running of the essay competition. Equally, the individual authors remain responsible for remaining inaccuracies in their essays.

The Treaty of Rome, the European Parliament and the Regions and Substate Nations in the European Union

Adam Gilbert, Robert Gordon University

The European Parliament is an assembly of representatives from each Member State, known as Members of European Parliament (MEPs), representing the 492 million Union citizens. Presently there are 785 MEPs representing 27 Member States, however the number of ministers is due to change in 2009 to no more than 750 MEPs. The Parliament plays an active role in drafting legislation which will have an immediate effect on the daily lives of its citizens; these legislative powers are shared with the European Council. However, the Treaty of Amsterdam in 1999 enhanced the Parliament's powers by significantly extending the co-decision procedure.[1] The Treaty of Amsterdam has simplified the co-decision procedure, making it quicker and more effective and strengthening the role of Parliament. The co-decision procedure is to be extended to new areas and Parliament is to be given equal decision-making powers in budgetary matters with the Council. The European Constitution, requested stronger powers for the Parliament to act as co-legislator.[2]

Currently the United Kingdom has 78 MEPs in the European Parliament. Out of the 78 MEPs representing the UK, Scotland has 7 MEPs. The current MEPs will remain in European office until 2009 when their 5 year tenure will end. The 7 MEPs are: David Martin MEP (Labour), Ian Hudghton MEP (SNP), Struan Stevenson MEP (Conservative), Catherine Stihler MEP (Labour), Elspeth Attwooll MEP (Liberal Democrat), Alyn Smith MEP (SNP), John Purvis CBE MEP (Conservative). Scotland's current MEPs represent Scotland in various committees within the European Parliament in areas that are of specific interest to the Scottish Executive and the Scottish public. These committees include: Agriculture and Rural Development where Scotland has 2 seats proving that this is a priority to the Executive; a vice-chair on the Economic and Monetary Affairs committee (John Purvis CBE MEP); and the committee where Scotland is best represented in the European Parliament, the Fisheries committee, where 4 of Scotland's MEPs have their seat. Elspeth Attwooll MEP holds a vice-chair position on this committee as well.[3]

Since the devolution of Scotland in 1998, authority of EU legislation and policy was reverted to the UK Government. The reasons for this being that domestic law must not conflict with EU law, EU law is a matter that can only exclusively be exercised by Member States and as the UK is a member state the legislative powers are with the UK Government, Scotland is only recognised as a sub-state legislature. However, the Scottish Executive and Scottish Parliament would be solely responsible for implementing EU law in Scotland. Therefore, Scotland would not be formally recognised to legislate on policies where Scotland has a specific interest i.e. fisheries. In addition, after devolution it was made clear that officials from the devolved administrations would continue to be welcome to meetings in Whitehall departments where EU issues touching upon devolved competences were being

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[1]   Article 251 EC, as amended by the Treaty on European Union 1992.
[2]   http://europa.eu/scadplus/glossary/codecision_procedure_en.htm.
[3]

     http://www.europarl.europa.eu/members/public/geoSearch/search.do?country=GB&zone=Scotland&language=EN.

discussed.[4] Important UK issues dealing with EU legislative proposals are the responsibility of the UK Government. For obvious reasons it would be politically risky to have politicians from devolved administrations involved in Cabinet discussions that would be disputatious. However, until recently, since devolution the respective devolved administrations of the UK have been of the same political party and disruptions have been minimal.

When devolution happened in Scotland, the Scottish Parliament was looked upon to pioneer the development for debate and scrutiny on EU matters for sub-states. This is represented from Scotland by the European and External Relations Committee (EERC), where the committee works on methods to allow autonomous and legitimately informed Scottish – UK – European policies to develop in areas which are of particular importance to Scotland i.e. fisheries and agriculture.[5]

On 11 September 2007, the Scottish Executive identified 21 key areas in EU policies that Scotland has significant interest. These include health and education dossiers, fisheries dossiers, justice reform dossiers and rural development. In many of these dossiers it states that Scotland must adopt strategies in finding ways in which they can put forward Scotland's interests and views to the EU. The Scottish Executive maintains contact with their European based office so EU regulatory or legislative proposals which may affect Scotland directly can be identified at an early stage and the Executive can alert appropriate bodies to become involved with any developments at 'grass roots level'.[6]

Scottish Executive Ministers and officials are able to attend meetings of the Council of Ministers when items of significance to Scotland are scheduled and if required can speak on behalf of the UK.[7] In order for Scotland to have an opportunity to be heard on matters the Executive has created special relationships with other autonomous states within the EU. The idea behind this is so that when legislative proposals develop they will need to put forward the Scottish view and opinion on issues which directly affect Scotland. If they express Scotland's views and then another autonomous states agree and put forward their views, then the EU will more than likely listen to the views, than if Scotland were expressing them solely.

Scotland has created numerous co-operation agreements with similar autonomous states within the EU. Currently the Executive has created partnerships with; Catalonia (Spain), Tuscany (Italy), North Rhine-Westphalia (Germany) and Bavaria (Germany). The intention of these agreements is to promote government-to-government contacts between partner administrations to promote exchange of policy best practice, and to promote awareness of Scotland and Scottish interests. Each partnership is defined by a Co-operation Agreement setting out the broad themes for prospective co-operation. This is supplemented by an Action Plan containing more tangible goals.[8]

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[4]   C. Carter, D. Scott, S. Bulmer, M. Burch, R. Gomez and P. Hogwood, Findings from the Economic and Research Council's, Research Programme on *Devolution and Constitutional Change,* Devolution Briefing No. 27, *Scotland and the European Union (March 2005).*
[5]   Carter *et al*, above n.4.
[6]   http://www.scotland.gov.uk/Topics/Government/International-Relations/Europe/Priorities.
[7]   http://www.scotland.gov.uk/Topics/Government/International-Relations/Europe/15181/1271.
[8]   http://www.scotland.gov.uk/Topics/Government/International-Relations/Europe/Menu8.

Looking at the autonomous region of Catalonia in Spain, it seems not too different from Scotland in the way it was established as a sub-state. The state was created in 1978 under a Statute of Autonomy which created a democratic political body with independent attributes which is similar to the devolution Scotland went through in 1998. In June 2006 a referendum was held for a new Statute of Autonomy that governed the future relationship with Spain and to give the state greater independence. In May 2002 the Co-operation Agreement was signed by Scotland and Catalonia and the key areas for co-operation were, as laid out in the Agreement; agriculture, rural affairs, architecture, education, health and also;

> '…to jointly contribute to the development of the regions' role in Europe, especially in the areas of protecting cultural identity and regional diversity…'[9]

The Action Plan claims that because the regions have similar characteristics, such as possession of their own national identities and languages they can effectively work together to contribute inter-regional co-operation into the European integration process.[10] With reference to the Executive's key dossiers, Catalonia can help Scotland in environmental and agriculture issues.

The autonomous state of Tuscany has experienced significant change over the past 40 years, in areas such as urbanisation, tourist and commercial areas and having to reduce the importance of agriculture from their agenda. Both states identified that they both have similarities in artistic and cultural heritage and both wish to contribute to the education of young people and to also nurture their creativity.[11] The Agreement declares that;

> '…the parties agree to consult each other on relevant EU initiatives and policies in the cultural field and to consider joint projects taking advantage, where appropriate, of EU funding opportunities…'[12]

The Action Plan refers to this declaration directly and how they will co-operate with one another in such matters. They plan to liaise between the administrations so they can maximise the impact of such mutual interests. The first task is to identify mutual interests and to drive these forward in such other organisations as the Conference of Peripheral Maritime Regions (CPMR) and Group of Regions with Legislative Power (REGLEG). Secondly, when they have identified and pursued such interests, they intend to hold dual initiatives with their respective offices in Brussels, with the intention of informing the European Commission, Member States and regional partners of their ideas and plans of such mutual interests. These interests are the specific areas laid out in the Co-operation Agreement.[13] With further reference to the key dossiers that the Scottish Executive identified for 2007, these issues concern in particular educational and cultural issues.

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[9]   Protocol of Agreement between the Scottish Executive and The Government of Catalonia, Edinburgh, 2 May 2002.
[10]   Action Plan between The Scottish Executive & Generalitat de Catalunya, Barcelona, 4 November 2002.
[11]   Action Plan between The Scottish Executive & The Regional Government of Tuscany, Edinburgh, 19 June 2003.
[12]   Co-operation Agreement between The Scottish Executive and The Regional Government of Tuscany, Florence, 15 November 2002.
[13]   Action Plan between The Scottish Executive & The Regional Government of Tuscany, Edinburgh, 19 June 2003.

North Rhine-Westphalia (NRW) is the most populous state in Germany with a population of 17.69 million people. In 2003 the Executive and the NRW signed a Co-operation Agreement with the key areas being; Structural Funds, European Governance and entrepreneurship among others. The Agreement also recognises that both states have legislative parliaments, industrial heritage and a strong higher education sector wherein they also identify that inter-regional co-operation will help towards the success of the EU.[14] EU issues which the Action Plan discusses about the Agreement are in areas such as Structural Funds, where they plan to exchange views on EU Structural Funds from 2006 and to represent mutual interests in this area at a European level to the Commission. They also agreed to expand on relations with the European offices of each state and to work together to maximise the impact of mutual interests on the operation of the European Constitutional Treaty and any other avenues they appear to have mutual interests in by enhancing the purpose of similar autonomous regions in the EU through groups such as REGLEG and the Committee of Regions.[15] The Executive can work with the NRW in areas of mutual interest which are part of the Executive's key dossiers for 2007, such as Structural Funds 2007-13, renewable energy and Constitutional Issues such as the EU Draft Constitutional Treaty.[16]

The Free State of Bavaria is home to 11.6 million people who occupy 7.5% of the German population and has had strong relations with Scotland for many years.[17] As the Agreement with the most recent Action Plan out of the 4 discussed, there are more issues based on EU co-operation. Both states recognise the contribution and affect themselves and similar states have on bringing the EU closer to its citizens. Scotland has more mutual interests and policies with Bavaria than with the other 3 mentioned. These policies include environment, justice and policing, education, European policy, health improvement, administrative reform and interchange. The States intend to exchange knowledge of previous experience on EU matters, such as Scotland's implementation of the EU Landfill Directive and Bavaria's in waste recycling, incineration of waste etc. The States also plan on operating together to work out what is the most sufficient way of implementing EU policies, legislation and alternatives to regulation. Similarly, like all the other Agreements, Scotland and Bavaria intend to strengthen existing EU offices and to maximise common policies. However they also state in the Action Plan that they intend to do this by temporary exchange of personnel, so experienced members from each state can help administer changes and professional development.[18] With reference to the key dossiers for 2007 set out by the Scottish Executive, Bavaria can clearly help Scotland more than other states with mutual interests with the same type of Agreement. In important areas such as justice, education, health and European policy which are of high importance to the Executive.

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[14]   Cooperation between North Rhine-Westphalia and the Scottish Executive, Düsseldorf, 20th February 2003.

[15]   Action Plan between The Scottish Executive and the State Government of North Rhine-Westphalia, Edinburgh, 24 January 2005.
http://www.scotland.gov.uk/Topics/Government/International-Relations/Europe/15181/keyeudossiers.

[17]   Scotland has 20 municipalities twinned with municipalities in Bavaria, Cooperation between Scotland and Bavaria, Edinburgh, 30 June 2003.

[18]   Action Plan between The devolved Government of Scotland and the Government of the Free State of Bavaria, Munich 6 May 2005

Mentioned in most of the Action Plans and Agreements is the Group of Regions with Legislative Powers (REGLEG). There are 73 regions in the EU which have Governments and directly elected Parliaments with law-making powers. Together these regions make up around half of the total population of the EU.[19] Scotland is one of these legislative regions and is a member of REGLEG. These regions are directly responsible for applying EU law into domestic law in their respective countries. The aim of REGLEG is to attain a better role in the EU for legislative regions, many of which are larger than Member States in both population and economy. This would result in the regions increasing their political and legal status with legislative powers in the EU. This will provide them with an improved role in the Council and also the right to bring an action before the European Court of Justice to protect their prerogatives. In addition, concerning the new Constitutional Treaty, REGLEG has stated that its members will contribute to the efforts by Europe's institutions and national governments to promote public understanding of the EU.[20]

Scotland, as a member of groups such as REGLEG and CPMR, has established close relationships with many other similar autonomous states. Scotland and REGLEG have a large responsibility to have their interests and views made apparent to the EU and Commission as they represent a significant number of its citizens. With policies with such importance as fisheries, the CPMR and specifically a member of the North Sea Commission, Scotland can voice opinions on these matters with other states to support them. The Agreements that Scotland achieved with the states of Catalonia, Bavaria, Tuscany and North Rhine-Westphalia helps the Scottish Executive express their 21 key dossiers of 2007. Each Agreement covers specific and separate areas where Scotland may need assistance in expressing concerns or ideas to the EU. With plans in place to work with other States to; identify, and, express concerns and views at an early stage in the any process that may affect Scotland, then the Executive can represent Scotland and its people efficiently and effectively in accordance with similar autonomous states.

Other materials consulted
S. Tierney, Reframing sovereignty? Sub state national societies and contemporary challenges to the nation state, *International & Comparative Law Quarterly*, 2005
Dr. Fabian Zuleeg & Sara Quigley, Scottish Engagement and Communication with the European Union, Discussion Paper, 18th July 2006

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[19]   Declaration of Edinburgh, Adopted by the 5th Conference of Presidents of Regions with Legislative Powers, 29-30 November 2004.
[20]   http://www.regleg.org

Consider the interactions between the treaty framework of the EU, which can be understood as a constitutional charter, and the European Parliament as a legislature and as a site of democratic representation for citizens, in the context of sub-state nations or regions

Gavin Barber, University of Glasgow

Sovereignty, authority, and legitimacy remain important concepts in the understanding of modern European statehood. The creation of a political space above the state has been the defining feature of European Union integration, however, and this form of integration has consequences for such understandings. The component parts of statehood, being regions, sub-state nations, and citizens have a centripetal relationship with a sovereign state. The consequences of European evolution exist at state-level; therefore, so too, do they exist for its component parts. This essay will place such evolution as a herald of change in state-region relationships. It will be concluded that interactions between the treaty framework and the European Parliament will ensure greater consciousness of political function and competency being assumed in the regions. The traditional state will not only be pulled away from the region from above but may also be pushed away from below by the region. Formal processes of integration can create an informal awakening of political determination among the regions of Europe and the individual in the regions.

Political interactions had traditionally been defined by the national government's relation to components of the state and mutual recognition of the state structure as a 'unique institution standing above all other organisations in society' (Hague and Harrop, 2004: 7). The European treaty framework, which has created the concept of pooled-sovereignty in European Union integration, has clearly effected change in internal political relations. There has been a 'significant transfer of authority from states to the regional community of states' (Donnelly, 1995: 133) and so absolutist control is no longer a valid interpretation of national government's interaction with component parts. It is apparent, therefore, that as the sovereignty of the state-level government changes so too does the authority to which the regions defer. The formal consequences of this change are apparent in the devolution settlements in the UK for Scotland, Wales, and Northern Ireland and in the continuing increase, and demand for greater increases, in the powers for autonomous communities in Spain. Thus formal developments above the state have seemingly created a sense of a new legitimacy for a role for regions in political governance. Thus, state-level governance is increasingly marginalised as regions find a role in this new governance under the treaty framework of European integration.

The increasingly political role of regions is arguably the consequence of decisions being implemented and taken at the level as close to the community concerned. In this sense European legislation has bypassed central government and therefore can lead to central government being a marginalised actor. Yet, as Wright suggests, such conditions when 'transferring intractable problems or costly welfare obligations down the territorial chain may be a perfect way for central elites to strengthen the centre' (1998: 45) and so create an insulation from regional difficulties. Interestingly, however, Wright's belief in an insulation effect for central government corresponds to the concept of the marginalisation of central government. The state can hardly be insulated from difficulties of rule while maintaining a level of authority and therefore legitimacy. It seems apparent that as formal powers of

sovereignty detach themselves from state-government competence so too does the informal aspect of governance: authority which is reliant on the deference to, and acceptance of, central government. The formal and informal developments that the treaty framework has set in motion have been described by Wallace as a 'framework of rules and regulations which formal institution-building establishes serves to channel and direct – as well as to inhibit and redirect – informal flows' (1997: 23). Yet, there is a void between formal and informal channels and developments and it seems unlikely that any formal development could check an informal consequence as states and regions redefine themselves to one another. Essentially, formal developments are frequented by unforeseen informal developments and it is arguably the informal developments that will awaken political awareness in the regions of Europe.

The crisis then, 'what crisis?' some ask, as government sovereignty is ceding to institutions above and ceding to an increasing political undertaking at the regional level. Yet, the informal result of usurpation of power from above is the decoupling of authority from sovereignty. Thus, the informal follows the formal and so the 'EU demonstrates that success in the contemporary world can be achieved without state sovereignty [because] … [e]ngagement becomes a source of strength rather than an entanglement to be avoided' (Keohane, 2003, p. 319). Consequently, the treaty framework has seemingly empowered the region who need no longer defer to the sovereignty of central government. In the UK, for example, the 'UK government has acknowledged that the Scottish Executive [Government] and Parliament should have an important role concerning European affairs' (Hepburn, 2006: 253) and so the region has become conscious of increasing competency.

There is an importance, nevertheless, not to overstate the function of regions in the European integration process. The treaty framework maintains interactions necessarily conducted at the state-level. So, while Europeanisation of internal state politics has empowered the regions there remains an element in which:

> European integration has opened political space beyond the State that nationalities [regions] can occupy. It is clear …, however, that this space is restricted … States control whether or not cross-border and inter-State cooperation happens, they also control Europe's political institutions and access to them (McGarry *et al*, 2006: 16)

States remain formally the gateway to European integration for regions and so have an effect of creating a concept in which 'relatively powerful regions enjoying self-determination within their own nation-states find themselves in a weak position in the EU' (Guibernau, 2006: 221). The authority of the state, it seems, has not been altogether marginalised by the treaty framework for European integration despite creating an increasing role for regions in internal governance. The process, then, rather, is a herald of change.

Nevertheless, the informal haunts the formal, as has been noted, and as 'the processes of Europeanisation all involve some weakening of the central authority … European identity is pulling from above and regional, ethnic, and national identities are pulling from below' (Kesselman *et al*, 2002: 225). The UK's relations with Europe, however, reveal that the state may not necessarily find itself being pulled from below, rather, central authority may find itself pushed away from below. The Scottish Government has demanded greater competency and access to European negotiation on issues affecting Scotland. The recent

fisheries talks were attended by the Scottish Government Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead, who noted that 'watching 27 countries, some landlocked, debating fishing policy underlined the importance of giving … Scotland a much greater say on the future of our fishing communities' (EU Fisheries Talks, 2007). Thus, formal developments create the informal progress for demands for greater competency which will see the state's legitimacy and competency being pushed away in favour of the regional political community.

European integration has seemingly, or will apparently, lead to a re-evaluation of relations between state and region with regions becoming increasingly legitimate and assuming of competency. The state had traditionally been able to lay claim to regions by exerting their sovereign status. State sovereignty and authority, in recent times, had stemmed from their democratic legitimate credentials and the power to protect freedoms and rights of citizens. The treaty framework has usurped this role as 'citizenship of the Union was established by the Maastricht Treaty in 1991' (Wiener, 2003: 399) and, likewise, the democratic practices of state have been simulated by the establishment, since 1979, of a directly elected European Parliament. According to Budge and Newton (1997: 311) 'the more powers of the existing states are reduced by being transferred upwards to Brussels, on the one hand, and downwards to regions on the other, the easier it will be to achieve full European integration'. Therefore, the state is not only marginalised in the creation of a European supra-state but is entirely circumvented. The question, though, for such an analysis is the necessary creation of political community borne from legitimate authority.

The European Parliament seems central to this depiction of European progress to a supra-state because of the legitimacy fostered by democratic processes. The Parliament also offers direct access to European-level decision-making that is restricted in other areas by the gate-way function of the state. Interestingly, however, the relation between current regions and the European Parliament vary across the spectrum of European regions and sub-state nations. The autonomous community, and nation, of Catalonia in Spain, for example, 'Catalonia is an EU region, which lacks the status of a European electoral constituency … [and] Catalonia is not considered a nation within the EU, as Scotland and Wales are, simply because Catalonia is not defined as such within Spain' (Guibernau, 2006: 119-220). In the UK both sub-state nations Scotland and Wales are electoral constituencies and are recognised as nations within the EU because they are recognised as nations within the UK. The state remains the gateway to European access for regions even in the sphere of the directly elected Parliament. Therefore the European Parliament does not necessarily foster new relations between the region and European institutions. States continue to define the regions' relationship to European-level governance.

Political communities remain important concepts for legitimate rule and it is these aspects that remain absent in discussions of a European supra-state not only usurping the sovereignty of states but usurping their combined political functions. Such a theory relies heavily on the formal and informal developments of institutionalisation. Essentially, it is predicated on the belief that the informal concepts of authority, legitimacy and community will follow the formal developments of institutionalisation. The link established between the formal and informal development does not, though, suggest any necessary congruence in their development. In fact currently in established states practice demonstrates that, despite institutional security, 'gut loyalties of the public …. might not lie entirely with the State either, but with smaller component units, be they Flanders, Catalonia, or Scotland'

(Corbett, 1998: 38). Thus political community, being a dynamic entity, will not necessarily follow the formal institutionalisation process despite legitimating practices of democracy. The removal of sovereignty, authority, and the weakening of legitimacy will weaken the ties that had bound the region to state. The formal processes have been an indication of informal change and, therefore, of future formal developments based on these informal changes.

Political communities are important in the creation of legitimate governance. The individuals who compose such imagined communities are therefore crucial to understanding the regions' relationship to the treaty framework and its interaction with the European Parliament. It has been suggested that these modern Europe institutions are detached from the individual and so struggle to find relevance in people's lives and in political debate. Yet, in regions, and particularly in sub-state nations, the Europeanisation debate is often central to political activity and discussion. Regionalist parties welcome the 'processes of decentralisation and supranational integration [which] have created a new political playing field in which parties compete not only on the class dimension, but also on the territorial and European dimensions' (Hepburn, 2006: 225). Therefore, in the region the individual has European issues placed at the forefront of their regional democratic debate. Thence, as the region finds itself awakened to greater competency and legitimacy, then, so too does the individual in said region. Moreover, and most importantly, it is no longer a discussion predicated on traditional state relations to European integration and so fresh debate and ideas formulate, conceive, and birth new interactions to herald greater political awareness.

The regions of Europe, in conclusion, have placed themselves as important to the Europeanisation debate. Interactions between the treaty framework and the European Parliament have created a changing definition of sovereignty, authority, and legitimacy which touches down to the individual citizens in political communities in the regions. State power no longer demands exclusive competency within territories. This process of change has awakened political awareness of role and legitimacy of the region and it is this awakening that will create a freshening new approach to governance in Europe. Sovereignty, authority, and legitimacy remain important in understanding the role of the State but Europeanisation effects have wakened dynamism in regional political communities. The processes thus far are heralds of change and development.

Bibliography
Budge, I. et al (1997) *The Politics of the New Europe: Atlantic to Urals* Longman: London.
Corbett, R. (1998) *The European Parliament's Role in Closer EU Integration* MacMillan Press: Basingstoke.
Donnelly, J. (1995) 'State Sovereignty and International Intervention: The Case of Human Rights' in Lyons, G.M. and Mastanduno, M. (eds.) *Beyond Westphalia* John Hopkins University Press: London, pp. 114-146
EU Fisheries Talks 2007. Retrieved on 30/10/07 from
http://www.scotland.gov.uk/News/Releases/2007/06/11163757.
Guibernau, M. (2006) 'Nations without States in the EU: the Catalan Case' in McGarry, J. and Keating, M. (eds.) *European Integration and the Nationalities Question* Routledge: London, 216-224.
Hague, R. and Harrop, M. (2004), *Comparative Government and Politics: An Introduction* 6th Edition, Palgrave MacMillan: Hampshire.
Hepburn, E. (2006) 'Scottish Autonomy and European Integration' in McGarry, J. and Keating, M. *European Integration and the Nationalities Question* Routledge: Oxon, 225-238.
Keohane, R.O. (2003) 'Ironies of Sovereignty: The EU and the US' in Weiler, J.H.H., Begg, I. and Peterson, J. *Integration in an Expanding European Union: Reassessing the Fundamentals* Blackwell: Oxford, 307-330.
Kesselman, M. et al (2002) *European Politics in Transition* Houghton Mifflin Company: Boston.

McGarry, J., Keating, M. and Moore, M. (2006) 'Introduction: European Integration and the Nationalities Question' in McGarry, J. and Keating, M. *European Integration and the Nationalities Question* Routledge: Oxon, 1-20.

Wallace, W. (1997) 'The Nation-State – Rescue or Retreat? The Nation-State in Western Europe 1945-93' in Gowan, P. and Anderson, P. in *The Question of Europe* Verso: London, 21-50.

Wiener, A. (2003), 'Citizenship' in *European Union Politics* Cini, M (ed.) OUP: Oxford, 397-414.

Wright, V. (1998) 'Intergovernmental Relations and Regional Government in Europe: a Sceptical View' in Le Galès, P. and Lequesne, C. *Regions in Europe* Routledge: London, 11-29.

The Regionalist Challenge to Supranationalism

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The essay attempts to present an inherent conflict between regionalism and the remnants of an international organisation in the supranational nature of the EC. For as long as the EC is no entity structurally independent from its Member States, regionalism will be confronted with uneven powers of state-defined regions. This can in effect strengthen central governments and lead to re-centralisation.

The essay distinguishes 'legal' from 'political' regionalism. Regionalism connotes the demands of greater autonomy for regions from central (state) institutions, based on political, cultural and economic particularities.[1] As such particularities can also be found in centralist states,[2] 'political' regionalism strives to get rid of existing (national) legal confines in order to achieve evenness. Such 'political' regionalism would therefore initially employ a definition of regions as socio-spatial units integrated by cultural and/ or economical aspects.[3] And yet, regions created on this basis would eventually have to get some legal status and constitution for them to be meaningful and able to act and participate.[4] 'Legal' regionalism as currently applied in the EU is based on a definition of a region as 'territorial body of public law established at the level immediately below that of the State and endowed with political self-government'.[5] Flowing from the remnants of the EC as international[6] organisation, 'legal' regionalism leaves the internal structures of the Member States intact complying with the 'principle of neutrality'.[7] In practice, however, such neutrality results in centralist tendencies, as examination of current decision-making structures and institutions reveals.

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[1]   Evans, 'Regional Dimensions to European Governance', *International and Comparative Law Quarterly* 52 (2003), 1-31, at 1.

[2]   Concentrating on economics, this is underpinned, for instance, by significant variations in GDP between the regions in individual Member States. Cf. Map in *Eurostat Regional Yearbook 2007*, Office for Official Publications of the European Communities, 2007, at 27.

[3]   Implementing such potentially wider regions will be a significant structural step, and therefore it will probably have to face strong opposition. To start with, the current regions may therefore be the medium available at hand. Inasmuch as the preferred definition is not limited to existing regions, arguments brought forth with respect to established regions can still be valid for the present argument. The difference in definition will not always be denoted in this essay when referring to other sources.

[4]   In practice it may become difficult to define meaningful regions in the first place. It may be difficult to find sufficiently 'integrated and coherent social wholes': Painter, European Citizenship and the Regions, 2003, at 8. However, this should not necessarily lead to discarding the regionalist idea. Rather it might be necessary to think completely out of the box and create regions for specific policies. Then again, they might be confined to advisory roles only.

[5]   Art. 1(1)–(4) Declaration on Regionalism in Europe by the Assembly of the European Regions.

[6]   As opposed to the current 'supranational' character.

[7]   Evans, 'Regionalist Challenges to the EU Decision-Making System', 6 *European Public Law* 3/2000, at pp. 381/ 382 and *id.*, Regional Dimensions to European Governance, above n.1 at 3.

1. Regionalism and EU decision-making

In EU decision-making the European Parliament adopts a centralist role. Its internal organisation into political groups according to political affinities[8] enables transcending 'local particularities' and promotion of the 'European integration sought by the Treaty'.[9] In requiring representation of one-fifth of the Member States in a political group Rule 29 (2) EP Rules of Procedure[10] reinforces this centralisation.[11] Whereas this requirement may complicate forming groups based on regional interests it does not rule them out entirely.[12] In practice, however, this does not happen and never did.[13] Political groups pursue centralised political aims,[14] even if affinities can be weak.[15] Similar voting behaviour is not required.[16] Instead, MEPs have more incentives to be loyal to their national delegations than to the Parliament group, because 'whipping' powers of national parties are far better developed than those of political groups.[17] This segmentation, whilst in part deflecting centralist representation towards *national* interests does not cater for *regional* interests.[18]

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[8] Rule 29 (1) Rules of Procedure of the European Parliament (16th ed., September 2007). Rule 29 Rules of Procedure is not optional in this regard (Joined Cases T-222/99, 327/99 and 329/99, *Martinez et al* [2001] ECR II-2823, at para. 81). A formal amendment to the Rules of Procedure by the respective majorities would be required to change this.

[9] *Martinez et al* above n.8, at para. 148.

[10] Rules of Procedure of the European Parliament, 16th ed., September 2007, above n.8.

[11] Even before implementation of this rule only one national party formed an EP group on its own – Forza Italia founded the Forza Europa Group in 1994 (Corbett/ Jacobs/ Shackleton, *The European Parliament*, 2005, at 70).

[12] Kreppel submits that 'regional variations that cross member states lines 9and often ideologically derived political parties) must find representation within the EP'. The EU would be of an 'effective bicameral nature', in 'Understanding the European Parliament from a Federalist Perspective, The Legislatures of the USA and EU Compared', web.clas.ufl.edu/users/kreppel/COMFEDFINAL.pdf at 6.

[13] Already the ECSC Common Assembly comprised political groups, see Corbett/ Jacobs/ Shackleton, above n.11 at 71.

[14] They *either* mirror major political strands in the Member States (Conservative/ Christian Democrats: EPP-ED, Group of the European People's Party (Christian Democrats) and European Democrats; Social Democrat/ Labour: The Socialist Group in the European Parliament; Liberal Democrats: ALDE, Alliance of Liberals and Democrats for Europe; Green: The Greens/ European Free Alliance and (far) Left: GUE/ NGL, European United Left/ Nordic Green Left European Parliamentary Group) *or* promote the sovereignty of EU Member States (ITS – Identity, Tradition, Sovereignty; UEN – Union for Europe of the Nations; IND/ DEM – Independence/ Democracy group in the European Parliament).

[15] They are, in fact, presumed upon group formation (C-488/01 P *Martinez* [2003] ECR I-13355, at paras. 51/ 52, confirming *Martinez et al* above n.8 at para. 104). The presumption is rebuttable, though (Official interpretation to rule 29 (1) Rules of Procedure of the European Parliament (16th ed., September 2007, above fn. 8, codifying *Martinez et al*, at para. 104).

[16] *Martinez et al* above n.8 at para. 91. Such requirement would, in fact, contradict Art 4 (1) of the Act concerning the election of the members of the European Parliament by direct universal suffrage (OJ L278/5, 08/10/1976) as amended by Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002 (OJ L283/1, 21/10/2002).

[17] Corbett/ Jacobs/ Shackleton, above n.11, at 104. In spite of Germany's federalism, the German Social Democrats (SPD) approve their candidates for the European Parliament in a central assembly (*Bundeskonferenz*) following proposals from the state party branches. The influence of state branches depends on their last election results and their numbers of members (private correspondence with Norbert Glante, MEP, 2007).

[18] In this context it is, however, interesting to note that the EP consistently supports regional participation. (European Parliament Resolution on the role of the regions in the construction of a democratic Europe and the outcome of the Conference of the Regions, 13 April 1984, OJ C127/240, European Parliament Resolution on the Committee of the regions, B3-0516/93, 23 April 1993, OJ C150/329, European Parliament Resolution on the participation and representation of the regions in the process of European integration: the Committee of the Regions, A3-0325/93, 18/11/1993, OJ

The Council, in contrast, can be seen as second, 'regional'[19] representation, counterbalancing the centralist Parliament where certain geographical regions are specifically affected. Yet, the Council represents states rather than their regions. Art 203(1) EC permits regional ministers to represent Member States in the Council.[20] There, however, these ministers commit the central State, hence they have to act on behalf of the entire state rather than represent the interests of their region only.[21] They would at best represent all of a Member State's regions centrally; at worst they would have to follow the central government's directive[22]. What is more, following the supranational logic with its 'principle of neutrality', such regional representation depends on the national constitution.[23] Devolved regions, although internally stronger, have to overcome stronger opposition.[24] A clear separation of powers and administrations demands efforts and arguments for devolved regions to break into EU matters, which are often considered international affairs and therefore a central government competence.[25] Furthermore, in the case of a regional minister negotiating with a central government minister in the Council, the former has to consider, amongst others, the Member State's future bargaining positions in other policy areas, giving weight to centralist arguments.

C329/279, European Parliament resolution on the role of regional and local authorities in European integration 2002/2141(INI), P5_TA(2003)0009, 14/01/2003, OJ C38E/167).

[19] In this context 'regional' refers only to a socio-spatial unit.

[20] Accordingly, the German constitution now provides for representation by a member of the *Bundesrat*, Art. 23 (6) *Grundgesetz*. So do the devolution concordats in the UK: 'In appropriate cases, the leader of the delegation could agree to Ministers from the devolved administrations speaking for the UK in Council, and that they would do so with the full weight of the UK behind them, because the policy positions advanced will have been agreed among the UK interests' (Concordat on Co-ordination of European Union Policy Issues, Common Annex, at B4.14). Cf. also Evans, above n.7 at 381.

[21] In fact, the amended Art 23 (6) *Grundgesetz* illustrates both the entrenchment of regional participation and simultaneously the safeguarding of the central state's national responsibility. Cf. also the devolution concordats in the UK: 'The role of Ministers and officials form the devolved administrations will be to support and advance the *single UK negotiating line* [in Council meetings] which they will have played a part in developing. The emphasis in negotiations has to be on working as a UK team; and *the UK lead Minister will retain overall responsibility* for the negotiations' (Concordat on Co-ordination of European Union Policy Issues, Common Annex, at B4.14, emphasis added). See Evans, above n.7 at 381.

[22] For Scottish ministers cf. Bulmer et al., *End of Award Report – Devolution and European Policy-making in Britain*, 2002, at 9. Generally, cf. Evans, above n.7, at 381.

[23] Art 203(1) EC explicitly requires the authorisation to commit the government of the respective Member State according to domestic law.

[24] Bulmer *et al* above n.22, at 9 and footnote 1 go as far as submitting that the Scottish position in the Council was, paradoxically, stronger before the devolution and talk about a 'downgrading' of Scottish representation in the Council on fisheries matters. In contrast, England is better represented in the Council, since UK ministers have 'dual responsibility', balancing the interests of the UK and England. On the other hand, this representation can be seen as centralist as opposed to the regions meanwhile established in England. Analysing the English regionalisation process Burch et al. refer to 'London's [continued unabated] dominance of the economic and political of the UK' with EU policy making 'tightly controlled from Whitehall' or 'Whitehall remain[ing] firmly in charge' (Burch *et al*, The English Regions and the European Union, Manchester Papers in Politics 6/2003, at 5, 9, 16 and throughout).

[25] This separation argument emerges from Burch *et al* above n.24 who describe the English regionalisation process and Bulmer et al. above n.22 at 9 and footnote 1 who submit that the Scottish position in the Council was, paradoxically, stronger before the devolution; Scottish representation in the Council on fisheries matters has been 'downgraded'. Both Germany and the UK consider EU representation a central competence, cf. Art. 73(1)1 *Grundgesetz* and the Concordat on Co-ordination of European Union Policy Issues, paras. B1.3 (Scotland), B2.3 (Wales) and B3.3 (Northern Ireland).

A historic view of the EU and its supranationalism explains this finding. Starting as an international organisation, decision-making powers were originally solely in the hands of central governments. The ensuing development focused on the direct connections between citizens and the Union, 'bringing the Union closer to its citizens'[26]. However, despite this gradual shift of power, central governments continue being main decision-makers because the EU remains a Union of states[27] and EU representation is internally considered a question of international relations.

In sum, the 'bicameral' structure of the EU is geared towards representation of states and citizens, not regions. Recent Council modifications in favour of regions cannot significantly change this conclusion.

2. Committee of the Regions (CoR)

The Committee of the Regions is the only institutionalised channel on EU level through which regions can influence EU decision-making. It is however inherently weakened by its composition, although one facet of inequality amongst Committee representatives has been removed by requiring political accountability from all of them.[28] And yet, Committee members, i.e. regional and local authorities, represent an abundance of structurally uneven interests.[29] Reliance on national structures as required by 'legal' regionalism explains this unevenness. Relevant political assemblies are on different levels in the different Member States. Germany as a federal country is represented by three governance levels: local, regional and state.[30] Consequentially, even where national delegations are dominated by representatives of one level,[31] and where Member States take the 'political and geographical equilibrium'[32] into account, regional interests are represented very unevenly.

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[26] Cf. 'Laeken Declaration on the Future of the European Union' at 20-21 and Declaration No. 23 'On the future of the Union', at para. 6.

[27] For empirical evidence proving contrary general perception at least flawed see Thomson/Hosli 'Who has Power in the EU? The Commission, Council and Parliament in Legislative Decision-making', 44 *Journal of Common Market Studies* 2/2006, at 413 *et seq*. In this context it is interesting to note that the Reform Treaty re-enforces this union of states by amending Art 1 (1) EU to the effect that the states 'establish among themselves a European Union, …, on which the Member States confer competences to attain objectives they have in common.' (Art 1 (2) a) Reform Treaty). In contrast, the Constitutional Treaty in so doing reflected 'the *will of the citizens* and States of Europe to build a common future', Art I-1 (1) Constitutional Treaty (emphasis added).

[28] In response to a previous criticism that elected representatives would work besides holders of administrative offices, the Treaty of Nice amended Art 263(1) EC. It now requires Committee of the Regions members to either hold an 'electoral mandate' or be 'politically accountable to an elected assembly'. The Reform Treaty will not change this finding. Art 265a (2) of the new Treaty on the Functioning of the European Union resembles Art 263 (1) EC. It reads:
> 2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.

[29] Jeffery, 'Regions and the European Union – Letting them in and leaving them alone' Paper delivered at the Conference 'Towards a European Constitution', http://www.fedtrust.co.uk/uploads/constitution/jeffery.pdf, at 5; cf. also Anderson, The rise of the regions and regionalism in Western Europe, in Guibernau (ed.), *Governing European Diversity*, SAGE Publications/ The Open University, London, Thousand Oaks, New Delhi, 2001, 35-64 at 56.

[30] *Bundesländer*.

[31] Legal Service of the CoR, The Selection Process of CoR Members: Procedures in the Member States CoR-Studies I-4/2001, at 25

[32] *Ibid* at 25.

Local representatives are eventually accountable to their local constituency rather than a regional one.[33] The resulting Committee opinion is therefore inherently weakened in two ways. First, it is no coherent regional representation; neither in a legal nor in a political sense. This opens the opinion to being set aside more easily for lack of coherent representation and as expression of particular interests only. Second, this diversity, arguably, confines the Committee to voice general concerns relating to their institutional and procedural powers as political-legal units.[34] Arguably, all levels feel similarly aggrieved, facilitating a compromise, when these powers are affected. On the substance, though, such general opinions are 'rarely crisp and forceful'.[35]

Such structural weakness gets amplified by the purely advisory character of opinions of the Committee of the Regions. This in turn led 'REGLEG'[36] regions to pursue their interests by other means,[37] thereby weakening the Committee even more. The Committee's advisory character is itself based on the remaining strength of the Council in EU decision-making.[38] Granting decision-making powers to regions potentially weakens the political position of central governments. At the same time, relying on states determining regions is confronted with long-standing legal and political traditions that do not always embrace regionalism easily.

Another critical aspect about the CoR is the centralisation of regional input.[39] Merging the different regional views into one opinion eliminates the very advantage of regional participation.[40] It compromises diverse regional views before feeding them into the decision-making process.[41] The opinion thus formed and fed into the decision-making process is centralised.[42]

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[33]   As a matter of fact, this accountability argument is further complicated by the fact that CoR representatives are appointed by their national governments. Their loyalty might therefore rather lie with national politics. Even though the governments accept the nominees presented to them by regional or local associations or authorities (ibid at 25), accountability is not fully restored to the people, rather it lies with those associations.

[34]   The Impact Assessment Report 2004 (Committee of the Regions, 29/03/2005, at 40) therefore concludes that the Committee strengthened its position in the debates on the role of regional and local authorities.

[35]   Jeffery, above n.29 at 5, cf. also Anderson, above n.29, at 56. The Impact Assessment Report 2004 (above n.34, at p. 41) finds only 'the discussion on the new cohesion policy' as substantive policy area in which the Committee made an impact.

[36]   Conference of European regions with legislative power (informal co-operative venture of the regions with legislative powers within the European Union).

[37]   Jeffery, above n.29 at 9. For details see also the discussion of non-institutionalised channels below.

[38]   These remainders are evidence for the remaining character of the EU and indeed the EC as a Union/ Community of states.

[39]   The CoR pleads for individual regions to be heard in certain cases (CoR 46/94 Opinion of 17 May 1994, OJ C217/26, 1994 and CoR 23/98 fin Opinion of 13 October 1998, OJ C135/15, 1998).

[40]   Evans, above n.7 at 387-8.

[41]   Christiansen, 'A Region among Regions;, in: Kennedy (ed.), *Living with the European Union*, New York, 1999, 17-37, at 31.

[42]   The consequence of this argument – a regional assembly – is often criticised for its (political) stalemate potential, see Evans, above n.1 at 14, with further references. Without solving this problem completely, it shold be recalled that this argument has been voiced against EC/EU enlargement at several points in the past and re-appeared in particular with the last enlargements. The response in terms of decision-making was majority voting in the Council. Arguably, with majority-voting being the recognised democratic method all citizens are used to from their home countries, they have internalised accepting democratic majorities unless the matter is of vital importance to them.

For these reasons, the current uneven representation of regions stemming from the current concept of regionalism inherently weakens the Committee of the Regions. With the Committee being the prime representative of regional interests on EU level, both 'legal' and 'political' regionalisms are impaired.

3. Subsidiarity

Regions also attached hopes to the principle of subsidiarity, which in their view should bring decision-making down to the lowest possible level.[43] For the time being, however, the principle stops at Member State level.[44]

In contrast, the upcoming (post-Lisbon) EU Treaty explicitly mentions the regional level.[45] Nevertheless, the wording of the re-formulated principle of subsidiarity puts the obligation to achieve the respective objective first and foremost on the Member State.[46] Consequently, legislation proposals are sent to (central) parliaments for them to give a reasoned opinion. Regional 'consultation'[47] then depends on two factors – there being a regional parliament with legislative powers and its consultation being appropriate.[48] In this context, circumstantial evidence suggests regions might not get sufficient influence. Even more explicit provisions on regional participation[49] did not prevent central governments from exerting influence based on national considerations.[50]

The new system ensures regional participation in federalist states with bicameral systems. Participation of the regional parliament chamber is specifically provided for.[51] Thus regions would automatically be alerted.[52] Centralisation causes less concern here, because at this

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[43] Such inclusion has been the aim of the regions for many years. In 1999 the CoR Opinion on 'Developing a culture of subsidiarity' (CoR 302/98 fin) tried to define subsidiarity with a view to proximity, whereby decision should be taken at the institutional level closest to the citizens. Only Austria, Belgium and Germany acknowledged this request in their 'Declaration on subsidiarity' annexed to the Treaty of Amsterdam. The IGC 'took note' of the declaration.

[44] Art 5 EC only refers to the Member State and the Community levels of decision-making.

[45] Art 5(3) new EU Treaty as amended by the Reform Treaty reads: 'Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. …' Whilst the Reform Treaty is not in force yet, it appears that the changes to the principle of subsidiarity are relatively uncontroversial. Details aside, the new provisions reaffirm the provisions of the (failed) Constitutional Treaty.

[46] A recent study examining institutional changes under the Reform Treaty does not even mention the regions as such when dealing with subsidiarity: *The Treaty of Lisbon: Implementing the Institutional Innovations*, Joint study EPC, EGMONT, CEPS, November 2007, at 85.

[47] In other words, regional opinions are not binding upon the national parliament.

[48] Arts. 4 and 6 new Protocol on the application of the principles of subsidiarity and proportionality (hereinafter: new Subsidiarity Protocol).

[49] Article 5(2) of Council Regulation (EEC) No 2088/85 of 23 July 1985 concerning the Integrated Mediterranean Programmes provides: 2. IMPs shall be drawn up at the relevant geographical level by the regional authorities or other authorities designated by each Member State concerned. …

[50] Cf. the references regarding Italy and the Integrated Mediterranean Programmes in Evans, above n.7, at 384. Regarding the development in England cf. also Burch *et al*, above n.24 at 3 with further references.

[51] Art 7(1) 2nd subparagraph new Subsidiarity Protocol.

[52] Art 6(1) second sentence new Subsidiarity Protocol.

stage the opinion focuses on the question where to make the subsequent decision on the substance.[53]

In other states, regional participation would be left to central institutions. In addition to the above-mentioned[54] concerns, time constraints[55] and national parliaments' general unwillingness to engage thoroughly in European affairs[56] may obstruct regional involvement, thus fostering centralised decisions.

Safeguards for regions (even ex-post) are missing.[57] In particular, it is doubtful that regions have standing before the ECJ. Art 8 Subsidiarity Protocol provides for actions by Member States. In accordance with previous case law this would not embrace regional authorities.[58] Importantly, the Article also provides for actions on notification by Member States brought by at least one chamber of a national parliament. The procedure relies, however, on a national obligation of central government to notify the ECJ. Regions cannot bring actions. The Committee of the Regions is restricted in its standing.[59] In this respect the Article only reiterates Art 230 EC, granting standing when consultation of the Committee as such is concerned.[60]

Therefore, whilst apparently serving the regionalist cause, the new subsidiarity rules may not achieve their aim. In relying on national structures the system at best provides for uneven regional input.[61] At worst, uneven regional powers raise concerns of inconsistent implementation. Both, however, can be employed as arguments for centralisation on either European or Member State level.

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[53] As explained in the context of the Committee of the Regions (above, section II.) even regions of different status and powers should be able to agree on procedural aspects more easily than on substantive questions.

[54] See above at n.47 et seq.

[55] National Parliaments have to respond within eight weeks (Art 6 new Subsidiarity Protocol). Cooper ('The Watchdogs of Subsidiarity', 44 *Journal of Common Market Studies* 2/2006, 281-304, at 289) considered a six week deadline 'very short'. The deadline was expanded since the Constitution Treaty, yet considering that two already very busy parliaments (national and regional) are involved even eight weeks appear short. Moreover, Bulmer *et al* above n.22 at 9 identify time as one of the key challenges for regional scrutiny of European legislation.

[56] A recent study submits that frequent reasoned opinions 'as a matter of urgency' would be a 'revolution' in terms of involvement of national Parliaments. (Joint study EPC/ EGMONT/ CEPS, The Treaty of Lisbon: Implementing the Institutional Innovations, November 2007, at p. 85).

[57] In the drafting process of the Constitution Treaty the Committee of the Regions explicitly demanded safeguards for regional and local powers. In particular the Committee called for a right for itself and legislative regions to bring proceedings before the European Court of Justice. Cf. Contribution to the European Convention, 10 April 2002, Conv 26/02, CONTRIB 9, at para. 3.

[58] C-95/97 *Région Wallonne* v *Commission* [1997] ECR I-1787 at para. 6; C-180/97 *Regione Toscana* v *Commission* [1997] ECR -05245 at paras. 6/7.

[59] In contrast, the Committee of the Regions explicitly called upon the Convention on the Future of Europe to include a right to bring proceedings in cases of infringements of the principle of subsidiarity for the Committee of the Regions and regions with legislative powers. (Contribution to the European Convention, Conv 26/02, above n.57, at para. 3.11)

[60] Art 8(2) new Subsidiarity Protocol.

[61] This unevenness embraces not only the one between the regions represented. Moreover, the new system lends itself to having regional decisions in some countries and central decision-making in others.

4. Other channels: Lobbying, consultation and national procedures

Due to their perceived insufficient influence through institutional channels some regions have also turned to lobbying. They maintain regional information offices for non-institutionalised lobbying.[62] Their effectiveness is difficult to measure, but based on their rising numbers[63] the hope of influencing EU policy outcomes seems to be rather high. Some regions actually prefer these offices, leaving the Committee of the Regions to represent those who cannot afford such an office.[64] Thus, lobbying is potentially detrimental to the collective regionalist cause. It is only open to regions that are sufficiently independent under national law and well-funded. Hence there is no fair competition of interests. Simultaneously, the institution for regional representation – the Committee of the Regions – and incidentally weaker regions[65] are potentially politically damaged.[66]

Uneven resources can also advantage regions in consultations by the Commission. Consultations will, for instance, be required under the new subsidiarity rules.[67] Here, however, the Commission would encounter the above-mentioned[68] risk of inconsistent implementation, resulting in a perceived need to legislate on EU level.

Other circumstantial evidence suggests that regions may encounter resistance to their participation in consultation procedures. Since the Governance White Paper the Commission focuses on getting stakeholders involved. The states' views on including regional authorities in stakeholder consultations vary significantly.[69] In the Common Fisheries Policy, for instance, they have been rejected as stakeholders but can be considered 'active observers'.[70] This conforms with considering regional authorities a part of the state structure, rather than representing distinct and independent interests comparable to

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Cf. the website of the Brandenburg, Berlin and Scotland representations: www.stk.brandenburg.de/sixcms/detail.php/lbm1.c.378502.de, www.berlin.de/rbmskzl/europa/ansprechpartner/buerobruessel.html, www.scotland.gov.uk/Topics/Government/International-Relations/Europe/15181/1247. For an overview of UK regional representations cf. international.lga.gov.uk/links/brussels.html. The UK is a special case in that devolution is asymmetric, ie devolved powers differ depending on the region in question, and England does not have devolved powers at all. Therefore there is no general English representation. However, Gomez/ Burch consider 'thorough lobbying at [...] supra-national levels [...] part of any region's approach', because '[c]entral government continues to dominate the UK's position on EU policy'. (Gomez/ Burch, 'The English Regions and European Initiatives', Manchester Papers in Politics No. 4, Devolution and European Union Policy Making Series, 25 October 2002, at p. 11)

63   Cf. the graph in CoR Studies E-7/2002, at p. 43.
64   *Ibid* at p. 43.
65   In particular, those that are legally or financially confined to the Committee of the Regions.
66   On this relation see already above in the context of the Committee of the Regions (section II.).
67   According to Art 2 new Subsidiarity Protocol the Commission shall take regional and local dimensions into account.
68   Cf. above after n.62.
69   When forming a new stakeholder advisory council in the Common Fisheries Policy, the Commission's proposal that local authorities should become full members of RACs did not prevail. Denmark, Germany, France, Italy and Portugal supported the proposal; Belgium, Greece, Spain, the Netherlands, Finland, Sweden and the UK opposed it. (Council discussion 2002, doc 13277/02 PECHE 159, at p. 7.) Whereas, France seems to have favoured full membership, it nevertheless raised concerns whether the authorities could participate on equal footing with professionals, in particular. Cf. Reform comments France, at p. 17.
70   Whereas Art 31(3) Regulation 2371/2001 grants representatives of administrations participation "as members or observers", Decision 585/ in its Art 6 clarifies that they can be "active observers".

private ones. Whilst this focus on stakeholders as private individuals may be preferable in terms of 'getting the Union closer to its citizens', it deviates from 'legal' regionalism.[71]

In addition to these influence strategies on EU level, some regions with strong positions in the national decision-making process managed to entrench their participation in EU matters.[72] National veto and participation rights often seem more effective than action on EU level.[73] As explained above, however, central governments attempt to retain control over the state's final vote in the Council.[74] This holds true, even for devolved countries like the UK. Regional ministers do not get to represent the UK in the Council.[75] Thus, for instance, Scottish participation in fisheries matters lags behind the role of Scottish fisheries within the UK as well as for Scotland.[76]

5. Conclusion

Regionalist developments[77] adopted to counter re-centralisation tendencies stemming from intergovernmentalism are inherently hampered by their reliance on national law defining sub-state regions and the resulting uneven regional influence. Finding a solution is difficult since the unevenness is linked with the concept of a Union of states, requiring neutrality towards Member States' internal structures.[78] However, an effective and transparent regionalism requires the definition[79] of and granting of EU rights to regions.

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[71]   Moreover, doubts remain regarding the sufficient representation of non-industrial interests.

[72]   Cf. the recently amended Art 23 (6) *Grundgesetz*.

[73]   Jeffery, 'The 'Europe of the Regions' from Maastricht to Nice', Queen's Papers on Europeanisation No. 7/ 2002, at 3, 6.

[74]   In fact, the amended Art 23 (6) *Grundgesetz* illustrates both, the entrenchment of regional participation and simultaneously the safeguarding of the central state's national responsibility. Cf. also the devolution concordats in the UK: 'The role of Ministers and officials form the devolved administrations will be to support and advance the *single UK negotiating line* [in Council meetings] which they will have played a part in developing. The emphasis in negotiations has to be on working as a UK team; and *the UK lead Minister will retain overall responsibility* for the negotiations' (Concordat on Co-ordination of European Union Policy Issues, Common Annex, at B4.14, emphasis added).

[75]   The Common Annex (B4) to the Concordat on Co-ordination of European Union Policy Issues (1999) states that devolved administration representatives 'should have a role to play in relevant Council meetings' (B4.12) and that 'the leader of the delegation could agree to Ministers from the devolved administrations speaking for the UK in the Council' (B4.14). However, they would have to represent the agreed policy position (B4.14). What is more, it appears that Scottish Ministers have not yet been invited to do so. A report submits that Ministers 'are unable to play an active role' and can 'simply watch proceedings from the sidelines': see Aron, Report to First Minister of Scotland: EU-Business: Review of engagement with Europe and of EU office, at 17.1).

[76]   In 2006 a report claimed it was difficult for officials of the Scottish executive to get heard by their Whitehall counterparts. (Aron, above n.75, at 2.5-2.11).

[77]   This refers in particular to the changes in Council composition, the Committee of the Regions and the establishment and (probable) development of the principle of subsidiarity.

[78]   In this context it is interesting to note that seeing this connection the Committee of the regions emphasises that it does not want to encroach upon national structures (Contribution to the European Convention, Conv 26/02, above n.57 at para. 3.1.

[79]   In that definition the EU is free to resort to existing sub-state units.

Competing interests? Scottish nationalism and the strengthening of the European Parliament

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1. Introduction

Two phenomena within Europe stand out for their seeming incongruity and both were neatly captured in the May 2007 British election in which the Scottish National Party (SNP) achieved its best ever result whilst pledging to seek independence only within the European Union (EU).[1] The first phenomenon is the rise of sub-state nationalism in general and regional parties in particular.[2] The second is the continuation of European integration. Despite the broad range of academic literature concerning both developments, political scientists have not done enough to connect these two phenomena.[3] The purpose of this paper is to bridge the gap between the two with a particular focus on the interaction between the treaty framework of the EU and the European Parliament as a site of democratic decision-making in the context of Scottish nationalism.

This paper puts forward two suppositions. First, that the EU's perceived 'democratic deficit' is not the result of omissions or deficiencies within the treaty framework. Second, that minority nationalism in Scotland stands in opposition to the further empowerment of the European Parliament as a supranational, democratic decision-making body. This does not mean that Scottish nationalism stands totally opposed to the EU but rather that it has a predisposition towards the intergovernmental elements of the EU's institutional structure. An analysis of these issues leads to two stark conclusions. First, irrespective of amendments to the treaty framework on the EU, the democratic deficit will remain. And second, the driving forces behind Scottish nationalism and the extension of the powers of the European Parliament are contradictory forces destined to play antagonistic roles. Further, short of a radical policy shift within the SNP away from advocating unequivocal independence, the two forces seem irreconcilable.

2. The lack of a European 'demos'

It is often said that two glaring democratic deficits characterize the EU, one well known and the other somewhat less obvious. The former is the weakness of the European Parliament relative to the Commission, an institution that, in the typically flamboyant words of historian Niall Ferguson, 'glories in its lack of transparency and seems barely accountable to anyone.'[4]

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[1]   The SNP won 47 seats in the Scottish Parliament making it the single largest party but still considerably short of the 65 seats required for a majority. For a thorough review of the election see <http://news.bbc.co.uk/2/hi/in_depth/uk_politics/2007/election_2007/default.stm>.

[2]   For explorations of this rise see M.J. Esman, *Ethnic Conflict in the Western World* (Ithaca, NY: Cornell University Press, 1997), esp. pp. 11-18 and pp. 251-286. Also of interest are P. Lynch, *Minority Nationalism and European Integration* (Cardiff: University of Wales Press, 1996); and L. de Winter and M. Gomez-Reino Cachafeiro, 'European Integration and Ethnoregionalist Parties,' *Party Politics* 8, no. 4 (2002), pp. 483-503.

[3]   For works that have sought to establish connections between these two phenomena see Lynch, *Minority Nationalism*; and P. van Houten, 'Globalization and Demands for Regional Autonomy in Europe,' in M.A. Kahler and D. Lake (eds.), *Governance in a Global Economy* (Princeton, NJ: Princeton University Press, 2003).

[4]   N. Ferguson, *Colossus: The Rise and Fall of the American Empire* (New York: Penguin, 2003), chapter 7.

The latter is the deficit that grants an individual in Ireland or Luxembourg a greater voice in European affairs than an individual in Germany. Thus, both are related to the European Parliament's democratic credentials.

It is a commonly expressed fallacy that as long as these dual democratic deficits persist, the EU is unlikely to achieve the increase in its legitimacy that it so desperately requires. This fallacy creates a clear link between the treaty framework of the EU and the role of the European Parliament as a democratic decision-making body, the key word being *democratic*. The fallacy is not without logic: the European Parliament is the only democratically elected institution of the EU yet it possesses significantly less power than the shadowy Commission. Given that the treaty framework is the only mechanism to increase or expand the powers of the Parliament the link between the two may seem logical and obvious. But those who advocate this position are missing a larger, theoretical point.[5]

The European Parliament has been democratically elected since 1979 but it was not, at that time or at any point since, granted the essential powers that any true legislature requires, namely the power to tax and spend, to initiate legislation and (in parliamentary systems) to form a government. What is more, since the Single European Act (SEA) in 1986 each of the major amendments to the treaty framework has strengthened the role of the Parliament. The SEA introduced the cooperation procedure for certain legislation thus granting the Parliament greater scope to delay, amend or block laws in addition to conferring limited powers of assent. The Treaty on European Union (TEU) introduced the co-decision procedure and granted the Parliament the power to approve the nominated European Commission. Recent treaty amendments at Amsterdam and Nice both extended the use of co-decision and the former granted the Parliament veto power over the nominee for the post of Commission president.[6] In short, attempts to reduce the democratic deficit with the 'direct election and steady expansion of the powers of the European Parliament, and various social programmes … have failed entirely to alter the nature of the basic dilemma.'[7]

The answer to that basic dilemma cannot be found in the treaty framework because it is not the result of technical deficiencies within the institutions of Europe. The deficiency lies in the failure of the Parliament to 'even begin to penetrate the consciousness of so many of its electors.'[8] Because of this, the Parliament risks an 'insidious withering away of its basis of legitimacy because of voter disinterest.'[9] This disinterest stems from the lack of support for a federal vision of Europe, a vision that is necessary for the establishment of a genuinely supranational parliament. The masses have not become 'Europeanized' in the same way

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[5]   This argument is made by Giandomenico Majone, 'The Common Sense of European Integration,' *Journal of European Public Policy* 13, no. 5 (August 2006), pp. 607-626.

[6]   For a thorough discussion of the evolution of the European Union broadly and for insight into the treaty amendments and their institutional implications, see Desmond Dinan, *Origins and Evolution of the European Union* (Oxford: Oxford University Press, 2006). For a more brief and focused discussion on the evolution of the powers of the European Parliament, see Roger Scully, 'The European Parliament', in M. Cini, *European Union Politics* 2nd ed. (Oxford: Oxford University Press, 2007), pp. 174-87.

[7]   Majone, 'Common Sense,' p. 616.

[8]   J. Blondel, *People and Parliament in the European Union: Participation, Democracy and Legitimacy* (Oxford: Clarendon Press, 1998), p. 242.

[9]   K. Neunreither, 'Political Representation in the European Union: a common whole, various wholes, or just a hole?' in K. Neunreither and A. Weiner (eds.), *European Integration After Amsterdam: Institutional Dynamics and Prospects for Democracy* (Oxford: Oxford University Press, 2000), p. 135.

that they once became 'nationalized', to coin Mosse's phrase.[10] This lack of 'Europeanization' at the level of the voter makes the European Parliament 'seriously deficient as a system of representation of individual interests.'[11] Individual interests remain anchored at the national level and are best expressed through national parliaments making it impossible for the European Parliament to represent a '(non-existent) European people in the same sense in which national democratic institutions represent a historically defined *demos*.'[12] The anchoring of interests goes hand in hand with where voters position their loyalty. A transference of control over issues such as taxation, public spending, and natural resources to the European level may facilitate a corresponding transference of loyalties.

Put simply, the European Parliament needs a European *demos* if it is to become a site of democratic decision-making. But the SNP sees a Scottish *demos* as necessary for its existence and an analysis of this unstated antagonism that will form the basis of the remainder of this paper.

3. Scottish nationalism: preserving loyalties and opposing a super-state

Functionalism and neo-functionalism predicted that sub-state nationalism would have declined in postwar Europe. Instead, it grew rapidly in the 1960s.[13] Sub-state nationalism has been characterized as a parochial and traditional phenomenon that constituted an essentially backward political movement.[14] But these theoretical statements do not correspond with the reality of sub-state nationalist parties that are acutely aware of the international (and especially the European) environment. Political scientists often seek overarching theories and sub-state nationalism has not escaped this 'one-size-fits-all' syndrome. But despite underlying similarities the economic, social, and political forces that drive and shape sub-state nationalism vary considerably.[15] Sub-state nationalist parties are thus difficult to classify as they exhibit differences in terms of goals, strategies and ideology.[16] The fallacy that all such parties seek a separate nation-state is exposed by the fact that the SNP is unique in this respect.[17]

The SNP's unique stance leads it to support 'a confederal union of sovereign states, not a centralised super-state.'[18] Other sub-state nationalist groups, who do not seek an independent state, may be more inclined to compete for seats in the European Parliament

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[10]   The German 'nationalization of the masses' is analyzed by G.L. Mosse in *The Nationalization of the Masses* (New York: New American Library, 1975). However, such nationalization occurred in all countries of Western Europe at the end of the Napoleonic wars.

[11]   Majone, 'Common Sense,' 619.

[12]   Majone, 'Common Sense,' 619.

[13]   See L.J. Sharpe, 'Introduction,' in L.J. Sharpe (ed.), *Decentralist Trends in Western Democracies* (London: Sage, 1979).

[14]   E.J. Hobsbawm, *Nations and Nationalisms since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University Press, 1990), p. 164.

[15]   See J. Breuilly, *Nationalism and the State* (Manchester: Manchester University Press, 1982), p. 295.

[16]   S. Rokkan and D. Urwin, *Economy, Territory, Identity* (Beverly Hills and London: Sage, 1983), p. 141. The authors identify seven escalating goals of autonomy between total independence and total integration within a national community.

[17]   This is not to suggest that the autonomy goals of minority nationalist parties are fixed. Rather, they can move along a sliding scale of increasing autonomy. However, none are avowed separatists, most conform to regionalism or federalism, and none suggest the creation of a separate nation-state for their community. See Lynch, *Minority Nationalism*, 13.

[18]   Scottish National Party, *We Stand for Independence in Europe* (Edinburgh: SNP Press, 2001).

and create some sort of 'regional group' that supports greater autonomy for sub-state nationalist groups across the continent. Such a strategy may even have the potential to 'Europeanize' these groups if the European Parliament becomes a more effective venue to pursue their interests. But such a strategy does not sit alongside the SNP's call for complete independence and leads that party to call for a confederal EU constitution based on the principle of subsidiarity and decentralization.

The SNP has a clearly delineated list of policy areas where it favours the pooling of sovereignty and enhanced cooperation including trade, environmental, and social issues. However it does not believe that authority over taxation, public spending, natural resources and constitutional affairs should be handed to the EU. By placing these issues on its 'reserve list' the SNP is withholding powers that, if transferred to the EU, could help to create a European *demos*. If the European Parliament was responsible for providing public services and administering natural resources that could prompt a transference of loyalties from the national, or sub-national level, to the European level. The SNP stands opposed to this in part because of a pragmatic view that sees Europe as 'merely a means of achieving independence.'[19] By sharing sovereignty in vital areas the SNP sees the potential for Europe to function as a support system for minority nationalism.[20]

The SNP's support for EU enlargement is motivated by the same considerations. As early as 1984, the SNP declared that 'far from becoming a new European despotism where bureaucracy triumphed over national rights, the enlarging of the Community in recent years has diluted some of the dangers of centralism. The bigger it gets, the looser it becomes.'[21] This looseness helps guard against the transference of loyalties so feared by the SNP. In other words, the SNP sees the EU as an intergovernmental confederation of states, with some supranational components.[22] This leaves little space for the creation of a European *demos*.

A very brief consideration of Plaid Cymru's attitude towards the EU reveals that the SNP position is not indicative of all sub-state nationalist parties. Plaid favours a '*Europe of the Nations and Regions*' with the nations being represented through the European Parliament and the regions through the Committee of the Regions. In this vision Europe would develop a bicameral legislature, with the Parliament as the first chamber and the Committee functioning as the second.[23] Plaid's approach does not grate against the concept of a strengthened European Parliament, representing a genuine European *demos*, with the same vigour as the SNP's approach. This is because Plaid desire self-government without

19   A. Ichijo, *Scottish Nationalism and the Idea of Europe: Concepts of Europe and the Nation* (London: Routledge, 2004), 50.
20   Alan Milward makes a similar argument, that European integration has been pragmatically pursued by nation-states to accomplish tasks that would otherwise have been impossible, in *The European Rescue of the Nation State* (Berkeley: University of California Press, 1992).
21   Scottish National Party, *European Election Manifesto* (Edinburgh: SNP Press, 1984).
22   J. Mitchell, 'Member State or Euro-Region? The SNP, Plaid Cymru, and Europe,' in D. Baker and D. Seawright (eds.), *Britain For and Against Europe: British Politics and the Question of European Integration* (Oxford: Clarendon Press, 1998), 108-129 at 128.
23   Plaid Cymru. *Working for the New Wales: The Manifesto of Plaid Cymru – the Party of Wales* (Cardiff: Plaid Cymru Press, 1999). Plaid Cymru's position may have altered since 1999 but in no subsequent manifesto have they articulated a new and clear vision of Europe.

necessarily achieving independent statehood. Thus Plaid holds an almost post-national vision that sits alongside the evolving multi-level political space of the EU.

4. Conclusion

Thus, Scottish nationalism is a *sui generis* phenomenon in Europe in that it calls for the establishment of a separate nation-state. The SNP's call for 'Independence in Europe' leads it to support an intergovernmental Europe where the nation-states, operating through the European Council and the Council of Ministers, maintain control. The desire to dodge a situation in which Scotland gains its independence from the United Kingdom only to lose it to a European super-state has led the SNP to oppose the strengthening of the European Parliament, the embodiment of EU supranationalism. The attitude of sub-state nationalist parties towards European integration is shaped by their concept of the nation, their constitutional preferences, and their ideological positions. Although the scope of this paper is limited it is to be expected that a thorough evaluation of the stance of Plaid Cymru, Lega Nord, and others toward Europe would reveal significant differences.

But *Scottish* nationalism and the drive to strengthen the European Parliament are irreconcilable forces. However, strengthening the Parliament through technical amendments to the treaty framework would do very little to make it the 'site of democratic decision-making' that many desire. The Parliament's problem goes deeper than its lack of technical powers. The core of the problem lies in the lack of a European *demos* and attempting to correct that with treaty amendments is like treating a broken arm with a band aid. In sum, reconciling Scottish nationalism with the drive to strengthen the Parliament seems unlikely but, even if all member states were united behind such a drive, the Parliament would continue to suffer a severe democratic deficit.