

Maria GÓLDA-SOBCZAK

Adam Mickiewicz University in Poznań

Perspectives of Regionalisation in Europe

Abstract: The notion of region is particularly vague, as this issue is referred to by studies from various disciplines. It has long been one of the subjects of interest of the Council of Europe which perceives local and regional administration as one of the fundamental ingredients of modern European democracy. The European Charter of Local Self-Government is the main document that regulates these matters in the Council of Europe law system. It is accompanied by a number of other documents, including The European Charter of Regional Self-Government. The article provides an analysis of these normative deeds within the realm of Union law. When the Single European Act entered into force, regions have become an important part of Union policy. Committee of the Regions set up in 1994, whose operation is related to the principle of subsidiarity and programming of the idea of the Europe of Regions, is the most important body concerned with regional issues.

Key words: Regionalisation, region, regional co-operation, European Charter of Local Self-Government, European Charter of Regional Self-Government, Council of Europe, European Union

Nowadays, in Europe, the notion of region is associated both with a territorial division unit, and different forms of regional democracy as part of that unit, that is to say self-government or regional autonomy. Regionalist aspirations appeared in Europe in mid-19th century. However, the very notion of region is slightly posterior, as mentioned earlier. Appearance of new regions was related to both the process of deconcentration, i.e. transfer of tasks and competences from the administration centre to local bodies, and decentralisation, i.e. taking over of public administration duties by the region. Further step was granting legislative power independence to the region. From that time on, it became an autonomous unit.

The literature distinguishes various types of legal and constitutional types of regions: federal, autonomous, administrative and self-governing, and administrative and functional. First of them appears in federal state, second one in unitary and regional state (e.g. Spain), the administrative and self-governing model can be found in unitary decentralised states (e.g.

France), and the administrative and functional one in unitary centralised countries (e.g. Portugal). As demonstrated by Tomasz Kaczmarek, from the point of view of political organisations and administrative system of the state, the following types of regionalisation can be marked out: federal, that consists in state federalisation, autonomous conducive to autonomous regions of special status, self-governing resulting in self-governing regions in which self-government institutions share competences with decentralised government administration, and functional regionalisation, as a result of which functional regions of decentralised government administration are created. This allows to discriminate between weak and strong regionalisation (Kaczmarek, 2005, p. 188–189). Similar division was presented by Irena Pietrzyk, who highlighted the following: functional regionalisation, regional decentralisation, political regionalisation, regionalisation through federalisation, and ecentralisation based on existing local self-governments (Pietrzyk, 2000). Regionalisation may result from state aspirations, decentralisation of powers (so-called regionalisation “from above”) (Mendel, 1996, p. 46; Ruśkowski, 1993, p. 52; Choraży, 1998, p. 49),¹ or meeting regionalist demands (so-called regionalisation “from beneath”) (Skrzypczak, 1984, p. 64; Skrzypczak, 1979, p. 68; Skrzypczak, 1985, p. 91; Misiuda-Rewera, 2004).²

Issues of region and necessity of regional co-operation appeared in internal law acts (e.g. Breton Regionalist Union founded in 1898 or French Regional Federation of 1900), as well as international documents, i.e. Art. XXI of the Covenant of the League of Nations, which indicated that regional agreement is an instrument to ensure peace in the world; similarly, regional treaties were to maintain international peace and security in a given region as provided for in the United Nations Charter.

European integration attempts made under two legal systems, namely: that of the Council of Europe and that of the European Union (former Communities), are strictly related with the issue of regionalisation. A concept of the “Europe of regions”, i.e. self-governing lands, in one that stands in opposition to a concept of “Europe of Homelands” both in term of federalism and confederalism (Stefanowicz, 1995, p. 23; Marszałek, 1996, p. 147; Kwaśniewski, 1898, p. 238; Kwilecki, 1969; Pomian, 2004, p. 189–244; Łastawski, 2006, p. 135–175).

¹ Regionalisation in France or Portugal may serve as an example.

² Regionalisation of Spain, Italy, and Belgium may serve as an example.

The problem of region creation and regional self-government operation has long been one of the subjects of interest of the Council of Europe which perceives local and regional administration as one of the fundamental ingredients of modern European democracy. Activation and consolidation of local self-government is one of the objectives of the Council of Europe. The European Charter of Local Self-Government (further on referred to as the ECLS)³ is the main document that regulates these matters.

The ECLS preamble denoted that the objective of the Council of Europe is to strengthen bonds between Member States, and concluding agreements in the field of administration is one of the means to achieve this objective. Also, it emphasized that citizens are entitled to participate in pursuing public matters, and this should be carried out on local level as directly as possible. The preamble highlighted that protection and consolidation of territorial self-government in individual European countries substantially contributes to the building of Europe based on the principles of democracy and decentralisation of power, which is possible on the assumption that local communities are equipped with democratically constituted decision bodies, and take advantage of broad autonomy. The Charter provided that the principle of self-government must be recognised by internal law and, preferably, in the constitution (Art. 2). Basic powers of local communities should be provided for in the constitution or an act

³ The European Charter of Local Self-Government was drawn-up in Strasbourg on 15th October 1985 and entered into force on ratification by four states on 1st September 1988. It was signed by Poland on 26th April 1993, however, for the Republic of Poland it entered into force on 1st March 1994, but it was only promulgated on 25th November 1994. As results from the government statement of 14th July 1994 on ratification by the Republic of Poland of the European Charter of Local Self-Government drawn-up in Strasbourg on 15th October 1985 (Dz. U. 1994, No. 124, Item 608), Poland became party to the European Charter by filing ratification documents on 22nd November 1993. For Charter text, see Dz. U. 1994, No. 124, Item 607. Note that in the literature J. Lemańska erroneously indicates that Poland ratified the Charter on 14th July 1994 (Lemańska, 2008, p. 139). It must be pointed out that initially the European Charter of Local Self-Government existed in the Polish legal system and doctrine as “European Charter of Territorial Self-Government”. It was promulgated as such in Dziennik Ustaw. Preamble title and provisions of Art. 2, 3, 11 and 1 were amended by announcement of the Minister of Foreign Affairs of 22nd August 2006 on error correction, Dz. U. 2006, No. 154, Item 1107 (Kulesza, 1997, p. 1). The problem of terminology resulted from ambiguity of the English term *European Charter of Local Self-Government*. It must be noted that the word *local* is a broad notion, and encompasses both the concept of “local”, “territorial”, and “regional”.

(Art. 4, Item 1), and local communities must have full freedom specified by law in any matter which is not excluded from their powers or does not coincide with those of other authorities (Art. 4 Item 2). It also stated that powers conceded to local communities should generally be complete and exclusive, and that they can be challenged or limited by another central or regional authority solely within the scope specified by law. Local communities should be consulted with in due time and in due procedure during elaboration of plans and taking decisions in any matters that directly refer to them (Art. 4 Item 6). Very important was a statement specified in Art. 5 that any change in local community borders requires prior consultations with the interested community, preferably by means of referendum. As referred to in Art. 6, Item 1 of the ECLS, local communities should be able to determine their internal administrative structure by creating units adjusted to specific needs and enabling effective management. It pointed out that the status of self-government employees should make it possible for highly qualified persons to be employed (Art. 6, Item 2), and the status of representatives appointed to local authorities is to make sure that their mandate is carried out freely. What the Charter put emphasis on was that any administrative control of local authority must be exercised solely in the manner and in cases provided for in the constitution and the act. The only thing this control could be aimed at is making sure the law and constitutional rules are obeyed (Art. 8, Items 1 and 2). The ECLS pointed out that local communities have the right, as part of national economic policy, to have their own sufficient financial resources, which they can dispose of freely within the framework of their entitlement (Art. 9, Item 1). Their amount should comply with the scope of entitlement granted by the constitution or the law (Art. 9, Item 2). At least part of local community financial resources should come from fees and local taxes determined by those communities (Art. 9, Item 3). To be able to finance investment expenditures, local communities should have access to national capital market as provided for by the law (Art. 9, Item 8). The Charter stressed that in exercising their entitlement local communities have the right to co-operate with other local communities and associate with them within limits specified by the law in order to perform tasks being the subject of their mutual interest. They can also join associations to protect and develop common interests (Art. 10). Finally, it stated that local communities have the right to appeal at court against decisions of central authorities.

The ECLS affirmed that every party state undertakes to recognise as binding at least 20 Items included in part of the Charter, which fact they

will communicate to the Secretary-General of the Council of Europe, however, those 20 Items must include at least 10 that concern enumerated regulations indicated in the text of said document, in Art. 12, Item 1. It's worth noting that Poland accepted the Charter as a whole by ratifying it. The Charter stated that local community principles included in it shall apply to all categories of local communities existing on the territory of a party state, and in filing of the ratification document every party can indicate the categories of local or regional communities to which it intends to limit applicability of the Charter, or those that the charter will not apply to (Art. 13). However, every state will be able to expand applicability of the Charter to other territories (Art. 16). It is not possible to terminate the Charter before the lapse of 5 years from coming into force of the charter with reference to a specific state (Art. 17).

The Council of Europe has always tried to promote local democracy, and considered any activities for greater involvement of citizens in European projects as its main function, however, it was only in 1994 that the Council of Europe Congress of Local and Regional Authorities⁴ was convened as a result of the first Summit of Heads of State and Government of the Council of Europe. The Congress substituted the Confederation of Local and Regional Authorities assembling since 1957. It operates on the basis of a statute resolution (2000) of the Committee of Ministers and the Charter of the Congress of Local and Regional Authorities attached to it. The Congress itself is an advisory body of the Council of Europe and is supposed to ensure real participation of local and regional communities in realising ideals of that organisation. It does so by supporting local and regional democracy as well as authorities that operate on this level. The Congress is composed of two chambers: Chamber of Local Authorities and Chamber of Regions. The Congress presiding officers obliged to co-ordinate work of both chambers and divide between them any problems to be considered, and every Member State has in it the right to the number of places equal to that which it has in the Parliamentary Assembly.⁵ The Congress is supposed to advise the Committee of Ministers and

⁴ Statute resolution 94(3) concerning founding of the Congress of Local and Regional Authorities.

⁵ The two-chamber Congress is jointly composed of 313 representatives and 313 substitutes, who must have a mandate obtained from election at local and regional self-governments. The Congress represents over 200 thousand local and regional authorities existing in the Council of Europe Member States, and is their ombudsman at

the Parliamentary Assembly in any matters concerning local and regional policy. Also, it can present to the Committee of Ministers propositions regarding methods of democracy promotion on this level. It prepares regular reports on the situation in this field in all Council of Europe Member States and candidate ones. Its duties involve initiating actions to make sure the rules included in the European Charter of Territorial Self-Government are observed. Resolutions of the Congress are directed to all self-governments, and the Committee of Ministers and the Parliamentary Assembly received them for their information (Goik, 1992, p. 56–61; Jaskiernia, 2008, p. 103–122; Kieres, 2008, p. 115–131; Szewc, 2006; Szewc, 2007, p. 5–14).

In 1994, the Council of Europe Congress of Local and Regional Authorities adopted resolution no. 8 containing recommendations for the Congress Chamber of Regions so that it could work out a European Charter of Regional Self-Government (further on referred to as the ECRS) following suit of the ECLS. A draft was prepared by the Chamber of Regions and adopted at the 4th session of the Congress of Local and Regional Authorities in Strasbourg on 3rd–5th June 1997 in recommendation no. 34.⁴ In its text, the Congress requested the Parliamentary Assembly of the Council of Europe to support the Charter, and the Committee of Ministers of the Council of Europe to adopt it as a due convention. The Parliamentary Assembly backed the Congress, and the Charter was approved. However, the Charter will only become an international convention after affixing signatures of at least 5 states willing to ratify it.⁵

Authors of the ECRS intended for it to be a normative act to put in order the status of regions in Europe. The Charter does not introduce unified regionalisation in the Council of Europe Member States, and its only task is to create guidelines for those Member States which are going to reform

the Council of Europe. The Congress holds annual session in Strasbourg. Delegations of authorised European organisations representing local and regional self-governments participate in it, as well as those of several non-member states which have a status of special guests or observers. The Chambers are in session directly before plenary sessions of the Congress or after them (Benoît-Rohmer, Klebes, 2006, p. 84–85).

⁴ Recommendation 34 of the Congress of Local and Regional Authorities on the Draft European Charter of Regional Self-Government CONGRESS/REC34/1997/E June 1997 (Kieres, 2008, p. 124).

⁵ Authors of the Charter realised that some regulations might be controversial, therefore they included in it provisions allowing individual states to exclude some regulations. However, these are not numerous, and so there have occurred difficulties with ratification of the Charter (Kieres, 1998).

their political and social systems. Its content is based on a conviction that regionalisation is an institutional phenomenon, whose objective is to establish a proper level for decentralisation, sufficiently ample to be responsible for spatial planning and development, but local enough to remain under citizen supervision (Balcerowska, 1999, p. 103–104; Kieres, 1999, p. 141). The Charter specified system framework necessary for effective operation of self-governmental region authorities. It affirmed that regions (regional bodies) are to have their own competences and delegated powers, which is a clear reference to provisions of the ECLS. The difference, however, is that Art. 4 of the ECLS stipulates that powers of communes and other territorial self-government units stem from the constitution or the act, whereas the ECRS says generally about region powers which should be specified or recognised by the constitution, the act, region statute or international law provisions. This solution, at least in its assumption, seems to formally protect region independence against likely attempts of central authorities at limitation. The fact that international law is to be the source of region powers provides region authorities in practice with a possibility of referring to ratified conventions as the basis for their powers. It's worth noting that the ECRS is constructed so that it has allowed Council Member States to often avoid hard debate on transfer of powers to regions through ratification of the ECRS, in which they are strictly specified, as the Charter affirmed that region powers can be recognised by referring to international law standards, and such international law standards are included in the ECRS.

It must be noted that Art. 4, Item 3 of the ECRS allows regions to pursue their *specific regional policy*. This is attained by ascribing own competences to regional bodies within the scope of: regional matters, relations with regional communities, including international and transfrontier ones, participation in general state matters, and participation in European and international matters. In practice, the scope of region powers in the ECRS is extremely comprehensive, close to one that belongs to sovereign states. Serious doubts are raised by the term “participation” used in Art. 9 and 10 of the ECRS. Very firmly grounded is the conviction that only the state may be the subject of international law.⁶ Presently,

⁶ In Polish science, this view was held by A. Klafkowski, who stressed, however, that states may found another international law entity based on an international agreement (Klafkowski, 1966, p. 59–64). Earlier, such standpoint in Polish science was presented by J. Makowski (Makowski, 1948, p. 59–66). The literature emphasized the

this view, strongly exposed in journalism, does not agree with the doctrine.⁷

The ECRS affirmed that regional bodies can decide about regional matters freely and within their powers by holding the interest of the inhabitants subsidiarity, and reasonable requirements of national and European solidarity. The above mentioned determinants are highly vague. It's worth noting that individual regions' standpoint may turn out to be different than that of the central authority. This must lead to negotiation and dialogue between sovereign state authorities and regional authorities acting within its confines. The issue of whether there is not an antinomy between national and European solidarity raises further doubts. The ECRS does not state precisely what this solidarity should consist in (Sowiński, 2005, p. 211–237; Sowiński, 1998, p. 61). It's worth noting here that regions that jointly form an area separated by state borders can be established by consultative (resolution-passing) or executive bodies. It's evident that creating transfrontier co-operation structures is subject to internal law of individual states, and the co-operation must be in accordance with state's obligations, both internal and international. This is corroborated by Art. 8, Item of the ECRS. However, the fact that actions initiated not only by regions but also bodies of interregional co-operation are made subject to court judgement restricts freedom of government administration intervention, both within the activity of regions and transfrontier structures. It must be noted that pursuant to

need for divisions of international law entities, as well as the need to examine their legal capacity and capacity to perform acts in law.

⁷ Identification of sovereignty with subjectivity is the source of the thesis that solely states can be international law entities. It is stressed that there is no doubt that states that have international capacity to perform acts in law are the only international law entities. Today, existence of international law entities other than state is commonly recognised. It results among others from Art 3 of the Vienna Convention on the Law of Treaties of 1969. Science puts forth a view that an international law entity is one that has rights and obligations resulting directly from international law, i.e. one that is a target of international law standards. Adversaries of this view prove, however, that the sole legal capacity does not suffice to acquire subjectivity (Bierzanek, Symonides, 1998, p. 121–123). Also, it is stated that international subjectivity includes participation in the life of the international community combined with some form of acceptance on the part of that community (Shaw, 2000, p. 126). W. Góralczyk states straight that “an international law entity is one that has rights and obligations resulting directly from international law” (Góralczyk, 1998, p. 122). Therefore, if region were to participate in European and international affairs under the ECRS, then this would raise a possibility to recognise its subjectivity in public international law, which would undoubtedly weaken the status of states.

Art. 4, Item 3 of the Additional Protocol to the Madrid Convention, parties to a transfrontier agreement can decide that an interregional co-operation body shall be a legal public personality, and its activities shall produce legal effects equal to those that would be initiated by communities and authorities that appoint it.⁸ The fact that solutions provided for in the ECRS clearly favour recognition of regions as international law entities is confirmed by Art. 10 of the ECRS, which recommends governments to include regions to interstate negotiation procedures, in particular through inviting regional authority representatives to state delegations.

The Charter postulates that the principle of local self-government be recognised in the constitutions of the Council of Europe Member State, however, it does not try to impose any specific shape of region. The preamble already points out that regions as a principal element of the state testifies to Europe's diversity, thus contributing to enrichment of European culture. Existence of regions fosters economic prosperity and allows for eco-development. The authors of the ECRS intended to extend the process of regionalisation, and set fundamental rules for the regions, which would, however, account for the distinctions obtaining in different European countries. The ECRS promotes a principle of state participation in the modelling of region's position and structure. The Charter allows the states to indicate region categories to which they intend to limit their applicability. The ECRS author's intention was to ensure effective and citizen-friendly administration on regional level. They indicated that regions should take advantage of their broad autonomy in terms of powers, and possess resources to discharge their duties, and region powers should be referred to in the constitution, region statutes, as well as internal and international law, where no changes or limitations of these entitlements would be acceptable. Any conflicts of competence between central and regional authorities should be resolved by courts following the principle of subsidiarity. The Charter admits supervision over regional legislation, but limits it to the criterion of legality. It affirms that regions should be provided with their own funds, possess administration system, proper bodies and their own staff. Law should be conducive to financial independence of regions by authorising due bodies to impose taxes and charges. Funds

⁸ For forms of interregional co-operation, see *Dokumenty europejskie – współpraca transgraniczna i regionalna*, Biuro Studiów i Analiz Kancelarii Senatu, Dział Analiz i Dokumentacji Europejskiej. Seria Materiały, M-364, czerwiec 1995.

should be reserved in state budgets to equalise possible differences between regions.

The Charter was received with great reserve as most of the Council of Europe Members saw in it a mechanism making it possible to “dismantle” state structures in Europe. They expressed concern that regionalisation would endanger national sovereignty and integrity. The ECRS authors were often accused of a desire to subordinate disputable areas to neighbouring countries, stronger economically or more interesting in terms of culture. The Charter was also perceived as a mechanism destroying national and ethnic identity, historical or religious traditions. It was pointed out that self-governing region would be a legal personality, which would bring about legal independence, even in a form characteristic of autonomy. Particular concerns were aroused by the subsidiarity principle shaping relations of self-government region with other public authorities. Central authorities of practically all Council of Europe Member States displayed reserve with the idea of decetralisation of duties and transferring them on to regions. A perspective of standardisation of the status of self-governing region in the form of an international law act met a considerable objection. The literature remarked that political elites associating their interests with central authorities are clearly afraid of regionalisation which would lead to appearance of new regional political elites (Kieres, 2008, p. 127).

The ECRS was repeatedly discussed internationally. The standpoint of the Conference of Ministers responsible for local and regional authorities, who debated in Helsinki on 27th–28th June 2002⁹ was of great importance for the ECRS. During the Conference, not only reference was made to the ECRS, but also state standpoints were reviewed concerning the idea of regionalisation, as well as status of region in state structure. Apart from that, considerable and insurmountable differences in individual ministers’ standpoints were found, and it was determined that the Council of Europe should come up with solutions concerning directions of region status. Doubts were raised by the issue of which instruments should be used to shape the status of self-government region, and what kind of document should cause this, and in particular whether this should be caused by a recommendation deed or a binding deed.

⁹ Conference of European Ministers Responsible for Local and Regional Authorities, 13th session, Helsinki 27th and 28th June 2002, doc. MCL 13 (2002) 4 (Kieres, 2008, p. 124).

Another discussion took place during a session of the Conference of Ministers in Budapest in 2005. Surely, it was preceded by the works of the Congress of Local and Regional Authorities and the European Committee on Local and Regional Democracy as an auxiliary body of the Committee of Ministers of the Council of Europe. These works focused on determining possibilities of adopting one legal document that would pinpoint a direction for solutions specifying positions of self-governing regions in the structure of the Council of Europe Member States, and for determination of internal organisation of such region. The Conference of Ministers rejected this idea entirely by assuming that it was too early to draw up such document, however, they admitted that regionalisation is an important instrument of good governance.¹⁰ The standpoint adopted at the Conference of Ministers in Budapest was accepted at the third summit of the Council of Europe in Warsaw. It acknowledged that the Congress of Local and Regional Authorities is a fundamental institution of the Council of Europe authorised to prepare, draw up and present any assumptions and draft deeds of the Council of Europe in matters of territorial self-government, including regional one. At the successive session of the Conference of Ministers in Valencia in 2007, the current standpoint was confirmed, but the tendencies shaping perspectives of regionalisation were provisionally reviewed.¹¹ The Congress of Local and Regional Authorities suggested further discussion over the ECRS by pointing out that it would be advisable to adopt an Additional Protocol to the ECRS testifying to a possibility of adopting this act for the needs of self-governing region. Such Protocol would specify the status of self-governing region by referring its powers to local self-government as the fundamental institution of territorial self-government. That proposition, however, was not accepted by the Conference of Ministers, which recommended further research and making out of a report on directions and resources of strengthening the work of the Council of Europe in local and regional democracy (Kieres, 2008, p. 126).

¹⁰ Draft Declaration of the Budapest Ministerial Conference on delivering good local and regional governance; Conference of European Minister responsible for Local and Regional Government; document MCL-14 (2005) 4 rev.; session; Budapest, 24–25 February 2005.

¹¹ See 15th session of the Conference of European Ministers responsible for local and regional government (Valencia, 15–16 October 2007) – Report by the Secretary General (CM (2008) 14, CM (2008) 14 add, GR-DEM (2008) CB 4 rev.) (Kieres, 2008, p. 125).

Although no objections were made during the Congress of Local and Regional Authorities to attempts to develop the status of self-governing regions, still serious disputes occurred during the Congress, and standpoints of particular states diverged. Therefore, it is not to be expected that a document regulating the status of regions is going to be formulated and adopted in the near future.

The problems of regionalisation have for a long time remained outside the scope of interest of the European Communities. It was implied by the nature of the Union as an organisation whose objectives were primarily economic. Units Nomenclatures des Unites Territoriales Statistiques (NUTS) were an example of such an economic approach to regions. Over time, the problem of regions was ever more exhibited. Despite of that, to this day the notion of regions has not been defined, although regional policy is an essential aspect of Union operation. After coming into force of the Single European Act in 1986 and the Maastricht Treaty in 1992, the influence of the European Union on regions has become much bigger. The literature stresses that new prerogatives which the treaties granted to the Union institutions have restricted regional decisive powers to a greater degree than before, and thus caused greater interest in the defence of endangered region powers, both at the level of state and the European Union (Bourne, 2007, p. 391). Under Union law, the doctrine assumes that "region" is a segment of a specified territory, directly below state level, often with its own parliament, as well as executive and administrative bodies. It is remarked, however, that it can be something more, but also something less than a political space, namely a functional space that has its institutions responsible for planning and realisation of regional policy, but devoid of elective assemblies. It is noticed that region can as well be a cultural space, particularly when inhabited by culturally and ethnically close-knit groups. When the Single European Act entered into force, regions have become an important part of Union policy. Also, one must remember that since mid-1970s the number of international associations assembling European regions have dramatically increased. Assembly of European Regions that brings together more than three hundred regions is the largest of them. Interregional associations in the political realm of the European Union have various tasks and objectives, first of all economic. In 1994, Committee of the Regions set up by the Maastricht Treaty was initiated as an advisory institution of the Union and the Commission. The Committee of the Regions is composed of representatives of regional and local communities who, under the Treaty, must have a regional or local

community mandate or be politically liable before an elected assembly.¹² The Committee of the Regions advises both the Council and the Commission, and formulates non-binding opinions concerning regional and local policy. Operation of the Committee is strictly related to operation of the principle of subsidiarity and propagation of the idea of the “Europe of regions” (Luchaire, 1990, p. 15; Christianson, 1994, p. 11; Pietrzyk, 2000, p. 203).

The concept of the “Europe of regions” was an idea to supplement ethnically diverse countries. It must be traced back to a project of Austrian philosopher and economist L. Kohr who developed and published a draft

¹² Art. 263 of the Treaty on European Union (Barcz, Michoński, 2006). The number of members of the Committee of the Regions that Union states should have was specified in the Treaty. Under these provisions, Germany, France, Italy, Great Britain have 21 members each, 24, Spain and Poland – 21 each, Belgium, Czech Republic, Greece, Hungary, Holland, Austria, Portugal and Sweden – 12 each, Denmark, Ireland, Lithuania, Slovakia, Finland – 9 each, Estonia, Latvia, Slovenia – 7 each, Cyprus, Luxemburg – 6 each, and Malta – 5. After enacting the Treaty and excepting Bulgaria and Rumania, the former was granted 12 places in the Committee of the Regions, and the latter – 15. Every member of the Committee of the Regions has their deputy. Member States submit a list of member and deputy candidates. They are free to indicate which regional authorities will be represented in the Committee of the Regions. The Council accepts the list of Committee members and their deputies through qualified majority voting. Mandate of a member of the Committee of the Regions is valid for four years, and may be renewed. Term of office of the members expires automatically, when the mandate on whose basis they were proposed terminates. Also, they stop performing their functions, when they hand in their resignation or die. They must not be members of the European Parliament. Members of the Committee of the Regions are not bound by any instruction. They are fully independent in discharging their duties in the general interest of the Community. The Committee of the Regions appoints a president and presiding officers from among its members (the presiding officers are the president and first vice president, 25 vice presidents – one from every country, 25 other members, and additionally, heads of political groups) for a period of 2 years, and approves its by-laws. Members and deputy members form national delegations, whose operation is supported administratively by the Secretary-General of the Committee of the Regions. It is also possible to create political groups, which can be appointed solely when 20 members from at least 3 states are willing to work in it. The president of the Committee is obliged to publish lists of political group members in the Official Journal of the EU. Members and deputy members can appoint interregional groups. At the beginning of every term of office, commissions are set up based on propositions put forth by the presiding officers. Composition of the commission should reflect national composition of the Committee of the Regions. Every member of the Committee must belong at least to one commission, but no more than two.

division of Europe into 50 regions more or less equal in size. This idea, however, developed as early as the 1960s, and resulted from striving to preserve Europe's diversity, and a desire to effectively protect minority languages and cultures. It oscillates between issues of a federal Europe and an integrating Europe.¹³ In the federal Europe, component units were regions, and not national states, whereas in the integrating Europe regions, beside community institutions and member states, were to be a third link of the European construction. Adversaries of the Europe of regions emphasize that these would substitute ethnically and historically diverse states, but the project is an utopian one (Parzymies, 1994, p. 19–20; Greta, 2003, p. 25–28). The idea of creating euroregions appeared in Europe in the 1950s, when the EEC structures were being formed (Bałtowski, 1996, p. 40; Gierłowski, 1993, p. 47; Dobrowolski, Łata, 2001; Malendowski, Ratajczak, 1998; Malendowski, Ratajczak, 2000; Puślecki, 1995; Łoś-Nowak, 2000, p. 34–45; Mikołajczyk, 1998, p. 51–64; Kuźniar, 1994, p. 90; Skrzydło, 1994, p. 53). Euroregions have become an important element of European integration creating European consciousness, at least in its design.¹⁴ They were becoming the element of integration by changing the di-

¹³ The regional and structural policies carried out by the European Union are aimed at approximation of economic development level and welfare of societies in different countries and regions within the Union. It's worth noting that the notions "regional policy" and "structural policy" are sometimes treated as synonyms, which to some extent is justified, since more than 90% of resources for structural policy are related to regional needs. Signing of the Single European Act in 1986 is considered as a landmark in working out of the regional and structural policy. One must remember that it was then that the Treaty on European Communities addressed the problem of economic and social cohesion. Under the Treaty on European Union of Maastricht, Cohesion Fund was set up to finance environment protection and structural investment projects. Regional policy is in large measure financed by the European Investment Bank. Regional policy is harmonised with cohesion policy focused on regions that need support as being less developed, whose GDP is below 70% of Union average, and which experience various types of crisis, and finally old industrial areas that require restructuring, frontier regions, particularly at EU external borders, peripheral areas, islands, maintain areas, sparsely populated far north areas. The poorest Member States called "cohesion states" are beneficiaries of cohesion policy (Krajewski, 2008, p. 77–80).

¹⁴ It must be remembered, however, that transfrontier co-operation problems were addressed by the Council of Europe independent of the European Communities (later Union). As result of these measures, the European Outline Convention on Transfrontier Co-operation Between Territorial Communities or Authorities (also referred to as the Madrid Convention) was adopted by the Council of Europe on 21st May 1980

vise nature of borders. They contributed to some extent to augmenting of economic and political unity of EU states. It seems, however, that the social, political and economic potential that they carried was gradually exhausted after several years.

One of the duties of the Committee is giving opinions. Obtaining them is both obligatory in cases referred to in the Treaty, and optional. The Commission and the Council are obliged to consult the Committee of the Regions in these policy areas in which the Union has the right to take decisions directly concerning local and regional authorities. These include: public health, education and youth, culture, employment, social affairs and natural environment. Committee consultations are also compulsory in matters of economic and social cohesion, which include structural funds legislation. The Committee of the Regions can be consulted by the European Parliament, and give opinions on its own initiative and discretion. It expresses its stance in the form of opinions and resolutions, which are not legally binding, however, opinions in obligatory consultations carry the quality of necessary condition in the decision-making procedure. Appointing the Committee of the Regions was crucial. It was a form of recognition of the right of regional authorities to participate in the European Union decision-making.

Bibliography

- Balcerowska A. (1999), *Regiony europejskiej przestrzeni prawnej*, "Samorząd Terytorialny", no 7–8.
- Bałtowski M. (ed.) (1996), *Regiony, euroregiony, rozwój regionalny*, Lublin.
- Barcz J., Michoński A. (eds.), (2006), *Polska w Unii Europejskiej. Wybór dokumentów*, Warszawa.
- Benoît-Rohmer F., Klebes H. (2006), *Prawo Rady Europy. W stronę ogólnoeuropejskiej przestrzeni prawnej*, Warszawa.

to begin with. The Convention was signed by Poland and ratified by government announcement of 1st April 1993 (Dz. U. 1993, No. 16, Items 287 and 288). One year later, on 20th November 1981, the Council of Europe enacted the European Charter of Cross-Border Regions, which on 1st December 1995 changed its name to the European Charter of Frontier and Transfrontier Regions. The charter is not an international law act, but only a declaration of co-operation and a certain code of good transfrontier practice. For Charter nature, compare (Malarski, 2003).

- Bierzanek R., Symonides J. (1998), *Prawo międzynarodowe publiczne*, Warszawa.
- Bourne A. K. (2007), *Regionalna Europa*, in: *Unia Europejska, organizacja i funkcjonowanie*, ed. M. Cini, Warszawa.
- Choraży K. (1998), *Zagadnienia ustroju lokalnego we Francji*, Lublin.
- Christianson T. (1994), *Réflexions critiques sur l'Europe des Régions*, "Economica", no 9.
- Dobrowolski P., Łata M. (2001), *Wielki Region – Saar-Lor-Lux. Przykład współpracy transgranicznej w Europie*, Wrocław.
- Gierłowski W. (1993), *Szanse rozwoju nowych modeli współpracy transgranicznej w zmieniającej się Europie*, in: *Regiony graniczne. Współzależność i współpraca*, ed. S. Bieliń, Warszawa.
- Goik H. (1992), *Podstawowe struktury organizacyjne Rady Europy zajmujące się problematyką samorządu terytorialnego (wybrane zagadnienia)*, "Biuletyn Centrum Europejskiego Uniwersytetu Warszawskiego", no 4.
- Góralczyk W. (1998), *Prawo międzynarodowe publiczne w zarysie*, Warszawa.
- Greta M. (2003), *Euroregiony a integracja europejska*, Łódź.
- Jaskiernia J. (2008), *Elementy dobra wspólnego w systemie aksjologicznym Rady Europy*, in: *Dobro wspólne. Problemy konstytucyjnoprawne i aksjologiczne*, ed. W. J. Wołpiuk, Warszawa.
- Kaczmarek T. (2005), *Struktury terytorialno-administracyjne i ich reformy w krajach europejskich*, Poznań.
- Kieres L. (1998), *Przyszłość regionów, przyszłość reformy*, "Rzeczpospolita", 8 April.
- Kieres L. (1999), *Europejska Karta Samorządu Regionalnego: przyszła konstytucja regionów*, in: *Administracja publiczna w państwie prawa. Księga jubileuszowa dla Prof. Jana Jendroški w osiemdziesiątą rocznicę urodzin i pięćdziesięciolecia pracy naukowej*, "Acta Universitatis Wratislaviensis. Prawo CCLXVI", Wrocław.
- Kieres L. (2008), *Regionalizacja w Europie. Doświadczenia Rady Europy i jej Kongresu Władz Lokalnych i Regionalnych*, in: *Prawne problemy regionalizacji w Europie*, eds. K. Nowacki, R. Russano, Wrocław.
- Kłafkowski A. (1966), *Prawo międzynarodowe publiczne*, Warszawa.
- Krajewski Z. (2008), *Unia Europejska i jej wspólne polityki*, Lublin.
- Kulesza M. (1997), *Europejska Karta Samorządu Terytorialnego na cenzurowanym. Rażące przekłamania*, "Wspólnota", no 6.
- Kuźniar R. (1994), *Euroregion karpacki – przesłanki powstania, uwarunkowania współpracy*, "Sprawy Międzynarodowe", no 3.
- Kwaśniewski K. (1989), *Ojczyzna, Europa, czy Europa ojczyzn*, "Przegląd Zachodni", no 5–6.
- Kwilecki A. (1969), *Idea zjednoczenia Europy: polityczno-socjologiczne aspekty integracji zachodnioeuropejski*, Poznań.

- Lemańska J. (2008), *Region, regionalizm, regionalizacja w europejskiej przestrzeni pojęciowej*, in: *Prawne problemy regionalizacji w Europie*, eds. K. Nowacki, R. Russano, Wrocław.
- Luchaire Y. (1990), *Les régions et l'Europe*, "Annuaire des Collectivités Locales", Paris.
- Łastawski K. (2006), *Historia integracji europejskiej*, Toruń.
- Łoś-Nowak T. (2000), *Euroregion jako czynnik kreujący tożsamość europejską. Przesłanki, możliwości, zagrożenia*, in: *Euroregiony, mosty do Europy bez granic*, eds. W. Malendowski, M. Szczepaniak, Warszawa.
- Makowski J. (1948), *Podręcznik prawa międzynarodowego*, Warszawa.
- Malarski S. (2003), *Regiony i euroregiony, zagadnienia organizacyjne, prawne, administracyjne*, Opole.
- Malendowski W., Ratajczak M. (1998), *Euroregiony. Pierwszy krok do integracji europejskiej*, Wrocław.
- Malendowski W., Ratajczak M. (2000), *Euroregiony. Pierwszy krok do integracji europejskiej*, Wrocław.
- Marszałek A. (1996), *Z historii europejskiej idei integracji międzynarodowej*, Łódź.
- Mendel Z. (1996), *Regiony we Francji*, in: *Oblicza decentralizmu*, ed. J. Iwanek, Katowice.
- Mikołajczyk A. (1998), *Euroregion jako forma instytucjonalizacji współpracy transgranicznej*, "Studia Europejskie", no 2.
- Misiuda-Rewera W. (2004), *Włochy. Republika autonomii*, Lublin.
- Parzymies S. (1994), *Europa regionów*, "Sprawy Międzynarodowe", no 3.
- Pietrzyk I. (2000), *Polityka regionalna Unii Europejskiej i regiony w państwach członkowskich*, Warszawa.
- Pomian K. (2004), *Europa i jej narody*, Gdańsk.
- Puślecki Z. (1995), *Projekty polsko-niemieckiej współpracy regionalnej i transgranicznej a problem suwerenności*, in: *Suwerenność i państwa narodowe w integrującej się Europie – przeżytek czy przyszłość*, eds. J. Fiszer, C. Mojsiewicz, Warszawa.
- Ruśkowski E. (1993), *Ewolucja stosunków między administracją centralną a samorządem terytorialnym we Francji*, "Problemy Rad Narodowych", no 55.
- Shaw M. N. (2000), *Prawo międzynarodowe*, Warszawa.
- Skrzydło A. (1994), *Euroregiony z udziałem podmiotów polskich jako forma współpracy transgranicznej*, "Sprawy Międzynarodowe", no 3.
- Skrzypczak T. (1985), *Regiony jako element struktury niektórych państwa Europy Zachodniej*, "Państwo i Prawo", z. 4.
- Skrzypczak T. (1979), *U źródeł autonomii terytorialnej w rozwiązaniach ustrojowych Hiszpanii*, "Zeszyty Naukowe UJ. Prace z Nauk Politycznych", Kraków, no 12.

- Skrzypczak T. (1984), *Państwo regionalne – wybrane problemy autonomii terytorialnej we Włoszech i Hiszpanii*, “Zeszyty Naukowe UJ. Prace z Nauk Politycznych”, Kraków, no 24.
- Sowiński R. (1998), *Europejska Karta Samorządu Regionalnego w procesie integracji europejskiej*, “Zeszyty Naukowe WSB w Poznaniu”, no 2–3.
- Sowiński R. (2005), *Samorząd terytorialny w kontekście suwerenności państwa*, in: *Koncepcje suwerenności państwowej*, eds. I. Gawłowicz, I. Wierchowicka, Warszawa.
- Stefanowicz J. (1995), *Iluzje ponadnarodowości i realia “Europy ojczyzn”*, in: *Suwerenność i państwa narodowe w integrującej się Europie – przeżytek czy przyszłość*, eds. J. Fiszer, C. Mojsiewicz, Warszawa.
- Szenc T. (2006), *Samorząd terytorialny w konwencjach Rady Europy i w prawie europejskim*, Bytom.
- Szenc T. (2007), *Samorząd terytorialny w pracach Rady Europy (wybrane zagadnienia)*, “Samorząd Terytorialny”, no 1/2.

Perspektywy regionalizacji w Europie

Streszczenie

Pojęcie regionów jest wyjątkowo nieostre, gdyż problematyki tej dotyczą prace z różnych dziedzin. Kwestia ta od dawna stanowiła jeden z przedmiotów zainteresowania Rady Europy, która w lokalnej i regionalnej administracji widzi jeden z podstawowych składników nowoczesnej demokracji europejskiej. Podstawowym dokumentem regulującym te sprawy w systemie prawa Rady Europy jest Europejska Karta Samorządu Lokalnego. Towarzyszy jej szereg innych dokumentów, w tym Europejska Karta Samorządu Regionalnego. W treści artykułu dokonano analizy wspomnianych aktów normatywnych w obszarze prawa unijnego regiony stały się ważną częścią polityki Unii po wejściu w życie Jednolitego Aktu Europejskiego. Najważniejszym z organów zajmujących się problematyką regionalną jest Komitet Regionów ustanowiony w 1994 r., którego funkcjonowanie związane jest z zasadą pomocniczości i programowaniem idei Europy Regionów.

Słowa kluczowe: Regionalizacja, region, współpraca regionalna, Europejska Karta Samorządu Lokalnego, Europejska Karta Samorządu Regionalnego, Rada Europy, Unia Europejska