Title: Island Autonomies – Constitutional and Political Developments

Abstract

The territorial autonomies in the world have developed in different constitutional and political environments, but there are also several similarities when it comes to the institutional aspects of how the territorial autonomies function and act in their relationship towards their respective metropolitan states. This chapter will elucidate some of the island autonomies in a Nordic and a Portuguese context. The Nordic cousins are very much alike regarding the institutional design and in relationship with their respective metropolitan state, but their historical and political development have been of different character. The Portuguese islands of the Azores and Madeira have developed through another context. What are the similarities and differences between these islands? What is the connection to federalism and asymmetrical federalism regarding these islands?

Key Words: Island autonomies, constitutional aspects, political development, asymmetrical federalism

1. Introduction

Federalism is a normative rule which favors a political system of multilevel governance combining elements of shared-rule and territorial self-rule. Similarly, ‘autonomism’ is a normative term that advocates the use of self-governance as a principle to envision autonomy as the ideal for constitutional and political framework for accommodating diversity. Both concepts are somewhat related to each other, but at the same time there are distinctions between them.¹ With ‘autonomism’ politicians seek to develop further self-government in various spheres within existing state structures. In this context autonomy is related to the federalist principle of multilevel governance, but the feature of autonomy becomes more asymmetrical in relation to the central level.² A regional government or a territorial autonomy may exercise authority in its own jurisdiction or in the country as a whole. This is the distinction of self-rule and shared-rule.³ Territorial autonomies constitute

¹ LLuch, Autonomism and Federalism, Publius 42 (1) (2012), 135.

² LLuch, Ibid.

entities with both federal and non-federal elements. Some of the non-federal elements are that the formal distribution of power between legislative and executive authorities is not constitutionally entrenched; the shared-rule element is usually weak and sometimes non-existent; the influence over the policy-making institutions of the center is weak or negligible; and the self-rule is set up in an unequal way in relation to the core institutional apparatus of the central state. An ideal symmetrical model of federalism is composed of political units, which are “comprised by an equal territory and population, similar economic features, climatic conditions, cultural patterns, social groupings, and political institutions”. The political sub-units in such a system would maintain the same relationship to the central authority. On the other hand an asymmetrical model of federalism would be composed by political units corresponding to differences of interest, character, and makeup that exist within the whole society.

Autonomy does not seek independence or sovereignty on a short or medium term base, but seek to promote self-government, self-administration, and cultural identity of a territorial unit populated by a society with some national, overall characteristics. Various forms of autonomy can be described as sub-categories of the general classification of “federal political systems” if we include the broad scope of confederations, federacies, associated states, condominiums, etc. Autonomy normally encompasses measures of self-rule, where the sub-units contain elected governments that have meaningful measures of authority over local or regional matters in decision and execution. As a movement autonomy becomes one important mean that groups seek to use to improve their status within existing state borders of a state as an alternative to secession. Central governments hold control over fiscal matters and are usually reluctant to transfer these issues to autonomous subnational governments. This can be in form of tax policies or of having a distribution system, where the autonomous region is operating underneath the central government and receives some block grants or other subsidies in order to cover its expenses.

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4 Lluch, Autonomism, Publius 42 (1) (2012), 139-141.


7 Lluch, Autonomism and Federalism, Publius 42(1) (2012), 136.


Island autonomies in the world belong to a group of asymmetrical federal systems. With asymmetrical federalism we understand a system, where smaller entities are in an association with a larger entity on the basis of internal autonomy or self-government. This association can take the form of free association or a federacy. Free association means that the smaller entity can break away from the larger entity if the population has a will to do so. The relationship is usually in a loose form where the larger entity has the power over external relations such as foreign policy and security, citizenship and economy while the smaller entity is totally internal self-ruling in all domestic affairs. Examples of free associated statehood can be illustrated by the Cook Islands and Niue in their relations towards New Zealand. It is often a choice where ‘free association’ can be seen as the best option of both worlds, both for the small islands and the overarching larger state. A federacy is a relationship where there is a mutual agreement between the larger and the smaller entity. If any change is determined this must be done in agreement with both parties. Most of the federacies in the world are islands.

The Nordic autonomies (Åland Islands, Faroe Islands and Greenland) and the Portuguese autonomies (Azores and Madeira) are all belonging to the group of federacies according to the classification done by Elazar. Sometimes these arrangements are called self-government systems, territorial autonomies, subnational jurisdictions or minority governance systems. These concepts are often used interchangeable to define the same territories.

With the term subnational jurisdiction as defined by Baldacchino (2010) we mean entities which are created of strategic constitutional ingenuity by a larger state. These entities may entail or develop through time some national identity or regional identity, which is subsumed to some extent with another, overarching state identity. One of the most usual explanatory factors behind small-island

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12 Ackrén, Conditions for Different Autonomy Regimes in the World – A Fuzzy-Set Application (2009), 35.

13 See Elazar, Exploring Federalism (1987), table 2.3., 55-56.


autonomy and/or small-state sovereignty is colonialism. Most small islands in the world are former colonies. The various forms of successful asymmetrical federal arrangements have “special” endowments: 1) they are non-sovereign states with a strong level of internal autonomy or self-government, whether it is de facto or de jure or a combination of both; 2) they are subnational lying underneath the central government; 3) they may have a distinct society and culture and therefore are seen as nations within the state structure; 4) they are usually islands with a remote distance from the mainland and from their metropolitan states; 5) the citizenry is supported by politicians who exploit the best of all possible worlds, using their jurisdiction as a key economic and political tool; 6) they either escape regulation or try to customize the interests of the metropolitan center in order to fit in.\textsuperscript{16}

This chapter will elucidate the Nordic autonomous islands: Åland Islands, Faroe Islands and Greenland in comparison with the Portuguese autonomous islands of Azores and Madeira. What kind of constitutional and political development has these island autonomies been encountering and which are their characteristic features when it comes to the relationship with their respective metropolitan states?

2. Structure of the distribution of competences

Constitutions are often seen as the building blocks of a society. The constitutions are setting out the rules of the political game, but it is not only as a set of rules, since constitutions also gives the scope of values and the nature of the political community as a whole. Constitutional design becomes the process of how to structure the society with various institutions and what ways political leaders promote and sustain certain values.\textsuperscript{17} A constitution does not always start as a blank sheet of paper, since influences are taken from other countries and regions. Constitution-making often combines elements of what we might see as “high politics” – the politics of the central state apparatus and “low politics” – the politics of subnational entities.\textsuperscript{18} Within federal systems some key issues are often addressed, such as, “the number and character of the constituent units, the division of powers, fiscal arrangements, intergovernmental relations, representation at the center and the judicial competences”.\textsuperscript{19} The same issues can be said to apply also for asymmetrical autonomous areas.

\textsuperscript{16} Baldacchino, Island Enclaves, 99.

\textsuperscript{17} Simeon, Constitutional Design and Change in Federal Systems: Issues and Questions, Publius 39 (2) (2009), 243.

\textsuperscript{18} Simeon, Constitutional Design and Change in Federal Systems, 245.

\textsuperscript{19} Simeon, Constitutional Design and Change in Federal Systems, 246-248.
In a decentralized regime, such as, a federacy, the central authority can always override the decisions of the subnational jurisdictions if they fail to deliver what the central authority intended when it authorized the subnational jurisdictions decision-powers.\textsuperscript{20}

1. \textit{The Åland Islands}

The Åland Islands belonging to Finland is the world’s oldest territorial autonomy established in 1921. The decision was made in the League of Nations and has become seen as one of the most successful conflict solutions in the world. The Åland Islands are based on both international agreements and has later been entrenched in the Finnish constitution.\textsuperscript{21}

In relation to the Finnish constitution the Åland Islands are mentioned and regulated in §120 and §75 in the constitution. According to the Constitution §120 the Åland Islands are stated as a self-governing territory, which is further regulated in the Act on the Autonomy of Åland. The Constitution §75 is further stipulating about special legislation regarding the Åland Islands in relation to acquiring real estate and that Åland has initiative rights to pass own legislation and that these regulations are all mentioned in the Act on the Autonomy of Åland and the Act on the Right to Acquire Real Estate in the Åland Islands.\textsuperscript{22} The constitutional status of the Åland Islands can be seen as quite strong, but at the same time the Åland Islands are regulated by three different legal frameworks, which affect the population on these islands; the Finnish constitution, the Act on the Autonomy of Åland and the EU-regulations, since the Åland Islands also belong to the EU (with some exceptions). These legal frameworks are working parallel to each other and can also been seen as exclusive of each other at the same time, since they function at the same normative level.\textsuperscript{23}

The competences belonging to the authority of Åland are all enumerated in the Act on the Autonomy of Åland in §18 and the competences still belonging to the Finnish state are all listed in §27 and §29. The Åland Islands have exclusive legislative powers regarding the areas of competence and the execution is done by the government of Åland. The judicial power is though underneath the Finnish court system.\textsuperscript{24} There are some state authorities functioning in the Åland

\textsuperscript{20} Rubin and Feeley, Federalism and Interpretation, Publius 38 (2) (2008) 172.

\textsuperscript{21} For more details around the historical background see Ackrén, Successful Examples of Minority Governance – The Cases of the Åland Islands and South Tyrol (2011).

\textsuperscript{22} Suksi, Ålands konstitution (2005), 10.

\textsuperscript{23} Suksi, Ålands konstitution (2005), 2.

\textsuperscript{24} Suksi, Ålands konstitution (2005), 2-3; Act on the Autonomy of Åland.
Islands, such as, the court (lower level instance), customs, taxation bureau and coast guard. The Finnish Government is represented by the Governor on the Åland Islands.

The Åland Islands are also a neutralized and demilitarized territory. This situation is regulated in the Convention regarding the Åland Island’s non-fortification and neutralization which was signed by 10 states in 1921.\(^{25}\)

The Åland Islands have some powers when it comes to international relations. According to §58 in the Act of Autonomy of Åland the government has the possibility to participate in international negotiations when Ålandic matters are on the table. The Åland Islands cannot by themselves enter into international agreements, but has the right to address issues and proposals to the central level (Finnish authority) if there is a need for negotiations with a foreign power. The government of Åland needs to be notified about international agreements whenever they fall into the competence sphere of the Åland Islands.\(^{26}\)

The parliament of the Åland Islands has full legislation powers in areas under section 18 of the Act on the Autonomy of Åland, while the legislative competence in other matters is vested in the Parliament of Finland. At the same time, the provision lays down that the administration and executive power of the Åland Islands is vested in the Government of the Åland Islands and the officials are subordinate to it.\(^{27}\) The Act on Autonomy of Åland creates a number of interfaces between the Åland Islands and the central government of Finland. In order to avoid disputes there is a co-operative organ, called the Åland Delegation. The Åland Delegation is represented by the Governor of Åland as chairperson and two representatives from the Council of State and the Ålandic Parliament and two deputy members for each member. The Åland Delegation should upon request give opinions to the Council of State, the ministries of the central government, the Government of Åland and to the courts. One of the main functions of the Åland Delegation is the budgetary process and the determination of whether the enactments of the Parliament of Åland are within its competence. This task is performed together with the Supreme Court of Finland.\(^{28}\)

Even though the Åland Islands have full legislation powers, the President of Finland has veto rights. When the Ålandic piece of law arrives at the Ministry of Justice, the President has a period of four months at his disposal to react if there are any disputable matters. If the President does not react, the enactment is published by the Government of Åland Islands in the Statutes of Åland, after which it enters into force on a day specified by the Government of Åland.\(^{29}\)


\(^{26}\) Silverström (2004), 7-8.

\(^{27}\) Suksi, Sub-State Governance through Territorial Autonomy (2011), 166.

\(^{28}\) Suksi, Sub-State Governance through Territorial Autonomy (2011), 170-171.

\(^{29}\) Suksi, Sub-State Governance through Territorial Autonomy (2011), 307.
The parliament of the Åland Islands has 30 members and they are elected according to proportional representation from one single constituency of the Åland Islands. Eligible to vote are those Ålanders, who have received domicile, i.e. born or have been living on the islands for a permanent period of five years and have approved knowledge of the Swedish language. It is possible to apply for this regional citizenship. The right of domicile is based on Finnish citizenship. The right of domicile is also linked to the right to acquire real estate or to establish a business on the islands.\(^{30}\)

### 2.2 The Faroe Islands

The Faroe Islands became an integral part of the Danish Realm from the very first constitution in 1849. This meant that the Faroese were represented in the Danish Parliament and that the civic rights of the Constitution were directly applicable in the islands, while all major decisions concerning the Faroe Islands were taken in Copenhagen.\(^{31}\) The Faroe Islands were under British occupation during the Second World War and it was unthinkable to return to the pre-war constitutional situation. Discussions took place at different levels, but no agreement on a new political setting could be reached.\(^{32}\)

In 1946 a referendum was held with the options of either the status quo of 1940 or outright independence. The result was a narrow favor for independence with 48.7% for and 47.2% against. The Danish Government became panicked and dissolved the Faroese legislative assembly and a new election was to be held. This time a clear majority voted against secession and the new coalition began negotiations on the question of Faroese autonomy with the Danish Government. These negotiations eventually resulted in the implementation of the Home Rule Act of 1948.\(^{33}\)

The Act of 1948 listed those areas for which the Faroese Løgting would, upon request, assume entire legislative, fiscal and administrative responsibility. Another list within the Act enumerated matters for which the Faroe Islands needed further negotiations with the Danish Government in order to take over such matters. All matters which the Danish Government would continue to have sole responsibility were also mentioned in the Act.\(^{34}\) These included foreign policy, defense, the courts, civil rights, civil and criminal law and general fiscal policy.

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\(^{30}\) For more details see Spiliopoulou Åkermark, Den åländska hembygdsrätten (2007), 19-37.


\(^{33}\) Ibid.

\(^{34}\) Ibid.
If a dispute occurs between the Faroe Islands and Denmark, the case should be addressed by politicians both from the Faroe Islands and Denmark as a first instance and they should meet with three judges from the Supreme Court in Denmark. If the matter reach consensus between the politicians the case is solved as such. If a disagreement occurs then it is up to the judges to decide the outcome of the impasse.\textsuperscript{35}

One of the major revisions of the Home Rule of the Faroes occurred in 2005. Two laws were implemented regarding policy areas and foreign affairs. These laws were both accepted by the Danish Parliament and the Faroese Løgting.\textsuperscript{36}

There are still five areas which are solely underneath Danish jurisdiction. These are the constitution, the citizenship, the Supreme Court, foreign-, security- and defense policy and monetary issues.\textsuperscript{37}

In the preamble of the Home Rule Act of 1948, the Faroe Islands are recognized as another nation with special historical and geographical ties in relation to Denmark.\textsuperscript{38} The Faroe Islands are also a member of the NAMMCO (The North Atlantic Marine Mammal Commission) and is operating outside the European Union with bilateral treaties with the EU. The Faroe Islands also have bilateral treaties within fisheries and commerce with other countries as well as a border treaty with the UK.

There are two distinct views of the relationship between Denmark and the Faroe Islands regarding the power of competence. One view is that the Home Rule Act of 1948 is considered as a normal Danish law, where delegation of powers is transferred from Denmark to the Faroe Islands. Another view is that it is seen as a binding agreement between the Faroe Islands and Denmark, which organizes the legal relationship between the two entities.\textsuperscript{39} It has been usually interpreted as an agreement between the two entities however different views exist on this matter.

The Faroe Islands and Greenland are not mentioned in the Danish constitution as autonomous territories, but they are mentioned in §28 regarding the election to the Danish Parliament, where it is stated that the Faroe Islands and Greenland have the right to elect two members each to the Danish Parliament out of maximum 179 places.\textsuperscript{40} In §42 (8), it is also mentioned that rules

\textsuperscript{35} á Rógvi, Revideringar av självstyrelselagstiftningen för Färöarna, in: Spiliopoulou Åkermark och Herolf (Hg), Självstyrelser i Norden i ett fredsperspektiv – Färöarna, Grönland och Åland (2015) 143 (153).

\textsuperscript{36} á Rógvi, op.cit., 155-156.

\textsuperscript{37} Ibid.

\textsuperscript{38} Hvidbog (1999) 37.

\textsuperscript{39} Hvidbog (1999) 38.

\textsuperscript{40} Danmarks Riges Grundlov, nr.169 af 5. juni 1953, \texturl{http://www.grundloven.dk/} (08.06.2015).
regarding referendums can be enforced by law in the Faroe Islands and Greenland.\footnote{Ibid.} In §86 the Faroe Islands and Greenland are also mentioned regarding the elections to municipalities and these are further regulated by law in the Faroe Islands and Greenland.\footnote{Ibid.}

3. \textit{Greenland}

Greenland has been a Danish colony from 1721 to 1953. During the Second World War there was also an interest from the USA to buy the island. The USA had purchased the Caribbean Islands of the Virgin Islands from Denmark in 1917, so during the Second World War a growing interest in the Arctic took place due to German occupation of countries in Europe and Russia’s enhanced interest in the Arctic.\footnote{See e.g. Hanson (1940), Should We Buy Greenland?, Harper’s Magazine, May 1940, pp. 570-577.}

During the colonial era Greenland was considered as a trading colony, where the Royal Greenlandic Commerce Company (\textit{KGH}) was regulated all commerce to and from Greenland. This monopoly situation functioned until 1950.\footnote{Ackrén, Grönland och Åland – Två skilda världar?, in: Hovgaard, Jákupsstovu og Sölvará (Hg), Vestnorden i nye roller i det internationale samfund (2014) 52 (53).} The administration was also in the hands of the Royal Greenlandic Commerce Company until 1912. With the Danish constitutional change in 1849 towards democracy Greenland was also included in the process. A commission was established in Greenland in 1851 and superintendents were also implemented to take care of internal affairs.\footnote{Ackrén, Grönland och Åland, op.cit. 53-54.} The superintendents were Greenlandic representatives, but all the major decisions were taken in Copenhagen during this time. The 5 June 1953 Greenland became integrated into the Danish Realm as a county. This situation was in place until the end of the 1970s. In the 1970s political parties were established and voices around a more extensive autonomy were on the agenda. This resulted in negotiations between Denmark and Greenland and in 1979 Greenland received its Home Rule Act.\footnote{Ackrén, Grönland och Åland, op.cit. 54-55.}

One of the triggering issues for developing Home Rule was the enforcement of Greenland to become an EEC-member together with Denmark back in 1973. Referendums had been held both in Denmark and in Greenland with different results. The Danes voted clearly in favor, while the Greenlanders voted against such a membership. A new referendum was held after the introduction...
of Home Rule in 1982 and in 1985 Greenland left the EEC and opted for a status as an “overseas country or territory”, which is the status of today within the EU.\textsuperscript{47}

In the Home Rule Act of 1979, Greenland was recognized as a separate community within the Danish Realm. As the Faroe Islands, Greenland was also considered as another nation with special historical, cultural and geographical ties in relation to Denmark.\textsuperscript{48} The same system as in the Faroe example also applies for Greenland regarding the lists of competences and the areas that Greenland could take over immediately and then there were areas that needed further negotiations.

During 1999-2000 a new commission for self-government was established to investigate and evaluate the 20 first years of Home Rule. The result of this work was that a new agreement with Denmark was on the table. The commission realized that Greenland needed extended autonomy or self-rule in various areas. The political parties were also eager to develop the country in the direction for more autonomy. In November 2008 a referendum regarding the new Self-Government Act took place and a clear majority of the Greenlandic people voted for this development. The new Self-Government Act was implemented 21 June 2009.\textsuperscript{49}

In the preamble to the new Self-Government Act of 2009 the Greenlandic people is defined as a people according to International Law with the right to self-determination. This means that the Greenlanders can secede from the Danish Realm in the future if the population has a will to do so. In the preamble it is further stated that equality and mutual respect should be held between Denmark and Greenland in their relationship. Further, it is an agreement between the Government of Greenland and the Danish Government as equal partners.\textsuperscript{50}

In §1 the Greenlandic self-government is outline to include legislative, executive and jurisdictional powers in those areas that is within the Greenlandic competence. In the appendix to the Self-Government Act there is two lists: List 1 is areas where the Greenlandic Government can transfer matters directly after a decision by the Government; List 2 includes areas where further negotiations between Denmark and Greenland should take place.\textsuperscript{51}


\textsuperscript{49} Ackrén, Grönlands politiska utveckling efter andra världskriget till våra dagar, in: Spiliopoulou Åkermark och Herolf (Hg), Självstyrelser i Norden i ett fredsperspektiv – Färöarna, Grönland och Åland (2015) (88) 95-96.


\textsuperscript{51} Ibid.
The largest change between the Home Rule Act of 1979 and the Self-Government Act of 2009 is related to economics and natural resources. The block grant is now fixed to DKK 3.4 billion (€ 442 million) according to 2009 prices. A yearly regulation is done in relation to inflation. Natural resources are now in the hands of Greenland. Greenland has also received a little bit more room of maneuver in international relations.\textsuperscript{52}

In a matter of dispute between Denmark and Greenland can the Danish Government or the Greenlandic Government initiate the question of dispute to a committee constituting of two members appointed by the Danish Government and two members appointed by the Greenlandic Government and additional three judges from the Danish Supreme Court.\textsuperscript{53} It is the same system applied as for the Faroe Islands.

The same rules and regulations according to the Danish constitution are applicable as mentioned earlier in the section of the Faroe Islands. However, in the Greenlandic case §31 (5), states that special legislation can be made possible regarding the Greenlandic representation in the Danish Parliament.\textsuperscript{54}

### 4. The Portuguese Islands of the Azores and Madeira

The Portuguese islands of the Azores and Madeira will here be outlined in one section, since the two islands are functioning in a similar way. The Portuguese constitution identifies the two islands as autonomous areas with own legislative competencies. However, the legislative power is to some extent circumscribed by the legislative power of the national parliament.\textsuperscript{55}

In the Portuguese constitution several sections are related to the autonomous islands of Azores and Madeira. In article 5 it is outlined that Portugal’s territory comprises of the European mainland which is historically defined as Portuguese, and that Azores and Madeira are part of the territory. In article 214 it is mentioned that the Azores and Madeira Autonomous Regions shall have sections of the Audit Court with full responsibility for matters in question in the respective region. Title VII from article 225-234 is totally devoted to the Autonomous Regions. Furthermore, article 236 outlines that Azores and Madeira should comprise of parishes and municipalities.\textsuperscript{56}

\textsuperscript{52} Ibid; see also Ackrén and Jakobsen, Greenland as a self-governing sub-national territory in international relations: past, current and future perspectives, Polar Record (accepted september 2014).


\textsuperscript{54} Danmarks Riges Grundlov, nr.169 af 5. juni 1953, \url{http://www.grundloven.dk/} (08.06.2015).

\textsuperscript{55} Suksi, Territorial Autonomy: The Åland Islands in Comparison with Other Sub-State Entities, in Kántor (Hg), Autonomies in Europe: Solutions and Challenges (2013) (37) 44.

\textsuperscript{56} Constitution of the Portuguese Republic (Seventh Revision 2005), \url{http://app.parlamento.pt/site_antigo/ingles/cons_leg/constitution_VII_revisao_definitive.pdf} (10.06.2015).
The autonomous regions have full legislative, executive and jurisdictional competences. They also are able to possess their own assets and finances and collect taxes of their own. Both regions are also members of the EU. However, the financial and taxation system is very linked to the Portuguese national system, since the Portuguese authorities have to give authorization in order for the two autonomous regions to implement own taxation schemes. With Portugal’s accession to the EU, the industrial free trade zones and the international business centers on both islands were subject for several revisions. These zones and business centers have been fully integrated and regulated under EU and Portuguese law.\(^57\)

The Azores have been connected politically to Portugal since the 14\(^{th}\) century and gained self-government in 1976. Both the Azores and Madeira were first discovered by the Portuguese between 1335 and 1342. The islands became, however, settled by reign of Henry during the 15\(^{th}\) century.\(^58\)

The first demands of autonomy in the Azores were raised in the 1820s when liberals rebelled against the central authorities that in those days were situated on the island of Terceira. The autonomy of the Azores was finally established in 1895, but this situation was later abolished in the 1930s due to lack of interest by Portuguese legislators and lack of resources to undertake competences. After the fall of the dictatorship followed by the Portuguese revolution in 1974, the Constituent Assembly was willing to support autonomy for both the Azores and Madeira. In the constitution of 1976 both Azores and Madeira became recognized as autonomous regions.\(^59\)

Besides the Portuguese constitution, which is rather detailed, the two autonomous regions have their own statutes, which regulate the regions. The autonomous regions’ legal framework is based on these basic laws (apart from the constitution), one for each region, governing the exercise of self-government by the region, as well as its rights, powers and duties. The statutes can be further elaborated and improved by the regional assemblies.\(^60\)

The regional assemblies are empowered to legislate on matters of special interest to the region in question, to exercise executive authority over regional legislation, to draw up regional economic

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plans, and to participate in the national development plans. Furthermore, the regional assemblies have the power to levy taxes and tariffs.  

The executive authority in the two Autonomous Regions is delegated by the Portuguese President and a five-member advisory committee to the minister of the Republic. The regional governments are each headed by a President who is elected by and from the regional assembly and officially nominated by the minister of the Republic. The regional President in turn appoints the ministers of the regional government. The government remains responsible to the regional assembly and may be dissolved by a vote of confidence.

The Azores are divided into three districts, each sending its representative to the Chamber at Lisbon (three deputies in all). Madeira and Porto Santo are officially designated the District of Funchal, which sends two deputies to the national parliament. The judicial system of the autonomous regions is under the auspices of the Portuguese system with Districts Courts and a Court of Appeal. The final appeal is to the Portuguese Supreme Court.

In disputes it seems that the Audit Court is the first instance, which has the right to issue opinions on the accounts of the Azores and Madeira. Furthermore, the Portuguese state has representatives in each region, who is appointed by the President of the Republic. The representatives are responsible for signing regional legislative decrees and have them published.

The Azores and Madeira have both competences to participate in the negotiations of international treaties and agreements that directly concern them. They have also the right to cooperate with foreign regional bodies and to participate in organizations where the purpose is to foster inter-regional dialogue and cooperation. They can on their own initiative, or when consulted by bodies that exercise sovereign power, give their opinion on issues that fall under the latter’s responsibility and concern the autonomous regions, and in matters that concern specific interests in relation for instance in the relationship with the EU.

61 Ibid.

62 Ibid.

63 Ibid.

64 Constitution of the Portuguese Republic (Seventh Revision 2005), http://app.parlamento.pt/site_antigo/ingles/cons_leg/constitution_VII_revisao_definitive.pdf (10.06.2015).

65 Ibid.
2. The procedure of amendments regarding the autonomous status

The procedures of amendments regarding the autonomous status or change in status for the island autonomies are different in the various contexts. For the Åland Islands it is a long and difficult procedure to change the status or the Act on the Autonomy of Åland. In section 69 in the Act on the Autonomy of Åland the issue about amendment is outlined. It may only be amended or repealed, or exceptions to it may be made, by consistent decisions of the Parliament of Finland and the Legislative Assembly on the Åland Islands. In the Parliament of Finland the decision should be made as provided for the amendment and repeal of the Constitution and the Legislative Assembly by at least a two thirds majority of votes cast. An Act of Åland is following the same procedure with two thirds majority, but here in the Ålandic parliament.66 During the time of writing there are negotiations taken place between the Åland Islands and Finland regarding some changes in the Act on the Autonomy of Åland. There is a committee working on this issue with representatives both from Finland and Åland. This process has already been going on for several years and the outcome is uncertain whether any changes will be made. Usually, it takes decades before an amendment is in place. The Act on the Autonomy of Åland has only been changed twice in 1951 and in 1993.

For the Faroe Islands and Greenland a different approach is at hand. Negotiations between Denmark and the two island autonomies are usually the first step in order to change the Acts of autonomy. Then a referendum is usually the momentum in order for the population to declare its opinion. In the new Self-Government Act of Greenland chapter 8 §21 is outlining the possibility for Greenland to become independent. It is clearly stated that it is the Greenlandic people who should decide the destiny. This would be done through a referendum and if the referendum has a positive outcome for independence, then negotiations between the Danish government and the Greenlandic government would take place. The agreement should be accepted by both the Danish and Greenlandic parliaments.67

The Portuguese islands of the Azores and Madeira, which are very entrenched in the Portuguese constitution, follow the same procedure as constitutional amendments. According to title II article 284 in the Portuguese constitution, the Assembly of the Republic may revise the constitution five years after the date of the publication of the last ordinary revision. The acceptance of revision requires four-fifths majority in the Assembly. Alterations to the constitution can be done by two-thirds majority according to article 286. The alterations need to be collected together in a single revision law. However, constitutional revision laws should respect the political and administrative autonomy of the Azores and Madeira (article 288: o)).68 The statutes of both the Azores and Madeira


are seen as ordinary laws and therefore the amendments can be done by the Legislative Assemblies of the regions but these revisions should be sent to the Assembly of the Republic for discussion for approval or rejection (article 226).  

3. **Exercising competences – an example of the EU-relationship**

The islandautonomies have different approaches when it comes to the relationship towards the EU. The Åland Islands are part of the EU, but with some exceptions. From the point of the Åland Islands, while entering the EU, the opinion was to keep the regional form of domicile. Through the so called Åland protocol, article 1, the limitations for owning land, having real estate and establish a business was approved. According to article 2 in the Åland protocol, Åland is considered as a “third country” in relation to the EU council’s directive 77/388/EEC and the EU council’s directive of 92/12/EEC. These directives mean that Åland is outside the tax union. The Åland protocol’s preamble is also mentioning Åland’s special status according to international law. However, this statement has been interpreted in various ways.

The Åland protocol can be seen as part of the EU’s primary law and changes in parts, which fall underneath the competencies of the Åland Islands, can only be approved by the Ålandic parliament. Regarding the tax exemption this is underneath the Commission’s competence and can therefore be changed by the EU. The Åland Islands should implement those directives that fall under the competence of the Ålandic parliament. The Åland Islands participate in the elections to the European Parliament, but has no separate seat. Within the regional committee Åland has its own representative within the Finnish delegation.

In relation to the membership agreements with the EU, the Act on the Autonomy of Åland was extended with interstate relationships, where the Åland Islands was becoming a part in the Finnish management and preparations of EU issues. The Åland Islands have the right to participate in the preparations of the Finnish standpoint of proposals to the EU-law, for instance, EU-directives or decrees.

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69 Ibid.

70 The Åland protocol is where the exceptions regarding the entering into EU are outlined, which is part of the Finnish membership agreement.


72 Silverström, op.cit. 10.

73 Silverström, op.cit. 8.
The Faroe Islands have been a member of EFTA since 1967. In the negotiations regarding the Danish membership to the EEC, the Faroe Islands were also in the process of having a special status in the then EEC, but since there was a lot of uncertainties about the fishery policy within the EEC at the time, the Faroe Islands was put into a waiting room for three years. Thereafter it was up to the Faroe Islands to decide whether they wanted to enter the EEC. In January 1974 the legislative assembly of the Faroe Islands rejected a membership. The Ministerial Council accepted the Faroe Islands exclusion and instead some favorable agreements regarding the import of fisheries and fishing products to the EEC were established.  

In 1977, Denmark and the Faroe Islands on the one hand and the EEC on the other hand signed a fishing agreement. The agreement entered into force in 1981 and according to this agreement it is renewed every sixth years until one of the parties reject the renewing.

Denmark and the Faroe Islands on the one hand and the Faroe Islands and the EU on the other hand have free trading agreements. The Faroe Islands have accepted the customs union of free movement of goods, with some exceptions regarding some very narrow areas. EU has given free access right to the Faroe Islands’ industrial products and also fishery products. The Faroe Islands are considered as a third country in the context of the EU. There are two bilateral agreements in operation between the Faroes and the EU: Free Trade Agreement and a Bilateral Fisheries Agreement. There has been some disputes between the Faroe Islands and the EU regarding herring and mackerel fishery, but these disputes have been resolved.

Greenland was an integrated part of Denmark, when Denmark entered the EEC and therefore Greenland was forced to become a member as well in 1973. There had been referendums both taken place in Greenland and Denmark respectively with different results. Denmark was in favor of a membership, while Greenland was rejected such a membership. This event triggered the voices for more autonomy in Greenland and later Greenland after achieving Home Rule back in 1979 opted out from the EEC in 1985. Greenland is the first and only territory that have ever left the EU. Greenland is nowadays an Overseas Country and Territory within the EU and has favorable agreements with the EU regarding several matters such as fisheries, education and research.

74 Silverström, op.cit. 22.

75 Ibid.

76 Silverström, op.cit. 23.


During the 1990s a special situation with “paper fish” occurred between Greenland and the EU. This was a situation were the EU granted Greenland export and tax-free access to the EU-market provided by the OCT arrangement regarding the fishery sector. The cod fisheries had collapsed due to shifts in the sea temperature and the EU continued to buy the right to catch cod. The EU also paid for a stock of red-fish.\textsuperscript{79}

In 2006 a more sustainable agreement came into place between Greenland and the EU. A joint declaration was established as an umbrella covering the fisheries agreement and a new special partnership agreement was also concluded regarding cooperation in a number of areas of interest to the EU, such as minerals, transportation and climate research. The first programming period was during 2007-2012 with a focus on education and the development of human resources.\textsuperscript{80}

Since, 1992 a Greenlandic representative has worked in the Danish diplomatic mission in Brussels. Today, four persons work full-time in Brussels for Greenland, two of whom have Danish diplomatic passports.\textsuperscript{81}

In 2009, the EU prepared a ban on the import of sealskin due to how Canadian Inuit hunters had used their hunting, killing baby seals. However, this version of hunting is totally unfamiliar in Greenland. Greenlandic and Danish officials concerted an action that the ban on import of sealskin should exempt skins harvested by traditional hunters.\textsuperscript{82} This ban has been of major concern for Greenland, since seal hunting is one of the traditional, cultural trademarks of Greenland. After recent negotiations between the EU chairmanship (Lettland) and the European Parliament the ban on import has been lifted and now the exemption exists for skins harvested by traditional hunters. This is a victory for Greenlandic hunters and Denmark, which means that Greenland now can export seal skins to the European market.\textsuperscript{83}

The autonomous regions of the Azores and Madeira have the right to participate in the decision-making processes of the international policy of the Portuguese Republic and they also possess the powers to conduct an international policy of their own.\textsuperscript{84} This means that the regions have the right to participate and be heard in matters that concern them. The regions participate within the delegation, the diplomatic mission or the representation of the Portuguese state in the negotiations

\textsuperscript{79}Gad, Greenland projecting sovereignty – Denmark protecting sovereignty away, op.cit. 221.

\textsuperscript{80}Ibid.

\textsuperscript{81}Gad, Greenlandic projecting sovereignty – Denmark protecting sovereignty away, op.cit. 223.

\textsuperscript{82}Gad, Greenlandic projecting sovereignty – Denmark protecting sovereignty away, op.cit. 228.


and international conferences which is drawing up a given international convention or agreement. The regions are integrated in the Portuguese delegation.\textsuperscript{85} The Azores have full right to possess full information regarding international relations according to their Political and Administrative Statute of 2009, stated in Article 121 (3) b).\textsuperscript{86}

The Azores and Madeira are regarded as geographical and economic specificities of the outermost regions within the EU. They are remote, insular, of small size, having difficult topography, different climate, and having economic dependency on a small number of products. Both islands are fully members of the EU with some exemptions. They are taking advantage of several EU programmes.\textsuperscript{87}

According to Article 227 (1) v) of the Portuguese Constitution, the autonomous regions should “give their opinion [...] in matters that concern their specific interests on the definition of the Portuguese State’s position within the ambit of the processes of constructing the European Union”. This means that the regions should be invited to nominate their representatives in the delegations of the Portuguese State, either technical negotiations within working groups or within the Commission, or in political negotiations in the Council of Ministers of the EU when “matters concern them”.\textsuperscript{88} The Committee of the Regions consists of two representatives from the Portuguese autonomous regions (one from each region). The Azores and Madeira may establish cooperative international relations with regional bodies from other member states within the EU.

4. Conclusions

The autonomous regions in this chapter clearly show examples of asymmetrical federacies. They have an asymmetrical relationship both to their metropolitan states and within international relations, especially in the relationship towards the EU. The Åland Islands, the Azores and Madeira are entrenched in the Finnish and Portuguese constitution respectively. The Faroe Islands and Greenland follows a delegation model, where the negotiations take place with Denmark. This also means that Denmark can withdraw the self-government if Denmark had a wish to do so. All autonomous islands have their own statutes or self-government Acts, which regulates the competences of the islands. It is usually in the form of enumeration.

The amendments of the status and revisions of the self-government Acts or Statutes are a very complex procedure when it comes to the Åland Islands, the Azores and Madeira. It is more flexible

\textsuperscript{85}Ibid.

\textsuperscript{86}Ibid.

\textsuperscript{87}Http://www.eur-lex.europa.eu/legal-content/ (26.06.2015).

\textsuperscript{88}Lanceiro, The International Powers of the Portuguese Autonomous Regions of Azores and Madeira, op.cit.; see also the Portuguese Constitution, Constitution of the Portuguese Republic (Seventh Revision 2005), op.cit.
for the Faroe Islands and Greenland to change and revise their self-government Acts and their status as such.

The relationship towards the EU is different in the context of the autonomous islands. The Åland Islands, the Azores and Madeira are full members of the EU with some exemptions. Greenland belongs to the Overseas Country and Territory regime within the EU with bilateral agreements and the Faroe Islands have achieved bilateral agreements with the EU. While the Åland Islands, the Azores and Madeira participate within the Finnish and Portuguese delegations respectively with direct links to the EU bodies, the Faroe Islands and Greenland have their own representations in Brussels, but with more limited access to the real negotiation tables.