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CONSTITUTIONAL OPTIONS PROJECT

CAMEROON ANGLOPHONE CRISIS PEACE POLICY PAPER

ASYMMETRICAL DEVOLUTION: COMPETENCIES, GOVERNANCE, AND AUTONOMY OF SPECIAL STATUS REGIONS

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I.1 Adoption of Law No. 2019/024 of 24 December 2019 establishing the Special Status of the North-West and South-West regions: limited reach of consultations and sensitization before its final adoption

Special Status was one of the main recommendations of the Major National Dialogue (MND) held in Yaoundé from 30 September to 4 October 2019. Consequently, Parliament was convened in *extraordinary session from 13 to 20 December 2019* to examine the Bill to institute the General Code of Regional and Local Authorities (GC-RLA), one of whose innovations was to grant *a Special Status to the North-West and South-West regions*. The bill was adopted at the end of the extraordinary session and promulgated into law on 24 December 2019. [i]

Comparatively around the world, setting up Special Status regions follows a **very inclusive process** which entails in adopting their legal framework, *a unique procedure,*[ii] *different from that which governs the adoption of ordinary laws*. In effect, from comparative experience, a Special Status law is generally not a legal text designed and adopted by the State's central authorities (Executive, Parliament) alone. Rather, it is a text crafted and designed jointly *with* the institutions of the regions concerned, and in some countries, requires a concurrent assenting vote (by both the central Parliament and Regional Assembly) before entering into force. Yet, it is noticeable that the establishment of the Special Status for the North-West and South-West regions entailed limited involvement of the concerned regions. This could be observed at two levels: limited *upstream consultation* before the Bill was submitted to Parliament, and *the lack of formal assent to the Bill by the regional institutions of the concerned regions* downstream.

In designing and developing the content of Special Status for the NW and SW regions, two prevailing constraints included: (i) the fact that the regional tier of institutions had not yet been established (for the entire country) and (ii) the difficult prevailing security climate inconducive to popular consultations – which would have been possible in peacetime. Yet, these do not fully explain (iii) setting forth the Special Status framework in a "definitive" form and in minute detail, leaving no role for the concerned regional institutions – once set up – to have a say in articulating its content, and (iv) the lack of debate and in-depth discussion on the key domains of functional competence which were to be conferred upon the said regions.

At the end of 2019, when the grant of Special Status was still the subject of speculative public discussion (and its contours were already being determined by Government's drafters of the GC-RLA) Cameroon had the peculiarity that its regional tier of institutions (elected representative Regional Council, or Regional Executive) was not yet in place. This was the case for all the country's ten regions – those to function under the ordinary Regions regime, and those under the Special Status regime. The regional tier of institutions, envisaged since the 1996 Constitution 23 years earlier, had not yet been established. Since the regions destined for Special Status did not even have pre-existing institutions functioning under a "general" regime of devolution, Cameroon was in a different situation from other countries where, at the **time of contemplating** a grant of Special Status, there already existed an embryonic layer of regional institutions, or a regional representative body. (See further for comparative approaches to

drafting, formulating, and tabling of laws granting Special Status, which involve the concerned regions' institutions). While this raised the challenge of what regional institution could serve as Government's interlocutor in consultations to define the content of special status, these regions did have elected representatives (1985 Municipal Councillors, 65 Mayors, 35 MPs, and 20 Senators) who could have constituted a sui generis representative body for these regions.

As 2019 came to a close, with legislative and municipal elections scheduled for early 2020 across the country, there was an increase in violence in the NW and SW regions. Local elected officials and political actors in both regions were increasingly targeted in attacks by armed groups, which made public consultations on special status (as in peacetime) very difficult. This Project has in the past highlighted the need to link structural reforms (such as Special Status) to a peace process, in order to endorse and ratify these reforms. An abatement of tensions and attacks by armed actors could have provided space for solutions to the crisis – such as the regional autonomy framework – to be discussed and garner legitimacy. Since Special Status was proposed in a context where an armed crisis was already underway, its linkage to a peace process would have enabled belligerent groups that did not take part in the MND, to state their positions.

The total time between the end of the MND which proposed Special Status, and the tabling of the Bill to Parliament in extraordinary session, was about two (2) months. Following the MND, the Prime Minister had set up a Special Status Working Group which released a *document outlining the potential contours of a Special Status arrangement*. However, between the end of the MND and the Bill's tabling in Parliament, there were hardly any initiatives by the authorities to encourage consultations, or to solicit and receive memoranda, submissions, and contributions on the *content and architecture* of Special Status arrangements, from civic stakeholders (elected officials, religious leaders, educationists, legal community) notably those from the regions most concerned by Anglo-Saxon specificities. The content and structure of special status would therefore remain known only to the drafters of the GC-RLA, who through the Ministry of Decentralization and Local Development, would present the text to Parliament's extraordinary session, 2 months later.

I.2 By-passing the assent of representative regional institutions of the North-West and South-West, before or after adoption of the law establishing Special Status; regional prerogatives on future amendments thereto

In addition to the level of prior consultation *upstream* before its tabling in Parliament, the option to enact Special Status exclusively through the GC-RLA (a national legislative text), means that the law-making approach taken was *not* to seek **concurrent assenting votes** by the national Parliament and by representative institutions of the regions afforded Special Status. (It being understood that such regional institutions could express assent *before or after* the national parliamentary vote). This latter option could have been pursued to confer unto the law not only national legitimacy through its adoption by the national Parliament, but also *local or regional legitimacy* through assent by a representative body of the concerned regions. The involvement of both the regional and the national tiers in the establishment of a Special Status framework is a distinguishing feature of its *reciprocal nature, as a two-way, bilateral contract*, in which the mother State recognises the regions' specificities and their capacity for self-governance in the

said domains, whereupon the regions adhere unfailingly to the Nation, while benefiting from recognition and protection of their specificities.

Forty years ago, in a seminal publication that examined the causes and circumstances of the disappearance of federalism in Cameroon, a constitutionalist (Lekene Donfack) observed while distinguishing between forms of State, that federated States within a federation are able to adopt their own foundational governing laws, namely their constitution or fundamental law. Hence, their internal ordering to assume their domains of competence is fully autonomous and emanates from their own political will. He then distinguished the typology of regional States or States with semi-autonomous regions by noting that what differentiates them from federated States in a federation is that for the former, *the central State adopts the texts governing them - the Region does not have the freewill to establish its own internal organisation*. [iii]

Since his writing, the dominant practice that has emerged with respect to Special Status regions lies in *the participation of both tiers (regional and national)* in the crafting of Special Status arrangements, and even in some countries, *in concurrent legislative assent at both levels.* In a classic unitary State, the law that governs the internal functioning of decentralised entities (sub-national units) is formally drafted by central authorities and adopted exclusively by the national Parliament. In a Federation, the equivalent law which organises the functioning of each federated State is adopted by the Federated State's institutions themselves. In a Special Status arrangement (functioning within a unitarist, regionalist, or composite State bias) the pie is sliced in the middle: *both layers* must obligatorily collaborate to design and craft the law, which may be adopted by the national Parliament alone, or by both layers' legislative/representative organs. This is what grants to this mechanism, the distinctive stamp of *cooperation and mutual trust* that is essential for its functioning, and which all major studies agree is an essential condition for its success.

Based on comparative experience, the order of national and regional involvement may be reversed, meaning the law establishing Special Status could be initiated and drafted by the representative organ of the concerned regions and then transmitted to the national parliament, or conversely adopted by the national parliament before seeking regional assent. The nature of regional assent may also vary, as it may be sought through a *popular consultation* (referendum) or through *adoption by a* statutory or *ad hoc regional assembly*. This approach to initial drafting, amendment, and repeal of Special Status laws is followed in most States granting special status to some of their regions, as the following table attests:

	Country	**Joint procedure for initial drafting, amendment, and repeal of laws governing the Special Status of regions**
1	Spain	Law is drafted by an assembly composed of the members of the council of the concerned Region, and then transmitted to the national Parliament to be examined as a Bill; both the Regional Council & Parliament, and the Government/National Parliament have prerogative to initiate amendments to the Special Status law (Article 147, Constitution)
2	Finland	Amendment and repeal of Special Status law requires a concurrent vote by the National Parliament and the Parliament of the Region with Special Status, both

		applying a stringent procedure: that for constitutional reform at the National Parliament, and adoption by a two-thirds majority for the Parliament of the Special Status region (Article 69, Act on the autonomy of Åland)
3	France	Consultation or opinion of the Deliberative (Regional) Assembly prior to the adoption of Special Status by an ordinary or organic law by the National Assembly (Article 74, Constitution)
4	Indonesia	Drafting of national laws directly affecting the governance of the Special Status region, is done in consultation, and with the advice of the said region's Legislative Assembly; mandatory consultation with and review by the Special Status Region's Assembly of any proposed amendments to the Special Status Law (Articles 8 and 269(3), Aceh Governance Law)
5	Italy	Constitutional procedure is required to amend Special Status law, Regional Assembly can initiate amendments to Special Status law. National Government is obliged to communicate to the Regional Assembly, bills seeking to modify the Special Status (Article 41 ter, Special Statute of the Region of Sicily; Article 103, Special Statute of the Region of Trentino-Alto-Adige)
6	Portugal	The drafting and modification of the Statutes of autonomous regions is done exclusively at the initiative of their Regional Assemblies and sent to the National Assembly. If the latter rejects or modifies them, they return to the Regional Assembly for its opinion, then back to the National Assembly for discussion and final deliberation (Art. 49; 137 to 140, Statute of Autonomy of Azores and Madeira)

In Cameroon, the 2019 General Code of Regional and Local Authorities which establishes Special Status is a promulgated national law, final and binding upon the Special Status regions themselves. Notably, the law does not envisage a formal procedure through which regional institutions, once set up, could make up for *the lack of collaborative preparation of, or concurrent assent to the text, due to the regional assemblies not being in place when it was adopted*. From the comparative experience of countries with Special Status regions, especially when such status is expressly provided for in the Constitution (such as in Portugal, Italy, Spain), this supreme text presents this regional status, its general governing principles, conditions to accede to such status and, depending on the context, the beneficiary regions. It therefore sets forth the general framework for asymmetrical devolution. Apart from the situation where a constitutional law follows immediately to specify the terms and detailed workings of Special Status (Italy), other approaches entail the intended beneficiary regions themselves proposing the detailed content of their statutes of autonomy, to be negotiated with central State authorities (Spain, Portugal).

Since Cameroon's regional tier institutions, including those with Special Status, have a pre-defined scope for their deliberations (deviations from which may be sanctioned by the State representative), it will be necessary to interpret the laws in a manner that enables regional institutions review and make periodic proposals to amend/modify the GC-RLA's Special Status framework, to ensure it can live up to the expectations and realities discerned by the concerned regional institutions, once in office. As is the case for nearly all Special Status regions around the world, the said regions' institutions should *have the prerogative on their own initiative, to submit proposals and Bills to amend or modify the said Status,* and thus trigger the process to obtain national legislative approval for such amendment.

In the near future, the involvement of the North-West and South-West regions will be inevitable to adopt *complementary texts* required by the Code. Under Section 3(4), subsequent separate instruments will specify the content of the specificities and peculiarities of the North-West and South-West regions pertaining to the Anglophone education system and Anglo-Saxon legal system based on Common Law. Section 3(4) *does not formally require either consultation with or assent by* the said regions to adopt these future instruments. It is however difficult to imagine that the content of peculiarities of the Anglophone education system, and specificities of the Anglo-Saxon legal system, which constitute pillars of Special Status for these regions (Section 3.3. GC-RLA) can be defined without formal involvement of the representative bodies (Regional Assemblies) of these regions endowed with Special Status, which are already in place.

Recommendation 1: Provide for a procedure to propose amendments to the Special Status, at the initiative of the concerned region's institutions, and for mandatory consultation of the regions for any modification of the said Status; evaluate the importance of a concurrent assenting vote by the Assembly of the Special Status Region. Require expressly, the obligation to involve the Special Status regions (through mandatory consultation or a concurrent vote) in the process of adopting subsequent separate instruments to specify the content of the specificities of the North-West and South-West regions, on the Anglophone education system and the Anglo-Saxon legal system based on Common Law.

I.3 Extent of legal protection and entrenchment of Special Status for the North-West and South-West regions

When a country resorts to a Special Status framework, notably to strengthen the attachment of beneficiary regions to the national entity while protecting regional specificities (historical, cultural, linguistic, or other) that the Nation recognises, it does so on account of the in-built, long-lasting, and perennial nature of these specificities, which are noticeable and have survived for a long time. Used as a valve to manage centrifugal pressures within the State, this mode of devolution is generally in response to a wish of the concerned regions to preserve their specificities long into the future. The *reciprocal political agreement or bilateral contract* thus entered into between the State and the beneficiary region is a viable and perennial structure that creates mutual expectations, on which both parties must be able to rely for its application in the long term.

This underscores the importance of protecting and legally entrenching the Special Status arrangement against easy repeal or negation. Important factors in this regard include the *hierarchical* rank of the *legal instrument* through which it is enacted (Constitution or Law), the *nature of the political commitment* that gives rise to this mechanism (a peace agreement or an agreement resulting from a political dialogue), the *stability of the* constitutional *existence of* the beneficiary regions, and the provisions for its *amendment or abrogation*.

The legal roots of Special Status in Cameroon are *both constitutional and legislative*, since it is based (as stated in article 327, paragraph 1 of the GC-RLA) on a constitutional provision, namely the Constitution's article 62(2), under which "*without prejudice to the provisions of this Part, the law may take into consideration the specificities of certain Regions with regard to their*

organization and functioning". However, it is regulated by legislation: the General Code of RLAs. Illustratively, in its reference document on the Positive Experiences of Autonomous Regions, the Council of Europe advocates for the "statutes and founding principles underlying autonomous status to be included in the Constitution rather than in legislation alone, so that amendments can only be made in accordance with the Constitution". [iv]

While the GC-RLA justifies granting Special Status to the two regions based on a Constitutional provision, this should not be construed as affording "constitutional" protection to the said status, for two reasons. The first is the reach of Article 62(2), which *only mentions the possibility of differentiated or asymmetrical treatment between regions of the country (the conceptual framework which allows for Special Status)*, but neither specifies a legal regime for, not the beneficiary regions of, such differentiated treatment. Comparatively, there are different approaches on this subject. In some countries, the Constitution makes explicit references to regions enjoying Special Status (Portugal, Italy), while others set forth the conditions to be fulfilled by regions to accede to the said status (Spain).[v]

Secondly, Article 62(2) *does not make it obligatory to establish any differentiated or special status regions: it simply lays down the possibility of differentiation between regions as an option, which it leaves open to the State authorities to resort to or not.* And if they do so, to establish the legal regime for same, by way of legislation. It is the 2019 General Code of RLAs that sets forth in detail the content of the Special Status legal regime and indicates the beneficiary regions (North-West and South-West). This approach means the legal order of the special status regime is largely within the legislative, and not the constitutional domain. Hence, the legislator has the authority subsequently to *alter its substance, or even repeal it*, through legislation of equal standing to the General Code on RLAs.

As to its political origins, the source of Special Status afforded to the two regions lies in the *recommendations* of the Major National Dialogue of September/October 2019, convened by the national authorities to seek solutions to the crisis in both regions. Among the types of outcomes or agreements that can emerge from a political consultations process, these *recommendations* of the Dialogue do not have the same politico-legal standing as a peace agreement, or a pact entered into by parties to a conflict or the country's stakeholders, formally committing themselves to resolve it. Rather, they constitute a range of measures among which the Executive assesses and selects which ones to implement. [vi]

Another limitation in legal protections for the Special Status regime is the lack of a reinforced procedure for its amendment, modification, and abrogation, which would require concurrent action between the central *and* regional authorities, to effect same. Comparatively, most Special Status arrangements around the world are shielded from unilateral amendment, repeal, or renunciation both by central State authorities, and by the concerned Regional entity. In many countries, such actions require concerted action by both the *national legislator and the deliberative bodies of the regions concerned*, sometimes subject to a special or qualified majority. Considering its importance for national cohesion and its peace-inducing role, these measures seek to ensure that an often-hard-won political compromise over Special Status, should be *shielded from unilaterally-decided modifications, and not fall victim to the whims of ephemeral political majorities*. No such measures were inserted to protect the two regions' special status.

Finally, legal protection of the NW and SW Regions' special status is diminished by their lack of stable constitutional existence, and of a prerogative to be consulted and give assent, on decisions pertaining to their existence as entities. Article 61(2) of the Constitution states:

> The President of the Republic may, as and when necessary:
>
> a. change the names and modify the geographical boundaries of the Regions listed [in a preceding provision];
>
> b. create other Regions. In this case, he shall give them names and fix their geographical boundaries.

This provision grants the President of the Republic an unfettered power to modify and adjust the number, size, names, and geographical boundaries of regions, without requiring the approval, or consulting with (i) the national parliament or (ii) the regional councils or assemblies concerned. While this provision applies to all the ten current regions of the country, *it is of particular significance to North-West and South-West regions which henceforth hold Special Status*. If this provision was ever effectively applied to them – and depending on the extent and nature of the modification – it could significantly water down the special status guarantee. Since a historical specificity common to the North-West and South-West regions is the basis for their Special Status, protecting the said status requires a re-statement of Article 61(2) in so far as it concerns regions whose specificities have been recognized in law.

Evidently, by indicating in legislation (GC-RLA) that these regions have specificities (including historical ones), any modification of regional boundaries and make-up affecting them would be sensitive and subject to the highest scrutiny. Yet, in the current state of the law, Special Status regions do not enjoy *stability of perennial constitutional existence* – a feature which is shared by most Special Status regions around the world.

Recommendation 2: Consider a Constitutional amendment to specify the criteria/conditions for acceding to Special Status by any region; the general attributes of special status; and designate the North-West and South-West regions as (current) beneficiaries of special status

Recommendation 3: Consider a Constitutional amendment to create an exception for Special Status regions on the exercise of presidential powers under Article 61(2)(a), through (i) introducing a requirement of prior consent or approval by the concerned regions' organs, and (ii) approval by the national Parliament by a special, qualified majority.

SECTION II: ARRANGEMENTS SPECIFIC TO SPECIAL STATUS REGIONS

II.1 Regional Asymmetry as a concept: distinguishing Special Status (asymmetrical devolution) from other forms of State ordering

Prior to *the tabling of Special Status in a Bill before Parliament,* it had been *recommended by the Major National Dialogue* (30 September to 4 October 2019)[vii], and *announced by the Head of State* at the Paris Peace Conference in November 2019 [viii] . One can therefore conclude that asymmetrical devolution was chosen as the structural tool to accommodate the specificities of the North-West and South-West regions within the national fold, and as a path towards resolving the conflict afflicting these two regions. Comparatively, several studies indeed confirm that establishing infra-national regions with differentiated degrees of autonomy based on their specificities, is increasingly resorted to, in a bid to resolve conflicts within States which are driven by internal regional and territorial specificities. [ix]

The **concept of asymmetry** between Regions lies at the heart of the Special Status arrangement in Cameroon. *Asymmetrical devolution* means that in the process of transferring powers from a State to its constitutive units (regions, provinces, territories) all the said units do not assume identical functional competencies at the same time. The reason for recourse to this technique in devolution processes is principally because sub-units of a country to which powers need to be devolved are not identical, but rather exhibit differences. These include characteristic features and needs which may be specific to certain regions (and not shared by others) or also their differentiated operational capacity levels to assume certain competencies.

Comparatively speaking across the world, Special Status is often granted due to *particularities of the beneficiary regions*, which render them *different from other regions*. These particularisms may derive from a **unique history, language, geography, demography, culture, religion, principal economic activity, or some other perennial feature**, which gives them some unique features that are different from the rest of the Nation. It is important that the "basis" for Special Status, meaning the *factors of uniqueness or differentiation pertaining to the said region(s)* be communicated and understood in the wider country: in Cameroon's case, scrutiny of the highest Executive statements and Legislative actions birthing Special Status point to four factors: (i) *historical,* (ii) *linguistic,* (iii) *educational and* (iv) *justice systems*.

In most cases, there is a history of the said regions striving strenuously to preserve or protect these particularisms: they would not be satisfied with having them levelled-off to join the predominant trend in the rest of the State.[x] Under asymmetrical devolution, by derogating from the common regime applied to all regions, *some regions enjoy a special regime that grants them different and additional areas of functional competence*. Asymmetry in devolution, that is differentiated management, empowerment, and autonomy levels between sub-national units when circumstances so require (Special Status) is the subject of extensive recent studies in comparative constitutional law. These models of asymmetry are being implemented in States that are decidedly non-federal. [xi]

Asymmetrical devolution is related to the concepts of self-government and self-governance, since it implies "that parts of the territory of the State are allowed to govern themselves in certain matters by adopting laws and statutes, but without constituting a full state". [xii] As one author puts it, "autonomy has been one of the most important prescriptions for mitigating conflicts over self-determination since the end of the Cold War". He notes that in bringing identity-based territorial intrastate armed conflicts to an end, due to very firm international opposition to partitioning existing States, autonomy is a commonly used template in terminating such conflicts, implying some form of power-sharing or truly decentralized governance. [xiii].

In the following table, in order to identify the nuances that distinguish them, we present some characteristics of States, aligned in a continuum between **(i)** a classic unitary State with purely administrative sub-national units **(ii)** a unitary State with elected sub-national units with symmetrical and **(iii)** asymmetrical devolution, **(iv)** a unitary State with regions endowed with an exceptional and entrenched status of autonomy, **(v)** a composite (Regional) State with constitutionally stable and asymmetrical regions, and **(vi)** a federal State. This table demonstrates the varied and productive constitutional engineering that has taken place, including within the typology of Unitary and composite (Regional) states, designed to enable them to accommodate and adjust to the particularisms of some of their regions.

II.2 Comparative Table: Variations in the form of State ordering between Cameroon and other countries

N°	Meso or Subnational Unit's attributes, and relationship between the national and sub-national tiers in the respective nuanced State forms	Unitary State with purely *administrative* subnational units (regions/provinces)	Unitary State with *elected* subnational units (regions), and symmetrical devolution	Unitary State with elected subnational units (regions), and asymmetric devolution	Unitary State with subnational units in legally entrenched, protected Special Status - regional autonomy	Regional States, with constitutionally stable Regions, asymmetric Special Status, regional autonomy	Federal States (Federations)
	Examples of countries (and subnational units) in this category	Cameroon before January 1996	Francophone Maghreb Cameroon (textually): between January 1996 and December 2019	France Cameroon	Finland: Åland Indonesia: Aceh	Italy: 5 Special Status Regions Portugal: Azores and Madeira Spain: 17 Autonomous Communities	Nigeria Germany United States
1	The national authority can **change, divide, create, merge or modify regions or subnational units**, by a decision taken at central level (law/decree) without the right of approval of the region or subnational unit concerned	Yes	Yes	Yes	No	No	No
2	The existence of subnational regions or units, specifically designated as such, including the recognition of their special attributes (specific powers, autonomy) is mentioned **in the Constitution.**	No	No	No	Yes	Yes	Yes
3	Regional/subnational level units, individually or collectively, **are involved in the preparation** of legal instruments that define their areas of competence and the exercise of their powers.	No	No	No	Yes	Yes	Yes

4	The legal instrument (Constitution, legislation) that defines the distribution of areas of competence between the national and subnational layers is **legally adopted** by the national parliament alone or requires the approval of the regional/meso parliament.	National Parliament alone	National Parliament alone	National Parliament alone	**Aceh**: National Parliament alone, but based on an MoU with representatives of the Aceh region. **Åland**: by the National Parliament, with the approval of the Åland Parliament (Preamble to the Åland Home Rule Act, 1991)	Requires approval by the Parliament or legislative body of the region or subnational unit	Requires concurrence of the legislative Houses of the federated States
5	In its domains of competence, the regional/subnational level unit has the **powers to legislate (adopt laws, ordinances) or the power to adapt national laws**, which is vested in its legislative or deliberative body.	No	No	No	Yes	Yes	Yes
6	The heads of the regional and subnational units are **appointed** by the central/national level authorities.	Yes	No	No	No	No	No
7	A **centrally appointed official** assigned to the subnational unit exercises: **(A)** the executive authority of the State, and **(B)** has supervisory/oversight authority over regional and subnational institutions, in the functional areas devolved to them**.**	A and B	A and B	A and B	**Aceh**: No nationally-appointed official to the region. **Åland**: The official exercises the executive power of the central State (A) but not supervisory authority in devolved domains (B)	A, not B	No centrally appointed official

8	The senior official appointed at national level and assigned to the regional, subnational unit is **appointed in consultation** with the Regional layer institutions, taking into account their **knowledge and expertise** of the specificities of the region/unit.	No	No	No	In almost all cases, yes. Åland: yes (Article 52 of the Åland Act)	Yes	No centrally appointed official
9	**Inter-level relations (State-Region-Municipalities)** are marked by **(a)** solely national control of the Region and the local municipalities, **(b)** oversight by the Region of local municipalities within it, **or (c)** relative independence between the layers.	Exclusive control of the State over the Region and the Municipality.	Exclusive control of the State over the Region and the Municipality.	Exclusive control of the State over the Region and the Municipality.	**Aceh:** Exclusive State control over the Region and the Commune. **Åland:** Supervision of the Åland (regional) Government over the constituent municipalities (Article 18(4) of the Åland Act of Self-Government)	**Spain**: Autonomous communities (regions) exercise control over municipal Communes within their territory (Art. 148.1.1, Constitution). **Italy**: Regions do not exercise control over local Communes. **Portugal**: Autonomous regions can create or change communes, alter their borders, and exercise supervisory authority over them (Art. 227.1 L & M, Constitution)	A certain level of control by the Region over the Communes
10	Some subnational units exercise areas of competence that are not simultaneously exercised by other regions/ subnational units, i.e., the **competences of the**	No	No	Yes	Yes	Yes	Some federations are asymmetrical, i.e., all federated States do not have identical attributes –

	subnational units are asymmetric.						although all are part of the federal compact.
11	In the different territorial units of the country, the **bulk of public service delivery** is carried out (**A**) by the staff of the central deconcentrated State services working within the region/ subnational unit, or (**B**) by the staff of the region/ subnational unit working under its supervision and responsibility.	(A) by the staff of the central deconcentrated State services working in the region/subnational unit	(A) by the staff of the central deconcentrated State services working in the region/subnational unit	(A) by the staff of the central deconcentrated State services working in the region/subnational unit	(B) By the staff of the said regions, working under their supervision	(B) by the staff of the region/ subnational unit working under its supervision and responsibility.	(B) by the staff of the subnational unit working under its supervision and responsibility.
12	Existence of a statutory, **legally defined** formula **for the predictable allocation of public revenue generation and expenditure** between the national, regional, and local/municipal levels of government.	No	Yes	Yes	Yes	Yes	Yes
13	Demonstrable existence of a shift towards an **increased percentage of public spending** by the regional and municipal and local levels of government.	No	Yes	Yes	Yes	Yes	Yes

It is therefore this approach of *asymmetric devolution* that the legislator sought to implement in adopting the General Code of Regional and Local Authorities. This intention is set forth as early as the Opening Book (Section 3) of the Code, which states:

> (1) The North-West and South-West Regions shall have a special status based on their language specificity and historical heritage.
>
> (2) The special status referred to in sub-section 1 above shall be reflected with regard to decentralisation, in specificities in the organisation and functioning of these two Regions.
>
> (3) The special status shall also entail respect for the peculiarity of the Anglophone educational system, and consideration of the specificities of the Anglo-Saxon legal system based on common law.

There is a major difference between a federal system and Special Status. The establishment of a federal system *would imply a change in the mode of governance of Cameroon as a whole*, as it is not possible to "federalize" part of a country. A federation is a political and sovereign pact whereby federated states (the subnational entities) bind themselves under a constitutional framework wherein a substantial range of powers are assigned to the federated States, and certain federative functions (often those related to collective defence, currency, trade, and international agreements) are entrusted to a Federal Government. A Federation involves at least three (3) governing entities (1 Federal Government, at least 2 Federated States) each imbued and tasked with their respective competencies.

The example of Cameroon between 1961-1972 demonstrates the non-viability of a supposedly federal system in which only two entities (Federal Government and West Cameroon federated State) were really involved, given that the structures of the East Cameroon federated State would progressively dissolve to be absorbed by the Federal Government. Also, the cumulation of functions and responsibilities, and interference (between Federal and federated State levels) made the West Cameroon federated State "expendable", in favour of a Federal Government which was in fact a disguised unitary State in the making.[xiv] According to the fundamental canons and constitutional principles of federalism, its functioning requires several substantially equal and perennial sub-national entities (federated States), as well as a federal entity, *in a stable arrangement where neither level of government seeks, in the long run, to take the place of the other and thus occupy a dominant position* in governance of the polity.[xv] Contrary to these canons, in the "federalism" of 1961 to 1972 in Cameroon, one party (the Federal Government) had taken over almost all areas of jurisdiction (Articles 5 and 6 of the October 1961 Constitution), and had shown its intentions through an approach that consisted in progressively taking over functions exercised by the federated States. One structure was planning to absorb the other, leading inexorably to everything coming under a unitary State government.

Unlike the federal system of government, which implies a *significant change in the relationship of all the regions of Cameroon with the national-level authorities*, the special status arrangement within the unitary State *focuses only on the specific challenge of the historically English-speaking North-West and South-West regions* and aims to achieve a configuration of regional empowerment and self-government specific to these regions. Under this approach, while all

regions of the country aspire to be devolved more functional prerogatives to ensure their economic, social, educational, health, sports and cultural development, the North-West and South-West regions need, additionally, *to be able to manage the specificities which derive from their unique historical trajectory, notably the Anglo-Saxon heritage, with implications on the principally used official language, the educational system, and the legal system*.

Special Status and power relations

The political justification for autonomy or special derogations granted to a region/part of a country, often in (quite) a minority position in terms of population and surface area, may be questioned. (For example, at the last census, the NW and SW had 15% of the national population, and the two regions account for 9% of the territorial land mass of the country). If they were not able to secure their specificities through the past mechanism of a *nominal* Federation, a State-ordering form in principle more "watertight" in protecting the domains of intervention of the federated States from Federal Government intrusion, will they manage to protect them under the "lesser" instrument of Special Status? Will the domineering authority of the unitary State, acting like a steamroller or a grinding machine, not progressively erode these prerogatives, or even absorb or dilute the said specificities into the national whole?

This realpolitik argument based on the power relations is arguably one of the greatest obstacles to overcome in States harbouring such diversity and particularities, which they recognize and seek to accommodate. In these situations of "unequal" power relations, the ability of the governing order, relying on its majority in the rest of the country, to dictate the pace and impose its will (survival of the fittest) is not in doubt. It may even for a long time, probably contain, willingly or by force, the centrifugal claims or demands expressed by these regions.

However, the said governing order is faced with a question: at what cost will it achieve this? If these demands place the country in semi-permanent conflict, are there no other solutions possible? Comparative studies also show that when such minorities attain a certain threshold of demographic significance (around 15% of the national population), only a self-governance arrangement may enable long-term peace.[xvi] Thus, a Special Status arrangement is not a reward for the raw strength of the beneficiary entity to be able to extract it from the majority. Rather, it is a decision, an *informed win-win deal conceded by the majority* to allow peace and living together to prevail. And thus, refrain from using a majority to which it could have resorted, but at the risk of engendering conflict.

II.3 Are the specificities for Special Status regions substantive or organisational? Substance must take precedence over form

Having analysed the adoption and extent of legal protection of the Special Status regime and differentiated Special Status regions in a unitary State from other State-ordering forms to accommodate regional specificities, this part of the Paper proceeds to examine the *organisation and functioning*, and the *substantive elements and functional competences devolved to* the Special Status regions, as set out in the GC-RLA.

It is important to note from the outset that a holistic reading of the initiative to effect devolution with Special Status regions reveals that it is under-pinned by *substantive* objectives *linked to certain characteristic features in which these Regions exhibit differences or specificities*. In effect, in addition to its emanating in the context of seeking solutions to the crisis affecting the predominantly Anglophone regions of Cameroon, the legislator makes this explicit by basing special status on a linguistic specificity and historical heritage (Section 3.1). This is complemented and re-affirmed by Section 3.2 which specifies two domains (the Anglophone education system and the Anglo-Saxon legal system) where the respect peculiarities and consideration of specificities, is an integral part of special status.

This legislative history is important because Article 62(2) of the Constitution, which serves as the express authority for Special Status (according to Section 327(1) of the GC-RLA), appears to envisage regional asymmetry or peculiarities wholly or principally pertaining to the organisation and institutional structure of the said regions. That article states that "*the law may take into consideration the specificities of certain regions with regard to their organisation and functioning*". The reality, however, is that the legislator has endowed this Special Status with more than varying the organisational structure of the region's institutions (**form**). The rationale for its establishment is linked to substantive domains (**the substance**).

Being a mechanism to enable the State better to accommodate and adapt to existing and long-standing regional specificities that it now recognizes, we argue that to assess its relevance and fitness for purpose, *form must necessarily follow substance*. Therefore, in this part of the Paper, our core inquiry will be into whether the devolution of additional, unique, and specific domains of competence to the Special Status regions is conducive to accommodating their specificities; and whether the envisaged institutional and organisational arrangements work towards this substantive goal.

To this end, this part of the Paper shall identify: **(1)** the aspects of organization and functioning of regional institutions specific to Special Status regions, and their relevance in handling recognized regional specificities, **(2)** the actual nature and scope of additional competences and prerogatives devolved to these Regions in their recognized domains of specificity, and then **(3)** the appropriateness of the institutional structures envisaged for the Special Status regions, given their specificities, and the competencies devolved to them. We then assess **(4)** the reach and comprehensiveness of the competencies devolved to these regions based on their specificities.

II.4 Specific organizational features of the Special Status regions

In terms of *form*, the regional institutional organs of the North-West and South-West are set up differently for purposes of their organization and functioning**.** While the other eight regions have a *Regional Council* (as the deliberative body) and the *Regional Council President and a Bureau* (as the executive body), the Special Status regions have a *Regional Assembly and a Regional Executive Council*. The two regions are the only ones in the country to have a *Public Independent Conciliator*.

Specific structure of the regional institutions for the North-West and South-West

Internal organisational structure of Regions under the general regime

DELIBERATIVE BODY:		
Name	**Structure**	**Other properties**
Regional Council	Unicameral, consisting of four (04) Committees	The 90 members all sit as a single body No Impeachment procedure
EXECUTIVE BODY:		
Name	**Structure**	**Other properties**
No specific name	Single-headed Seven members: a President (elected alone), assisted by a Bureau composed of: a First Vice-President elected alone, and the other Bureau posts elected together in a list vote: one Vice-President, two Secretaries and two Questors.	- Powers concentrated in the President - Only the President takes oath of office

Internal organisational structure of Special Status Regions

DELIBERATIVE BODY: THE REGIONAL ASSEMBLY		
Name	**Structure**	**Other Features**
Regional Assembly	Bicameral: - House of Divisional Representatives: consisting of five (05) Committees - House of Chiefs: Consists of two (02) Committees	- Impeachment: Procedures to be determined by the rules of procedure
EXECUTIVE BODY		
Name	**Structure**	**Other Features**
Regional Executive Council	Collegiate Executive Eight members, all elected based on a list: a President, a Vice-President, three Commissioners, two Secretaries and a Questor	- Shared power - All members take oath of office

A unique organisational feature of the Regional Assembly in NW and SW is the ***impeachment*** procedure provided for in Section 342 of the GC-RLA: "(1) The two houses of the Regional Assembly shall also hold a joint meeting to initiate impeachment. (2) The standing orders of the Regional Assembly shall lay down the procedure and scope of impeachment."

This procedure is not available to the Regional Councils in the other regions. There, the only means of removing the Regional Executive is through its dismissal by the President of the

Republic for a specified number of reasons, after consulting the Constitutional Council (Sec. 315 and 296-297 of the GC-RLA).

This means the Regional Assemblies of Special Status regions *wield substantial powers to control their Executive*, compared to their counterparts in the other eight regions. It should be noted, however, that in the entire devolution landscape, this procedure *is not unique only to special status regions since a similar procedure exists for Local Councils*. Although it is not labelled as impeachment, that procedure allows for the *Mayor and his deputies to be removed from office pursuant to a deliberation-decision of the Municipal Council members*, under certain well-defined conditions (Sec. 226(2) of the GC-RLA). Also noteworthy is the provision stipulating that the standing orders of the Regional Assembly shall lay down the impeachment procedure. *Given that* the Regional Assemblies of the North-West and South-West *sit independently of each other*, it *is possible that* they adopt different procedures for impeachment.

Establishment of a regional Ombudsman's office for the North-West and South-West regions: the Public Independent Conciliator (PIC)

The GC-RLA establishes for each Special Status region, a *Public Independent Conciliator, a* sort of Ombudsman's office whose functions include *protecting citizens' rights to ensuring high quality regional administrative services*. The legal framework which sets forth the role and governs the functioning of the *Public Independent Conciliator* gives rise to some questions considering comparative practice on the functioning of Ombudsmen's offices.

In this domain, there are two discernible global trends: some countries *establish only a national ombudsman's office, while others have regional ombudsmen as well*. The latter approach is generally followed in countries whose sub-national tier of institutions wield a significant degree of autonomy, which warrants them establishing that office. This is often the case in States with Special Status regions and logically too, in federal states. In States with Special Status regions, some (such as Spain) only allow regional ombudsmen's offices to be set up in regions enjoying enhanced special autonomy status, while in other countries (such as Italy) virtually all regions, whether in Special Status or not, have regional ombudsmen.[xvii]

The Cameroonian model *is halfway between the national ombudsman and the regional ombudsman*. On the one hand, the *PIC* is only set up for the Special Status regions of the North-West and South-West. The other regions do not have the institution. The rationale for including an ombudsman in the Special Status regions and excluding the office in other regions may be questioned, given that (a) the challenge of protecting citizens' rights vis-à-vis the regional and local administration and ensuring its smooth functioning are generally similar in all regions; and (b) as developed further below, the *Special Status regions do not have functional competencies fundamentally different* from the other regions. The GC-RLA does not devolve any actual functional powers on Special Status regions in the additional domains nominally devolved to them. In fact, Special Status regions *only* have functional powers *in the domains devolved to them on the same footing as other regions*. Thus, Special Status regions have the same functional powers as the other regions and do not present discernible additional risk of endangering citizens' rights, or of malfunctioning of regional public services – which would explain a PIC there, and its absence in other regions.

The jurisdiction granted to the *PIC* contrasts with its appointment procedure, which warrants two clarifications. The first is the guarantee of independence of the *PIC,* who, under Section 368(3) of the GC-RLA, *neither receives nor seeks instructions from any other authority*. Under Section 368(1) GC-RLA, the *PIC* is *appointed by the President of the Republic upon a concerted (joint) proposal of the State's representative and the President of the Regional Executive Council*. The involvement of a regional authority in the PIC's appointment procedure is to be welcomed as a guarantee of the legitimacy of the *PIC*, as the role *requires recognition of his or her authority at the regional level*. A comparative check reveals that the appointment procedure for ombudsmen is designed to heighten their independence. In almost all European countries, for instance, they are appointed either by Parliament alone or (as in France) by the President of the Republic, but who must secure parliamentary approval thereon. [xviii]

The second clarification is the *discrepancy between the PIC's national appointment procedure and the confinement of the* PIC's jurisdiction to the actions of regional and local authorities. Pursuant to Section 367(3) of the GC-RLA, the PIC can only intervene in response to the actions of Regional or Local Council authorities – they have no jurisdiction to respond to actions of the central State's deconcentrated services within the region. In absolute terms, the confinement of the regional ombudsmen's mandate to acts of the regional administration is not problematic: that is often the rule. In countries that opt to establish regional ombudsmen, they are regional institutions created by regional laws, and established and appointed by regional tier authorities through a procedure that does not involve the national authorities. The incongruence in Cameroon's context is that, contrary to widespread practice, the *PIC is a national institution, created by a national law, and appointed by national authorities.* It is contradictory that such an entity with a national status has its jurisdiction limited to acts of regional and local tier authorities.

Moreover, contrary to the widespread practice of appointing a national ombudsman with jurisdiction over acts of the State (in addition to regional ombudsmen) *there is no ombudsman with national jurisdiction in Cameroon*. This exclusion of the acts of the State's deconcentrated services should also be analysed against the backdrop of the relations between the State, and Regions and Local (council) Authorities - RLAs. First, *the State continues to assume many domains of competence that have not been devolved to the Regions/Local Councils.* Second, within the decentralisation framework, *State authorities have influential roles within the RLAs which range from supervision to staff support*. State employees may be consulted or requested (Sec. 177(4) of the GC-RLA) by RLAs, and may even at the regional level, be granted a delegation of signature (Sec. 313 of the GC-RLA).

Exclusion from the PIC's jurisdiction of actions by the central administration and its deconcentrated services in the region, *does not mean the said actions are shielded from all forms of review.* They remain subject to internal *administrative review* by the respective hierarchical authority and to *judicial review* before an administrative judge. However, the existence of such controls cannot justify excluding the *PIC from addressing* the actions of the State services, since the *approach of creating ombudsmen is in no way incompatible with the existence other forms of review*. Moreover, the acts of regional and local authorities are also subject to supervisory control and judicial review and may be challenged before administrative courts with territorial jurisdiction. Its flexible procedure and conciliatory orientation make the Ombudsman a

proactive institution which is better suited to diffuse tense situations before they degenerate further. It is therefore more than desirable that its scope be extended to cover actions by the deconcentrated State services.

Recommendation 4: Extend the jurisdiction of the PIC to the actions of central authorities and deconcentrated State services in the Special Status regions, to fill the void created by the non-existence of a national ombudsman competent to redress the said actions.

SECTION III: SUBSTANTIVE SPECIFICITIES: ADDITIONAL PREROGATIVES OF SPECIAL STATUS REGIONS

III.1 Content of additional prerogatives of Special Status regions

Special Status implies devolving on the concerned regions *competences that make them unique compared to the State's other regions. This generally entails granting them competence over domains that have proven to be centrifugal, because they are conflict-prone when managed in a centralized or uniform manner for the entire country*. In Special Status frameworks, a distinction is often made between **(a)** *exclusive domains of competence* held respectively by the Region,[xix] and by the State. The Regions' domains of exclusive competence are generally those for which the strongest demands have been made for regional/local management. The State's exclusive competences generally pertain to core sovereign functions: defence, diplomacy, currency and monetary; **(b**) *domains of shared competence shared* between the State and Region, are priority domains for one tier, but in which the other tier has a right of review. These domains are subject to the principle that action by one tier is *conditioned upon prior consultation* with the other: a heavily resorted-to mechanism in special status frameworks, which obliges the 2 tiers (State and regional institutions) to cooperate sincerely, and **(c)** *a 'reserve' of potential areas* for future progressive devolution to the region, to be determined consensually through a periodic process of review between the State and the region's institutions.[xx]

The apportionment of prerogatives between the State and the Special Status regions in Cameroon requires a *combined reading of Sections 3 and 328 of the GC-RLA*. Section 3 *expounds the basis for special status granted to the North-West and South-West regions* (linguistic specificity and historical heritage) and *what the said status entails concretely* (organisational and operational specificity, respect/consideration of Anglophone educational system and Anglo-Saxon judicial system specificities). Section 328 expands these domains by adding *regional development authorities, the status of traditional chiefdoms, and management of public services* – to unique Special Status region competencies. In summary, in addition to the six areas concerned by the devolution of competencies to all ten regions of the country (economic, social, educational, health, cultural and sporting), the North-West and South-West regions are endowed additional function in the following areas: the **Anglophone educational subsystem, the Anglo-Saxon legal subsystem based on Common Law, regional development authorities, the status of traditional chiefdoms, and the management of public services**.

According to section 328 of the GC-RLA:

> "(1) In addition to the powers devolved on regions by this law, the North-West and South-West

Regions shall exercise the following powers:

- **participating** the formulation of national public policies relating to the Anglophone education sub-system;
- **setting up** and **managing** regional development authorities;
- **participating** in defining the status of traditional chiefdoms.

(2) The North-West and South-West Regions **may be consulted** on issues relating to the formulation of justice public policies in the Common Law subsystem.

(3) They **may be involved** in the management of public services established in their respective territories."

Across the domains of competence in the above section, the Code devolves two types of prerogatives upon Special Status regions: **principal and self-executing prerogatives** as concerns *regional development authorities,* and **accessory and conditional prerogatives** *in other matters*.

III.2 The grant of principal and self-executing prerogatives pertaining to regional development authorities, an area not marked by significant demands, and not part of the foundations of Special Status

The Special Status regions *have principal, self-executing prerogatives as pertains to regional development authorities*. These prerogatives are so described because the law makes the regions responsible for "setting-up" and "managing" the said regional development authorities, thus granting them the plenitude of powers thereon. It should be noted that historically and prior to the GC-RLA's adoption, the prerogative to run regional development authorities was vested with central government. Hence, the following development authorities in the NW and SW were established by the central government: the *Upper Noun Valley Development Authority (UNVDA)* in 1970; the *Wum Area Development Authority (WADA)* in 1973 and liquidated in 1989; the *Mission de Développement du Nord-Ouest (MIDENO*) in 1981; and the *South-West Development Authority (SOWEDA),* 1987. These bodies, which serve an important function in the economic development of the North-West and South-West regions,[xxi] *should henceforth be established and managed (appointment of management, oversight) by the said Regions' institutions, under Special Status*. The other regions do not have this prerogative (see sections 267 to 273, and 278 of the GC-RLA) even if their prerogatives include: "*formulating and implementing regional development plans*" (Section 269). [xxii]

The Special Status region's prerogatives pertaining to regional development authorities are considered self-executing because they can be pursued at their own initiative, that is without requiring *prior action by the State*. They are decisions that rest solely within the appreciation and preserve of the Region, which is the sole judge of the suitability, advisability, and timing for doing so.

It should be noted that the principal and self-executing prerogative devolved to Special Status regions to manage regional development authorities *does not concern a domain marked by the strongest centrifugal Anglophone demands*. In fact, a careful study of the data shows that prior to

the onset of the crisis, these two regions did not share a situation of socio-economic and developmental disadvantage, as a **common** trait. Based on successive data-sets collected under the Cameroon Household Surveys (ECAM) conducted by the National Institute of Statistics (in 2001, 2007 and 2014), the SW region was, for the 15 years prior to the crisis, ranked first nationwide in terms of monetary poverty reduction, while the NW was among the last.[xxiii] Both regions also had (driven by the quality of education outcomes) the highest Human Capital Index (HCI) rate in the country among the 10 regions of the country.[xxiv] While the NW had a deficit especially in (road) infrastructure, it is difficult to affirm that regional development was an area in which both regions lagged behind, which would thus explain the onset of the crisis.

This observation underscores the need for careful analysis (as we attempt in this Peace Policy Paper series) of the domains *of cultural, social, linguistic, educational, and legal particularisms* that constitute the irreducible core and bedrock of Anglo-Saxon institutional traditions, markers of which are visible whenever one proceeds to analyse the factors that triggered the crisis.

It is true that challenges in the management of the English and French heritages may, over the years, have resulted in cumulative disadvantage at the individual or community levels, to persons/groups who primarily used the minority official language. At the individual level, further studies will be required to quantify this historical and cumulative impact, including how it has evolved in the current context where English, while historically a minority language within the country, is gaining momentum regionally and internationally. (This question is addressed in the Paper in this series on Official Languages). At a collective or community level, similar studies, in the context of *post-conflict* reconstruction, may help to take stock of this impact, and to define corrective measures, including a new impetus for regional development authorities.

III.3 The grant of accessory and conditional prerogatives of collaboration in two domains integral to Special Status: education and justice

Returning to the most emblematic domains of Anglophone demands which form the basis of, and are integral to Special Status (Section 3, GC-RLA), the prerogatives apportioned to the regions (Section 328, GC-RLA) are as follows: ***(a) mandatory participation in the*** *formulation of national public policies relating to the Anglophone education sub-system, and* ***(b) optional consultation*** *on issues relating to the formulation of public policies of justice in the Common Law sub-system. It should be noted (as we develop further below) that the Special Status regions* ***have no prerogatives****, even of an advisory nature, over* ***(c)*** *national policies on official languages and bilingualism, nor do they have any power of regional adaptation in the use of official languages. In two other areas outside the core emblematic Anglophone demands, the prerogatives are framed thus:* ***(d) mandatory participation*** *in defining the status of traditional chiefdoms; and* ***(e) optional involvement*** *in the management of public services established in their respective territories.*

Evidently these prerogatives are of limited reach, both in *content* and how they may be *exercised*. **Content-wise**, apart from involvement in the management of public services within their respective territories, which suggests co-managing the said public services, *the law only affords them a prerogative to collaborate in these domains, and no principal or self-executing prerogative which they can implement directly*. This later capacity is, however, crucial. If we examine the

modalities for Special Status regions across countries in Europe, Asia, and Africa, it is very rare, if not impossible, to find a Special Status region whose prerogatives are limited to being *consulted* (or worse still, *optionally* consulted) on functional domains where it is recognized to have specificities.

Next, as we demonstrate in other papers in this *Peace Policy Paper* series, to attain the objectives of accommodation, perennial and durable viability, and preservation of their recognized specificities (which are policy objectives sought by Cameroon in its effort to accommodate and create national synthesis), these regions' institutions may well require the devolution to them of principal and self-executing prerogatives. An example is in the field of **education**, where the prerogatives already devolved to all *Regions* and *Local Councils* in the country in the *creation of schools* (secondary and primary respectively) will reveal the NW and SW regions' specificities as to the education subsystem predominant therein. The pronounced differences in pedagogy between Anglo-Saxon and French educational traditions (the main subject of our Policy Paper on Education) suggests that these regions' institutions bodies should be able to monitor, and project their considered opinions, on matters of educational pedagogy in the Anglophone education sub-system, which by the way, is an integral part of Special Status.

Regarding the Anglo-Saxon **legal system** based on Common Law (also recognised as an integral part of Special Status by the GC-RLA), a question arises. On what basis would the Special Status region's institutions "comment", or provide an opinion on public policies of justice in the Common Law legal tradition/system, if they do not, as principal functions in their primary course of business, have any substantive role related to the said legal system? It would be desirable that, under the guidance of the Ministry of Justice, the specialised structures established to ensure the viability of this legal tradition (Common Law Section at Supreme Court, Common Law Section at ENAM, Chief Justices of the NW and SW Regions) prepare an annual report on their activities related to the Anglo-Saxon legal tradition, the said report being copied to the regional institutions of the NW and SW, who are henceforth co-depositories of this legal tradition (along with the national authorities).

As for **official languages** (linked to a linguistic specificity of the NW and SW recognized GC-RLA, but for which they have no corresponding prerogatives, not even of consultation on national bilingualism policies), it is possible that enhanced cooperation and involvement of the NW and SW regional institutions (*which assume greater responsibilities in the domains of education and culture*) will be necessary to strengthen learning of the two official languages. The Paper on Education in this series already highlights a challenge: the winds of globalization tend to create more incentives for primary French-language users (Francophones) to learn English, than vice-versa. Hence the importance of ensuring that Cameroon's future bilingualism does not present a defect of being weaker in the historically Anglophone regions.

The above points warrant being examined as part of a periodic evaluative process of the Special Status framework. This process also entails discussion of *additional* prerogatives or competencies to be devolved to the beneficiary regions, as occurs in all countries in the world with Special Status regions.

On **how these prerogatives are exercised**, a double inquiry is warranted. First, is whether the national authorities are obliged to request the participation, consultation, or involvement of these regions in the specified subject domains. Here, one must distinguish between situations of mandatory consultation, and those of optional consultation. Participation in the formulation of national public policies relating to the Anglophone education subsystem (and participation in defining the status of traditional chiefdoms) each constitutes a **mandatory duty**, meaning they entail *an obligation on the national authorities to involve these regions while formulating public policies thereon*. In other words, *no reform of national public policies relating to the Anglophone education sub-system, or of the status of traditional chiefdoms can be effected without involving the North-West and South-West*'s regional institutions.

For the other domains covered by Section 328, on the other hand, the national authorities wield a **discretionary power to collaborate**. C*onsulting* these regions' institutions on matters related to the formulation of public policies of justice in the Common Law subsystem and *involving* them in co-managing public services established in their territories *constitute discretionary powers of the national authorities: the legislator uses the phrase "may be consulted/involved"*. The Special Status regions therefore only have an elective or optional possibility of being consulted in these domains – the choice whether to consult/involve them or not is wholly left to the national authorities.

Thus, in a law where the legislator states that *the Special Status afforded to the regions of NW and SW* "shall also entail [...] consideration of the specificities of the Anglo-Saxon legal system based on Common Law" (Section 3.3), which makes it an *integral part of* Special Status, the same legislator, when it comes to apportioning specific duties, makes the said regions' institutions optional guests at the table, when that legal system is being discussed. Why is it that what the legislator concedes and recognizes in Section 3.3, he balks from implementing in Section 328.2? Which of the above two provisions reflects the true intention of the legislator? Was the difference with education that as a domain already devolved to all regions under the general regime, it was perceived differently from justice, considered to be "sovereign" and national? It remains constant however that since 2017, the State of Cameroon has begun explicitly training Magistrates and Court Registrars in Anglo-Saxon legal techniques and deploying them to the NW-SW regions, proof that the *territorial* dimension of this legal tradition (alongside its *national* dimension in unified laws where this has been possible) is not unknown.

The second inquiry is related to the extent to which Special Status regions' institutions may deliberate, examine, and stay statutorily informed of developments in domains that are explicitly recognised as forming the basis, or an integral part of the said Status. In plain terms, can the regional organs of the NW and SW region, in their regular annual course of work, envisage and schedule in session, to stay informed of developments pertaining to the Anglophone educational subsystem, or the Anglo-Saxon legal system/tradition?

While awaiting the separate instruments that shall set forth the contents of specificities and peculiarities of the Anglo-Saxon subsystem in education and justice (a process which we argue requires the formal involvement of the Special Status regions' organs) can the said organs *on their own initiative,* stay informed and start developing their eventual policy positions? Are the said regions' institutions permanently seized of the subject matter domains on which the Special

Status is founded, or do their prerogatives thereon only arise when national authorities refer reforms for consultation?

The law enumerates an exhaustive list of Special Status regions' prerogatives – matters within their jurisdiction (Section 328, GC-RLA). It also forbids an RLA *from deliberating "on matters outside its jurisdiction"*, failing which the deliberation or decision taken shall be considered null and void, and the offending participants sanctioned (Sections 39.2, 39.3, and 289.3 of the GC-RLA).[xxv] Under one interpretation, these subject matter domains cannot be considered as outside the prerogatives or jurisdiction of the Special Status region. At issue, rather, is whether their ability to deliberate thereon requires that the national authorities first "open" debate on the subject (by requesting an opinion) or whether the regional institution can initiate its internal discussion thereon, in the normal course of its activities. The GC-RLA appears to envisage formal initiative in one direction only, namely at the national authorities' initiative. In this interpretation, *the North-West and South-West regions may only provide their opinion if, on the condition, and to the extent solicited by national authorities*. But does this prevent them from staying informed in session on these domains, even if they provide no formal opinion?

It is worth noting the purport of Section 277 (3) of the GC-RLA which expressly grants the Regional Council (Assembly) the right to "express wishes through deliberations on all matters of *regional interest*". Since the domains under discussion here (on which their Special Status is based) are of definite interest to them, this provision can be interpreted as establishing a prerogative of Special Status regions to express their opinions on these domains, without having to wait from a request from national authorities. Exercise of this prerogative under section 277(3) should protect a Regional Assembly that deliberates on these subjects from the charge of acting *ultra vires* (outside its jurisdiction), and thus from the measures and sanctions envisaged under Sections 39 and 289 mentioned above.

III.4 The value and effect of positions and opinions proffered by Special Status regions when they participate, are consulted, or involved in policymaking

The other inquiry relating to the prerogatives of Special Status regions on the substantive domains on which the said status rests, is the reach and significance of their *participation, consultation, and involvement,* when so solicited by national authorities. We have seen that their prerogatives alternate between mandatory participation, and optional consultation or involvement. However, the outcome of collaboration between the State and the Special Status regions varies between the domain of traditional and cultural affairs, and other domains. Under the **French language version** of Section 337(2) of the GC-RLA, the *House of Chiefs* "**shall give its assent** *on the following issues ["émet un avis conforme sur les questions suivantes"]*: the status of the traditional chiefdom; the management and conservation of historical sites, monuments, and vestiges; the organisation of cultural and traditional events in the region; the collection and translation of elements of oral tradition'. The use of the notion of **assent** *(un avis conforme)* here has an important consequence: *not only must the State request the opinion of the House of Chiefs on these issues, but it must also abide by the opinion expressed by the House of Chiefs having been thus consulted*.

This provision appears to establish a *de jure* hierarchy between *formal consultation with the House of Chiefs* in the North-West and South-West regions, and *informal consultations that* the State may engage in with other groupings of traditional rulers in the other 8 regions, with the latter being neither obligatory, nor binding. However, the English language version of the same Section 337(2) leads to a contrary conclusion, as to the significance of consultation with the *House of Chiefs since* it states that the House of Chiefs "***shall give its opinion*** […]" on these issues. This wording evokes instead an obligation of *mandatory consultation*, i.e., it obliges the State to request the opinion of the *House of Chiefs* on these issues, matters but *leaves to the State's discretion whether to follow the opinion thus provided or not*. If the meaning of *"avis conforme"* (used in the French text) was to be rendered into the English text, the term to use would have been "*assent*" and not "*opinion*". Thus, the two official language versions of the law are not in sync, which creates a legal uncertainty and doubt as to which language version expresses the true intentions of the legislator.

In other domains of collaboration between the State and Special Status regions, *the GC-RLA is silent on the value and effect of the positions proffered by the Region.* This means it is *up to the State to decide what value or effect to grant to positions or opinions proffered by the Special Status regions when they participate, are consulted, or involved in the respective domains.* This opens the possibility that the Regions' positions and opinions (on domains inherent to their Special Status) may be taken note of, but not necessarily considered in the final policy adopted.

In the apportionment of prerogatives between the State and the Special Status regions effected under the General Code of RLAs, *neither the maximal, nor the minimal devolution of prerogatives observed comparatively with such regions elsewhere, was afforded to them. On* the one hand, *no exclusive domains of jurisdiction (maximal devolution) were granted to the said regions under Special Status*. On the other hand, *it is difficult to ascertain truly shared domains of jurisdiction* (minimal devolution) since the real scope of competencies the said Regions have, is limited to mandatory consultation, or optional consultation and involvement, and not self-executing capacity to act directly in these domains.

In the operationalisation of the Special Status, whose foundations are laid out in its Section 3, the GC-RLA leans heavily towards granting the two regions specificities in the structure and organisation of their regional institutional bodies, likely due to an inordinately literal interpretation of Article 62(2) of the Constitution which, when referring to the possibility of asymmetrical devolution (Special Status) refers to "specificities […] with regard to their organisation and functioning". Under these interpretative constraints, Book V of the GC-RLA, which sets forth in detail the Special Status of NW and SW (from Section 327 onwards), appears out of step with the Opening Book (Section 3), which heralds the said Status, and clearly identifies the substantive domains of specificity of the two regions. Aside from the aspect of organisation of their regional institutions' structures (*matters of form*), the Special Status regions have very few substantive prerogatives (*matters of substance*) that set them apart from the other 8 regions. In effect, all the regions have more ample prerogatives and jurisdiction in the generic domains devolved to all RLAs (economic, social, cultural, educational, health and sports), than are wielded by the Special Status regions, in the domains that constitute the basis for the said status. [xxvi]

Summary comparative table: competence domains of Regions under the ordinary, general regime and Special Status regions

	Regions concerned	Domains of Competence	Nature of Prerogatives Devolved	Diet
1	**All Regions**	Economic, social, educational, health, cultural, sports	Substantive and Collaboration	Exclusive competence
2	**Special Status Regions**	Regional Development Authorities	Substantive: creation and management	Exclusive competence
		Anglophone education sub-system	Collaboration: Mandatory participation in the formulation of national public policies	Shared competence
		Anglo-Saxon legal system based on Common Law	Collaboration: Optional consultation in the formulation of public policies	
		Traditional chiefdoms	Collaboration: Mandatory participation in defining their status	
		Public Services in the region	Collaboration: Optional involvement in their management	

Recommendation 5: Ensure an apportionment of competences between the State and Special Status regions which: **(a)** devolves actionable, self-executing prerogatives to the Regions, especially in domains identified in Section 3 of the GC-RLA, which constitute the irreducible core of their historical specificities (for these prerogatives, see the Recommendations of the sector-specific Peace Policy Papers). In the said domains, **(b)** makes consultation of the Special Status regions obligatory, and **(c)** includes the latitude for Special Status regions to address these issues on their own motion, and to initiative proposals to the national authorities in these domains.

III.5 Dissonance between the internal organisational structure of Special Status regions and their recognised additional prerogatives

As noted above, the GC-RLA devolves to Special Status regions prerogatives different from those devolved to the other regions, in four domains identified in Section 328: the Anglophone education subsystem, regional development authorities, traditional chiefdoms, and the Anglo-Saxon legal system based on Common Law. It is useful to appraise the organigram and institutional structure of the said Special Status regions *to determine whether it is conducive to enabling the said Regions effectively discharge the additional mandates and prerogatives devolved to them.* Since their prerogatives and competencies are different from the other Regions, *it stands to reason that the said Regions' institutional organisation should be different – and aligned with their unique substantive prerogatives (based on the principle that form follows substance).*

On this point, it is the usual practice in States with Special Status regions to leave the formulation of rules of internal organisation of the Parliaments or Assemblies of Special Status regions to the latter. Since they can adopt an internal organisation of their choice, they frame their organs to reflect their competencies and prerogatives. Thus, in Italy, Spain and the United Kingdom, within each country the Regional Assemblies of their autonomous and asymmetrically devolved regions have some common features, but also different internal structures and organs which vary by region, based on their differentiated competencies and regional priorities.[xxvii] In Cameroon, on the other hand, an opposite approach appears to have been pursued in establishing Special Status. The national legislator clearly enumerates *the conceptual domains* on which regional Special Status is based (Section 3, GC-RLA), does not translate them into *actionable, self-executing functional domains of competence* (Section 328, GC-RLA), but rather dwells upon setting forth *in meticulous detail* a *differentiated organigram for the functioning of* the said regions (Book V, Chapter II, "*Organs of the NW and SW Regions"*, Sections 329 to 366, GC-RLA). Thus, form seems to have taken precedence over substance.

In Cameroon's case, we have seen that the GC-RLA's articulation of specificities of the North-West and South-West regions is more visible in the *organisation of their institutional structures* (i.e., different institutional appellations and functioning from the other regions), than in terms of a *substantive apportionment and delimitation of* what these regions can effectively do additionally or differently, in their recognised domains of specificity.

They have a bicameral Regional Assembly (composed of the *House of the Divisional Representatives* and the *House of Chiefs*) as a deliberative body while other regions have a unicameral Regional Council; they have a multi-member Regional Executive Council as an executive body while other regions have a smaller Executive. *The two Houses of the Regional Assembly have more committees than the Regional Councils of other regions*, i.e., five (05) and two (02) respectively for the *House of Divisional Representatives* and the *House of Chiefs*, instead of four (4) in the other regions. In the same vein, the *Regional Executive Council is composed of eight (08) members* (President, Vice-President, three Commissioners, two Secretaries and a Questor: Section 352) *while the Regional Executive of the other regions is composed of seven (07) members* (President, First Vice-President, Vice-President, two Questors and two Secretaries: Section 307). T*he Regional Executive of the Special Status regions also has Commissioners in charge of implementing the region's policies in the general domains of competence devolved to* all regions (Sections 362-364), whereas the other regions do not have such Commissioners.

However, if we assess the adequacy and suitability of the internal structures of the North-West and South-West regions, towards discharging their expectedly more extensive competencies, several questions arise. The higher number of Committees in the North-West and South-West Regional Assemblies (compared to other Regional Councils), and the Commissioner posts in their Regional Executive Councils (while other regions have none) *do not reflect the additional domains or prerogatives devolved to Special Status regions*, since the said Committees/Commissioners are instead assigned to the general domains of competence devolved to all regions. The two Committees of the *House of Chiefs in* fact replicate the areas covered by the five Committees of the *House of Divisional Representatives*, which are also identical in scope to the *four Committees of regular Regional Councils*. Same for the three Commissioners in the Regional Executive Council, whose competence covers the same scope as

the six domains devolved to all regions.

A closer look reveals that the organigram of the Special Status region is not differentiated from that of other regions, based on the *specificities recognized* and *different competencies* attributed to these regions (linguistic, education system, legal system, traditional chiefdoms, regional development authorities). One would have expected that, in addition to the internal organs common to all regions, Special Status regions would have *additional organs reflecting their unique domains of competence, which follow their specificities recognized by law*. Yet generally, it is noticeable that *the additional prerogatives that accrue only to Special Status regions are sometimes devoid of organs specifically dedicated to discharging the said prerogative*. In some instances, the internal organs appear suited to their asymmetric tasks; in other cases, they are not.

In the domain of education, the prerogatives will be exercised within the deliberative organ by the *Committee on Education* of the *House of Divisional Representatives*, and by the *Committee on Administrative, Legal and Standing Orders, Education, Health, Population, Social and Cultural Affairs, Youth and Sport,* of the *House of Chiefs*. Within the executive body, they will be exercised by the *Commissioner for Educational, Sport and Cultural Development,* responsible for "implementing the policy of the region on the exercise of devolved powers in the field of education [...]" (Section 364, GC-RLA).

The Committee on Education of the *House of Divisional Representatives* in Special Status regions, *differs from other regions, where the said Committee also covers Sport and Culture*. This may be explained by the magnitude of work the asymmetric regions could need to undertake in the field of education, where they have nominally broader prerogatives. This particularity should reflect the prime importance of this area in Special Status regions, because while education is a domain devolved to all Regions, *it also constitutes a core area of specificity for the North-West and South-West regions*. By devoting an entire Committee to it, matters on education can be deliberated upon in more depth and breadth than would obtain in the other Regions.

Participating in defining the status of traditional chiefdoms will be discharged in plenary by the *House of Chiefs*, the second chamber of the Regional Assembly, which, among its other duties "shall give its opinion on ... the status of the traditional chiefdom" (Section 337(2)).

For other competencies, the suitability of the Special Status regions' organs is less evident. On their (official language) linguistic specificity, since the legislator did not devolve any additional prerogatives to these regions (even to be consulted), it is not surprising that they have no dedicated organs related thereto.

There is neither a Committee nor Commissioner dedicated to the Special Status regions' prerogative to participate in formulating public policies on the Anglo-Saxon legal system, and *it is difficult to assign this function to any of the* existing *organs* (Committees of the respective Houses of the deliberative organ, and Commissioners of the regional Executive). The need to envisage a regional organ to discharge this mandate was even greater because this is a functional domain area where "ordinary" regions have no specific competencies. In other words, unlike sectors such as education and development for which institutions were already envisaged in the

generic organigram of all regions, *the prerogative pertaining to the* Anglo-Saxon legal system *in fact had the most need for a dedicated institutional structure.*

In the absence of specifically dedicated internal organs, five options may be considered to discharge the mandate to participate in formulating public policies on the Anglo-Saxon legal system. The first two options would entail using the *existing* organs of the Special Status region, as follows:

- The *first option would be to have this mandate discharged by one of the existing structures* secondarily suited to handling the area, such as the *Committee on Administrative and Legal Affairs and Standing Orders* of the *House of Divisional Representatives of the* Regional Assembly of the Special Status regions.

- The *second option would be to have this area dealt with in plenary sessions of* the Regional Assembly, the deliberative body, and in meetings of the Regional Executive Council, the executive body of the Special Status regions.

The other three options *would entail modifying the internal organs of* these regions. The basis for these options lies in Section 351 of the GC-RLA, which makes the rules governing the functioning of Regional Councils (the deliberative body of regions under the general regime) applicable to Special Status regions, subject to derogations specific to Regional Assemblies. In this regard, the provisions of Section 282 of the GC-RLA appear useful. While providing for 4 constituent Committees of the Regional Council in Section 282(1), it creates an opening for an *exceptional adjustment of regional organs as circumstances require and based on the subject matter to be handled.* Under Section 282(2), and with a view to having an organ to discharge its mandate to participate in formulating public policies on justice in the Common Law legal sub-system, the Special Status Regional Assembly could:

- *Create by deliberation, an additional Standing Committee* dedicated to this function, at the request of its President or two-thirds of its members;

- *Create an ad hoc Committee whenever it is consulted in this domain*, which will be dissolved once its task is completed; or

- *Invite any person in an advisory capacity on account of their expertise in this domain,* during a discussion thereon in Plenary or in Committee. The technical nature of this domain would warrant resorting to this possibility, which can be used in conjunction with the others mentioned above.

Recommendation 6: Adjust the internal organisational framework of Special Status regions to provide for unique organs to handle their additional prerogatives, notably in the area of formulating public policies in the common law legal subsystem, as well as to-be-specified prerogatives on official languages – in order ensure efficient discharge of the said mandates.

III.6 Despite Special Status based in law on "linguistic specificity", the exclusion of official languages and bilingualism policies from the purview of additional prerogatives of Special Status regions

The GC-RLA does not include official languages in the list of additional areas of competence of Special Status regions. The predominant use of one or the other official language in specific geographical areas of Cameroon *stems from its historical trajectory which entailed simultaneous Franco-British administration of different parts of its territory*. This distinguishes it from Mauritius, for instance, which witnessed French and English colonization successively, over its entire territory. Consequently, while Cameroon since reunification in 1961, has always opted for a personality principle and not a territorial principle of bilingualism, *the demographic data reveals predominant use or other official language territorially,* in line with the zones previously under French and British administration. *In other words, while a territoriality principle of bilingualism was not pursued, each official language has always had its territorial zones of predominance*. (For demo-linguistic trends in Cameroon documented by the last census, see the Policy Paper in this series on Official Languages).

This reality has long influenced national public policies (even after the transition to unitarism in 1972, which removed the official internal border between the predominantly Francophone and Anglophone areas) through a sort of *gentleman's agreement*, which allowed Anglo-Saxon institutions and practices to flourish in these two regions. However, this equilibrium was eroded *by administrative decisions which ceased to give deference to geo-linguistic realities*, notably through the appointment of State employees/civil servants who were not proficient in English to the two regions – in a context where nothing formally mandated English as the principal working language in State services in these two regions. Hence the demands for to protect the English language's usage space in these two regions, and for better consideration of the said language at national level. (*The Policy Paper in this series on Official Languages makes a detailed case for involvement of the Special Status regions on public policies related to official languages and bilingualism*).

The state of the law on official languages for RLAs in general and for Special Status regions, requires a *combined reading of the GC-RLA and the Law on the Promotion of Official Languages* in Cameroon, both of which were adopted the same day. Section 3(1) of the GC-RLA, in setting forth the bases for Special Status of the North-West and South-West Regions, states: "The North-West and South-West Regions shall have a special status **based on their language specificity** and historical heritage". A first clarification here is that the "language specificity" mentioned here *refer to the official languages* (French and English), not to endogenous national languages.

This interpretation stems from the fact that a combined reading of Section 3(1), which also mentions a historical heritage, and Section 328, which mentions the Anglophone education sub-system and the Anglo-Saxon legal system based on Common Law, *leads inexorably to the conclusion that these linguistic specificities refer to something the North-West and South-West regions have in common*. Yet, these two regions have significant divergences in terms of endogenous national languages, which place them respectively in the cultural areas of the *Grassfields* and the coastal zone of Cameroon. Without a doubt, the linguistic specificities here do not refer to endogenous or local languages, *but to English as the official language since it*

evokes the legacy of British administration of which the English language is a visible corollary.

A second observation on official languages and the Special Status regime is that the GC-RLA *(in Book V, its operative part) refrains from recognizing or attributing any prerogatives or competencies to the Special Status regions pertaining to policies on official languages.* In fact, Section 328 of the GC-RLA, which sets forth the additional operative competencies devolved to Special Status regions, makes no mention of linguistic specificities, previously identified in the Code as part of the basis for Special Status. These regions have the right to participate, be consulted, and involved respectively in formulating public policies on the Anglophone education sub-system and defining the status of traditional chiefdoms, formulating public policies on the Common Law legal sub-system, and co-managing public services located within their jurisdiction. However, *they have prerogatives, whether substantive or to be consulted on policies pertaining to official languages (their regulation, their use, or the enhancement of bilingualism).*

The Law on the Promotion of Official Languages establishes French and English as the two official languages of equal value and indistinct use throughout the national territory, *without a special derogation for regions recognized as having a specificity pertaining to these languages* (by the GC-RLA, promulgated the same day). The law on official languages applies to the RLAs as such (Section 3), but also as public entities (Section 7(b)) and as constitutional organs (Section 7(e)). Consequently, in the working of these regions' institutional organs, *debates, discussions, and official documents may be in either of the two official languages*, subject to the possibility of using simultaneous interpretation, where necessary (Sections 22 and 25 of the Law on Official Languages).

While these language rules are applicable to all RLAs, including the regions, they have a specific impact on the North-West and South-West regions, whose Special Status is partly based on a linguistic specificity (Anglo-Saxon). Thus, under Section 22 of the Law on Official Languages, a regional councillor, an expert whose services are required by the Assembly under Section 282(2) of the RLA Code, or even the State's representative, is not prohibited from addressing the Regional Assembly of the NW and SW regions in French. Neither are State services prohibited from submitting official correspondence and documents to the regional institutions in French. In that event, it will be up to the Assembly concerned, to take steps to ensure simultaneous interpretation.

Beyond arguments which seek to protect the viability of the English language in these two regions, we have pointed out earlier the possibility that the involvement of regional institutions in the NW and SW (which assume more responsibilities over education and culture) may be necessary to enhance acquisition of the two official languages. Notably since the winds of globalization tend to create more incentives for primary French speakers to learn English, than vice-versa. Hence the importance for these regions not to lag behind in bilingualism levels. Considering the above, it appears essential that *official languages and bilingualism policies*, both at the *regional level* (regulation of use) and at national level (participation in policy formulation), should be included among the substantive domains, in which the two Special Status regions should have additional prerogatives.

Recommendation 7: In line with the recognition of linguistic specificities as a basis for their Special Status, devolve to the North-West and South-West regions specific competencies thereon, notably through their involvement in formulating national policies relating to official language regulation, bilingualism, and language planning, on at least the same basis as is afforded for policymaking on the Anglophone education subsystem and the Anglo-Saxon legal system based on common law.

III.7 The concept of "regional interests": rationale for its extension to the foundations and domains of competence identified with Special Status.

The notion of "regional interests" used in both the Constitution and the GC-RLA necessarily englobes and can be invoked in relation to, certain *priority areas of intervention* by Regions. We argue in this Peace Policy Paper series that one of the legal effects of Special Status provisions in the GC-RLA is to make the functional domains in which the North-West and South-West have recognized specificities and peculiarities, legitimate "regional interests" of the said regions.

The concept of regional interests, enshrined in the Constitution and used repeatedly by the GC-RLA, permeates all the applicable provisions on devolution. *The Constitution establishes Regions as a constitutionally recognized level of sub-national authority, with elected institutions, domains of jurisdiction, and interests. For the North-West and South-West regions specifically, their regional interests are peculiar in scope since they span, in addition to those inherent to all ten regions, interests that are unique to them because of their specificities.* Section 3 of the GC-RLA recognizes this implicitly.

The concept of regional interests constitutes the basis for the prerogative of Presidents of Regional executives to refer matters to the Constitutional Council, since they can only do so "whenever the interests of their Regions are at stake" (Article 47(2) of the Constitution). The general jurisdiction of the Constitutional Council includes "the constitutionality of laws, treaties and international agreements" and "conflicts of powers between State institutions, between the State and the Regions, and between the Regions" (Article 47(1)). The Constitution recognizes that there may be situations where disagreements arise over their prerogatives (conflict of powers under Article 47.1) between State institutions (for instance Executive and Legislative branches); between the central State and authorities of a Region and between two separate Regions. It also recognizes that a Region may have specific interests to defend, which is in fact the prerequisite for it to petition the Constitutional Council.

The Constitutional Council's role as arbiter between institutions should in principle constitute the orderly route to resolve disputes that may arise from the horizontal separation of powers (between branches of government), or from the vertical delineation of domains of competence (between central authorities and devolved entities, within a framework of multi-level governance). For the North-West and South-West Special Status regions, the ability to defend the interests of these Regions with respect to *the foundations or critical domains protected by the said status* constitutes a vital safeguard. Since these regions are recognized as harbouring these specificities and peculiarities, who else would be best placed, within a constitutional arbitration process in Cameroon, to defend these specificities?

By way of illustration - and here *constitutional regulation* takes on its full importance - let us assume that Special Status regions' institutions were in place in the years preceding 2015-2016, when the complaints which were precursors of the crisis emerged over training and posting of teachers in the Anglophone education sub-system, the postings of Magistrates and their lack of mastery of the Anglo-Saxon legal system, and the preponderance between the official languages used in State offices in the NW and SW.

The North-West and South-West Regional Assemblies ought to have been the proximate institutions to take cognisance of these complaints (since they concern regional specificities), examine them, and obtain a re-assessment of the impugned policies by the national authorities. If unsuccessful, and still within an orderly framework of inter-institutional regulation and arbitration, they could have requested the binding arbitration or a reasoned opinion from the Constitutional Council. To petition the constitutional arbiter, *they would have had to establish as a preliminary requirement, that a regional interest was at stake*. Doing so would have been an example of resorting to the orderly and constitutional process (laid down by the supreme instrument regulating the Nation) to resolve such disputes, and thus avoid the conflict we are currently witnessing.

SECTION IV: SCOPE OF ACTION OF SPECAL STATUS REGIONS IN THEIR INTERACTIONS WITH CENTRAL STATE AUTHORITIES

IV.1 The central State authorities' representation in, and supervisory powers over devolved entities are extended wholly and without differentiation to Special Status regions, including in their domains of specificity.

It should be recalled that at the end of the Major National Dialogue of September-October 2019, its Commission on Decentralization and Local Development recommended "*a substantial reduction of the powers of the supervisory authority*" over Regions and Councils. This recommendation was followed to the extent that the *GC-RLA reduced the powers of the supervisory authorities*, rendering their supervision of the RLAs less burdensome. This was effected through restricting review by the *supervisory authority to only a review of legality, excluding the power to review the* <u>*advisability, appropriateness, or timeliness* (*opportunité* in French)</u> of instruments adopted by RLAs (Section 73(2)); and restricting *the power of annulment of RLA's decisions* to cases of gross unlawfulness (Section. 77(4)).

Nevertheless, the supervisory authorities retain considerable powers. Under Section 73(3) and (5) of the GC-RLA, the supervisory authorities (Governor and Senior Divisional Officer) are "responsible for national interests, administrative control, ensuring compliance with laws and regulations, as well as maintaining law and order". They also have *a right to information, which mandates the RLA to inform them* of all instruments adopted (Section 74 of the GC-RLA); and a *right to intervene*, for instance through the right to attend sessions of the regional and municipal councils and *to take the floor* during the said sessions.

In Cameroon, the State's representation within Regional and Local Authorities is ensured through "supervisory authority" *which is the technical term used to designate the review and*

control powers the State exercises over RLAs, to ensure compliance with the law and preserve the State's interests. Supervisory authority is exercised, *under the authority of the President of the Republic, by the Minister in charge of the RLAs and by the representative of the State within the RLA*, i.e., in the region by the *Governor* and in the Commune by the *Prefect* (Section 73 of the GC-RLA).

Article 72 (1): "The State shall, through its representatives, exercise supervisory authority over local authorities by controlling legality".

Article 73 (1): Under the authority of the President of the Republic, the Minister in charge of Local Authorities and the representative of the State in the Local Authority shall exercise State control over Local Authorities and their establishments.

Article 73 (2): The control powers referred to in sub-section 1 above shall be exercised to the exclusion of any assessment of timeliness [...]

` ** *We emphasize that the term "**opportunité**" used in the French version of the Code is wider than "timeliness" (used in the English version) and connotes an exclusion of review/control by the supervisory authority of the advisability, appropriateness, and timeliness of an RLA's adopted instrument.*

Supervision is essentially a **regulatory power** and a **monitoring power** which central State authorities wield over the functioning of Regions and Councils. The regulatory power of the supervisory authorities is a means to guide and direct the functioning of the regions. It is defined as the power of Executive and administrative authorities unilaterally to issue enforceable instruments (regulatory texts) of general application and impersonal in nature. In the devolution process, the *regulatory power of supervisory authorities may be exercised as a power to issue regulations or a power of appointment*. The GC-RLA empowers the supervisory authority to issue a range of regulations (decrees, orders) to apply specific provisions of the Code. The President of the Republic, the Prime Minister, and the Minister in charge of decentralization are thus *vested with the power to adopt several texts which frame the implementation of the Code in practice, and clarify the meaning of certain principles in the Code.*

Under various provisions of the GC-RLA, the State's representative *has the following powers that may be exercised in specific instances in respect of instruments adopted by RLAs*: **a power *of annulment*, a power of *prior authorization*, a power of *approval* and a power of *substitution***. The GC-RLA does not contain provisions setting up a derogation regime, pertaining to the role of the State's representatives within the Special Status regions. The same rules on State representation therefore apply to all regions of the country.

While the representation of the State within the devolved institutions is necessary to safeguard national interests, it is the usual practice that the prerogatives of such State representation vary between ordinarily devolved regions, and Special Status regions. Under Special Status*, the different and peculiar competences of these regions require a relationship of different nature and degree between the State's representative and the region's institutions.* Comparatively, in several

Special Status systems, the representative of the State in the said region (Governor, Commissioner), either alone or chairing a Joint Commission with representatives from the State and region, often plays a role in promulgating or triggering review of the legality of instruments passed by regional institutions, by submitting the said instruments for legal-constitutional review. However, it is generally the case that when a Special Status region *is acting within the core domains of competence devolved to it based on its specificities*, it is not subject to the same extent of supervisory authority as any other region would.

It is of the very essence of Special Status to *entail an increase of autonomy of the beneficiary regions*, and correlatively a lessening of the State supervision, and a decrease in prerogatives for State officials exercising such supervision in these regions. In this respect and comparatively, the State's Representative in Special Status regions has *control powers over* its decentralized services and coordinating their collaboration with the region's administration. This is the case notably in Spain and Italy where the role of the State's Representative or Delegate is to *oversee the services under the State's responsibility within the constituency, and to coordinate with the authorities of the autonomous region.*[xxviii] By granting supervisory authorities in Special Status regions the same prerogatives as granted to their peers in other regions, the GC-RLA waters down this important aspect of effective special status.

The GC-RLA has started on a path of greater empowerment of sub-national entities in the generic legal regime for devolution, *through devolving domains of competence "exclusively" to RLAs*. This means that when, for instance, primary and secondary education are devolved exclusively to Regional and Municipal authorities respectively (creation, management of schools, recruitment of teaching staff), it is a responsibility of the latter. The central Ministry retains certain functions (for instance, relating to school curricula), but it is not its primary responsibility to co-manage or "supervise" whether a particular Region has set up its schools, or whether a particular Municipality has recruited its primary teachers.

Henceforth, the regional authorities (elected and accountable to their electorate) as well as Municipal authorities, have the responsibility directly to manage these schools. If these regional and municipal executives do not provide these services, (or if they fail to provide local health or hygiene services) there are elected Councils (regional, municipal) to monitor their performance and call them to order, as well as an electorate to sanction them. In this conception of 'democracy' or *local accountability*, it is not the directing hand of the central authority that ensures the provision of all basic public services, but also the vigilance of communities, each one monitoring the performance of institutions proximate to them. Thus, if in the generic legal regime for devolution this notion takes effect with *a lessening of the powers of supervision* (henceforth only a review of legality), this should a fortiori take place in a regime of Special Status, where the local specificities warrant a greater margin of manoeuvre for the regional authorities.

The system of State supervision of subnational tiers applied in Cameroon renders its devolution process similar to that which obtained in France, established by the *Law on the territorial demarcation of the Republic and its administration*, otherwise known as the Law of 28 Pluviôse Year VII, which was promulgated by Napoleon on 17 February 1800, and drafted by his Minister of the Interior. This law set up the territorial organization of France (départments,

arrondissements, cantons, communes) and the administrative authorities and institutions at each level. Thus, it established the rule that "the Prefect [in charge of the *departément*] *alone* shall be in charge of administration" (Section 3), a provision intended to make clear Napoleon's view that while "councils" (collegial structures) could be set up, they were not to "administer", a task reserved for an Executive appointee.

Thus, even as Regional and Commune structures have developed, the principle of supervisory authority of the appointed Prefect over the elected Councils and their Presidents was sacrosanct in France, until 1982 when the Socialist Government of François Mitterrand undertook a wide-ranging reform of the acute centralization that was plaguing France. Under the Defferre law of March 2, 1982, after 182 years of "reigning supreme", the French Prefect had to give up his power of supervision over elected regional/local Government. [xxix] The said law "ends Prefectorial supervisory authority over Local and Regional authorities and transfers the Prefect's executive authority to the Presidents of the General and Regional councils." [xxx] [our translation]. Also worthy of note is the British approach (endeared to the culture of *self-government*) which has gradually led to the abolition of any State appointee within organs of local government.

The use of the term *"tutelle"* ("supervision" in the English text) to describe the powers exercised by State representatives over RLAs, in a context where this role is being restricted to a review of legality, whereby the State's representative refers to the competent Administrative Court, instruments adopted by RLAs which he/she contests (Section 77.2, GC-RLA), needs to be reviewed. If the use of this concept is to be reviewed for Regions as a whole, there is an even stronger case for that to be done for Special Status regions.

Recommendation 8:

As part of a re-evaluation of the Special Status mechanism, and of the broader devolution process, the content and scope of supervisory powers by State representatives over Special Status regions, notably when they are acting within their legally recognized domains of specificity, should be reviewed. RLAs should evolve to function by regulating themselves, empowering their own internal control and oversight mechanisms – such as their elected Councils/Assemblies and eventually regional Audit Courts – to oversee their performance and meeting targets.

IV.2 The regional public administration in Special Status regions: the imperative need for differentiation from the regional administration in other regions, due to the former's different responsibilities.

The Special Status provisions of the GC-RLA do not carve out a specific form and organisation of the regional public administration, in the said regions. Unlike the rules governing the functioning of the Regions *deliberative* organs, and its *Executive* Council, there are no specific provisions on the type of public administration the Special Status regions will need, to discharge their mandates. As the rules provide, in such situations, the "generic" regime applicable to all Regions will be applicable to those in Special Status. It should be obvious that since Special Status regions have legally recognized specificities, and differently devolved domains of competence,

they will need a regional public administration that is different from the regional administration of other regions. Perfect examples lie in two substantive domains of recognized specificity: the Anglo-Saxon educational system, and legal system – domains in which the Regions can expect to participate in public policymaking. It stands to logic that their regional administration shall include technical expertise and functionaries (in these domains) whose work will orient the positions to be adopted by the regional deliberative and Executive bodies. The same does not hold true for other regions.

The provisions on Regions' public administration are that Regions wield *administrative autonomy* (Section 8), and *have their own staff separate from those of the State and other public bodies* (Section 9). They have the ability and the capacity to *freely recruit and manage the staff needed for the purposes of their mandate* (Section 22). The national authorities are involved in the regional public administration through standardization, and approval authority over senior management positions, as follows:

- The "State shall establish a local public service whose rules and regulations shall be laid down by decree of the President of the Republic", per Section 22(3), GC-RLA.

- The Prime Minister shall, for Regions, *establish by decree the standard organisation chart of the regional administration* (Section 496 of the GC-RLA). This text will provide the standard structure and the list of posts to fill in the regional public administration.

- The State's representative in the Region, has the *power to approve (or reject) appointments by the President of the Regional executive of officials with the rank of director* (Section 324(2) of the GC-RLA). In other words, the appointment of an official with the rank of director in the regional administration *can be rejected by the State's representative.* This requirement grants to the State's representative a prerogative to "jointly appoint" senior officials of the regional administration on par with the Regional Executive, since the two personalities must agree for the appointment to be valid. The reasons for rejecting a candidate to the regional administration are also not enumerated in a limitative or exhaustive list. This suggests that the State's Representative can rely on any argument, including his personal assessment as to the candidate's non-suitability. This then runs against the trend of restricting the scope of the supervisory authority's power to only review of the legality of instruments adopted.

The above rules apply generally to all regions of Cameroon and make the structure of the regional public administration uniform across the country, since there are no specificities ear-marked for the North-West and South-West regions on the form of their regional administration. The rules governing the set-up of their Regional administration are either found in the generic legal regime applicable to all *Regional and Local Authorities*, or the generic regime applicable to all *Regions*, only. It should be expected that Special Status regions – mandated differently and with different duties to discharge, should have a Regional Administration format that reflects their specificities.

Recommendation 9: An opt-out clause should be introduced to enable the regional public administration in Special Status regions to be adapted to reflect the differently devolved domains of competence and responsibility of the said Regions.

IV.3 Appointment of officeholders in Special Status regions: appointment of the *principal administrative officer* of the region by national authorities without consultation; the critical criterion of knowledge and aptitudes on the recognized specificities of Special Status regions in the appointment of State representatives thereto

The appointment power consists of the prerogative of central State authorities to *appoint into some positions* that are critical to the functioning of devolved entities, and within their own organigram. This power extends to appointments to positions *within the RLAs* structure, such as the Executive Secretary (Secretary General) of a Region or a Municipal Council, a function that coordinates the public administration of the Region or Council. Under Section 323 of the GC-RLA, the Secretary General of the Region is the *"closest aide" of the President of the Regional Council/Assembly*, who implements the latter's decisions and shall have a delegation of signature to discharge his/her duties.

The process of appointing the Regional institution's Secretary General *is entirely controlled by the central authorities*: the post is appointed by the President of the Republic, *upon the recommendation of* the Minister of Local Development (MINDEVEL, Minister in charge of the RLAs), per Section 323(1) of the Code. This appointment by the President of the Republic, *without consulting the regional authorities concerned,* means the Regional Executive Presidents have no say in the selection choice of the official who oversees the regional public administration. This approach which is already questionable in the case of Regions under the ordinary regime, is even more so for Special Status regions, whose establishment warrants a greater degree of self-administration. In countries with Special Status regions, the role of central State authorities or their representatives to the region in the appointments process of Regional executives, or the regional administration is mostly "ceremonial", namely to officialise and give effect to electoral results at regional level, or to formalise choices made by elected regional representatives.

In some countries with Special Status regions, national authorities apply two principles in appointing State representatives, and posting personnel to the State's deconcentrated services in the region: these are the principles of *consultation of regional authorities* and using *mastery of the Region's specificities* as an essential criterion for appointment. On consultation, appointment of the State's representative to the region is done after consulting the regional executive (Portugal, Finland). Additionally, a major criterion in selecting the State's representative to the region (as is the case in Finland) is *his or her familiarity, knowledge, and demonstrable experience on the region's domains of specificity*.

This is a logical principle: once the State recognises that some of its regions have specificities (historical, linguistic, educational, legal), and a specific (Anglo-Saxon) heritage which manifests itself in the above domains (as the legislator does in Section 3 of the GC-RLA), then the State

stands to gain by ensuring that its representative to those regions is highly familiar with the said heritage. Not paying attention to this criterion sets the stage for *potentially conflictual relations* between the State representative appointed and the regional authorities and *reinforces the perception that regional/local specificities are not considered important.* It is worth highlighting that this criterion does not require that the said State representative be a native or "originate" from the said regions. For example, in Cameroon (and in its administration) one can without too much difficulty, find people from all regions whose educational and professional background has brought them into close contact with Anglo-Saxon systems. What is key is whether there exists the will to put their knowledge to use, by giving them these functions and responsibilities.

Secondly, in comparative Special Status arrangements around the world, the *relationship* between the State's representative and the region's authorities is based on the principle of mutual trust and respect. Instead of a fixation with hierarchical relations which consists in determining who – between the State representative and the Region's Executive – controls or predominates over the other, each of these authorities is required to focus on their respective domains of competence, and to render their best performances therein. Freed from the responsibility of second-guessing the RLAs' institutions in assessing the advisability and appropriateness of the instruments they adopt, the State representative can focus on his/her own prerogatives which are quite extensive, and spelt out in Decree No. 2008/377 of 12 November 2008, which sets forth the functions of the Heads of Administrative units in Cameroon.

With each wielding its own areas of responsibility, these entities must respect each other's functional domains of competence. It should be remembered that even under the generic regime applicable to all RLAs, the latter "shall exclusively exercise the powers devolved" (Section 18(1), GC-RLA). This constitutes a fundamental change from the previous decentralisation regime under which no RLA exercised any devolved competency exclusively: the State retained all its capacity to intervene in the supposedly devolved domain.

Henceforth, the region/municipality responsible for secondary/primary education or local health structures should *progressively have its own monitoring and oversight mechanisms* (the regional/municipal council, the regional courts of audit) to ensure that the regional budgetary appropriations are effectively used by the regional administration to achieve the targeted objectives. It is not the State representative's responsibility to ensure this oversight in the *first instance*, even though subsidiarily, systematic failures within an RLA will necessarily attract the Representative's attention. This could, in the long run, activate the mechanisms for sanctioning the executive of the RLA in question, if the facts are established and confirmed, particularly before the competent jurisdictions (administrative, audit, and constitutional).

While these principles should apply to all regions, they are of heightened importance in a Special Status framework, system, where a national consensus exists on the need for more self-government and self-administration at regional and local levels.

Recommendation 10: Review the system for appointing the principal administrative officer of the regional administration; envisage consulting the regional layer on the appointment of State representatives to Special Status regions; and include as a key criterion for their appointment, familiarity, mastery, and demonstrable experience in the domains of specificity recognized by law as inherent in these regions.

IV.4 Power of the central authorities to dismiss the Executive organ, and dissolve the Deliberative body of Special Status regions: absence of a requirement of assent by, and a hearing of both parties before the Constitutional Council - the designated arbiter and guarantor of justice in the event of a dispute between Regional institutions and the State

The GC-RLA renews the sanctioning powers of the President of the Republic hitherto included in the prior decentralisation laws of 2004. The sanctioning powers provided in the 2019 Code include those of *provisional suspension and dissolution of the Regional Council,* the Constitutional Council's recommendation being required for dissolution (Sections 296, 297 of GC-RLA); *suspension and dismissal of the regional executive,* consultation with the Constitutional Council being required for dismissal (Sections 314 and 315 of GC-RLA). These sanctions are imposed in the event of specific acts defined in Sections 296 of the GC-RLA (*acting unconstitutionally, undermining security of the State of law and order, threatening the country's territorial integrity, being permanently unable to perform its duties*).

It should be underscored that the above provisions pertaining to the President of the Republic's sanctioning powers (suspension, dissolution, dismissal) are in the sections of the GC-RLAs devoted to the general law of devolution applicable to all Regions. They apply to Special Status regions firstly because, only express provisions within the Code's Special Status provisions (specifically, Sections 327 to 371 of the GC-RLA) result in deviating from applying the general law of devolution to them. In the instant case, *no provision unique to Special Status can lead to excluding provisions on the Presidential sanctioning powers from being applied to Special Status regions*. Secondly, Sections 351 and 361 of the Code state that – apart from where it has laid down a separate rule for Special Status regions – the provisions governing Regional Councils and Regional Council Presidents under the generic devolution regime for all regions, shall be extended to Special Status regions.

In this arrangement, it is possible for the national authorities to send out of office a Regional Executive (with which it has a dispute) without going through litigation entailing a full hearing of the parties before the Constitutional Council, despite its being the constitutionally ordained regulator of relations between the nation's Institutions. Considering the gravity of the above-mentioned sanction, it should have been required under the general legal regime applicable to all RLAs, and more so for Special Status regions, that such a sanction to be subject to a reasoned decision following litigation with a full hearing of the parties before the Constitutional Council. Some of the grounds for suspension, such as "undermining the security of the State or law and order", involve concepts for which a factual determination can be made in the context of constitutional legal review. It is precisely the Constitutional Council's role to adjudicate in such

cases, especially when it entails removing from office an elected (albeit replaceable) Council/Executive, and thus withdrawing a mandate granted by the electorate.

It is important to highlight that neither the Constitution, which sets forth the overarching principles for the Constitutional Council's functioning, nor the Law No. 2004/004 of 21 April 2004 to lay down the organisation and functioning of the Constitutional Council, which expounds on the rules of procedure for discharge of the Council's mandate, actually specify the procedure to be used by the Council, when it is consulted, or its recommendation is sought by the President of the Republic, in order to dissolve a Regional Council, or to dismiss a Regional Executive. The above-mentioned law states in Section 12 that the Council shall rule "on matters referred to it, or on petitions in its capacity as [a] *jurisdictional* and *advisory* body" (note the French text uses the conjunction "or", not "and"), and in Section 4.2 that its "rulings shall enter into force upon pronouncement and shall not be subject to appeal".

When seized of a request by the President of the Republic to confirm the dissolution/dismissal of a Regional Authority, is the Constitutional Council acting in a *jurisdictional* (litigation) or an *advisory* capacity? The settlement of "conflicts of power[s]" between national institutions, including between the State and the Region, is envisaged in the Council's rules of procedure. However, jurisprudence will be required to clarify the meaning of this concept, and to see whether systematically the weightiest sanctions levied against regional authorities will become transformed into litigation to be resolved before the Constitutional Council.

It is understood that the **no-go area** for any Regional Council, and especially one in Special Status, is to commit any *attempt, act, or deed that could amount to secession:* a factual situation which can be objectively established in a constitutional legal review, and which also carries criminal law implications. A Special Status arrangement is set up to enable the beneficiary regions find their place *within the country*, and not to set the stage for their exit.

Recommendation 11: Undertake reforms to provide that the weightiest sanctions against a Regional Authority be subject to judicial review by the Constitutional Council under its jurisdictional mandate, enabling the impugned regional institution to defend itself in a legal proceeding with full hearing of the parties.

SECTION V: ABSENCE OF FEATURES COMPARATIVELY CONSIDERED AS USEFUL CORROLARIES, INHERENT IN SPECAL STATUS

This last section of the Policy Paper examines some features that are comparatively considered as inherent in Special Status arrangements but are absent from that set up in Cameroon by the December 2019 GC-RLA. To identify these features, we rely on a range of sources which delineate the emergence, in comparative constitutional law and scholarship, of normative guideposts on the setting up of Special Status regions. Since asymmetrical devolution between regions or subnational units of a country (the conceptual foundation for Special Status) is not regulated by a binding international instrument, it is to comparative constitutional law that one must turn, to find guideposts and common strands on their establishment.

These normative guideposts enable us to situate the Cameroonian Special Status in comparison with similar arrangements around the world. And to assess whether Cameroon's approach is aligned with evolving good practices in establishing such regions – which countries are resorting to increasingly, to quell conflicts over their internal diversity. These guideposts enable countries which are contemplating such arrangements to adopt established good practices, in order that these ingenious mechanisms of sub-national organisation can achieve the desired objectives. In addition to the Bibliography put together by this Project (part of which includes material on the establishment of Special Status regions), we include in the End Notes to this Policy Paper, a quick collection of normative sources to consult on the establishment of Special Status regions. [xxxi]

Among the features considered comparatively as inherent to establishing Special Status regions, which Cameroon's legislator could draw from to re-appraise the current law, we shall examine five:

(1) Lack of prerogatives for the Special Status region, on the promulgation or ratification by the State of legal norms which have a bearing on the regions' recognized domains of specificity

(2) Extending the criterion of mastery of the specificities of Special Status regions to the staff of decentralised State services working in those regions' recognized domains of specificity.

(3) Lack of a special revenue allocation formula for Special Status regions which should accompany their unique and additional areas of competence

(4) No prerogative of the Special Status regions to monitor and guide the action of Local Councils within their geographic remit, including in domains of regional specificity recognized by law

(5) Need to strengthen the arrangements for dispute resolution between the State and Special Status region, and to establish a framework to evaluate and orient its implementation periodically, involving the Special Status regions' and central State authorities

V.1 Lack of prerogatives for the Special Status region, on the promulgation or ratification by the State of legal norms which have a bearing on the regions' recognized domains of specificity

In terms of special status, a distinction is made between regions with *legislative* and administrative powers (e.g., Catalonia, Galicia, Scotland, Greenland, Åland Islands) and those with only administrative powers (e.g., Corsica, Wales)[xxxii]. Thus, some Special Status regions *have an Assembly or a Parliament which exercises significant legislative powers ranging from adopting regional laws, to exercising a right of review on legal instruments adopted by the central State, which have significant repercussions on, or implications for the said regions.* Their power to adopt laws results from the apportionment of competences between the Special Status regions and the State, with the former having the power to legislate in the domains where it wields *exclusive* jurisdiction (from the central State) or *shared* jurisdiction. In the latter case (where both can

legislate) it is understood that *national law would prevail over regional law, in the event they are divergent*. Some States afford to Special Status regions, the prerogative to *adapt national legislation, where necessary, to render it compatible with their region's specificities*.

It is also common practice in nearly all Special Status arrangements around the world, that the *said Regions' institutions are involved as of right, in the process of adopting laws and regulations at national level, when the said laws touch upon the core interests of those regions* arising from their recognised specificities. It should be noted that in Cameroon, Section 328 of the GC-RLA creates a right or an option of involving these regions in formulating "public policies" in specified domains, but not expressly in adopting *laws and regulations*, although most legislative texts normally originate from previously defined public policy directions.

This prerogative to be involved also often extends *to international agreements and treaties that are negotiated by the State on matters that impact on these regions' interests arising from their specificities*, and matters that are within the region's exclusive competence, or on which it has primacy to intervene. Since the power to enter into international agreements and treaties remains with the central State which is the sovereign for international relations, the Special Status framework requires the State to adapt, by formally including the concerned region's authorities whenever an international agreement being negotiated may have direct effects and impact on a domain of specificity of the said region. Including the region in this manner ensures that the international agreement thus entered into, accommodates the perspective of the Special Status region). Article 8 of Law No. 11/2006, the Law on the Governance of Aceh (a Special Status region within the unitary State of Indonesia) offers a good example:

> Draft international treaties that directly involve the governance of Aceh to be entered into by the Government shall be developed with the consultation and advisement from the DPRA. Draft laws prepared by the DPR that directly involve the governance of Aceh shall be developed with the consultation and advisement from the DPRA. Administrative policies that directly involve the governance of Aceh to be enacted by the Government shall be developed with the consultation and advisement from the Governor.

In some countries with Special Status regions, adopting national laws, signing international treaties, and applying central State administrative decisions, *which expressly and inescapably concern a matter under the scope of the regions' legally recognized specificities*, requires the State to act "jointly" with the regional authorities. This is done through involvement and a meeting of the minds in prior consultations with the Special Status regions' authorities, in order to take into consideration, the region's interests while negotiating the international treaty or agreement or adopting the law or administrative decision in question.

The GC-RLA does not afford to Special Status regions the prerogative to adapt national laws and regulations: they cannot (for purposes of applying within their region) *adjust national legal texts which have an impact or bearing on the domains in which the regions are recognized to have specificities.* While the GC-RLA recognises their right to participate, be consulted and associated in the process of formulating producing *national public policies* in certain domains (Anglophone education subsystem, status of traditional chiefdoms, Common Law legal subsystem), this should have been extended to *texts and regulations* in these domains, and to the negotiation and

signing of *international agreements* in these fields.

Recommendation 12: Establish an obligation to consult the Special Status region on national laws, administrative decisions, and international agreements, when these manifestly concern and affect recognized domains of specificity of these regions. Afford to Special Status regions, initially on an experimental basis, the prerogative to adapt certain national texts (on matters within their recognized domains of specificity) to accommodate the peculiarities of the said regions.

V.2 Extending the criterion of mastery of the specificities of Special Status regions to the staff of decentralised State services working in those regions' recognized domains of specificity.

We have highlighted above that the selection and appointment of the *State's representatives* to these regions should take into account the criterion of knowledge and mastery of the objective specificities (historical, cultural, linguistic) which constitute the basis of the Special Status granted to the said region. In the case of Cameroon, Section 3 (Opening Book) of the General Code of RLAs clearly identifies these specificities, which it grounds in a *historical heritage, which revolves around a linguistic specificity (predominant use of English, one of the official languages), and specificities in Anglo-Saxon education and justice systems*. In light of the tensions that characterized the decade preceding the introduction of Special Status, it is clear that the legislator was not mistaken about what constitute the distinctive traits of these two regions.

With the scope of specificities thus well defined, the State will then need a systematic process to identify persons who master these specificities, and can thus properly administer the said regions, in concert with the Regional Assemblies, Executives, and regional public administration. A critical point to keep in mind is that the State's "representation" in the region is not limited to a single post or office (the Governor) but rather extends to all the *State's deconcentrated services* in these regions. It will be particularly important that two categories of State functionaries in these regions be very well versed with regional specificities. The first are State personnel working directly in the recognized domains of specificity (e.g., education and justice), and the second is the corps of civil administrators who coordinate the said deconcentrated services – within the offices of Governors, Senior Divisional Officers, and Divisional Officers - as prescribed by the 2008 Decree on the functions of the heads of Administrative units in Cameroon. (Eventually, all State personnel to be assigned to the two regions should get some preliminary training on the regional specificities).

A *specific training cycle or curriculum* could be envisaged to be introduced in the principal institute that trains civil administrators (the National School of Administration and Magistracy, ENAM) whose career track leads to positions in the territorial administration and the State representatives to RLAs. The NW and SW regions have **2** Governors, **13** Prefects, and **65** Sub-Prefects, as well as Deputies and the staff of their respective offices. It is this workforce of several *hundred persons* who form the "central State administration" which is required to interact with the regional authorities in a context of Special Status. One in which the regions wield specificities that have been recognised in law, and which touch on several technical domains. The above-

mentioned administrators also have a supervisory mandate over RLAs, which further heightens the need for them to understand and master the RLAs' specificities.

This specific training cycle (*knowledge and skills on the foundations, and the nature of the objective specificities of the NW/SW regions through their Anglo-Saxon historical background*) will constitute a deserved parallel to the specialized cycle that has been set up at ENAM for the training of Magistrates and Court Registrars in the Anglo-Saxon legal tradition. This is because even a seasoned lawyer, principally trained in the Romano-Germanic legal tradition, who has never practised law in the Anglo-Saxon tradition (predominant in these two regions and recognised as an integral to Special Status by section 3.3 of the GC-RLA), will find it challenging to work there.

Prior to the enactment of Special Status, there was no specific requirement for the appointing authority specifically to assess the experience, knowledge and skills of persons being considered for postings to these regions (in a manner different from postings to any other regions), to ascertain whether they grasped and mastered those regions' specificities. And more so, for appointees of the territorial administration, which fills the positions of State representatives to regional and local authorities and constitutes the staff of the civilian administration in charge of the Sub-Division, Division, and Region as administrative units. Henceforth, under a Special Status dispensation, it will be essential, and mandatory for the central authorities to make this assessment. In the future, assigning State personnel to these regions who are not imbued with their specificities will amount to re-igniting tensions.

Recommendation 13: Include as an obligatory requirement, mastery of the foundations and domains of legally recognized specificities of Special Status regions in assigning personnel to the State's deconcentrated services, and to the civil administration that coordinates these deconcentrated services. Also include the said mastery as a criterion for in-service professional evaluation of State personnel assigned to these regions. Provide a specific training cycle for Civil Administrators (and eventually other State personnel), which prepares them to discharge their functions in the context of a Special Status region, which has specificities and is asymmetrically devolved – differently from other regions.

V.3 Lack of a special revenue allocation formula for Special Status regions which should accompany their unique and additional areas of competence

In any devolution process, a transfer of competencies must *systematically be accompanied by the transfer of resources*. The GC-RLA follows the principles on the funding of Regions and Local Authorities previously in place: Section 12 of the 2019 Law carries the same language as Section 22 of the 2004 Law on the Orientation of Decentralisation which it repeals:

> The resources necessary for the exercise of the powers devolved to local authorities shall be allocated to them either by transfer of taxes or grants, or both.

There is *no specific or differentiated revenue allocation formula or mechanism provided in the Code for Special Status regions, although following the logic of asymmetry, they should be called upon*

to exercise more extensive powers than regions under the ordinary regime. It is common practice to include provisions in special status legislation for a financial needs assessment of these regions, to *allocate resources to them commensurate to their responsibilities.* This leads to a revenue allocation formula agreed upon between the State and the Special Status regions. This provides for a threshold of financial resources to be allocated to these regions which is predictable, not random, and determined in advance. In Spain, for example, the resources allocated to the Autonomous Communities (appellation for its Special Status regions) have increased considerably, bringing Spain – in devolution of public spending – close to what obtains in federal States where, on average, the Federal Government handles 55% of public spending, the regional level of federated states 25%, and local governments 20%. Spain also practices asymmetry in allocating financial resources, with regions' budgets varying depending on whether they are responsible for managing significant cost-intensive sectors such as health or education. [xxxiii]

In the absence of a specific revenue allocation formula agreed upon between the State and the Special Status regions, the controlling provision becomes Section 21 of the GC-RLA, which states as follows: "*The devolution of powers to a local authority shall be accompanied by the transfer, by the State to the Local Authority, of the resources and means necessary for the effective exercise of such powers*". Pursuant to these provisions, one would have expected, since the Anglophone education sub-system, the Common Law legal sub-system, the status of traditional chiefdoms and the co-management of public services within their territory are domains in which the North-West and South-West regions have competences additional to, and different from the other regions, *that they would get an additional revenue allocation, or a unique revenue allocation formula*. Even though the GC-RLA does not operate a real "transfer" of powers in these domains, but instead calls for their participation/consultation/involvement therein, the *fact remains that they impose additional obligations on the concerned regions.*

Another area with budgetary implications is the composition of the Regions' own administration (the regional public administration). Section 366 of the GC-RLA refers the Special Status regions to the provisions of Sections Articles 323 and 324 of the same Code, which contain the rules on this subject applicable to all regions – under the general devolution regime. There are therefore no unique rules applicable only to Special Status regions, on the composition of their staff. The additional domains of competence and the capacity required to deliver in their recognized domains of specificity would warrant staff skills that are specific to these regions, which other regions under the general regime do not need.

Recommendation 14: Establish a revenue allocation and apportionment formular and mechanism that is aligned with devolved competencies, to take into account, the additional domains of competence of Special Status regions.

Recommendation 15: Include in the rules and regulations of the Local/Regional public service to be adopted by the President of the Republic, and in the standard organisation chart for Regions to be adopted by the Prime Minister, specific provisions pertaining to Special Status regions, to enable them have the staffing appropriate to discharge their additional competencies, which go beyond those of the other regions under the ordinary regime.

V.4 No prerogative of the Special Status regions to monitor and guide the action of Local Councils within their geographic remit, including in legally recognized domains of regional specificity

Section 55 of the Constitution establishes the Region and the Local Council as RLAs and enables the creation of new types of RLAs. Since the legislator has not created any other RLA, *the Region and the Local Council constitute, the time being, the existing RLAs in Cameroon*. While the relationship between the State and the RLAs is generally the focus of attention, *the relationship between RLAs themselves can themselves be contentious.* In anticipation of this, the Cameroonian legislator set out to regulate the relationship between the Region and Local Councils.

The first regulation of relations between Regions and Local Councils is first achieved through the *distinction in the devolution of competences, between those devolved to Regions and those devolved to Local Councils* (Section 19), and the requirement that the said transfer and sharing of powers shall be consistent with the principles of *subsidiarity* and *complementarity* (Section 20(1)). While these principles apply mainly to the relationship between the RLAs and the State (exercise of a devolved competency by the RLA is the rule, and State intervention is the exception) *they also have implications for the relationship between RLAs, within the same geographical territory*. When examined from the standpoint of relations between the Region and Local Council, the principle of *subsidiarity* means that in the event of doubt, the domain in dispute is presumed to fall within the jurisdiction of the most relevant RLA, i.e., *that which offers the best guarantees of discharging the function effectively*. The principle of *complementarity* means that the interpretation of the devolved domains must be done in a manner to ensure the convergence of the work of Regions and Local Councils, and not such that they neutralize, or at loggerheads with each other.

The second leg in regulating relations between the RLAs consists in *forbidding one devolved entity from exercising supervisory authority over the other*. The GC-RLA provides thus:

> Section 2(3): "Local authorities (meaning Regions and Councils) shall have equal status. No local authority shall establish or exercise *control over another*".
>
> Section 20(2): "The devolution of powers provided for by this law may *not authorise a local authority (a Region or Council) to establish or exercise supervisory powers over another*".

These provisions establish the *principle of equality* between RLAs and seeks to ensure in their administration they are only supervised by the central State. There exist in the law, several situations where the Region and the Local Council cooperate in the *collective management of*

certain responsibilities (e.g., the public maritime domain and inland waterways, Section 32 of the GC-RLA), *consent or consultation of one for exercise of a competency by another, support of one to actions by the other* (e.g., support of the Region to the Local Council's competencies in matters of town planning and housing, Section 269). This also the case for projects that involve multiple Local Councils or multiple Regions. By way of comparison, France's devolution laws provide for the possibility of *designating a local authority as the "lead partner"* (*Collectivité tête de file*) in such joint undertakings.[xxxiv] Thus, depending on the domains concerned, the devolved entity which is lead partner could be a Region, a Département, or a bloc of Communes. It is important to specify however that the devolved entity acting as lead partner *neither exercises control over the others, nor wields decision-making powers, since its role is confined to only a coordination function* which is needed due to the participation of multiple devolved entities.

In the absence of such a mechanism in Cameroon's normative framework, the RLAs should resort to the possibility offered by the collective management of the RLAs, namely the *groupings and partnerships* (Section 97, GC-RLA) on the one hand, and *Council Unions* (Section 104, GC-RLA) on the other.

The *principle of equality of the RLAs* and its corollary to prohibit any form of supervision by one devolved entity over another apply to all RLAs in the country. They therefore apply to the North-West and South-West Special Status regions. However, for these 2 Regions, these rules *have deeper implications due to their specificities recognized at the level of the Region*. There are very cogent reasons to ensure that specificities recognised at the level of the Region are extended and respected in work of Local Council that are within the geographical remit of the Special Status region. The **education sector** offers a perfect example. There exists an apportionment of competencies between the Region and Local Councils, which entrusts the former with *management of government secondary and high schools*, and the latter with *management of pre-nursery, nursery, and primary schools* in their respective areas. However, the Special Status regions have additional competences pertaining to the Anglophone education subsystem, which *covers the entire education subsystem, from pre-school to high school*. In this set-up, the Special Status regions' authorities have a justifiable rationale, to objectively have a right of oversight, on compliance and integration of specificities in the work of Local Councils.

Comparatively Special Status laws have different approaches on the issue. Some countries such as *France* and *Italy, exclude, as in Cameroon, any oversight by* Special Status regions over Local Councils that constitute it. Other countries however grant Special Status regions wide powers over Local Councils located in their territory. This is the case of the Spanish Constitution, which grants the Autonomous Communities (regions) the *power* to effect "*changes in municipal boundaries within their territory and, in general, functions appertaining to the State Administration regarding local Corporations, whose transfer may be authorized by legislation on local government.*" (art. 148). [xxxv] It is recommended that in Cameroon, the approach to be adopted should be based on the exigencies of the functions at hand (related to the domains of competence devolved to Special Status regions) as the example above on the education sector demonstrates.

Recommendation 16: Provide for mechanisms for oversight and guiding the actions of Local Councils by Regional authorities, insofar as this is necessary for their harmonious implementation within the region, in domains falling within the additional competences of the North-West and South-West regions.

V.5 The need to strengthen mechanisms for dispute resolution between the State and Special Status region, and to establish a framework for periodic evaluation and re-orientation of its implementation, involving the Special Status regions' and central State authorities

Special Status frameworks generally provide for a mechanism for the resolution of disputes between the State and the Region, especially disputes that may arise over conflicts of powers, or issues such as *allocation and apportionment of revenues*. Comparatively speaking, such mechanisms often take two forms:

- A political mechanism for dispute settlement implemented through a joint body made up of representatives of the State and the Special Status region, using a flexible process of arbitration between the parties.

- A judicial mechanism for dispute settlement, which is exercised through a high-level Judicial body, which has mandatory jurisdiction determined in advance.

On political settlement of disputes, the 2019 GC-RLA does not set up a similar political body or procedure to resolve these disputes. In the countries that have such a body, it is generally a joint body comprised of an equal number of representatives of the State and the Special Status regions, who consult each other when a dispute arises. The *Public Independent Conciliator* (sort of Ombudsman) created by the GC-RLA does not have this role because its competence is confined to the acts of the *regional public administration* of the North-West and South-West.

Judicial settlement of disputes, is grounded in Article 47(1) 3rd indent of the Constitution, which recognises that the Constitutional Council has, among other functions, the competence to *settle "conflicts of powers between State institutions; between the State and the Regions; and between the Regions"*. [xxxvi] *A conflict between the State and the Regions would therefore fall within the competence of the Constitutional Council*, which can be petitioned by the Presidents of the regional executives, the interests of their Regions are at stake. [xxxvii] Once again, the is the general legal regime on devolution being extended to Special Status regions; these regions do not have a purpose-made mechanism for settling disputes with the State. Yet, comparative experience with Special Status regions shows that such mechanisms are important, given the *sui generis* nature of this arrangement. It requires increased collaboration between the State and the Special Status regions' institutions - which is facilitated by the existence of dispute resolution mechanisms.

Under this approach, well before getting to the stage of disputes and litigation, *the general framework within which the key stakeholders in the devolution process consult collectively to assess its implementation, warrants a re-thinking, to make it amenable and pertinent for Special Status regions*. Presently, the principal framework (under the general devolution regime) within

which stakeholders in devolution consult collectively is the National Decentralisation Board (NDB), a body which brings together Cabinet members, the RLAs, Parliamentarians and the Economic and Social Council. The NDB is, per the terms of Decree 2020/676 of 3 November 2020 to lay down its organisation and functioning, "responsible for monitoring and evaluating the implementation of the decentralisation process". It also prepares the annual report on the state of decentralisation and proposes strategic orientations on the roll-out of the process. The representation of the RLA in the NDB is set at 3 representatives of Regions and 7 of the Local Councils.

Thus, to evaluate the effectiveness of Special Status, its ability to manage the specificities of the beneficiary regions, or to make proposals for its improvement within the framework of devolution and relations between the State and the RLAs, the Special Status regions only have a general forum, which also must attend to the concerns of all the **370** RLAs in Cameroon (10 regions and 360 Communes). Admittedly, the Follow-up Committee of the Major National Dialogue is a forum for annual evaluation of the implementation of its recommendations, including the Special Status. However, it is not a body that brings together the Special Status regions' authorities (who are not even among its members, per Decree No. 2020/136 of 23 March 2020) and the central authorities, to review periodically its functioning with a view to improvements.

Recommendation 17: Set up a mechanism for periodic and specific consultation and evaluation of the Special Status framework, between the beneficiary Regions' authorities and representatives of the central authorities.

Recommendation 18: Strengthen the mechanism for settling disputes between the Special Status region and the central authorities, working in a spirit of searching jointly and collaboratively for solutions, and in line with the Constitutional principle that both (regional bodies, central authorities) have *legitimate interests of their own* to be accommodated – to improve the harmonious implementation of Special Status.

COMPARATIVE TABLE: SPECIAL STATUS IN CAMEROON AND OTHER COUNTRIES

This summary table compares Special Status as crafted in Cameroon with what obtains in other countries with Special Status Regions, through **twelve (12) qualitative indicators** on Special Status arrangements

1. The Special Status mechanism was **adopted to resolve the difficulties associated with the management of these regions, arising from their** historical, linguistic, geographical, or similar **specificities.**	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	Yes
PORTUGAL (AZORES, MADEIRA)	Yes
FINLAND (ÅLAND)	Yes
ITALY (5 REGIONS)	Yes
DENMARK (FEROE ISLANDS, GREENLAND)	Yes
FRANCE (CORSICA, OVERSEAS C.O.M.)	Yes
CAMEROON (NW, SW REGIONS)	Yes

2. An assembly, body or representative institution of the Special Status region **participates in the preparation, drafting, formulation and consultations** on the initial text, implementing legislation, and any amendments to the Special Status law.	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	Yes (Art. X Section 18 Constitution)
PORTUGAL (AZORES, MADEIRA)	Yes (Art. 226 Constitution)
FINLAND (ÅLAND)	Yes (Preamble to the Act on the Autonomy of Åland)
ITALY (5 REGIONS)	Yes (art. 50 Constitutional Law 1948 Special Status for the Aosta Valley; 103 of the Consolidated Text of the Laws on the Special Status for Trentino - Alto Adige, 2001; 41 ter Statute of the Sicilian Region, 1946)
DENMARK (FEROE ISLANDS, GREENLAND)	Yes: Preamble, Greenland Home Rule Act 2009 and the Faroe Islands Home Rule Act 1948
FRANCE (CORSICA, OVERSEAS C.O.M.)	C.O.M: Yes (Art. 72-4 of the Constitution). Corsica: Not specified
CAMEROON (NW, SW REGIONS)	No

3. Under the country's laws, the legal instrument setting forth Special Status and amendments thereto, **to become binding, must be approved simultaneously** by the national/central parliament and the representative body/assembly of the region concerned.	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	No
PORTUGAL (AZORES, MADEIRA)	Partially. The Special Status is already provided for in the Constitution for the 2 autonomous regions (Title VI: art. 225 to 234). The Regional Assembly (RA) drafts and approves a draft text (Bill) which is sent to the national assembly (art 137). The latter studies the Bill. If it amends the Bill, sends it back to the RA for its opinion on the

	amendments (art. 140). The RA may withdraw the Bill under consideration by the National Assembly any time before a vote takes place (Art 139(3)).
FINLAND (ÅLAND)	Yes (Article 69 of the Act on the Autonomy of Åland)
ITALY (5 REGIONS)	The Special Status is already provided for 5 regions in the Constitution (art. 116) and the Special Status is adopted through Constitutional Laws.
DENMARK (FEROE ISLANDS, GREENLAND)	Not specified
FRANCE (CORSICA, OVERSEAS C.O.M.)	C.O.M: Yes (art. 72-4 of the Constitution). Corsica: Not specified
CAMEROON (NW, SW REGIONS)	No

4. The Special Status region **is recognised as such in the Constitution**. The region has a constitutional right to exist as a geographical unit, which cannot be changed by a decision of the central authorities (President/Parliament) alone.	
INDONESIA (ACEH)	No
PHILIPPINES (BANGSAMORO)	Yes (Art. X Section 15 of the Constitution)
PORTUGAL (AZORES, MADEIRA)	Yes (Art. 225, Constitution)
FINLAND (ÅLAND)	Yes (Art. 120 Constitution)
ITALY (5 REGIONS)	Yes, although other regions may be conferred Special Status through legislation (Art. 116 Constitution)
DENMARK (FEROE ISLANDS, GREENLAND)	Yes
FRANCE (CORSICA, OVERSEAS C.O.M.)	C.O.M.: Yes. Corsica: No
CAMEROON (NW, SW REGIONS)	No

5. The instrument creating/regulating Special Status lays out a **demarcation of operational functions and responsibilities** between the State and the Special Status region, *in the domains* on which the said status is based.	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	Yes (art. X section 20 Constitution and V of the Organic Law for the Bangsamoro Autonomous Region, 2018)
PORTUGAL (AZORES, MADEIRA)	Yes
FINLAND (ÅLAND)	Yes
ITALY (5 REGIONS)	Yes: (Art. 2 Constitutional Law 1948 Special Status for Valle d'Aosta; 4 and 5 of the Consolidated Text of the Laws on the Special Status for Trentino-Alto Adige, 2001); (Art. 15 and 17 Statute of the Sicilian Region, 1946)
DENMARK (FEROE ISLANDS, GREENLAND)	Yes (sections 2 and 6, Faroe Islands Home Rule Act 1948 and chapter 2 of the Greenland Home Rule Act 2009)
FRANCE (CORSICA, OVERSEAS C.O.M.)	Yes (art. L.4424-1 et seq. of the Code Général des Collectivités Territoriales)
CAMEROON (NW, SW REGIONS)	No

6. In the functional domains of competence **on which Special Status is based and vis-à-vis the State**, is the jurisdiction of Special Status regions: primary or secondary, exclusive, or concurrent, mandatory consultation or only optional consultation?	
INDONESIA (ACEH)	Priority competence
PHILIPPINES (BANGSAMORO)	Priority competence
PORTUGAL (AZORES, MADEIRA)	Exclusive jurisdiction (s. 232(1))
FINLAND (ÅLAND)	Exclusive jurisdiction
ITALY (5 REGIONS)	Priority competence (art. 2 Constitutional Law 1948 Special Status for the Aosta Valley); exclusive (art. 14 Statute of the Sicilian Region, 1946
DENMARK (FEROE ISLANDS, GREENLAND)	Exclusive competence (section 2 - Faroe Islands Home Rule Act 1948; chapter 2 - Greenland Home Rule Act)
FRANCE (CORSICA, OVERSEAS C.O.M.)	Concurrent competence
CAMEROON (NW, SW REGIONS)	Solely consultation: which is mandatory or optional depending on the competency domain involved.

7. In the domains of competence linked to Special Status, the Region exercises **legislative powers, or capacity to adapt national laws, regulations, and administrative measures** to accommodate its specificities	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	Yes (Art. VII sect. 2 to 42 of the Organic Law for the Bangsamoro Autonomous Region, 2018)
PORTUGAL (AZORES, MADEIRA)	Yes, except for the power of adaptation
FINLAND (ÅLAND)	Yes (Art. 18 and 23 of the Act on the Autonomy of Åland), except for the power of adaptation
ITALY (5 REGIONS)	Yes (art. 3 and 4 Constitutional Law 1948 Special Status for the Aosta Valley; 4, 5, 6 and 41 of the Consolidated Text of the Laws on the Special Status for Trentino - Alto Adige, 2001; (art. 15, 17 and 20 Statute of the Sicilian Region, 1946, power of adaptation excluded for Sicily)
DENMARK (FEROE ISLANDS, GREENLAND)	Yes (section 4 of the Faroe Islands Home Rule Act 1948; section 1 of the Greenland Home Rule Act 2009), except for the power of adaptation.
FRANCE (CORSICA, OVERSEAS C.O.M.)	Yes (art. L.4422-16 of the Code Général des Collectivités Territoriales). The power of adaptation is subject to authorization by the central government (Art. 73 of the Constitution)
CAMEROON (NW, SW REGIONS)	Legislative and adaptive powers: No. Administrative powers: Yes, but limited

8. The legal instrument establishing Special Status provides for a **revenue sharing formula (taxation and expenditure) to** enable the region to discharge its (additional) obligations.	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	Yes (Art. XII of the Organic Law for the Bangsamoro Autonomous Region, 2018)
PORTUGAL (AZORES, MADEIRA)	Yes (Art. 227(1)(i) and (j))
FINLAND (ÅLAND)	Yes (Chapter 7 of the Act on the Autonomy of Åland)
ITALY (5 REGIONS)	Yes (Title III (Constitutional Law 1948 Special Status for Valle d'Aosta; Title VI of the Consolidated Text of the Laws on the Special Status for Trentino-Alto Adige, 2001; Title V Statute of the Sicilian Region, 1946))

DENMARK (FEROE ISLANDS, GREENLAND)	Greenland: Yes (Section 3 Greenland Home Rule Act 2009) Faroe Islands: not specified in the Faroe Islands Home Rule Act
FRANCE (CORSICA, OVERSEAS C.O.M.)	Yes (art. L.4425-1 et seq. L.4434-1 et seq. Code Général des Collectivités Territoriales)
CAMEROON (NW, SW REGIONS)	No

9. The Special Status region is granted prerogatives of involvement, consultation and participation in negotiations leading to **international agreements or treaties which touch on specific interests** of the Special Status region (notably the domains on which Special Status is based).	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	No
PORTUGAL (AZORES, MADEIRA)	Yes (Art. 227(1)(t) Constitution
FINLAND (ÅLAND)	Yes (Art. 58 and 59 Act on the Autonomy of Åland)
ITALY (5 REGIONS)	Yes (Art. 117 (3) Constitution)
DENMARK (FEROE ISLANDS, GREENLAND)	Yes (sections 7(2) and 8, Faroe Islands Home Rule Act 1948; chapter 4 of the Greenland Home Rule Act 2009)
FRANCE (CORSICA, OVERSEAS C.O.M.)	C.O.M: Yes (art. 4433-3-2 et seq. Code Général des Collectivités Territoriales). Corsica: Not specified
CAMEROON (NW, SW REGIONS)	No

10. What are the **prerogatives of the State and its representative in the Special Status Region**? What authority does this Representative exercise over the Region's institutions *in the domains of competence devolved to them*? Does the State have to **consult the Special Status Region to adopt laws** on matters of particular interest for the region's specificities?	
INDONESIA (ACEH)	The Governor (title of the Head of the elected Regional Executive) is also the representative of the State (art. 40). Mandatory prior consultation of the Special Status region by the State, to adopt laws for exclusive application in the Special Status region, or on matters of particular interest for the region.
PHILIPPINES (BANGSAMORO)	The President of the Republic ensures the control of the functioning of the autonomous regions (art. X section 16 of the Const.), up to the suspension of the *Chief Minister*, who is head of the regional executive (art VI section 1, Organic law for the Bangsamoro Autonomous Region, 2018)
PORTUGAL (AZORES, MADEIRA)	The State Representative signs into law instruments adopted by the Regional Assembly. He may refer them to the Constitutional Court (CC) for a review of their constitutionality (Art. 233, 278.2, Const.). If the CC does not find them unconstitutional, he may re-submit the text to the Regional Assembly for a second debate, whereupon if the text is adopted by an absolute majority, the State Representative must sign it into law. (Art. 107(2) and (3), Statute of Autonomy). Mandatory prior consultation of the Special Status region by the State to adopt laws with exclusive application in, or of particular interest to, the Special Status region.
FINLAND (ÅLAND)	Per the Act on the Autonomy of Åland, the Governor represents the State in the Special Status region, and prior to the national authorities appointing or removing the Governor, the President of the Regional Assembly (RA) is consulted (Art. 52, 54), there is a demarcation of separate legislative areas for the RA (Art. 18) and the State (Art. 27), the President of the Republic may refer a law adopted by Regional Assembly to the Supreme Court for its opinion with a view to its annulment (Art. 19). Mandatory prior consultation of the Special Status region by the State to adopt laws with exclusive application in, or of particular interest to, the Special Status region.

ITALY (5 REGIONS)	The Coordination Commission, chaired by the Representative of the Ministry of the Interior, performs the review of legality of instruments adopted by the Region (art. 46 Constitutional Law 1948 Special Status for the Aosta Valley. A Government Commissioner supervises the discharge of functions delegated to the Region (art. 87.b of the Unified Text of the Laws on the Special Status for Trentino-Alto Adige, 2001). Mandatory prior consultation by of the Special Status region by the State, to adopt laws of particular interest to the Special Status region.
DENMARK (FEROE ISLANDS, GREENLAND)	Region's right to be consulted in the adoption of any law or regulation of interest to the Faroe Islands and Greenland (section 7 of the Home Rule Act 1948; chapter 5 of the Greenland Home Rule Act 2009)
FRANCE (CORSICA, OVERSEAS C.O.M.)	The State representative "is responsible for national interests, compliance with the law and administrative control" and exercises the power of supervision (Articles L.4422-38 and L.4422-42)
CAMEROON (NW, SW REGIONS)	Powers of a supervisory authority (tutelage) and to initiate review of the legality of instruments adopted by the Region. Mandatory or optional consultation of Region on *"public policies" (not laws)* in domains of specific interest to Special Status regions

11. The **appointment of the representative of the State in the Special Status region** involves consultation with the authorities of that region, and their knowledge/expertise of the specificities underlying the special status is an essential selection criterion	
INDONESIA (ACEH)	The State does not appoint a representative; the elected Head of the Regional Executive is also the representative of the State.
PHILIPPINES (BANGSAMORO)	No.
PORTUGAL (AZORES, MADEIRA)	Appointment after consultation with the Regional Government (Art. 230(1) Constitution)
FINLAND (ÅLAND)	Per Act on the Autonomy of Åland, appointment is made with the consent of the Speaker of the Åland Parliament, or if no consensus is reached, from a list of candidates proposed by the Åland Parliament (Article 52). Knowledge of local conditions is a criterion for appointments to State offices in the Special status region. (Article 30(1))
ITALY (5 REGIONS)	No
DENMARK (FEROE ISLANDS, GREENLAND)	Not specified
FRANCE (CORSICA, OVERSEAS C.O.M.)	No
CAMEROON (NW, SW REGIONS)	No

12. To resolve disputes between the State and the Special Status region, including over conflicts of powers, a **joint mechanism** with equal representation of the State and the Special Status region is established to resolve such disputes (prior to judicial/constitutional arbitration).	
INDONESIA (ACEH)	Yes
PHILIPPINES (BANGSAMORO)	Yes (Art. VI Section 2 of the Organic Law for the Bangsamoro Autonomous Region, 2018)
PORTUGAL (AZORES, MADEIRA)	No
FINLAND (ÅLAND)	Yes, the Åland delegation is the joint mechanism (Articles 55, 56, 60, 62 - Act on the Autonomy of Åland)
ITALY (5 REGIONS)	No
DENMARK (FEROE ISLANDS, GREENLAND)	Yes: section 6 of the Faroe Islands Home Rule Act 1948; chapter 6 of the Greenland Home Rule Act 2009
FRANCE (CORSICA, OVERSEAS C.O.M.)	No
CAMEROON (NW, SW REGIONS)	No

ENDNOTES

[i] It should be recalled that the Law on the promotion of Official Languages was adopted during this same extraordinary session and promulgated on December 24, as the General Code of Regional and Local Authorities.

[ii] Council of Europe: *Positive Experiences of Autonomous Regions as a Source of Inspiration in Conflict Resolution in Europe*, 2003, last access 10 October 2021.

[iii] Lekene Donfack Etienne Charles, *L'expérience du fédéralisme camerounais : les causes et les enseignements d'un échec*, Tome 1, PhD Thesis in Public Law, 1979.

[iv] Council of Europe: *Positive Experiences of Autonomous Regions as a Source of Inspiration in Conflict Resolution in Europe,* 2003, Paragraph 21 (iii).

[v] The Portuguese Constitution endows two regions which are expressly cited, with a "specific political and administrative system", based on their "geographical, economic, social and cultural characteristics". (Article 225); whereas the Spanish Constitution sets forth the criteria and framework for accessing regional Special status, but leaves the process and timing to subsequent negotiations between the state and the region in question.

[vi] See Article 2, 1st indent of Decree No. 2020/136 of 23 March 2020 to lay down the establishment, organization, and functioning of the Committee to Follow Up the Implementation of the Recommendations of the Major National Dialogue.

[vii] Report of the Rapporteur General of the Major National Dialogue, 4/10/2019. Recommendations from Commission No. 8 on Decentralization and Local Development: "The endowment of the North-West and South-West Regions with a Special Status in conformity with Section 62 sub 2 of the Constitution which states that the law may take into consideration the specificities of certain Regions with regards to their organisation and functioning."

[viii] Remarks by the Head of State during a debate on the theme "*Rise of the South: towards a more balanced global governance system"*: "My country is complicated. We were first a German colony. After the First World War, Germany lost its colonies; they were divided between Britain and France. And my country was divided. One part was under British colonization and the other under French colonization. *The result was a juxtaposition of cultures and civilizations that made things quite tricky. Well, we have done everything to put the two languages on an equal footing, the English and French languages. But the mentalities, the school systems and the judicial system are different.* ***So, we had conflicts which we are presently trying to resolve, in order to safeguard a specific status for the part of my country that was under British colonization*** [...] *We had the possibility of integrating them [Anglophones] directly into the French-speaking system, which was that of the majority of the people: 80%. But I believe that countries [sic] are eager today to assert their identity* ***and that is why we are setting up a Special Status that recognizes the specificity of the English-speaking zone, which will however remain an integral part of Cameroon's territory****". [Our translation]*

Sources: https://www.investiraucameroun.com/economie/1311-13564-forum-de-paris-sur-la-paix-paul-biya-explique-la-crise-anglophone-en-cours-au-cameroun; https://www.prc.cm/fr/actualites/deplacements-et-visites/3927-forum-de-paris-sur-la-paix-paul-biya-plaide-pour-une-gouvernance-mondiale-plus-juste-et-plus-inclusive

[ix] Nordquist, Kjell-Åke (1998). "Autonomy as a Conflict-Solving Mechanism: An Overview", in Suksi, Markku (ed.) Autonomy: Applications and Implications, The Hague: Kluwer Law International. (59-77), 66; Council of Europe, *Positive Experiences of Autonomous Regions as a Source of Inspiration for Conflict Resolution in Europe*, Report, Doc. No. 9824, June 2003, Yash Ghai, *Autonomy as a Strategy for Diffusing Conflict*, National Research Council 2000. *International Conflict Resolution After the Cold War*. Washington, DC: The National Academies Press.

[x] An excellent description of comparative examples is in: Alfred Stepan, Juan Linz, Yogendra Yadav, *Federacy: A Formula for Democratically Managing Multinational Societies in Unitary States*, in: 'Crafting State Nations: India and other Multinational Democracies', Alfred Stepan, Juan Linz, Yogendra Yadav, the John Hopkins University Press, 2011, pp. 201-256.

[xi] See: Ronald Watts, *Asymmetric Decentralisation: Functional or Dysfunctional*, Paper presented to the International Political Science Association, Quebec, Canada, August 2000; Daniele Conversi, *Asymmetry in Quasi-federal and Unitary States*, in: Ethnopolitics, Vol. 6, No. 1, 2007, pp. 121-124; Melbourne Forum on Constitution-Building, *Asymmetric Territorial Arrangements in Decentralized Systems*, Constitution Transformation Network and International Institute for Democracy and Electoral Assistance, No. 3, October 2018; Brunetta Baldi, *Exploring Autonomism: Asymmetry and New Developments in Italian Regionalism*, [*Revista d'Estudis Autonòmics i Federals* - Journal of Self-Government REAF-JSG 32, December 2020, pp. 15-44; Francesco Palermo, *Asymmetries in the Italian regional system and their role model*, IN Federalism and Constitutional Law: The Italian Contribution to Comparative Regionalism, Arban, Martinico, Palermo (Eds), 2021, Routledge; Brunetta Baldi, *Beyond the Federal-Unitary Dichotomy*, Working Paper 99-7, University of Bologna, September 1999; Giancarlo Rolla, *The development of asymmetric regionalism and the principle of autonomy in the new constitutional systems: a comparative approach*, in: 'One Country, Two Systems, Three Legal Orders - Perspectives of Evolution', Jorge

Costa Oliveira, Paulo Cardinal (eds). Springer, Berlin, 2009, pp. 461-481; Alfred Stepan, Juan Linz, Yogendra Yadav, *Federacy: A Formula for Democratically Managing Multinational Societies in Unitary States*, in: 'Crafting State Nations: India and other Multinational Democracies', Alfred Stepan, Juan Linz, Yogendra Yadav, the John Hopkins University Press, 2011, pp. 201-256.

[xii] Heintze, Hans-Joachim (1998). "On the Legal Understanding of Autonomy", in Suksi, Markku (ed.) Autonomy: Applications and Implications, The Hague: Kluwer Law International. (7-32).

[xiii] Roger Suso. "Territorial Autonomy and Self-Determination Conflicts: Opportunity and Willingness. Cases from Bolivia, Niger, and Thailand. Institut Català Internacional per la Pau, Barcelona, April 2010, p. 11; https://www.recercat.cat/bitstream/id/22334/WP201001_ENG.pdf, last accessed 10 October 2021.

[xiv] See : Lekene Donfack Etienne Charles, *L'expérience du fédéralisme camerounais : les causes et les enseignements d'un échec*, Tome 1, Thèse pour le Doctorat d'Etat en droit public, 1979 ; Frank M. Stark, *Federalism in Cameroon : The Shadow and the Reality*, Canadian Journal of African Studies / Revue Canadienne des Études Africaines, Vol. 10, No. 3, 1976, pp. 423-442 ; Pierre Gonidec, *Les Institutions Politiques de la République Fédérale du Cameroun / The political institutions of the Federal Republic of Cameroon*, Revue Civilisations, Vol. 11, No. 4, 1961, pp. 370-400 ; Pierre Gonidec, *Les Institutions Politiques de la République Fédérale du Cameroun / The political institutions of the Federal Republic of Cameroon*, Revue Civilisations, Vol. 12, No. 1, 1962, pp. 13-26; Manassé Aboya Endong, *Le Parlementarisme sous Tutelle de l'Etat Fédéral (19611972-): une Construction Politique par le Droit de l'Etat Unitaire du Cameroun*, Revue française de droit constitutionnel, Vol. 1, No. 97, 2014, pp. 1-29.

[xv] Michael Burgess, *Comparative Federalism: Theory and practice*, Routledge Publishers, 2006.

[xvi] Alexis Heraclides, *The Ending of Unending Conflicts: Separatist Wars*, Millennium Journal of International Studies, Vol. 26, No. 3, 1997, pp 679-707; Alexis Heraclides, *Partition, Autonomy, Secession: The Three Roads of Separatism*, Cahiers d'Etudes sur la Méditerranée Orientale et le Monde Turco-Iranien, No. 34, 2002, pp 149-174.

[xvii] https://www.ombudsman.europa.eu/en/european-network-of-ombudsmen/members/regional-ombudsmen, last access on October 09, 2021.

[xviii] https://www.ombudsman.europa.eu/en/european-network-of-ombudsmen/members/all-members, last access on October 09, 2021.

[xix] This is often accompanied, as with the Catalonia region in Spain, by "armour protecting" the said competences, in order to "prevent the national legislator and the Constitutional Court from extracting one specific sub-part or another of a devolved autonomous region's domain of competence, and making it a State domain of competence". See Benjamin Pierre-Vantol, Autonomie politique et réforme statutaire en Espagne : regards sur le « blindage des compétences » autonomes dans le nouveau statut de la Catalogne, 2010/1 n° 81, pp. 67-103.

[xx] For the situation in Spain and Italy, see : Annamaria Poggi, "Les compétences administratives et réglementaires des régions italiennes". École nationale d'administration. Revue française d'administration publique 2007/1 n° 121-122, pages 99 to 110 https://www.cairn.info/revue-francaise-d-administration-publique-2007-1-page-99.htm, last access on October 10, 2021; Roland Colin, "L'Espagne des Communautés régionales autonomes". https://www.ofce.sciences-po.fr/pdf/revue/9-022.pdf, last access on October 10, 2021.

[xxi] Lotsmart N. Fonjong, *« Changing Fortunes Of Government Policies And Its Implications On The Application Of Agricultural Innovations In Cameroon »*, Nordic Journal of African Studies 13(1) : 13–29 (2004), 18. dernier accès le 1er octobre 2021.

[xxii] These plans will be developed following a specific schedule, conforming to the Methodology Guide for the preparation of regional development plans, which was validated on 1erJuly 2021 during a workshop organized by the Minister in charge of Decentralization and Local Development (MinDevel), and to be used by Regional Councils, and by the Regional Assemblies of the North-West and South-West regions.

[xxiii] See: https://constitutionaloptionsproject.org/en/what-was-objective-socio-economic-situation-nw-and-sw-regions-onset-crisis-2016

[xxiv] World Bank, *The Socio-Political Crisis in the Northwest and Southwest Regions of Cameroon: Assessing the Economic and Social Impacts*, January 2021, page 24.

[xxv] Article 39:

"(1) Local authorities shall carry out their missions in accordance with the Constitution as well as laws and regulations in force. (2) No local authority may deliberate outside its statutory meetings, or on matters outside its jurisdiction or which undermine State security, law and order, national unity or territorial integrity. (3) Where a local authority acts in violation of the provisions of sub-section (1) above, the re solution or decision impugned shall be declared null and void by order of

the representative of the State, without prejudice to the penalties provided for by the laws and regulations in force. (4) The representative of the State shall thus take appropriate interim measures.

Article 289:

"(1) Where the Regional Council sits and rules outside its legal sessions or on topics outside its jurisdiction, the representative of the State shall take all appropriate measures to immediately put an end to the meeting. (2) In this case, the Regional Council shall be prohibited from issuing statements and addresses, issuing political statements threatening territorial integrity or national unity, or communicating with one or more regional deliberative organs outside the cases provided for by the laws in force. (3) In the case provided for in sub-section 2 above, legal proceedings shall be instituted against the members of the Regional Council who _express the said wishes, addresses, statements or communications, at the behest of the representative of the State. (4) In the event of a conviction, participants in the meeting shall be expelled from the Regional Council and shall be ineligible for 5 (five) years following the conviction."

[xxvi] The RLAs now have exclusive competence over the devolved domains of competence, save for exceptional situations (emergencies or time-bound, *ad hoc* State intervention; failure to perform by the RLA (see Section 18)). This is significant progress from the system established by the 2004 Devolution laws, which set up a system of shared and concurrent jurisdiction and powers held by Regions and the State under which, in some instances, the State could assume primacy of action and jurisdiction. (Section 15 (2) of the 2004 Orientation Law on Decentralisation; Section 3 (2) of the 2004 Orientation Law on Decentralisation). Furthermore, under Section 277(5) of the 2019 GC-RLA, the Regions "shall mandatorily be consulted" on the implementation of any State development or equipment project on the region's territory.

[xxvii] Cristina Fasone, *"What Role for Regional Assemblies in Regional States? Italy, Spain and the United Kingdom in Comparative Perspective"*, Perspectives on Federalism, Vol. 4, issue 2, 2012, 171-216, 191., last accessed 05 October 2021.

[xxviii] Gérard Marcou, *"Le représentant territorial de l'Etat et le fait régional dans les Etats européens. École nationale d'administration"*, Revue française d'administration publique 2010/3 n° 135, pp. 567-582, p. 576.

[xxix] See: Laurent Bouchard, *Le préfet : Un instrument de domination devenu outil de dialogue?* Gestion et Management Public, Vol. 4, No. 2, 2015, pp. 31-44; Nicolas Kada, *Le préfet est mort, vive le préfet!* In: La décentralisation 30 après, Serges Regourd, Joseph Carles, Didier Guignard (eds.), Presses de l'université Toulouse 1 Capitole, 2013, pp. 95-105; Alistair Cole, *Prefects in Search of a Role in a Europeanised France*, Journal of Public Policy, Vol. 3, Issue 31, 2011, pp. 385-407; Joseph Jerome, *The loi Defferre: Decentralizing France Without Democratizing It;* Hélène Reigner, *The transformations of local government in France: towards a co-administration model between local authorities and state field services*, Institut d'Etudes Politiques de Rennes, Paper prepared for presentation at ECPR Joint sessions of workshops, Mannheim, 26-31 March 1999.

[xxx] Romain Pasquier, Les régions et les styles nationaux des politiques territoriales, In : La capacité politique des régions : Une comparaison France/Espagne [en ligne]. Rennes : Presses universitaires de Rennes, 2004, pp. 83-126., dernier accès le 10 octobre 2021.

[xxxi] See in this regard the following documents

1. Council of Europe, *Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe*, Report, Doc. No. 9824, June 2003,

2. Nicole Töpperwien, *Peace Mediation Essentials: Decentralization, Special Territorial Autonomy, and Peace Negotiations*, Centre for Security Studies & SwissPeace, Switzerland, November 2010.

3. Von Ruth Lapidoth, *Elements of Stable Regional Autonomy Arrangements*, Centre for Applied Policy Research Working Paper, Ludwig-Maximilians University, Munich - Germany, August 2001.

4. Bertus de Villiers, *Special regional autonomy in a unitary system - preliminary observations on the case of the Bangsamoro homeland in the Philippines*, Journal of Law and Politics in Africa, Asia and Latin America, Vol. 48, No. 2, 2015, pp. 205-226.

5. Markku Suksi, *Legal Foundations, Structures and Institutions of Autonomy in Comparative Law*, in: 'One Country, Two Systems, Three Legal Orders - Perspectives of Evolution', Jorge Costa Oliveira, Paulo Cardinal (eds), Springer, Berlin, 2009, pp. 495-519

6. André Roux and Guy Scoffoni, *Autonomie Régionale et Formes de l'Etat*, in 'Renouveau du droit constitutionnel, Mélanges en l'honneur de Louis Favoreu', Dalloz, 2007, pp. 895-913.

7. Ronald Watts, *Asymmetrical Decentralization: Functional or Dysfunctional*, Paper presented to the International Political Science Association, Quebec, Canada, August 2000.

8. Markku Suksi, *Sub-state solutions as expressions of self-determination*, Føroyskt Lógar Rit (Faroese Law Review), Vol. 3, No. 3, 2003, pp. 197-230.

9. Carlo Basta, John McGarry, Richard Simeon, *Territorial Pluralism: Managing Difference in Multinational States*, University of British Columbia Press, 2015.

10. Tove H. Malloy, Francesco Palermo, *Minority Accommodation through Territorial and Non-Territorial* Autonomy, Minorities & Non-territorial Autonomy Series, Oxford University Press, 2015.

11. Fathi Zerari, *The evaluation of territorial autonomy in French-inspired legal systems*, Les Annales de droit [online], No. 12, 2018, pp. 211-227.

12. Markku Suksi, *Territorial autonomy: The Aland Islands in comparison with other sub-state entities*, in: 'Autonomies in Europe: Solutions and Challenges', Zoltán Kántor (ed.), Editions Harmattan, 2014, pp. 37-58

13. Ali Abdurahman, Bilal Dewansyah, *Asymmetric Decentralization and Peace Building: A Comparison of Aceh and Northern Ireland*, Padjadjaran Journal of Law, Vol. 6, No. 2, August 2019, pp. 254-275.

14. Javier Gil Pérez, *Lessons of peace in Aceh: administrative decentralization and political freedom as a strategy of pacification in Aceh*, International Catalan Institute for Peace, Barcelona, 2009.

15. Juan Manuel Eguiagaray Ucelay, *Espagne : l'Etat des Autonomies*, Revue Confluences Méditerranée, Vol 1, No. 36, 2001, pp. 109-124.

16. Claude Olivesi, *Autonomies des Régions ?* in : 'Quelles Régions pour demain ?' Actes Sud (ed.), Revue La pensée de midi, Vol. 2, No. 21, 2007, pp. 5-48.

17. Giancarlo Rolla, *The development of asymmetric regionalism and the principle of autonomy in the new constitutional systems: a comparative approach*, in: 'One Country, Two Systems, Three Legal Orders - Perspectives of Evolution', Jorge Costa Oliveira, Paulo Cardinal (eds). Springer, Berlin, 2009, pp. 461-481.

18. Brunetta Baldi, *Exploring Autonomism: Asymmetry and New Developments in Italian Regionalism, [Revista d'Estudis Autonòmics i Federals* - Journal of Self-Government REAF-JSG 32, December 2020, pp. 15-44.

19. Francesco Palermo, *Asymmetries in the Italian regional system and their role model*, IN Federalism and Constitutional Law: The Italian Contribution to Comparative Regionalism, Arban, Martinico, Palermo (Eds), 2021, Routledge.

20. Estelle Brosset, *L'impossibilité pour les collectivités territoriales françaises d'exercer le pouvoir législatif à l'épreuve de la révision constitutionnelle sur l'organisation décentralisée de la République* (*The impossibility for French local authorities to exercise legislative powers in light of the constitutional reform on decentralized organization of the Republic*), Revue française de droit constitutionnel, Vol. 4, No. 60, 2004, pp. 695-739.

[xxxii] André Légaré and Markku Suksi, "Introduction: Rethinking the Forms of Autonomy at the Dawn of the 21st Century." International Journal on Minority and Group Rights, 15 (2-3): 143-155 (2008).

[xxxiii] Romain Pasquier, Les régions et les styles nationaux des politiques territoriales, In : La capacité politique des régions : Une comparaison France/Espagne [en ligne]. Rennes : Presses universitaires de Rennes, 2004, pp. 83-126., dernier accès le 10 octobre 2021.

[xxxiv] https://www.vie-publique.fr/fiches/20110-quelle-repartition-de-competences-entre-collectivites-avant-la-loi-notre, last access on October 05, 2021.

[xxxv] Gérard Marcou, *"Le représentant territorial de l'Etat et le fait régional dans les Etats européens. École nationale d'administration"*, Revue française d'administration publique 2010/3 n° 135, pp. 567-582, p. 576.

[xxxvi] The Constitutional Council also has jurisdiction to rule on the constitutionality of laws, treaties and international agreements; the standing orders (internal regulations) of the National Assembly and the Senate prior to their being adopted for conformity with the Constitution; and on the regularity of presidential and legislative elections, and referendums (Articles 47 and 48 of the Constitution).

[xxxvii] Under Article 47(2), "Matters may be referred to the Constitutional Council by the President of the Republic, the President of the National Assembly, the President of the Senate, one-third of the members of the National Assembly or one-third of the Senators. Presidents of regional executives may refer matters to the Constitutional Council whenever the interests of their Regions are at stake."