Chapter 14

The European Union and the Spanish State of the Autonomies

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Abstract

This chapter analyses the dialectics in the State of the Autonomies in connection with EU integration from four perspectives. First, it reviews the factors that have constrained or facilitated the participation of ACs in the decision-making process of the EU through the central state. Secondly, it explains the pressures behind the recent quasi-official recognition of non-Spanish languages by the European institutions. The third section refers to regional mobilisation as a response to the institutional changes at the European level and to the opportunities generated by Community policies. The last section analyses the implications of new institutional framework of Catalonia’s relations with the EU foreseen in the new statute of autonomy.

Introduction

One of the most salient impacts of European integration relates to the territorial distribution of power in compounded member states, whether they
are federal, quasi-federal, regionalized or decentralized (Loughlin 2000: 24-32). The reason is well known: EU treaties are "blind" to the internal organization of member states and, therefore they do not consider the potential division of competencies between the different levels of government (Weatherill, 2005). According to the treaties, the representation of national interests is attributed to the central governments.

Spain’s accession to the EU has caused a redistribution of the institutional resources originally allocated to the regions by the Constitution (Morata, Ramon 2005; Jauregui 2005). On the one hand, the regions or “Autonomous Communities” (ACs) have been deprived - completely or partially - of policy competencies transferred to the EU. On the other, the Spanish government, as the representative of the state’s interests in the Union’s Council participates in the adoption of decisions for which, internally, the ACs are responsible. Such a mismatch explains that, since 1986 Catalonia and the Basque Country raised the need to be involved in the EU decision-making process. However, the absence of institutional cooperation mechanisms and, especially, of a Senate capable of integrating and representing regional interests, and the lack of political will on the part of the successive Spanish governments delayed the negotiation of an effective agreement until the end of 2004.

Such a political shift results from three interrelated factors: the triumph, with no absolute majority, of the socialist party (PSOE) in the general elections; the support given to the new government by the independence-seeking party Esquerra Republicana de Catalunya (ERC); and Zapatero’s Europeanist commitment, made real by the decision to summon a referendum to ratify the project for a European Constitution. Two other indicators of the impact of Europeanization on the State of the Autonomies can be organized around the same lines: the Spanish government’s good offices in favour of the use of the national minorities’ languages in the EU; and the institutionalisation of regional participation in the EU as foreseen in
the new Catalan statute of autonomy of 2006.

The progressive evolution of the Spanish State of the Autonomies towards a more cooperative model in relation to the EU contradicts the intergovernmental assumptions according to which both the opportunities and constraints of European integration reinforce the power of the central state to the detriment of sub-national actors (Moravcsik 1994, 1998). On the contrary, it points out the interaction between European integration and the responses derived from the misfits Europeanization generates when sub-state actors have veto powers or the ability to constrain central state politics (Börzel 2002; Kassim 2005). Moreover, regional actors may use the European political opportunity structure to up-load domestic issues in search of rights they don’t enjoy at the domestic level. The empirical analysis of the Spanish case confirms these views. It sheds more light on the differentiated impact of European governance on the member states and, more specifically on the need to take into account the intergovernmental - and also the polity’s - dynamics to explain domestic responses to adaptational pressures induced by Europeanization.

The present paper analyses the dialectics in the State of the Autonomies in connection with EU integration from four perspectives. First, it reviews the factors that have constrained or facilitated the participation of ACs in the decision-making process of the EU through the central state. Secondly, it explains the pressures behind the recent quasi-official recognition of non-Spanish languages by the European institutions. The third section refers to regional mobilisation as a response to the institutional changes at the European level and to the opportunities generated by Community policies. The last section analyses the implications of new institutional framework of Catalonia’s relations with the EU foreseen in the new statute of autonomy.
1. Domestic participation in European decisions

Regional participation in the EU is one of the central issues dealt with in the literature on regionalism and European multilevel governance in Spain as well as in the other compounded member states (Nagel 2004; Jeffery 2000; Keating and Jones 1995). The Spanish case has, at least, three specific characteristics: first, the constitutional ambiguity of the state model (e.g. the unstable balance between “unity” and “autonomy”); second, the asymmetrical sharing of competencies, based on the so-called “hechos diferenciales” (differential facts); third, the electoral weight, at times determinant, of the nationalist parties in Parliament. In 1986, Spain’s accession to the European Community took place, as the institutionalisation process of the State of the Autonomies still was under way in a context of high confrontation about the sharing of competencies and financial resources. Such a situation was aggravated by the constitutional vacuum relative to the cooperation between the two levels of Government and, especially by the lack of institutional representation of the ACs in the centre (Jáuregui 2005). The result was the creation of competitive intergovernmental relations combining multilateralism with bilateralism (Börzel 2002). Multilateralism refers to the need to reach general agreements and establish organisational arrangements to cope with common issues while bilateralism results from institutional asymmetries materialised in the various autonomy statutes.

With this background, it is not surprising that the entry into Europe generated very different attitudes between the central government, with absolute majority of the PSOE (socialist party) until 1993, and the most demanding communities, like the Catalan or the Basque. Just as the main concern of the Socialists and, in general, of state elites, was to take maximum advantage of the new development opportunities, guaranteeing Spain’s credibility through compliance with Community law, the nationalist forces perceived the adhesion simultaneously as a threat and an opportunity. On the
one hand the rules of the game of the EU reduced their new competencies and, at the same time, induced an internal re-centralization process. On the other hand, belonging to the EU would have opened for their territories an unsuspected horizon of political, economic and cultural projection beyond the state. To sum up, acting as the gate-keeper of national interests in the European sphere (Hooghe, Marks 2001) the central government was mainly concerned with the respect of Community law by the ACs. In contrast, the latter intended to compensate the centralising effects of accession by claiming a direct involvement in European politics. The evolution of the respective stands over time reflects a process of mutual adjustment as a result of exogenous variables and, in particular of the incidence of the nationalist parties in the formation of the governmental majorities in the centre (Morata 2001).

1.1. 1985–1993: from conflict to pragmatism

Already in December 1985, the Spanish executive was the first to take the initiative by presenting an agreement proposal on "cooperation on issues related to the European Community" (MAP 1995). The objective was to guarantee the correct enforcement of Community law, unifying the transposition of directives, but not the participation of the ACs in the decision-making process. The document granted the sectoral Conferences -- created in 1983 as an intergovernmental coordination mechanism-- the definition of common criteria vis-à-vis the implementation and also suggested the use of bilateral mechanisms, like the mixed State-ACs committees, anticipated in most of the autonomy statutes.

The Catalan government responded with a counterproposal based on three points: the distribution of competencies had to be the only criterion in determining the implementation responsibilities for Community norms; the central Government would assume the commitment of informing about all
the European issues susceptible of affecting the autonomic competencies; the ACs would be able to formulate recommendations, binding when it was an area of their exclusive competence. The proposal included the creation of a "Delegation of the Autonomous Communities for European Affairs", composed by six representatives, three of which would belong to the historical communities. The delegates had to be a part of the Spanish Permanent Representation (REPER) "with full rights" and take part in all the committees and working groups of the Community.

The Catalan proposal provoked the immediate rejection by both the central executive and most regional governments (MAP 1995: 141). Whereas the former was against a direct participation, the latter were opposed to the recognition of any type of privilege for the historical communities.

In April 1986, the Spanish Government presented a second draft of the agreement, inspired by the German model (Nagel 2004; Engel 2001) in which it committed itself to transmit to the ACs all the documents relative to the proposals of the European Commission which could affect their competencies. On their part, the ACs could express criteria and positions that could be incorporated “as much as possible, as long as they were compatible with the general interests of the state and with the European integration process.” At the European level, the ACs would have had an observer and a joint observer - appointed by the Ministry of Foreign Affairs - in charge of sending information to the internal organ of coordination. Both observers would have been allowed to attend the meetings of the committees and working groups of the Commission and the Council of Ministers.

The proposal did not prosper due to the insistence of Catalonia and the Basque Country to have their own representative in the Spanish REPER and to grant a binding character to the regional positions. The objective to reach a general agreement seemed impossible, not only because of the discrepancies between state and regional actors, but also given the lack of a
common position of the ACs. Many lagging ACs, governed by the PSOE or the PP (Peoples’ party), did not share the ideas of the strongest ones. Others, simply, were still not sensitive to Community issues (Börzel 2002).

The question re-emerged in 1988 (Diego Casals, 1994). In view of the first EC Spanish presidency, the government proposed the creation of a "Sectoral Conference for issues related to the European Communities" (CARCE, by its acronym in Spanish), chaired by the Minister of Public Administrations and composed by the Secretaries of State for the EC and for Territorial Administrations, as well as an advisor for each AC. The initial objective of the Conference was to inform about the six-month presidency and to serve as a mechanism for the exchange of information and opinions between the two levels of Government. It was a change of strategy based on the pragmatism and the increasing preoccupation with respect to the conflicts derived from the implementation of Community law. However, the horizontal character and the lack of pre-eminence of the CARCE vis-à-vis the other sectoral conferences reduced its effectiveness (Morata 2001).

The signature of the “autonomic pact” of 1992 between the PSOE and the opposition PP, that brought the level of competences of the 10 “lagging” ACs closer to those of the other seven (Catalonia, the Basque Country, Galicia, Andalusia, Navarre, Valencia and the Canary Islands) led to the institutionalisation of the CARCE. Catalonia and the Basque Country, unsatisfied with the homogenisation of the autonomic system, did not subscribe it. The agreement stressed "the need to go deeper in the participation of the autonomous communities in European decisions" (MAP, 1995: 148), granting a superior rank to the Conference and perfecting its working methods. Nevertheless, the institutionalisation agreement from the CARCE, of which the Basque Country excluded itself, did not materialise in any specific advance with respect to autonomic participation.
1.2. 1993-1996: relative majority of the PSOE

The general elections of 1993 in which the PSOE lost the absolute majority for the first time since 1982 turned the nationalist forces and, in particular the Catalan Covergència i Unió (CiU) into the referees of the situation. It led to the adoption of a new agreement, in November of 1994, relative to the internal participation of the ACs in Community issues through the sectoral conferences. The procedure that up until now has inspired the model of internal participation (Alberti 2005) is developed as follows:

- Given a proposal of the European Commission, the ACs adopt a consensus-based position that they then transferred to the central Government through the competent sectoral conference with the objective of negotiating a common position;
- Nevertheless, the proposal is not binding for the Government, unless it deals with an issue relative to the exclusive competencies of the ACs, in which case "it is considered in a determinant way".

In other words, the regional participation has different degrees of intensity based on two criteria (Jáuregui 1995: 155): the nature of the affected competencies (exclusive, shared, concurrent) and the degree of agreement reached in each case among the ACs. The procedure was not only complex. It had also to be further adapted by each of the sectoral conferences, according to the specific distribution of the competencies and the reach of the respective Community policy. In addition, the operating system of the CARCE until now has been very heterogeneous and irregular since it does not have the organizational means nor a common criterion regarding its intervention in the European procedure (Alberti 2005: 17). In practice, the CARCE does not exercise any hierarchic or monitoring power over the rest of the sectoral conferences. It only provides “technical assistance” and the “follow up” of issues related to the EU.

Aznar’s conservative government term reproduced similar trends to those of its predecessor. The first legislature (1996–2000), in which the parliamentary support of the nationalists was essential for governmental stability, included significant changes in the participation of the ACs in the EU. However, the second, when the PP had absolute majority, ended with the paralysis of the process.

The tight electoral victory of the PP in the 1996 elections again turned the nationalists into the central axis of the policy of alliances to guarantee political stability. Although throughout the electoral campaign CiU had committed itself to never support a Government of the PP, both groups quickly subscribed to a "pact of investiture and governance." This included the improvement of the regional participation in the EU, materialised in the empowerment of the CARCE; the effective intervention of the ACs in the shaping of the European positions of the Spanish government; the presence of a regional adviser within the Spanish REPER; and the participation of regional delegates in the committees and working groups of the Commission and the Council. Given the preoccupation provoked by the negotiating power of the Catalan government, the agreements benefited the whole of the ACs and not only Catalonia, except with respect to the creation of a State-Generalitat commission on EU matters as part of the cooperation framework between both administrations. In practice, the central government assumed only a part of its commitments, vetoing the presence of regional representatives in the meetings of the Union’s Council of Ministers and in the committees and working groups of the Council.

Following the agreement, the CARCE, regulated by law since 1997, defined itself as an "organ of cooperation, consultation and deliberation" between the state and the ACs. One of its main functions consisted of articulating "mechanisms to make the participation of the autonomous
communities effective in the formation of the will of the state in the Union". The conference was organized in working groups with an issue-based variable regional composition (BE 1993). However, the CARCE continued exerting no significant influence on the other sectoral conferences (Roig 2004).

In relation to participation at the European level, initially the CARCE fixed the autonomic representation in 55 consultation committees of the near 400 that were already established by the European Commission. A further extension to a total of 95 committees was decided during the period 2002-2006. The experience of these years shows two types of problems: the difficulty to formulate a common position between the ACs due to the absence of effective mechanisms of horizontal and vertical cooperation; and the central government’s complaints about the lack of technical preparation, and even of political motivation on the part of some ACs.

As has already been said, the CiU-PP pact created the figure of the regional advisor, which was incorporated into the Spanish Representation with the purpose of transmitting information to the ACs through their offices in Brussels. However, the advisor was an official of the diplomatic corps, assigned to the Ministry of Public Administrations.

The central government’s reluctance to accept the autonomic presence in the Council of Ministers of the EU led the Congress of Deputies to approve, in March of 1998, a motion asking the government "to establish a formula allowing the presence of an AC representative in the government delegation in the meetings of the Council of Ministers of the EU in which issues that pertain to the ACs exclusive competences are discussed". The PP executive, governing with an absolute majority since 2000, never translated the motion into concrete proposals, shielding itself behind the complexity of the distribution of competencies and in the lack of agreement between the ACs. In conclusion, the period of 1996-2000 is characterized by four elements:
(1) The consolidation of the CARCE as the central axis of domestic participation. However, such participation had little effectiveness due to a host of reasons: procedural complexity, information asymmetries, the governmental monopoly of the agenda, the lack of means, the incapacity to coordinate the other sectoral conferences and the lack of motivation or the shortage of technical resources of some ACs;
(2) The creation of the regional advisor assigned to the REPER, but dependent on the central level;
(3) The increasing presence of regional representatives in the consultative committees of the European Commission;
(4) The breach, on the part of the central government, of its commitment to facilitate the incorporation of regional delegates to the Council meetings.

1.4. 2004: Zapatero’s Government

As a result of the victory of the PSOE in the March 2004 elections, since 2005 the ACs participate regularly in the meetings of the Council of the EU. Two types of reasons explain this novelty. On the one hand, the PSOE campaigned with an electoral proposal inspired in giving an impulse to the ideas of "the plural Spain" and "the return to Europe". This proposal was based on four main commitments (PSOE 2004):

- Revitalising the relations between the central state and the regional governments through the creation of a "Presidents Conference";
- Reforming the Senate in order to guarantee territorial representation;
- Ensuring the participation of the ACs in the EU;
- Convoking a referendum for the approval of the Constitutional Treaty project.
On the other hand, having no absolute majority, unlike Gonzalez and Aznar before him, Zapatero had to negotiate the required parliamentary support with a series of political parties and, especially, with the Catalan Republicans (ERC) and the coalition made of the former communists and the Greens (IU/Iniciativa per Catalunya-Verds). Both groups had among their priorities the participation of the ACs and the use of the co-official languages in the EU. From there, with all eyes set on the referendum called for February 2005, the Government quickly took the initiative. After several preparatory meetings, in December 2004, the CARCE passed two agreements that regulate both the participation of the ACs in the working groups of the Council of the Union, and their direct representation in the various configurations of the latter.

A. The autonomic representation in Council formations.

For the first time, the agreement made possible the incorporation in the state delegation of a regional minister in matters affecting regional competences. Each one of the sectoral conferences concerned chooses the representative of an AC for a six-month period, equivalent to the presidency terms of the Union. The autonomic representative works under the supervision of the head of the Spanish delegation. Finally, the autonomic participation cannot alter the unity principle of the representation and of the Spanish action in the EU (Ramon 2006).

The four selected Council configurations are the following:
- Employment, Social Policy, Health and Consumers;
- Agriculture and Fisheries;
- Environment;
- Education, Youth and Culture.
This selection, of an experimental nature, is justified because the four
Council configurations cover competences exercised by all ACs. In contrast,
other configurations, such as ECOFIN or Justice and Home Affairs, would
only affect the Basque Country and Catalonia.

B. Participation in working groups

The agreement also implies the presence of regional officials and
experts that can provide state officials with their criteria so that the Spanish
position has an adequate base. The new procedure replaces the figure of the
advisor of 1996 with two advisors designated by the ACs themselves, for a
period of three years, through a system of rotation. They are responsible vis-
à-vis the CARCE. The advisors are full members of the REPER and, thus,
of COREPER I and the CAP’s Special Committee. Their main duties
consist of transmitting all the Community information that can affect the
ACs’ competencies through their delegations or offices of representation in
Brussels and to assist, or simply replace, the autonomic representatives in
Council working groups meetings as members of the Spanish delegation.

The new system does not establish any distinction between the ACs,
although the provision to name a third advisor leaves the door open for the
aspirations of Catalonia and the Basque Country of having their own
representative, in which case it would have to be shared.

C. Evaluation of the new system

The new agreement has established and reinforced a cooperation
system which aims to make compatible two kinds of preoccupations that are
present in this debate since the beginning: the respect for regional
competencies and the adequate defence of Spanish interests before the EU.
Due to its recent implementation, it is still difficult to draw conclusions in
terms of its effectiveness. However, it is possible to formulate some remarks
on the elements of continuity and the new features of the model.

Continuity is reflected in the predominant role of the central government within the system of sectoral conferences, in the persistence of the horizontal fragmentation, and in the demand for unanimity among the ACs when formulating a joint position. In addition, the selection of the four Council configurations favours the elements of symmetry in the autonomic state. From the institutional point of view, as in the German case, the new model reinforces even further the power of the executives to the detriment of the regional parliaments that are still excluded from the process insofar as the regional minister that participates in the meetings of the Council represents all of the ACs, but is not accountable to his or her respective Parliament.

The most important new features refer to access to information and the increase in the ACs’ capacity to influence the decision-making process through the participation of regional experts in the Council’s working groups and the participation of regional ministers in the selected Council configurations. The breaking of the governmental monopoly in the representation of the state’s interests translates into a greater transparency of Spanish positions and in a greater interdependence between the two levels of Government in relation to EU issues (Ramon 2006: 29).

From the organizational point of view, it is interesting to point out the variety of representation modalities put into practice by the different sectoral conferences: semester rotation by alphabetical order or based on special interests (Agriculture); by random decision (Public Health and Consumers); based on special interests (Fisheries); rotation with "troikas" and geographic criteria (Environment); according to the economically active population (Employment and Social Affairs); or according to the total population, combined with political criteria (Education, Youth and Culture).

Finally, the new procedure is not a zero-sum game, in which the regional actors would capitalize on possible losses of the central Government. In contrast, it is a positive-sum game with several edges. For the first time,
the ACs are able to penetrate the core of the European decision-making process increasing, simultaneously, their own legitimacy and their institutional relevance at the European level. On its part, the central Government reinforces the degree of domestic cohesion before the EU, ensuring the co-responsibility of the ACs in the different phases of the negotiation process and in the final decision. At the same time it prevents potential conflicts with the regions (Ramon 2006: 34).

2. The Europeanization of national minorities’ languages

Spain did not bring out its cultural and linguistic diversity during the negotiations of the accession treaty. As a result, the recognition of national minorities’ languages by the EU has been a controversial issue since 1986. After the general elections of March 2004, Esquerra Republicana de Catalunya (ERC) bargained its parliamentary support to Zapatero's investiture in exchange for adding Catalan to the official languages listed in the EU constitutional draft (art. IV.10). The Government committed itself to do “as much as possible” to achieve such a recognition including also the Basque and the Galician languages. Nevertheless, the Spanish attempt failed since the Intergovernmental Conference was almost concluded and no member state was ready to re-open the issue.

In December 2004, shortly before the Spanish referendum on the EU Constitution, the Spanish Foreign minister delivered a memorandum to his EU colleagues seeking “official recognition in the European Union of the Spanish languages - apart from Castilian (Spanish) - that have official status in Spain”. For the first time since 1986, Spain was claiming its linguistic diversity:
“These [Catalan, Basque and Galician] are living languages in the fullest sense of the term, widely used by several million citizens (a quarter of Spaniards employ them regularly in their daily lives). They are the official languages of the Public Authorities (state, regional and local) in their dealings between themselves and with individuals, and have full legal validity and effect. They likewise are the vehicle for teaching in schools and universities in a large part of Spain. Moreover, they have a great literary tradition which in recent decades has enjoyed moments of particular splendor. Finally, they are used habitually in media such as radio, television or the written press”.

The Spanish Government stressed the argument that the EU should not ignore cultural identities in the new stage of European construction, symbolized by the Treaty establishing a Constitution for Europe.

Technical objections from some member states (France, Austria and the Netherlands) blocked the reform of the regulation. However, the official use of Spanish languages was authorized on the basis of an administrative arrangement concluded with Spain (or any other member state). Further on, the Council recognized the need “to bring the Union closer to its citizens” and to take into account “the richness of the EU linguistic diversity”. Allowing citizens the right of using additional languages in their relations with the institutions was considered as an important factor in strengthening their identification with the European Union’s political project. The agreement applies to regional languages "whose status is recognized by the Constitution of a member state on all or part of its territory or the use of which as a national language is authorized by law". It is up to member states to decide whether or not to implement the new provisions.

According to the arrangement, the Spanish government will be able to send the European Parliament and the Council a certified translation of legislative acts adopted in co-decision into the three languages although without the status of law. In addition, the Council will ensure that these
translations are published on its Internet site on the same basis. Regarding speeches to official EU meetings, Spain will be able to ask the Council, and other Institutions or bodies (EP or Committee of the Regions) “to use the three languages in speeches by one of the members of the institution or body in question at a meeting” (passive interpreting). In the case of the Council, the request will be granted, “provided it is made reasonably in advance of the meeting and the necessary staff and equipment are available”. Citizens will also be allowed to send a communication to any of the EU institutions or bodies in one of the three languages through a specific body designated by Spain. The same procedure will apply to the reply. The Council invited the other institutions to conclude administrative arrangements on the same basis. Only the request to include the national minorities in the Lingua programme was not accepted. As a result, in October 2005 the Council and the CoR became the first European institutions to apply the agreement.

The “Europeanization” of Spain's linguistic diversity promoted and funded by the Spanish Government conveys a striking paradox. The Spanish citizens who usually express themselves in Catalan, Galician or Basque enjoy in Europe rights that they do not enjoy in Spain. For instance, they cannot use their own language in written communications with the central state institutions. The only exception is the Senate, which accepts communications in those languages – which are answered only in Castilian – and speeches in one of its committees. Thus, domestic pressures have led to the Europeanization of linguistic rights that are still missing in Spain.

3. Regional mobilization at the EU level

Domestic constraints along with new opportunities provided by the EU system of governance explain regional mobilization beyond the state (Morata, 2003; Hooghe and Marks, 2001). Though the continuous expansion of EU competencies has had a negative impact on regional autonomy, it has
also increased implementation responsibilities at the regional level. In addition to promoting concepts such as partnership, policy networks and subsidiarity, the EU has provided incentives in terms of funding, rights of representation and access to policy-making. In this way, it indirectly strengthens regional legitimacy (Kohler-Koch 2002). From a bottom-up perspective, Europeanization fosters regional mobilization in search of additional resources; from a top-down perspective it provides incentives to operate at the EU level. Leaving aside participation through the Committee of the Regions, ACs’ mobilization uses three main channels: permanent offices or delegations in Brussels, coalition building and regional networks.

3.1. Regional offices in Brussels

Following the example of the German Länder, Catalonia, the Basque Country and Galicia established their own offices of representation in Brussels already in 1986. By the mid 90s all 17 ACs had established their own antenna. At present, Catalonia, the Basque Country, Andalusia and the Balearic Islands are designated as delegations of their respective Governments - although they do not enjoy any official status at the EU level - while the remaining 13 still keep the original name of “offices”. There is a variety of organizational patterns deriving from the initially informal presence of the regions in Brussels (Badiello 2004). In 1986 relations with EU institutions were still considered as “international relations” which, according to the Spanish Constitution, belonged to the exclusive competence of the central Government. The legal status for regional offices based in Brussels was established in 1994 when the Spanish constitutional Court ruled against the central Government in a dispute with the Basque Government about the setting up of a “Basque official delegation” before the European Community. However, institutionalization has not led to homogenization. For example, in 2006, a delegation of the Catalan Government, headed by the General Secretary for European Affairs, has replaced the Patronat Català Pro Europa.
The Patronat was created already in 1984 as a consortium made of public (regional and local representatives, universities) and private (unions and business associations, Chambers of Commerce, savings banks). The Basque representation is also of a strictly institutional nature while the Galician one acts through a public-private foundation. However, most of regional offices are located as regional development agencies.

Offices’ performance relies on political will, expertise, abilities and organizational resources to achieve effective administrative coordination (Marks et al, 2002). However, their effectiveness also depends on domestic intergovernmental arrangements. The creation of the autonomic adviser in 1996, the growing participation of regional experts in the consultative committees of the European Commission and, from 2004, the involvement of regional representatives in the Council workings have certainly reinforced the strategic role of regional offices as linkages between the three levels of Government. In addition to exchanging information among themselves and with the several DGs of the European Commission and the EP, the offices coordinate their home delegations at the CoR. Finally, ACs’ representations are part of a larger network made of more than 200 regional offices (Badiello 2004).

3.2. Regional coalitions

The building of European integration has led ACs to seek to strengthen their institutional position through the building of partnerships with other European regions. Historic nationalities such as Catalonia and the Basque Country have taken advantage from their influence in the Spanish arena, especially between 1993 and 2000. Some regional leaders, and especially the former Catalan president Jordi Pujol, have contributed to the rising of European regionalism, defining new strategies and building alliances aimed at enhancing the role of the regions in the EU.
During the 90s, the German, Spanish, Belgian and Italian regions were strongly supporting the “Europe of the Regions” as a strategy to get institutional recognition as the “third” level within the EU institutional system. For this purpose they initially focused on the Assembly of the European Regions (ARE), a common platform founded in 1985 and chaired by the former president of Catalonia, Jordi Pujol, from 1992 to 1996. However, this high ambition was not matched in practice: “What emerged as the institutional manifestation of the ‘third’ level was the Committee of the Regions (CoR), established at Maastricht as a mixed regional/local body to advice on EU legislative proposals. The CoR has not established itself as an authoritative voice of the regions” (Jeffery 2004: 4). Regional expectations were further frustrated by the regulation of subsidiarity in Maastricht (1992) and Amsterdam (1997). Such a disappointment explains the stronger European regions’ moves towards a new strategy based on closer institutional interests at the end of the 90s.

In September 2000, during the IGC of Nice, Catalonia and the Basque Country, along with 22 “constitutional” regions from Germany, Austria and Belgium reached a common position reflecting their concerns in connection with the ongoing treaty reform: a clear allocation of competencies, the upgrading of the CoR, a special status for the regions provided with legislative competencies, the improvement of subsidiarity, and access rights to the European Court of Justice. This proposal led to the first Conference of Presidents of Regions with legislative powers (REGLEG) that took place in Barcelona, in November 2000. REGLEG brings together 73 regions with ‘their own Government and Parliament’ in Austria, Belgium, Germany, Italy, Spain, the UK, plus island regions from Portugal and Finland. Further on, in May 2001, seven “constitutional regions” (Catalonia, Bavaria, Scotland, North Rhine-Westphalia, Salzburg, Wallonia and Flanders) put forward a common Declaration as a contribution to the debate on the “Future of Europe”. These positions along with pressures from the
Belgian regions and the German Länder on their Governments led to including an explicit reference to the role of the regions in the EU in the Laeken Declaration of December 2001 (Morata and Ramon, 2005). During the workings of the European Convention, REGLEG put forward its main concerns regarding the constitutional treaty. Those included (Jeffery, 2004):

- a clearer allocation of competencies in the EU so that the limits of European integration can be marked out and controlled more effectively by and within member states;
- a recognition of the particular status of REGLEG regions as significant law-making bodies distinct from other regional and local authorities represented in the CoR;
- the formalization of their direct right of access to the Council of Ministers in the Treaty;
- direct access to the Court of Justice in cases where it feels the principle of subsidiarity has been infringed;
- better access to the pre-legislative stage of decision-making in order to ward off the possibility of over-intrusive regulation.

Even though the Convention and the consecutive IGC did not take into account all the demands made by regional actors, the constitutional treaty incorporates some significant improvements regarding the recognition of local and regional autonomy, cultural and linguistic diversity or the principle of subsidiarity (Jeffery, 2004). The CoR also would win the right to bring actions before the European Court of Justice (ECJ) in policy fields dealing with the principle of subsidiarity.

### 3.3. Horizontal networking

The Spanish regions have contributed to the construction of wide-European organizations, such as the Association of Europe’s Regions (ARE), seeking the exchange of experiences and collective lobbying vis-à-vis the
member states and Community institutions. Since the end of the 1980s, the multi-purpose ARE has given rise to a number of functional organizations such as the Conference of Peripheral and Maritime Regions (CRPM), the Association of European Border Regions (ARFE), Mountain Regions, Working Communities or European Industrial Regions (AERI).

The INTERREG initiative and more generally, EU dynamics have led to the creation of several Euroregions at the Spanish borders: Galicia-North of Portugal; Extremadura-Alentejo-Algarve; Andalucía-Algarve; French-Spanish Basque Country; and the Euroregion Pyrenees-Mediterranean. The last one brings together three Spanish (Aragon, Catalonia, Balearic) and two French (Midi-Pyrenees and Languedoc-Roussillon) regions.

The ACs are also active members of wider multi-regional networks with general (i.e. the Atlantic Arc, from Portugal to Ireland) or single-issue purposes (the Mediterranean Technologies Arc, from Valencia to Lombardy; the South European Arc, based on transport networks). Those examples should be complemented with transregional agreements like the Four Motors for Europe, a network made of Catalonia, Baden-Württemberg, Rhône-Alps and Lombardy which seeks technology innovation and external trade cooperation.


In Spain, the statutes of autonomy are quasi-constitutional laws establishing the organization of each autonomous government, the electoral rules, the powers allocated to the region and other provisions. Whereas they follow similar patterns, the statutes may include specific provisions (e.g. protection of cultural and linguistic rights, additional competencies or particular financial arrangements with the central state) which express the asymmetrical nature of the system. Another relevant difference arises from the
procedure of approval and reform of the statutes. According to the Constitution, a regional referendum is required to adopt and amend the statutes drafted by the parliaments of the three historical nationalities, although these are negotiated with the central government and, eventually, amended by the Parliament.

When the original Catalan statute of 1979 was approved Spain did not belong to the EC. The new statute, ratified by referendum in June 2006, pays special attention to the relations with the EU, both on bilateral and multilateral basis. During the negotiation process of the statute with the central government the most controversial issues were the definition of Catalonia as “nation” and the financial arrangements. Surprisingly, the long set of provisions related to the EU remained unchanged. These address five main issues (articles 184 to 192): participation in decision-making, policy implementation, financial management, judicial review and direct representation before the EU.

As a general rule, on the basis of the Statute, the Generalitat participates in EU matters affecting “the powers or the interests of Catalonia” including EU treaty-making as well as ordinary decision-making. One the one hand, the Spanish government informs the Generalitat of initiatives for reviewing EU treaties and of the signing and ratification processes. Both the Catalan executive and the Parliament may address observations to their counterparts at the Spanish level. Furthermore, the Spanish delegations may include Catalan representatives to take part in the negotiations on matters affecting the exclusive powers of the Generalitat.

On the other hand, the Generalitat is involved in the formulation of the Spanish positions before the EU – and especially, before the Council - in matters concerning the powers or the interests of Catalonia “on bilateral basis when those affect it exclusively or through multilateral procedures with the other ACs”. The central Government is required to provide the Generalitat with complete information about initiatives put forward by the European
Commission. The Government and the Parliament of Catalonia may then address observations and proposals to the central Government and the Parliament in relation with EU initiatives. More importantly, “the positions expressed by the Generalitat are determinant for the formation of the State positions” when its exclusive powers are at stake and when the European proposals could imply “important financial or administrative burdens for Catalonia” (art. 186-3).

In line with the multilateral agreement of 2004, the Generalitat is involved in Spanish delegations to the EU that deal with affairs within its legislative powers, including the consultative committees of the Commission and the working-groups of the Council. In areas falling within its exclusive powers, the Generalitat, by means of preliminary agreement, may represent Spain and chair these bodies. In agreement with the central State, it participates also in appointing representatives to the Spanish REPER before the EU. The Catalan Parliament may establish relations with the EP in areas of common interest. It would participate also in the procedure aiming at overseeing the principles of subsidiarity and proportionality set up by the EU Constitution in relation to legislative proposals affecting the powers of the Generalitat.

Following the Spanish Constitutional Court’s rulings, the Statute emphasises that European regulations do not modify the internal distribution of powers established by the Constitution and the Statute itself. As regards the implementation process, the Generalitat enforces and implements the law of the EU within its own jurisdiction. Whenever the implementation of EU law would require the adoption of domestic measures beyond the Catalan jurisdiction that the ACs are unable to adopt by means of collaboration or coordination mechanisms, the central government shall consult the Generalitat before adopting them. The Generalitat participates in the governmental bodies responsible for it or - should this participation not be possible - issues a preliminary report to the Spanish government. In the event
that the European legislation replaces the state’s framework regulations, the Generalitat may adopt its own legislation based on the European rules.

According to the statute, the regional administration is responsible for the management of European funds in matters within its jurisdiction.

In addition, the new statute institutionalises the right of access to the European Court of Justice, a long-standing claim of the ACs. The Catalan government may demand that the central government bring actions before the Court in defence of its interests and powers. The refusal to bring the requested actions must be justified, and immediately communicated to the Generalitat.

Finally, the Generalitat may establish a delegation to better defend its interests before the EU institutions. As already said, the delegation was set up officially in September 2006.

To sum up, the Catalan Statute designs a new co-operation framework for relations with the EU. While giving quasi-constitutional status to the multilateral arrangement on regional participation, it establishes additional rights of representation for Catalonia through the central state in the various phases of treaty making, policy formulation, policy-making, implementation and judicial review. It allows likewise for direct representation at the EU level. Worth noting is also the fact that the Statute enhances the role of the regional parliament in EU matters counterbalancing the traditional predominance of the executive. Considering the institutional isomorphism that impregnates the State of the Autonomies, the Catalan approach to the EU has had a direct influence on the drafters of the new Andalusian Statute of 2007 and of the various statutes undergoing revision. The challenge now is to adapt both regional and central organizational structures and practices to the new legal framework.
Conclusions

This paper has addressed some of the issues raised by the Europeanization of the Spanish State of the Autonomies including its impacts at the EU level. The empirical analysis shows that the internal institutional and political contexts shape domestic responses to Europeanization. For almost twenty years, intergovernmental disagreements, the exclusion of the regions from general decision-making and centralist attitudes have slowed down the adoption of arrangements aimed at counteracting the domestic centralisation of competencies derived from European integration. The gradual advances achieved have not been brought about as a consequence of a shared vision of the Spanish polity and its projection in Europe, but rather as a function of the occasional veto power of nationalist parties in the Parliament. Only recently, electoral politics once again, but also Zapatero’s government openness towards adapting the State of the Autonomies to the EU have determined the shifting towards a cooperative agreement providing for regional participation through the state channels. Given the domestic shortcomings and the asymmetrical character of Spanish regionalism, the most active ACs have taken the initiative of ‘by-passing’ the state barriers, acting as political entrepreneurs and developing their own strategies in the European arena. The regional offices in Brussels have facilitated informal direct contacts with EU institutions, and in particular with the European Commission. Moreover, the multilevel governance approach promoted by the EU has given the regions the opportunity to become political actors in the European arena through the creation of transnational and cross-border networks of cooperation, the exchange of experiences and the transfer of new policy concepts and practices. Moreover, the ACs have sought to defend their institutional interests during the processes of treaty reform joining efforts with other European regions and to lesser extent through the CoR. However, the effective impact of such strategy has been very limited up till now.
Successive treaty reforms and the (not yet ratified) European Constitutional Treaty confirm that the central state continues to represent the main channel of access by the regions to the EU (Jeffery 2000; Borzel 2002). Hence the importance of the intergovernmental agreement reached at the end of 2004 which widens regional participation in four formations of the Council of the EU and in their corresponding working groups. The arrangement represents a qualitative leap forward influenced, undoubtedly, by electoral considerations, but also by a new cooperative policy-style within the State of the Autonomies (e.g. the creation of a “Conference of the Presidents”). It is a positive-sum game insofar it meets some of the strongest regions’ expectations for playing a major role in the supranational arena where sub-national concerns might gain greater influence. At the same, while breaking of the governmental monopoly in the representation of the state’s interests, it increases domestic interdependence and transparency in the formulation of Spanish preferences. Furthermore, by involving the ACs the central government prevents potential domestic conflicts over European issues. Both levels of government will share responsibilities in the different phases of the negotiation process and in the final decision. The new climate of understanding has even produced a paradoxical situation: the recognition at the European level of the linguistic diversity of Spain, although not yet at the Spanish level.

However, the Spanish case indicates also that institutional adaptation to the EU relies on constraints/opportunities arising from adjustments of the asymmetrical territorial state that lead to a redistribution of power. The new statute of Catalonia includes a large set of provisions dealing with the EU that challenge the multilateral agreement of 2004. In practice, it designs a joint-decision system in all phases of the policy process, leaving considerable scope for direct action at the EU level. This form of bottom-up Europeanization adds pressure to achieve further domestic adaptation considering, in particular, its immediate appeal to other regions.
Notes

1 An earlier version of this paper was published in Zeitschrift für Staats- und Europawissenschaften, 4 (March 2007). I wish to thank Simon Bulmer and Kenneth Hanf for their critical comments and suggestions to the present draft.

2 In fact, the Generalitat of Catalonia and the Basque Government inaugurated their representation offices in Brussels already in 1986.

3 Sectoral conferences are a vertical mechanism of administrative co-ordination imported from the German federalism. They carry out information and consultation tasks between national, regional ministers and high officials in 25 policy sectors.

4 “Project of Agreement between the Government of the Nation and the Autonomous Communities on their Cooperation in the Issues related to the European Communities” (MAP, 1995).

5 In 1989, the Minister of Public Administration (MAP) referred to "the conflict of competences derived from the application of the European legislation as one of the fundamental problems pending solution between the ACs and the central state with respect to European decisions" (MAP, 1995: 146).

6 The reason behind this action was the refusal of the central Government to accept the constitution of a bilateral cooperation committee for issues related to the EC, through which the Basque Government attempted to confront the questions related to its fiscal autonomy and the autonomic police in the European arena. The Basque Country ended up ratifying the CARCE Agreement in November of 1995 in exchange for the creation of the bilateral body (Vid. Jáuregui 2005: note 3).

7 Worth noting is to remember the commitment of the then president of the Generalitat, Jordi Pujol, to maintain the support of CiU for the Socialist government until the end of the Spanish presidency of the EU during the second semester of 1995.

8 According to Alberti (2005, note 10), until 2004, only 3 out of the 25 conferences had developed the framework procedure: Agriculture and Rural Development, Sea Fishing and the Inter-Territorial Council of the National Health System.


11 This figure is clearly inspired in the German model of the Länder Beobachter (The Länder Observer).
As a confirmation of this trend, between 1992 and 2002, the CARCE only met 36 times. In 2002, 4 meetings were held as opposed to the 11 of the Consultative Council of Agricultural Policy for Community Affairs (Vid. MAP, 2003, Conferencias Sectoriales, Informe Annual 2002).

However, some authors refer to the committees of the committology system and not to the preparation phase of European norms (Vid., for example, Alberti 2005).

In the first meeting of the (state-ACs) Presidents Conference, in October 2004, President Rodriguez Zapatero formally committed himself to submit a proposal before the year’s end.

BOE 64, 16-3-2005.

In 2005 6 regional ministers participated in the Council meetings: Andalusia (3 times), Aragon (1 time), Asturias (1 time), Castile and Leon (2 times), Catalonia (3 times), Galicia (1 time). During the first semester of 2006, another 5 have been incorporated: Madrid (6 times), Extremadura (1 time), Cantabria (2 times), the Canary Islands (1) and Murcia (1).

By the end of 2006, regional experts had participated in more than 70 meetings of the Council’s working groups, together with the technical representative of the corresponding Ministry (web MAP).

During 2005-2007, the advisors belong to Andalusia (governed by the PSOE) and Galicia (governed by the PP until June 2005 and, thereafter by the a socialist-left nationalist coalition .

The evaluation of the new model formulated by the Department of Agriculture of the Generalitat is significant in the sense that “it will reinforce the cohesion of the Spanish agrarian policy and the negotiating power of the Spanish Minister vis-à-vis his or her peers”. (DARP/Info 1/3/2005, cited by Ramon, 2005:35).

The Government also delivered to the Secretary-General of the Council the official translations of the Treaty into the three language versions made available by the Autonomous Communities concerned (the Basque Country, Galicia and the Valencian Community and Catalonia – the latter also on behalf of the Balearic Islands).

The Spanish government 1’5 millions of Euros per year

Vid. Resolution of the 3rd REGLEG Conference (http://ue.eu.int/newsroom/NewMain.asp?)

However, the potential participation of the regional parliaments in the subsidiarity procedure would depend on domestic arrangements.

http://www.euroregio-epm.org/qu_presentacion.html#objetivos

The other statutes require a qualified-majority vote in the Spanish Parliament on the basis of a proposal put forward by each regional assembly.
References


