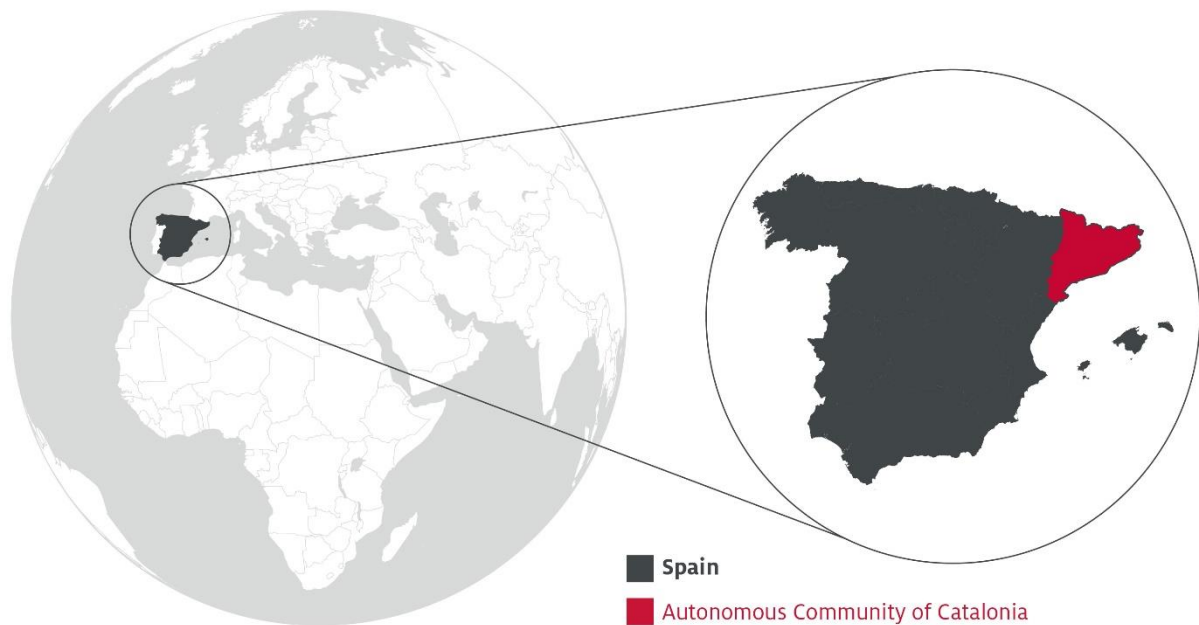




## Catalan Self-Government: From Autonomy to Self-Determination?

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## 1. Essential Facts and Figures

Catalonia is situated on the eastern Mediterranean coast of the Iberian Peninsula. It covers a land area of 32,106 km<sup>2</sup> (making it slightly bigger than Belgium) and has a population of 7,716,760 (slightly less than Switzerland). Catalonia is currently an Autonomous Community (AC) of Spain that covers 6.3% of the state's territory and is home to 16.2% of the total population. Catalan political reality is organized through its own party-system and the democratic will of preserving its own self-ruling institutions, which are known as *Generalitat de Catalunya*. The 2006 Statute of Autonomy of Catalonia (SAC)<sup>1</sup> states in its Preamble:

In reflection of the feelings and the wishes of the citizens of Catalonia, the Parliament of Catalonia has defined Catalonia as a nation by an ample majority. The Spanish Constitution, in its second Article, recognises the national reality of Catalonia as a nationality.

Economically Catalonia contributes 19% of the total Spanish GDP, in 2020 the Catalan GDP amounted to 224.125 billion EUR. It is an economically strong region since the GDP per capita is 17.8% (National Statistics Institute 2020a) higher than the Spanish average. The main economic sectors are services (73.9%), of which 24.8% (18.4% of the total) in the public sector, industry (19.9%) and real estate activities (5.11%). The unemployment rate in 2021 was 10.92% pointing to a very moderate recovery from the COVID crisis that had left unemployment at around 11.9% in 2020.

Catalan society is diverse in terms of the languages, identities and origins of its population. Thanks to its geographical location and its economic position as a relatively industrialized and rich region, it has attracted immigration from many different parts of the world. Initially most immigration was from other parts of Spain, but more recently, Catalonia has received immigrants from other EU countries and the rest of the world.

Catalonia's first wave of immigration occurred during the second half of the 20<sup>th</sup> century when people arrived from rural areas of Spain. Between 1950 and 1980 1.5 million people immigrated into Catalonia.<sup>2</sup> This influx of new population increased the country's demographic weight and was fueled by the demand for labor in the industrial and services sectors. More recently, there has been a second wave of immigration from Latin America and Africa, and to a lesser extent from Eastern

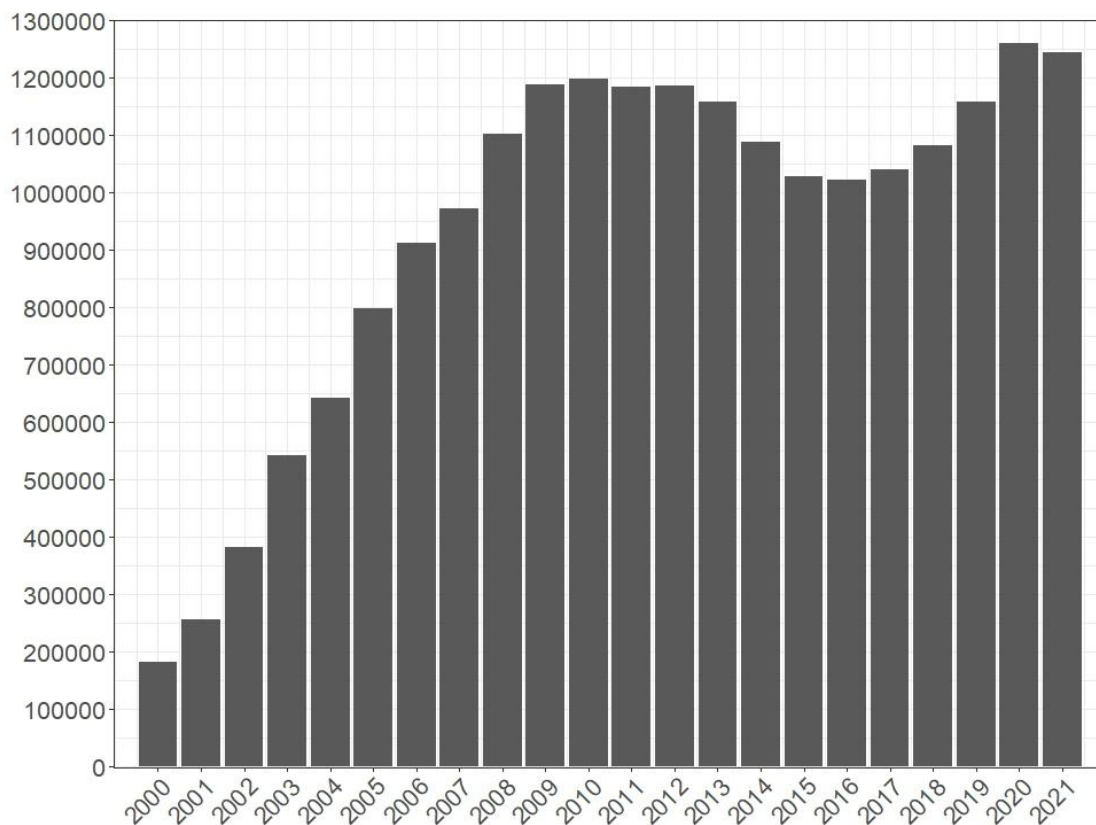
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<sup>1</sup> The English translation of the 2006 Statute of Autonomy of Catalonia (SAC) is available online at <https://web.gencat.cat/en/generalitat/estatut/estatut2006/> (accessed December 20, 2021).

<sup>2</sup> Around half of these internal migrants came from Andalusia. The rest came from other Spanish regions such as Aragon, Extremadura, Castile, Valencia, Murcia and Galicia.

Europe. This trend began to level off in 2009 with the onset of the economic crisis (see Figure 1) recovering only in 2020. At the beginning of 2021 there were 1,245,038 foreign nationals living in Catalonia, making up 16.1% of its total population (Statistical Institute of Catalonia 2021a). Around 36.1% of Catalonia's population was born outside of Catalonia, either in the rest of Spain or another country (Statistical Institute of Catalonia 2021b).

**Figure 1. Evolution of foreign population in Catalonia (2000–2021)**



Source: Statistical Institute of Catalonia (2021)

Catalonia's waves of immigration have shaped its linguistic situation. The official languages are Catalan, Spanish and Occitan. Speakers of Occitan are concentrated in the Aran Valley located in the Pyrenees Mountains, in the northwestern part of Catalonia. According to the Statistical Institute of Catalonia (2018), Spanish is the first language of 52.7% of Catalans, 48.6% use it as their normal means of communication and 46.6% identify with it. Catalan is the first language of 31.5% of the population, 36.1% use it as their normal means of communication and 36.3% identify with it. As regards to Occitan, there are around 5,000 speakers of this language in Aran. Furthermore, immigration has brought several new spoken languages to Catalonia besides Spanish (see Table 1).

**Table 1. Spoken languages in Catalonia (2018)**

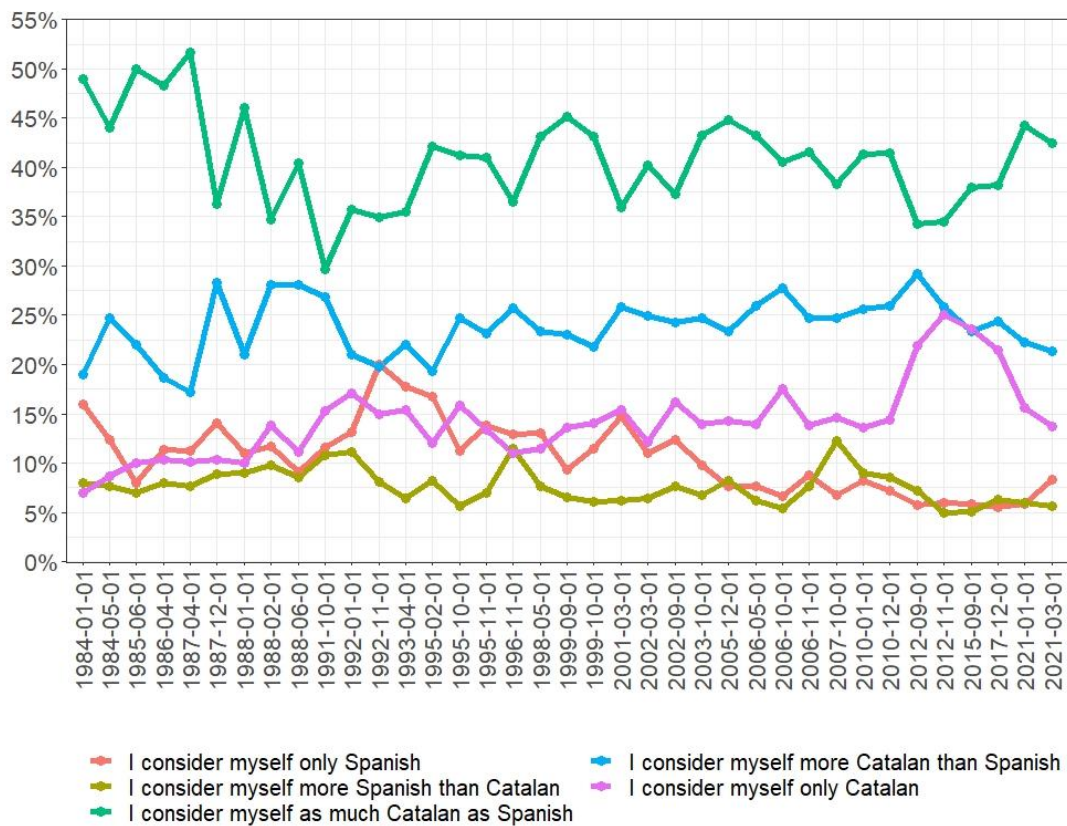
| Language            | (% of Catalonia's population that... |                               |                               |
|---------------------|--------------------------------------|-------------------------------|-------------------------------|
|                     | uses this language as...             |                               | identifies with this language |
|                     | first language                       | normal means of communication |                               |
| Catalan             | 31,5                                 | 36,1                          | 36,3                          |
| Spanish             | 52,7                                 | 48,6                          | 46,6                          |
| Catalan and Spanish | 2,8                                  | 7,4                           | 6,9                           |
| Occitan (Aran)      | 0                                    | 0                             | 0                             |
| Arabic              | 2,2                                  | 0,9                           | 1,8                           |
| Romanian            | 1,1                                  | 0,4                           | 0,9                           |
| Galician            | 0,8                                  | -                             | 0,2                           |
| French              | 0,6                                  | 0,2                           | 0,4                           |
| Portuguese          | 0,5                                  | -                             | 0,4                           |
| Amazigh             | 0,5                                  | 0,3                           | 0,4                           |
| Russian             | 0,5                                  | -                             | 0,4                           |
| Italian             | 0,4                                  | -                             | 0,3                           |
| English             | 0,4                                  | 0,4                           | 0,5                           |
| Chinese             | 0,4                                  | 0,3                           | 0,3                           |
| German              | 0,3                                  | -                             | 0,2                           |
| Other               | 3,1                                  | 1,7                           | 2,4                           |
| Other mixed         | 0,9                                  | 3                             | 1,5                           |
| Not reported        | 1,4                                  | 0,6                           | 0,5                           |
| <b>Total</b>        | <b>100</b>                           | <b>100</b>                    | <b>100</b>                    |

Source: Statistical Institute of Catalonia (2018)

Catalonia is also diverse in terms of national identities. Multiple identities are the norm in a society with at least two national allegiances; feeling both Catalan and Spanish remains the most commonly reported self-identity for Catalans. However, in recent years, we have observed certain changes, especially in the number of Catalans who report feeling exclusively Catalan, due to the political context. In 2021, slightly more than 10% of Catalans felt *only Spanish* or *more Spanish than Catalan*, around 43% felt *both Catalan and Spanish*, around 21% felt *more Catalan than Spanish* and more than 13% felt *only Catalan* (Center for Sociological Research 2021; see Figure 2). These numbers mean a slow return to the numbers observed before 2013, after the abrupt increase in the percentage of citizens clearly opting for a Catalan identity.

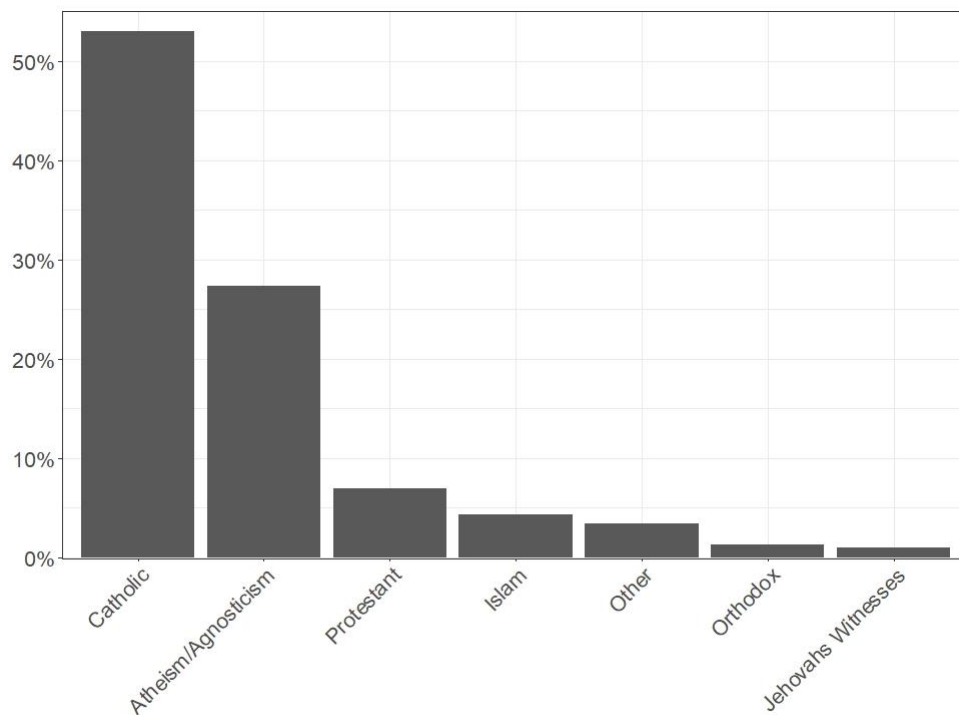
Finally, in terms of religion, formally Catalonia is a secular society, despite the clear majority of Catalans that identify as Catholics (53% identify as such, while 27.4% of Catalans consider themselves non-religious). Furthermore, in recent decades it has seen increasing religious diversity. According to official data (see Figure 3), the religion with which most Catalans identify is Catholicism (53%), followed by Islam (4.3%), Protestantism (7%), Orthodox Christianity (1.3%) and Jehovah's Witnesses (1%).

**Figure 2. National identities in Catalonia (1984–2021)**



Source: Center for Sociological Research

**Figure 3. Religious identification whether practicing or not (% of population, 2014)**



Source: Government of Catalonia (2020)



## 2. Autonomy and State Structure

Catalonia's institution of self-government is the *Generalitat*, which is embedded within the Spanish territorial model as an autonomous community (AC). This territorial model is not formally designated in the Spanish Constitution (SC) of 1978 but it is informally called the *Estado de las Autonomías* (State of Autonomies). The *Estado de las Autonomías* currently consists of 17 ACs and two autonomous cities in Northern Africa, namely Ceuta and Melilla. All the autonomous institutions have territorial powers that define a mostly symmetrical model. The basic law of an AC is its Statute of Autonomy. The procedure for approval and amendment of most Statutes of Autonomy consists in two steps. First, they are passed by the ACs' legislatures. Second, the Statutes of Autonomy and their amendments must also be debated in and passed by the Spanish parliament. Therefore, the Statutes of Autonomy have a dual nature: they are ACs' basic laws as well as organic laws of Spain. The Catalan, Basque, Galician and Andalusian Statutes of Autonomy provide for a third procedural step for approval and reform. Once passed by the legislatures of these ACs and the Spanish parliament, these four Statutes and their amendments must be ratified in a referendum to be held in the territory where the respective Statute should apply.

**Map. 1. Spain's autonomous communities**





Despite the constitutional distinction between *regions* and *nationalities* (Article 2 SC), the most notable asymmetry between ACs in terms of self-rule are the special fiscal powers granted to the Basque Country and Navarre to preserve historical rights known as *fueros* that date back to the Middle Ages.<sup>3</sup> The distinction between the two types of regions established in the Constitution has ended up being only limited to a slightly different degree of powers. There are a number of regions with two official languages. Spanish is the sole official statewide language. Catalan is official in Catalonia, the Balearic Islands and the Valencian Community; Basque in Navarre and the Basque Country; and Galician in Galicia.

There is no consensus as to the nature of the Spanish territorial model in the literature on regionalism and federalism, as the *Estado de las Autonomías* has both federal and unitary characteristics.<sup>4</sup> On the one hand, there are two levels of government, with regional governments and parliaments, regional competences and taxes, a territorial upper chamber (the Senate) and intergovernmental relations (IGR). On the other hand, regional powers are not constituent powers but rather the product of decentralization (they do not appear in the Constitution as such), the Senate is a territorial chamber actually representing statewide party lines on the basis of provinces (not ACs), power distribution is biased towards central powers and regions do not have fiscal autonomy.

In terms of its definition as a nation, the Kingdom of Spain is formally established as a uni-national state and does not recognize the existence of other nations but only of *nationalities*.<sup>5</sup> The term *nationality* is not defined in the constitutional text and it is not made explicit which specific regions are classed as nationalities, although politically these are considered to be Galicia, the Basque Country and Catalonia. Moreover, the Spanish Constitutional Court has denied the right of regions to include any *national definition* in their Statute of Autonomy that may have legal and political consequences.<sup>6</sup>

### 3. Establishment and Implementation of Autonomy

Catalonia recovered its political autonomy during Spain's period of transition to democracy in 1977. However, Catalonia's institutions and constitutions date back to the Middle Ages. In 1137, the County of Barcelona and the Kingdom of Aragon were unified under a single dynasty to create the Crown of Aragon. The Crown of Aragon and Catalonia kept their own differentiated legal and

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<sup>3</sup> For an analysis of asymmetries in the Spanish territorial, see Bossacoma and Sanjaume-Calvet (2019).

<sup>4</sup> For details, see Aja (2003); Requejo (2005); Burgess and Gagnon (2010); Burgess (2006); Elazar (1987); Grau Creus (2000); Poirier, Saunders and Kincaid (2015); Moreno (2010); Watts (1996).

<sup>5</sup> Article 2 SC.

<sup>6</sup> Constitutional Court of Spain, Judgment no. 31/2010 of 28 June 2010.

political traditions. The first Catalan Constitutions date back to 1283 and were promulgated by the Catalan Courts of Barcelona. The Catalan Courts date back to the 11<sup>th</sup> century and are comparable to the parliamentary traditions of England and other European countries. Another important ancient precedent of such assemblies was the Peace and Truce of God movement, such as the truce declared by an ecclesiastical council in Toulouges (then Northern Catalonia, currently Southern France) to limit feudal violence.

The first *Generalitat* was established in 1359 within the Crown of Aragon as the administrative and governing body of the Principality of Catalonia, and its first president was Berenguer de Cruïlles, appointed during the Cervera Courts in 1359. In 1469 the royal houses of Aragon and Castile united through the marriage of King Ferdinand II of Aragon (known as Ferdinand the Catholic) and Queen Isabella I of Castile, and the Crown of Spain was formed. The Crown of Spain exercised its power through diverse territorial institutions, although the *Generalitat* continued to be the main administrative body in Catalonia. The year 1714 saw the final victory in the War of the Spanish Succession between Philip V of Bourbon and the pretender to the throne, Charles VI of Austria. Catalonia supported the latter and the Bourbonic victory resulted in the centralization of the Crown of Spain, the elimination of Catalan institutions and the suppression of Catalan as an official language.

During its centuries of existence as a regional entity, the Principality of Catalonia forged a cultural and political relationship with several territories known historically as the *Catalan Countries* that nowadays share its language and cultural background:

- the Valencian Country (the Valencian autonomous community (AC));
- the islands of Mallorca, Menorca and Ibiza (the Balearic Islands AC);
- the region of *La Franja* (constituted by the Catalan-speaking villages within Aragon AC); Andorra;
- Northern Catalonia (the areas of Roussillon, Vallespir, Conflent, Capcir, Upper Cerdanya and Fenolleda in France);
- the city of Alghero in Sardinia (Italy).

In all these regions, except the French ones, Catalan (also called Valencian in Valencia) is an official language or has a certain degree of recognition.<sup>7</sup>

After 1714, Catalonia had brief periods of political autonomy at the beginning of the 20<sup>th</sup> century (1914–1923) and during the 2<sup>nd</sup> Spanish Republic (1931–1939). After the victory of General Franco in the Spanish Civil War, the Catalan president Lluís Companys, exiled in France, was arrested by the Gestapo and executed by Franco's regime in Barcelona in 1940. As well as losing its political

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<sup>7</sup> France has repeatedly refused to sign the European Charter for Regional or Minority Languages.

autonomy, Catalonia saw its language and culture targeted as part of a brutal political repression. During the dictatorship, self-government was one of the key demands of the Catalan democratic opposition, both in exile and among clandestine organizations within Catalonia that fought for democratization and cultural recognition (Guibernau 2004; McRoberts 2022).

In 1977, Adolfo Suarez and Josep Tarradellas agreed the reestablishment of the *Generalitat*. The former was the first democratically elected Spanish prime minister, and the latter was the Catalan president in exile. Tarradellas had gone into exile in France in February 1939 after Franco's victory in the Civil War. He had been the president of Catalonia in exile since 1954 when he was elected in Mexico from among the community of exiled Catalan deputies (McRoberts 2022).

The 1978 Spanish Constitution (SC) paved the way not only to democracy but also to regional autonomy in Spain. Nonetheless, the territorial model set out in the Constitution was far from clear (Cruz Villalón 2006). This unclear, or even misleading, design was the result of political bargaining; the Francoist establishment forces (the army, the Catholic Church, high civil servants, politicians) had to negotiate with the democratic opposition, which included the statewide and national minority parties. During these constitutional debates, the Catalan national minority pushed for autonomy and decentralization.

The SC established the rules for implementing regional autonomies with the so-called *principio dispositivo* (principle of the initiative of the parties), which established that the decentralization process should not be driven by the institutions of the center, but through the will of the different regions. In other words, the *principio dispositivo* was aimed at establishing a bottom-up process based upon regional demands that should occur through a process in which the regions (most of which did not yet exist) would themselves demand autonomy through the transfer of powers. However, spreading decentralization to the whole country (that is, the creation of the non-historical autonomous communities (ACs) and the generalization of self-government to territories other than the Basque, Catalan and Galician regions) was not a bottom-up process. Rather, it was a top-down process derived from the political agreements reached by the statewide political elites and spurred by central government institutions.

The 1980s and 1990s saw the implementation of a very dynamic (and somewhat chaotic) decentralization process that began with the approval of the Statutes of Autonomy of the different ACs, most of them in the early 1980s. Later on, statewide parties<sup>8</sup> agreed on *harmonization* and *symmetry* policies (in the autonomy agreements of 1981 and 1992) in order to achieve a similar degree of regional powers across all of Spain's ACs, since the entire Spanish territory had finally been regionalized on the basis of provinces (some ACs became uni-provincial and others multi-

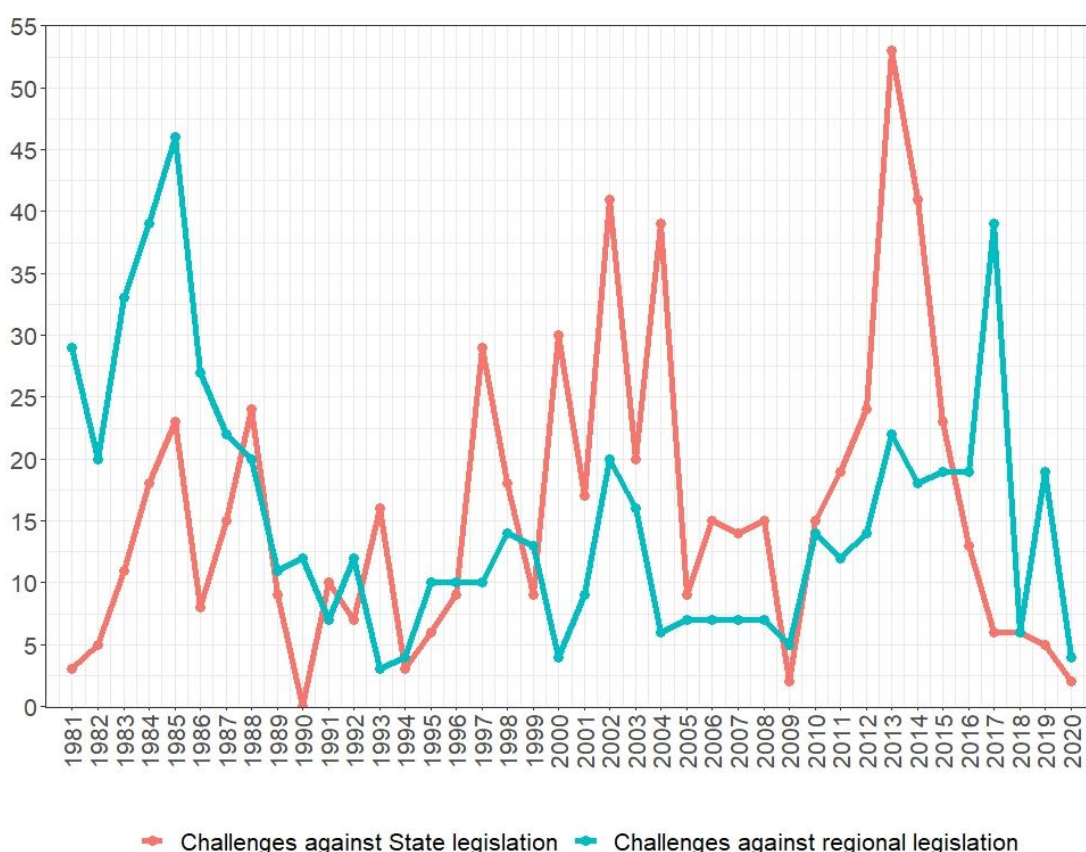
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<sup>8</sup> Union of the Democratic Centre, Spanish Socialist Workers Party, People's Alliance, Popular Party.

provincial). In practice, as mentioned above, decentralization became a top-down process rather than a bottom-up one. In fact, the territorial model has never been considered as *closed*. Powers have been transferred to regions up until 2021 (see Figure 5 in section 4).

Since 2000, several Statutes of Autonomy have been reformed, including the Statute of Autonomy of Catalonia (SAC). The SAC reform was initiated in 2004 with the aim of increasing and redefining the autonomous powers (Orte and Wilson 2009). The implementation of autonomy has led to a significant number of constitutional conflicts over the decades. Although Article 148 SC establishes the general matters that could be transferred to the regions, the central government has actually established limits to the margin of action of the ACs. It did so by means of its framework and transversal legislative powers defined in Article 149 SC, which have been systematically used to legislate and execute on matters falling under the devolved powers (Argullol and Velasco Rico 2011). The implementation of autonomy cannot be understood without considering the intensive, highly relevant role of the Constitutional Court, which faced several conflicts and challenges of both regional and state laws throughout the entire democratic period (see Figure 4).

**Figure 4. Challenges brought before the Spanish Constitutional Court (1981–2020)**

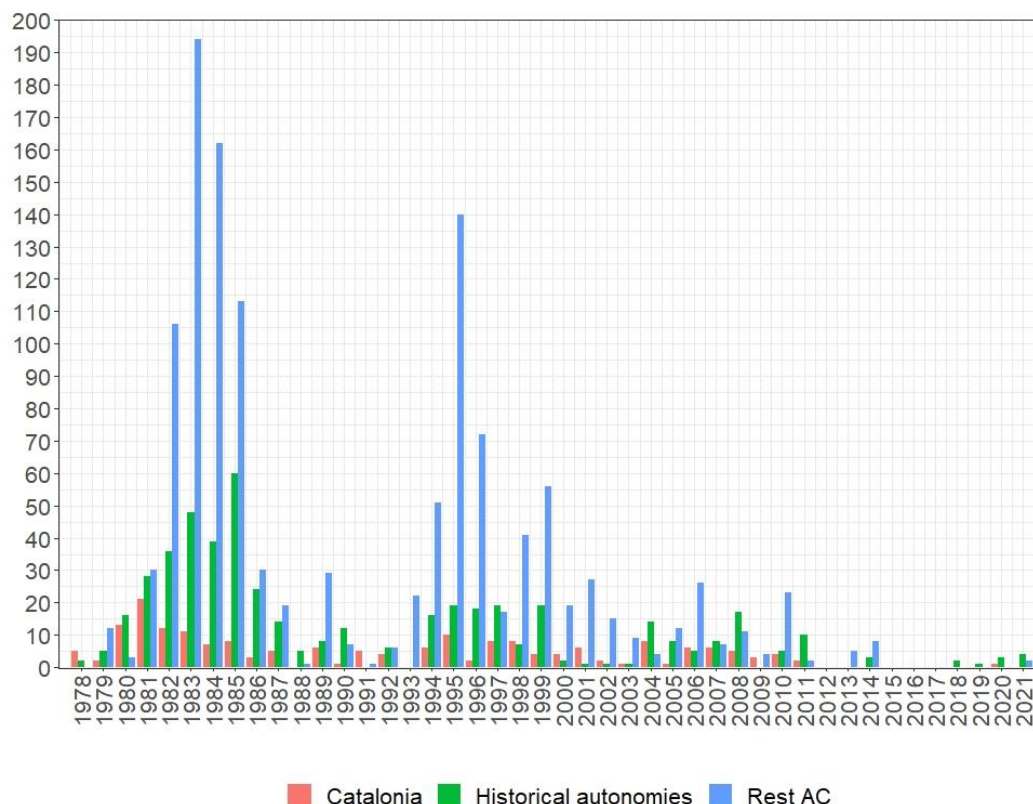


Source: Official State Gazette and Constitutional Court annual reports (adapted by the authors)

## 4. Legal Basis of Autonomy

The legal basis of autonomy in Spain is set out in Section VIII of the 1978 Spanish Constitution (SC). Article 137 of this section defines the state as being organized into autonomous communities, provinces and municipalities. Chapter III of this section defines the formation of the autonomous communities as the result of efforts by existing provinces to exercise the right to autonomy envisaged in Article 2 SC. As mentioned above, the constitutional text distinguishes between powers belonging to the state, listed in Article 149 SC, and powers that can be devolved to the autonomous communities (ACs), listed in Article 148 SC. However, the Constitution lacks some elements that we usually observe in federal constitutional texts. The SC does not name the ACs as most of them did not exist in 1978. It does not list the specific powers of the ACs (but those that can be transferred to them). Moreover, it does not deal with the financial system of the ACs, or their administrative and political nature (see the cross-time evolution of power transfers in Figure 5). All these crucial matters for developing the territorial model are set out in the various Statutes of Autonomy and some statewide laws such as the organic law on the ACs' funding.<sup>9</sup>

**Figure 5. Transfer of powers from central government to regions (1978–2021)**



Source: Spanish Government, Secretary of State for Public Administrations (adapted by the authors)

<sup>9</sup> Organic Law no 8/1980 of 22 September 1980 on the Financing of the Autonomous Communities (with subsequent amendments).

The Statutes of Autonomy are the supreme regional laws that establish the functioning of autonomy at the regional level. First, they are passed by the regional legislatures, and then by the Spanish parliament; they have, therefore, a double legislative legitimacy. In some cases, the approval and reform of Statutes require ratification through regional referendums (see section 2 of this paper; Argullol and Velasco Rico 2011).

In 1979, the Statute of Autonomy of Catalonia (SAC) was approved. It was drafted by 20 members of the two chambers of the Spanish parliament—the Congress of Deputies (*Congreso de los Diputados*) and the Senate (*Senado*)—who had been elected in the first democratic elections (1977) in the four Catalan constituencies. The draft Statute was passed by the provisional Catalan assembly in December 1978 and then was submitted to the Spanish parliament. It was finally approved in a referendum in Catalonia (see Table 2). The text is known as the *Sau Statute* because the first meetings of the drafting committee took place in Vilanova de Sau. This document established the institutional organization and functions of the *Generalitat* (i.e., the Catalan self-government institutions), its powers and institutional relationship with the central government. The text defined Catalonia as a *nationality* exercising the right to autonomy, and it also recognized Catalan as the language of Catalonia (the co-official language together with Spanish; see section 1 of this paper). The implementation of the *Generalitat*'s powers would take almost two decades since the starting point was a totally centralized state with very weak local and provincial powers.<sup>10</sup>

**Table 2. Referendum on the Statute of Autonomy of Catalonia (1979 and 2006)**

|                      | Referendum of 1979 |       | Referendum of 2006 |       |
|----------------------|--------------------|-------|--------------------|-------|
|                      | Votes              | %     | Votes              | %     |
| <b>“Yes”</b>         | 2,321,872          | 88.17 | 1,882,533          | 73.24 |
| <b>“No”</b>          | 205,061            | 7.78  | 528,745            | 20.57 |
| <b>Blank votes</b>   | 93,660             | 3.55  | 135,982            | 5.29  |
| <b>Invalid votes</b> | 12,541             | 0.47  | 22,996             | 0.89  |
| <b>Turnout</b>       | 2,633,134          | 59.3  | 2,570,256          | 49.4  |

Source: Statistical Institute of Catalonia (n.d.)

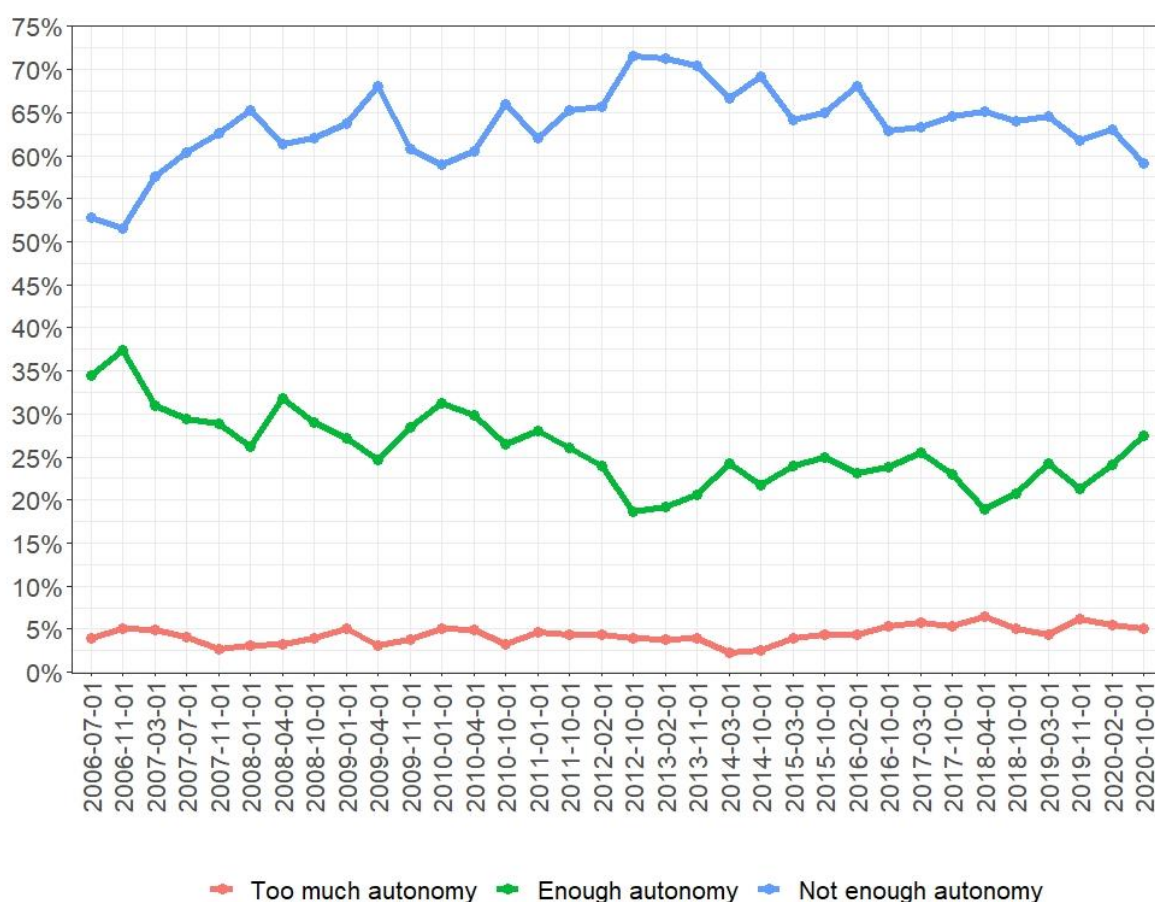
<sup>10</sup> In other words, regional administration did not exist before the 1970s.



In 2004, the Catalan parliament initiated an ambitious reform of the 1979 SAC that would eventually result in the so-called *Miravet Statute*, which gave Catalonia a new legal basis in 2006. The reform process meant that the draft had to be passed by the Catalan parliament before negotiating the text in the Spanish parliament and finally ratifying it by popular referendum (see Table 2). This latter process was a time of intense parliamentary activity in which the AC's government was not directly involved.

The support for the reform of the SAC was not as enthusiastic and clear as it had been for its approval in 1979. Since the early 1980s, the Catalan government and parliament had been denouncing the lack of implementation of several transfers of powers included in the 1979 SAC (especially those concerning taxation), and the constant intrusion of the central government on the AC's exclusive powers (through statewide basic laws). Public opinion had been increasingly in favor of greater autonomy (see Figure 6) and, since the early 1990s, the majority of the population had been demanding more autonomy. This social majority ensured the hegemony of pro-autonomy parties in the Catalan parliament since its constitution (see section 11 of this paper).

**Figure 6. Desired degree of Catalan autonomy compared to achieved autonomy (2006–2020)**



Source: Center for Opinion Studies (n.d.)



The draft SAC proposed to the Congress of Deputies in Madrid had the triple objective of (i) achieving more explicit national recognition for Catalonia; (ii) ensuring more (and, overall, more clearly defined) powers to prevent the constant encroachments by central government institutions; and (iii) radically changing the AC's financing system. In a nutshell, Catalonia wanted more political power. However, the Spanish parliament amended the original draft during its parliamentary process. The final draft was passed thanks to the support of the center-left (Socialist Party), Catalan regionalists (*Convergència i Unió*), post-communists (*Iniciativa per Catalunya Verds* and *Izquierda Unida*), Basque, Galician and Canary regionalists and nationalists (*Euzko Alderdi Jeltzalea*, *Bloque Nacionalista Galego* and *Coalición Canaria*); but the center-right (Popular Party), Catalan and Basque secessionists (*Esquerra Republicana de Catalunya* and *Eusko Alkartasuna*) voted against for opposite reasons. The Popular Party, other ACs and Spain's Ombudsman (*Defensor del Pueblo*) challenged the constitutionality of several provisions of the *Miravet Statute*. In 2010, the Constitutional Court declared some vital sections of the 2006 SAC as unconstitutional and reinterpreted several others.<sup>11</sup> Although these developments diluted the objectives of the original draft Statute, the 2006 SAC is the current legal basis of autonomy in Catalonia (Viver Pi-Sunyer and Grau Creus 2016). The preamble of the 2006 SAC emphasizes that "the Parliament of Catalonia has defined Catalonia as a nation" and acknowledges that the Spanish Constitution "recognises the national reality of Catalonia as a nationality." The 2005 version of Article 1 SAC defined Catalonia as a nation. However, it was reformulated and its current wording is the following: "Catalonia, as a nationality, exercises its self-government constituted as an autonomous community in accordance with the Constitution and with this Statute, which is its basic institutional law." According to Article 2(1) SAC, the *Generalitat* is "the institutional system around which Catalonia's self-government is politically organised."

## 5. Autonomous Institutions

Catalonia has a parliamentary form of government with a strong prime minister called *president de la Generalitat*. There are three essential self-government institutions: the parliament, the presidency of the *Generalitat*, and the government.<sup>12</sup> The unicameral parliament is an independent institution that represents the people of Catalonia. It consists of 135 members elected in four constituencies: Barcelona, Girona, Tarragona and Lleida. The main functions of the Catalan parliament are: electing the president from amongst its members, exercising legislative power,

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<sup>11</sup> Constitutional Court of Spain, Judgment no. 31/2010 of 28 June 2010.

<sup>12</sup> Article 2 SAC.

approving the budget of the *Generalitat*, and controlling and promoting political and government action.<sup>13</sup> In addition, the parliament has the following prerogatives:

- a) To designate the senators representing the *Generalitat* in the Senate, the upper chamber of the Spanish parliament. These senators are designated at a specific sitting convened for this purpose and are proportional to the number of members of each parliamentary group;
- b) To submit draft bills of statewide scope before the Congress, the lower chamber of the Spanish parliament, and to nominate the members of Catalan parliament charged with presenting and defending these bills;
- c) To request the Spanish government a draft bill before the Congress;
- d) To request that the Spanish government and institutions transfer or delegate powers and attribute authority, within the framework of Article 150 of the Spanish Constitution (SC);
- e) To lodge appeals on the basis of unconstitutionality and to appear before the Constitutional Court in other constitutional proceedings, in accordance with the Organic Law of the Constitutional Court;
- f) Any other functions attributed to it by the Statute of Autonomy of Catalonia (SAC) and by law.<sup>14</sup>

In practice, some of these functions have been inefficient or have been blocked by the political opposition of the statewide parties. This is the case of bills drafted by the Catalan parliament and submitted to the Spanish Congress. Although all ACs' parliaments have and can exercise such competences, the Catalan parliament has been the most active in submitting drafts bills. Between 1979 and 2016, the draft bills submitted by the Catalan parliament represented 38% of the total draft bills submitted by all ACs' parliaments. Since 2016, the pattern of activity has changed. First, because the conflict between Catalonia and central government's institutions affected the usual patterns of intergovernmental relations (IGR), which meant that Catalonia withdrew from all the intergovernmental forums; and secondly, because some ACs became much more active than in the past. Since 2016, the ACs submitted 42 new draft bills before the Spanish Congress; Catalonia submitted two (4.8%) while Navarra submitted 11 (26.2%), the Balearic Islands 10 (23.8%) and Galicia six (14.3%).

As Figure 7 shows, the success rate of the Catalan parliament's proposals has been rather low. In fact, between 1979 and 2021, the Catalan parliament submitted a total of 84 draft bills, only 3.6% of which were approved (that is, an absolute number of three draft bills), with all of them approved in the second legislative term (1982–1986). In all the other terms, the approval rate of the Catalan parliament's draft bills has been zero. It is important to note that legislative initiatives in Spain are channeled through the Congress, since the Senate normally acts as a second reading chamber rather

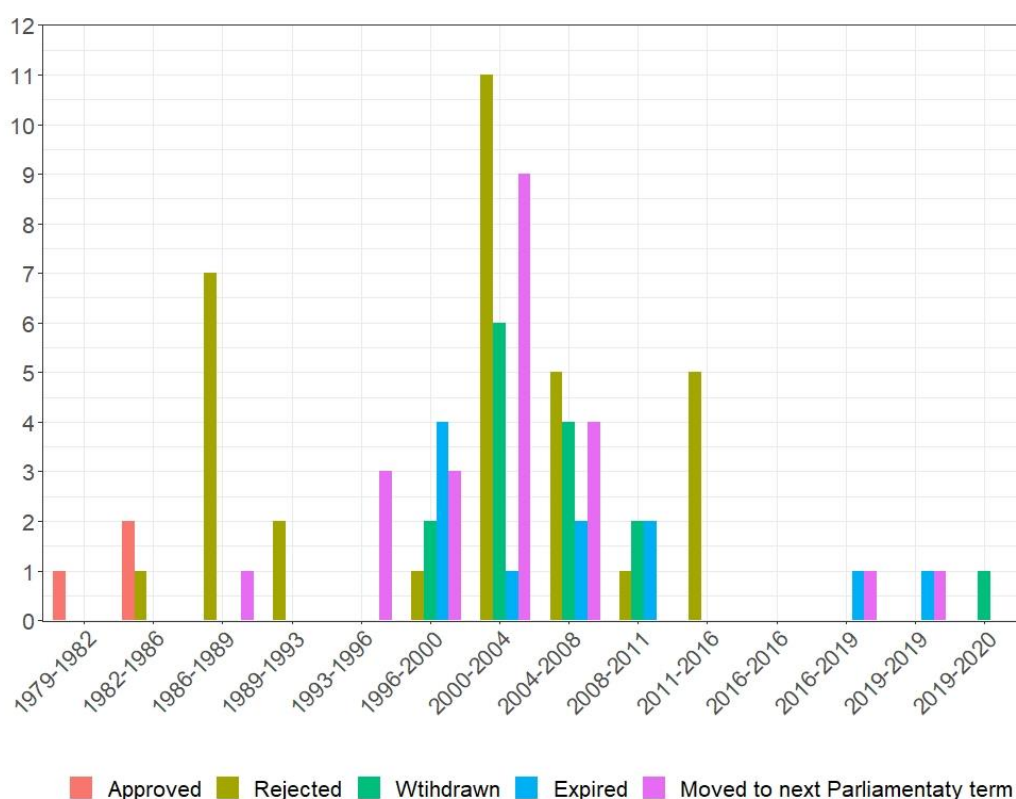
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<sup>13</sup> Article 55 SAC.

<sup>14</sup> Article 61 SAC.

than as a legislative chamber. In any case, as section 8 of this paper explains, the Senate falls short of meeting its function as territorial chamber representing the ACs.

**Figure 7. Catalan parliament's legislative proposals to the Spanish Congress**



Source: Congress of Deputies (n.d.; data organized by Spanish legislative terms)

The prime minister is elected by the Catalan parliament from amongst its members and is officially appointed by the King of Spain. She/he is the chief representative of the *Generalitat*, directs the government's actions, and is also the representative of the state in Catalonia. As such, she/he maintains relations with the state institutions, calls elections, and appoints senior officials to the *Generalitat's* public administration. As the representative of the state, she/he has authority to:

- a) Promulgate, in the name of the King, acts, legal decrees, and legislative decrees in Catalonia and order them to be published;
- b) Order to make public appointments to the institutional offices of Spain's central-government institutions in Catalonia;
- c) Request the collaboration of any of Spain's central-government authorities that exercise public functions in Catalonia;
- d) Others as determined by law.<sup>15</sup>

<sup>15</sup> Article 67(6) SAC

The Catalan government is headed by the prime minister and consists of *consellers* (councilors or ministers). It is a collegial body with executive and regulatory power,<sup>16</sup> and, in accordance with the SAC's provisions, its normal administrative body is the Administration of the *Generalitat*.<sup>17</sup> Its other institutions are the Council for Statutory Guarantees, the Ombudsman and the Audit Office.

Finally, in terms of territorial organization, Catalonia is divided into municipalities, which are in turn grouped into *comarques* and *vegueries*.<sup>18</sup> Municipalities are also grouped in provinces following the Spanish law. Catalonia has 948 municipalities, 42 *comarques*, eight *vegueries* and four provinces. Local governments have full autonomy in matters such as territorial classification and management, town planning, programming and planning of public housing, organization and provision of basic services, regulation and management of municipal facilities, traffic and mobility services and authorization of economic activity (retail, crafts, tourism).<sup>19</sup>

## 6. Autonomous Powers

The Spanish Constitution (SC) does not establish a closed list of exclusive powers for the autonomous communities (ACs). Such powers are regulated in the Statutes of Autonomy, with residual powers belonging to the central government. However, as mentioned in section 3 of this paper, important clauses and powers are constantly exerted by central government institutions to legislate and implement on matters reserved to the regions (Argullol and Velasco Rico 2011, 356). In practice, this means that the division between the exclusive powers of the two levels of government is becoming blurred (ibid., 391–92).

Powers can be classified into three types: exclusive, shared or concurrent, and executive.<sup>20</sup> The different types of powers are defined as follows:

- Exclusive powers: they refer to matters (e.g., international relations, environment, etc.) that fall under the sole executive and/or legislative responsibility of one level of government. The state holds exclusive powers and functions over several matters, including international relations, defense, justice, customs, foreign trade, currency, banking, and loans. It also holds exclusive legislative powers over other matters such as trade, criminal law, the penitentiary system, employment. Furthermore, the state holds exclusive powers over passing framework legislation on health, social security, public administration, environment, press,

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<sup>16</sup> Article 68 SAC.

<sup>17</sup> Article 71(1) SAC.

<sup>18</sup> Article 83 SAC. The *comarques* are regional administrative units made up of municipalities (42 units plus Aran Valley). The *vegueries* are regional units made up of *comarques* nowadays without any administrative responsibility (seven units plus Aran Valley).

<sup>19</sup> Article 84 SAC.

<sup>20</sup> For a summary of institutions and powers, see Government of Catalonia (n.d.). The type of powers of the *Generalitat* and the list of matters are detailed in Section IV, Chapter I and Chapter II SAC.

radio, and television.<sup>21</sup> According to the 2006 Statute of Autonomy of Catalonia (SAC), the *Generalitat* holds exclusive powers on matters such as the organization of self-government institutions, the legislative development and implementation of matters and sub-matters related to education, health, environment, culture, tourism, internal trade, industry, agriculture, livestock farming. It is submitted, however, that in practice none of the competences of the *Generalitat* can be regarded as exclusive.

- Shared or concurrent powers: the state and the *Generalitat* share executive and/or legislative functions. These are by far the most common, and deal with matters such as education, health, expropriation and contracts, the control of credit, banking and insurance, stock markets and trading centers, mining and energy, environmental protection, fisheries, industry, the planning of economic activity in Catalonia, agriculture and livestock farming, internal trade, defense of consumer rights, etc. The *Generalitat* is responsible for developing legislation over these matters. But state basic or framework legislation is oftentimes used extensively, leaving not much space for the ACs' legislative development.
- Executive powers: the *Generalitat* can only issue implementation regulations on the basis of statewide legislation. Catalonia has executive powers (i.e., implementation powers) on the following matters: public water supply, the laws governing prisons, employment, intellectual and industrial property rights, weights and measures. Again, the central government has tended to take over these functions these functions by defining these matters as being subject to supra-territorial and general interests, that is, to central government powers.

In practice, therefore, the functional and substantive distribution of powers established by the Spanish Constitution has been significantly affected by the extensive and intensive (mis)use by central government's institutions of framework legislation and transversal powers which have actually reduced the margin of legislative maneuver available to the Catalan self-government institutions (as well as to the other autonomous communities). One concrete example of this refers to internal trade. Article 121 of the 2006 SAC mentions *internal trade* as part of the exclusive devolved competences. However, in practice, the Catalan government has ended up having little to no room to maneuver in such matters. This is because the central government has passed several very extensive pieces of legislation on civil and commercial law, and telecommunications.<sup>22</sup> This use of state legislative framework and transversal powers—together with the principle of equality among Spaniards in the exercise of their rights and duties—has narrowed the power of the Catalan

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<sup>21</sup> Article 149 SC.

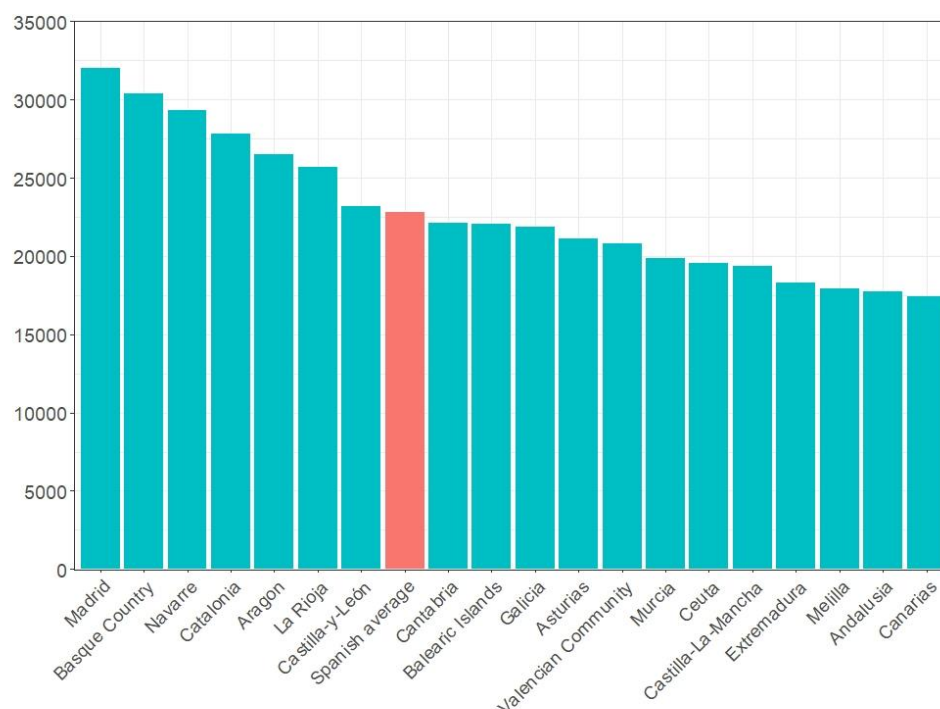
<sup>22</sup> These are central government's exclusive powers. See Article 149(1) points 6 and 21 SC.

parliament to legislate on internal trade. Moreover, European Union directives—such as the 2006/123/CE on services in the internal market and the 2000/31/CE on electronic commerce—have been interpreted and transposed by the central government in a way that has reduced the scope of regional competences in the matter. In summary, the exclusive powers of the ACs' governments in matters such as trade have been diminished to such an extent that it has been practically impossible for the ACs to foresee and develop any political, legislative, and administrative framework which could be any different from that already defined by the central government (Martín and Mora 2016). This phenomenon is common in the Spanish decentralization system and has been the source of endless debates on territorial powers, the role of basic laws and, in general, of statewide legislation. In conclusion, this process led to a decentralization that is more administrative and bureaucratic than political.

## 7. Financial Arrangements

Catalonia is a relatively rich region of Spain. As mentioned earlier, it is home to around 16% of the Spanish population (National Statistics Institute 2020b), it generates 19% of the total GDP (National Statistics Institute 2020a) and accounts for around 25% of Spain's exports and tourism (Ministry of Industry, Trade and Tourism 2021). Catalonia has the fourth highest GDP per capita of Spain's autonomous communities (ACs), after Madrid, the Basque Country, and Navarre (see Figure 8).

**Figure 8. GDP per capita of Spanish autonomous communities (2016)**



Source: National Statistics Institute (2020a)

Starting in 1978, fiscal decentralization went through a dynamic process that ended in 2009 with the approval of the last intergovernmental agreement. During this process, regional governments have gradually increased their functions and were given certain fiscal competencies. Although the revenues of some types of taxes have been totally transferred to the regions,<sup>23</sup> most taxes have only been partially transferred.<sup>24</sup> Furthermore, the regulatory capacity of regions over these taxes is limited. It ranges from zero to the capacity to regulate scales, exemptions, or the taxable bases (Argullol and Velasco Rico 2011, 649). Moreover, although the percentages of transferred taxes is high in comparative terms when taken broadly, the percentages transferred to the ACs are still managed by a centralized tax agency and collected and distributed from Madrid (Bosch and Espasa 2010), not by the different ACs. Negotiations to establish a new funding system started in 2021. According to Article 157(1) of the Spanish Constitution (SC), the ACs can achieve financial autonomy by several means: a) taxes wholly or partially given to them by the state and surcharges on state taxes and other shares in state revenue; b) their own taxes, rates and special levies; c) transfers from an inter-territorial compensation fund and other allocations to be charged to the state budget; d) revenues accruing from their property and private law income; e) interest from loan operations (Flores Juberías 2013).

In the case of Catalonia, the first two sources are normally divided into three categories: Catalan government's own taxes, totally ceded taxes and shared taxes. The own taxes represent only 1.6% of the AC's total revenue. Furthermore, in some instances they have been eliminated by courts due to a very strict conception of double taxation. The totally ceded taxes are the ones created by the central government but modified by the Catalan government according to their basic elements and whose revenue accrues fully to the *Generalitat*. Although these taxes are theoretically transferred, the Catalan government does not have full regulatory power over them. The ceded taxes represent 16% of the total revenue.<sup>25</sup> Finally, shared taxes represent 61% of the total revenue and 82% of tax revenues. In this case, taxes (except corporate tax) are shared in various proportions between the *Generalitat* and the central government: 50%-50% of personal income tax; 50%-50% of value added tax; 58%-42% of duties on tobacco, alcohol and hydrocarbons.

In addition to these taxes, the Catalan government also receives grants, which represent less than 10% of its revenue. These can be grouped into three types (Castells 2014, 283):

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<sup>23</sup> For example, taxes on inheritance, wealth, real estate transactions and legal documents, gambling, some hydrocarbons, special taxes on transport and electricity.

<sup>24</sup> For example, 50% of income tax, 50% of value added tax and 58% of taxes on the manufacture of alcohol and other products.

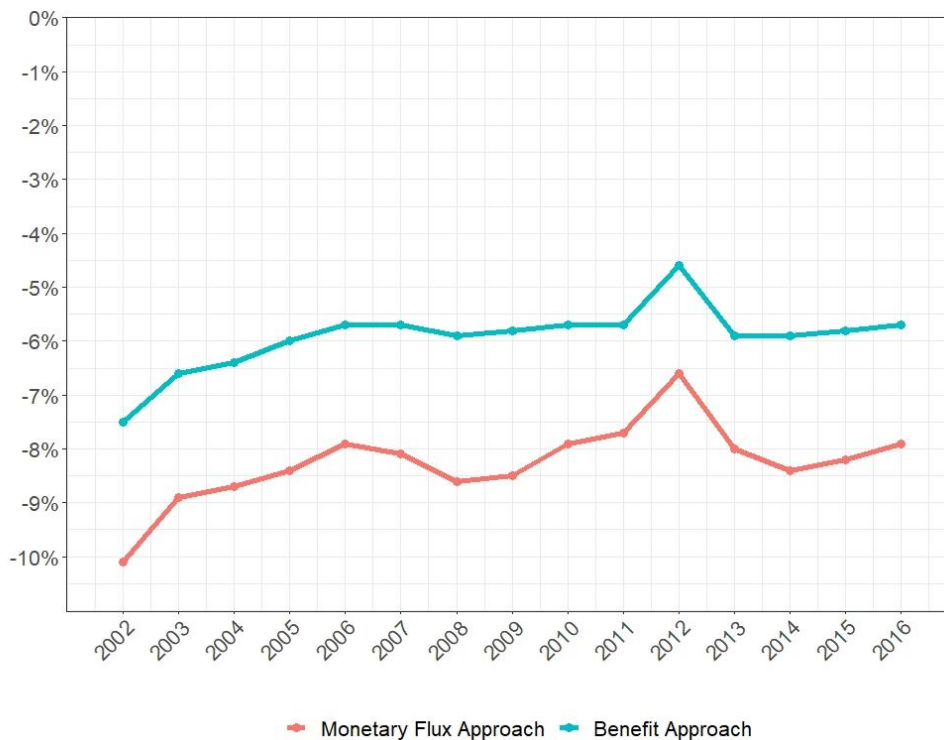
<sup>25</sup> These are taxes on inheritance, wealth, real estate transactions and legal documents, gambling, vehicle sales, retail hydrocarbons, energy.



- the Guarantee Fund for Essential Public Services, based on 75% of the regional tax resources plus a grant from the state (in which Catalonia has a negative transfer);
- the Global Sufficiency Fund; and
- the Competitiveness Fund, funded by the central government.

The fiscal issue has been a salient debate in Catalonia for some time. Negotiations on fiscal autonomy have been a part of the political bargaining whenever Catalan parties have supported minority central governments both led by either the Popular Party or the Socialist Party. Given the central government's control over the majority of regional taxes, fiscal flows between Catalonia and the rest of Spain are a controversial matter. The fiscal balance (or imbalance), estimated as the difference between the central tax burden and the central government spending allocated to Catalonia, is usually referred to as the "fiscal deficit" in Catalonia (Castells 2014, 290). According to the cash-flow approach, Catalonia's fiscal deficit in 2008 was equivalent to 9.8% of the GDP (Catalan government estimate), or 8.7% (Spanish government estimate). The benefit approach methodology, which uses slightly different numbers, gives a fiscal deficit of 7.4% or 6.5%, according to the Catalan and Spanish governments, respectively (Cuadras Morató 2016b; see Figure 9). These numbers are unusual when compared to other European regions with similar economic dynamism such as Aquitaine (France), Yorkshire (UK), Scotland (UK), Vale do Tajo (Portugal) and Niedersachsen (Germany). In all these cases, negative fiscal balances are not higher than 2-3% of the GDP.

**Figure 9. Evolution of Catalonia's fiscal deficit (2002–2016)**



Source: Government of Catalonia (2002–2016)

The 2006 Statute of Autonomy of Catalonia (SAC) contained a proposal for a new fiscal system that would include more responsibility and autonomy for the Catalan government. Nonetheless, it was declared non-binding by the Constitutional Court.<sup>26</sup> The approval of the 2006 SAC meant the creation of the new Catalan Tax Agency, and Title VI of the Statute regulates the finances of the Catalan government. The Joint Economic and Fiscal Affairs Commission was another result of the SAC's reform, although the Constitutional Court considered this to be a consultative body in a very narrow interpretation of the proposal.

Since 2009 there has been a new financial scheme in place designed to ameliorate the fiscal deficit. The system was supposed to be revised every five years—thus it should have been revised in 2014. However, it has not been updated yet. In 2021, the issue came back on the political agenda.

The economic crisis has provided central government with many reasons for interference on resource allocation at regional level and has generated new tensions between the two levels of government. In 2012, the central government created a liquidity fund (*Fondo de Liquidez Autonómica*) to give regional governments access to credit but, in practice, the economic policies introduced during the economic crisis have renewed the financial conflict between the regional and central governments and have been used to further the agenda of recentralization (Viver Pi-Sunyer 2011b). From an economic point of view, the fiscal deficit diminishes Catalonia's economic potential. In 2012, Catalonia was the third region in terms of revenue but only 10<sup>th</sup> in terms of public resources (see Table 3).

**Table 3. Regional fiscal resources per capita (average 100, year 2012)**

|                    | Tax Revenue  |          | Total Resources |           |
|--------------------|--------------|----------|-----------------|-----------|
|                    | Index        | Ranking  | Index           | Ranking   |
| Madrid             | 134.2        | 1        | 95.4            | 11        |
| Balearic Islands   | 121.7        | 2        | 100.8           | 9         |
| <b>Catalonia</b>   | <b>119.1</b> | <b>3</b> | <b>99.4</b>     | <b>10</b> |
| Aragon             | 114.6        | 4        | 116.3           | 3         |
| Cantabria          | 114.4        | 5        | 124.4           | 1         |
| Asturias           | 106.6        | 6        | 112.6           | 6         |
| La Rioja           | 103.2        | 7        | 120.7           | 2         |
| Castilla-León      | 101.5        | 8        | 116.3           | 4         |
| Valencia           | 93.7         | 9        | 93.6            | 13        |
| Galicia            | 91.2         | 10       | 110.9           | 7         |
| Castilla-La-Mancha | 85.4         | 11       | 103.4           | 8         |
| Murcia             | 83.5         | 12       | 93.1            | 14        |
| Andalusia          | 79.9         | 13       | 93.9            | 12        |
| Extremadura        | 76.2         | 14       | 114.5           | 5         |
| Canary Islands     | 42.2         | 15       | 88.3            | 15        |

Source: Government of Catalonia (data compiled by authors)

<sup>26</sup> Constitutional Court of Spain, Judgment no. 31/2010 of 28 June 2010.

## 8. Intergovernmental Relations

The 1978 Spanish Constitution (SC) did not establish any principle of collaboration or loyalty to be applied in a system of intergovernmental relations (IGR). In fact, there was a clear contradiction between the objective of decentralization and the absence of these basic principles of any federal design. The SC contains no institutional provision for vertical cooperation. Horizontal cooperation was seen as a potential threat to Spanish unity, therefore the only relevant constitutional provision forbids a federation of autonomous communities (ACs).<sup>27</sup> However, the Constitutional Court declared these principles as inherent to the Spanish territorial model in several rulings in the 1980s and 1990s (Argullol and Velasco Rico 2011, 597–98).

Starting in the 1980s, IGR were developed as a necessity in the context of dynamic decentralization. The Spanish IGR model has significant peculiarities: high levels of jurisdictional conflict, persistence of bilateral relations, central government interventionism, excessive regulation of cooperation, and a preference for shared regional taxes instead of exclusive taxes of ACs (Colino 2013). For many years, the IGR have been developed through practice via multiple channels of *de facto* formal and informal intergovernmental mechanisms (Argullol and Velasco Rico 2011, 609). The IGR were fully regulated only in 1992.<sup>28</sup> There are currently at least three types of vehicles for IGR in Spain, two multilateral and one bilateral. Catalonia takes part in all of them.<sup>29</sup>

Firstly, the intergovernmental conferences between the Spanish and the ACs premiers were established in 2004; its intergovernmental character does not imply that all the institutions are in the same level, as only central government can chair and call the meetings. Between 2004 and 2020, the premiers only managed to meet in 10 occasions; however, the COVID-19 crisis, and the need for intergovernmental cooperation it generated, activated the use of this intergovernmental mechanism: in only one year (2020–2021) the conference held 14 meetings (Erkoreka, Grau Creus and Kölling, 2021). Secondly, there are 37 intergovernmental policy-sector forums, the most active of which are the conferences on agriculture, fisheries, and environment. They are attended by regional ministers and senior civil servants and are chaired by the central government minister for the corresponding sector. The Financial and Fiscal Policy Council (*Consejo de Política Fiscal y Financiera*) is a politically relevant sectoral conference which discusses and agrees financial reforms.

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<sup>27</sup> Article 145 SC.

<sup>28</sup> Organic Law no. 30/1992 on the Legal Regime of Public Administrations and Common Administrative Procedure. For details, see Morales (2013).

<sup>29</sup> Current political tensions and disagreement between the Catalan and Spanish governments on self-government and self-determination have undermined their intergovernmental relations and the Catalan president is not currently taking part in the Conference of ACs presidents.

Thirdly, all the ACs have established a bilateral commission to discuss policies and jurisdictional conflicts with central government.

Catalonia has played an active role in the development of IGR, especially regarding the vertical mechanisms. In the Spanish context, the 2006 Statute of Autonomy of Catalonia (SAC) was the first to regulate a bilateral commission.<sup>30</sup> This body was conceived as a way to implement the principle of bilateralism, and it regulates its functions in multiple policy areas (Morales 2013, 94). The practice of bilateral negotiations had started in the 1980s through the development of the Joint Committee on Power Transfers (*Comissió Mixta de Transferències Estat-Generalitat*). The SAC's provisions regarding this intergovernmental mechanism were accepted by the Constitutional Court as an expression of the principle of cooperation.

Article 3(1) SAC establishes that relations between the *Generalitat* and the central state are based on the principle of institutional loyalty—since the *Generalitat* is also part of the state—as well as on the principles of autonomy, bilateralism, and multilateralism (Corretja, Vintró and Gil 2011). In fact, Article 183 SAC defines the bilateral commission as the general and permanent framework for relations between the *Generalitat* and the central state (ibid., 435).

In terms of shared rule, understood as participation in central institutions with different mechanisms than the ones of IGR, Catalonia has a very limited scope of powers, as do all of Spain's other ACs.

Catalonia is divided into four electoral constituencies (the four Catalan provinces) that elect 47 out of the 350 deputies of the Congress, the lower chamber of the Spanish parliament: 31 in Barcelona, six in Girona, six in Tarragona and four in Lleida. The electoral system used to elect the members of the Congress is a party-list proportional representation system based upon the D'Hondt method for allocating seats.<sup>31</sup> The four Catalan constituencies also elect 16 senators (four per constituency) out of the 208 elected members of the Senate, the upper chamber of the Spanish parliament. The election of the senators follows a simple majority vote: seats are allocated to the four most-voted candidates in general popular elections. In addition to the citizen-elected senators, the Catalan parliament appoints eight more senators.

The Senate is defined by the SC as a territorial chamber and is the supreme vehicle for the participation of the ACs in central bodies of the Spanish state (Vírgala Foruria 2013). However, the Senate can hardly be considered a true territorial chamber. The number of senators elected through provincial constituencies outweighs those appointed by ACs and its functioning is basically divided across party lines and not by territorial interests. Moreover, for a long time, the size of the

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<sup>30</sup> Articles 183 and 214 SAC.

<sup>31</sup> For the basic features of the D'Hondt method, see Kotanidis (2019).

constituencies has favored a bipartisan composition of the Senate, meaning a dominance of statewide parties. In terms of powers, the Senate can only slow down the legislative process and has no power to veto legislation proposed by the Congress of Deputies. The absence of a real territorial Senate explains why Catalonia and other ACs have channeled their territorial conflicts through intergovernmental mechanisms or the Constitutional Court since the early 1980s (*ibid.*). Finally, according to Article 87(2) SC, Catalonia and the rest of the ACs have the right to make legislative proposals to the central government and the Congress of Deputies but, surprisingly, not to the Senate (Parra 2016).

## 9. Inter-group Relations within the Autonomous Entity

Linguistic communities in Catalonia are not divided by ethnic or territorial lines as they are in other contexts. Nevertheless, Catalonia's linguistic policies have been contested during recent years by a minority of Spanish speakers in Catalonia. This is, therefore, a case of internal relations worthy of mention in this section.

As noted in the first section of this paper, both Catalan and Spanish (together with Occitan, since 2006) are official languages of Catalonia. Since the recovery of autonomy in 1977 and the 1979 Statute of Autonomy of Catalonia (SAC), the Catalan government has implemented a policy of protecting and promoting the Catalan language. The 1979 SAC defined the Catalan language as the "own language" (*llengua pròpia*) of Catalonia.<sup>32</sup> The protection of this minority language was an important part of the demands made by opposition groups during Franco's dictatorship (1939–1975), as the Catalan language had been persecuted and banned from the public sphere in this period.

In 1980 the Catalan parliament formed a joint commission involving all the political groups that deliberated for 30 months on the content of a new linguistic policy. Previously, the Catalan Minister of Culture, Max Cahner, had led a series of meetings and consultations with civil society and political leaders. Following a period of intense discussions, the Catalan parliament unanimously approved (with one abstention) Law 7/1983 of 18 April 1983 on Language Normalization in Catalonia. This new legal framework was implemented together with an important social effort to promote Catalan language both in the public and private spheres (Milian Massana 2014; Strubell 1998).

The 1983 Law on Language Normalization established both Catalan and Spanish (as well as Occitan in Aran) as the languages to be used by citizens in their relations with the public administration and gave barely any priority to Catalan except for official place names. In terms of education (at primary

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<sup>32</sup> Article 3 SAC (1979).

and secondary levels) the law set out a bilingual model known as *linguistic conjunction*. This model consisted of a single schooling system for both Catalan and Spanish speakers with Catalan as the main teaching language. Spanish, as a teaching language, was reserved for the Spanish language subject. The single schooling system based upon the Catalan language as the only teaching language had a double consensus and legitimacy: the linguistic consensus related to the promotion and preservation of the Catalan language; and the social consensus related to the avoidance of a divided society based upon social and cultural backgrounds. The implementation of a double schooling system based on language choice was discarded because of its more than predictable negative impact on both the preservation of Catalan and the social integration of the Catalan society that would have developed into two separate compartments. Law 17/1985 of 23 July 1985 on Public Offices of the Administration of the *Generalitat* introduced the requirement of providing proof of knowledge of Catalan to work in the public administration (Milian Massana 2014, 16).

The education model was supported by both civil society and political parties, and from the late 1970s onwards, the education sector undertook the important task of expanding the use of Catalan among civil servants and teachers. The education model was upheld by the Constitutional Court interpretative ruling of 1994,<sup>33</sup> which confirmed the constitutionality of using Catalan as the main language in primary and secondary education in Catalonia. The Court also decided that the policies of the *Generalitat* should be limited by Article 3(1) of the Spanish Constitution (SC), which establishes the duty to know the Spanish language. The constitutional judges accepted the importance of the bilingual education model as a tool for integration and social cohesion (Corretja 2013, 96).

The Catalan parliament's Law 1/1998 of 7 January 1998 on Linguistic Policy replaced the 1983 Law on Language Normalization and introduced some coercive measures in the socio-economic milieu to ensure the use of the Catalan language. Since the 1980s, the efforts to revitalize the use of Catalan had been centered on the public sector, while the private sector had been relatively free of any linguistic constraints. The new law sought to integrate constrictive measures already in place through sectorial legislation and declared Catalan to be the priority language of the public administration (Milian Massana 2014, 18–19). The success of this linguistic policy has been quite remarkable, as the comprehension of Catalan among the adult population jumped from 53.1% in 1983 to 83.2% in 2012 (Government of Catalonia 2013).

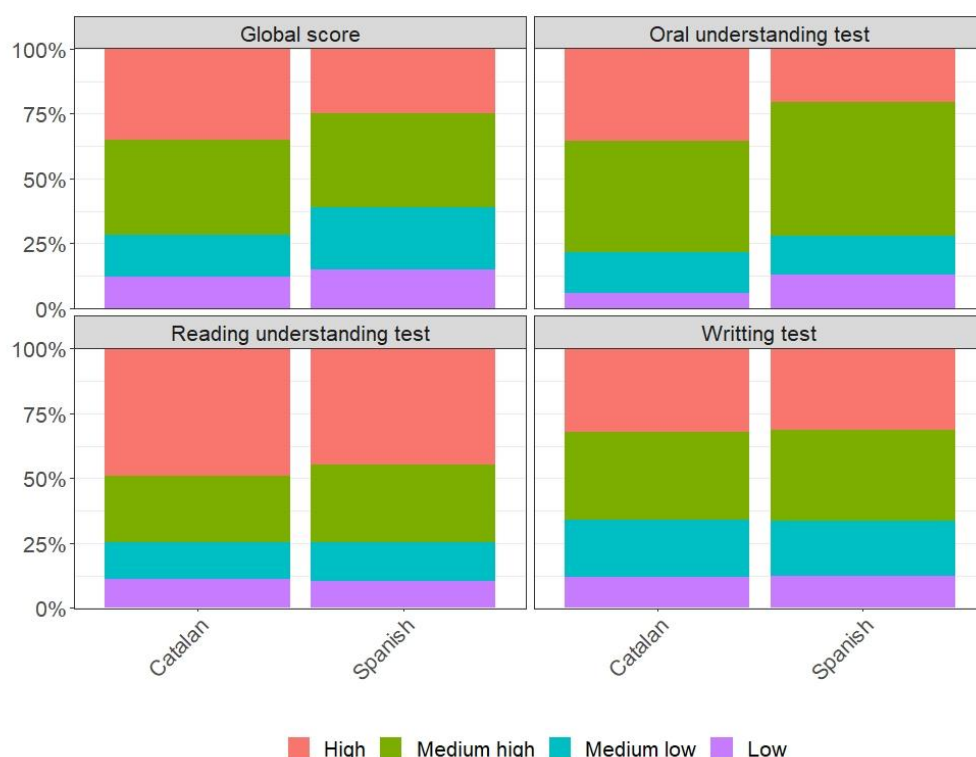
In fact, the education system has proven effective both, in terms of social cohesion and results. Catalan students from both Catalan and Spanish speaking families are as successful as other Spanish students in terms of Spanish language skills by the end of compulsory schooling. Figure 10 shows

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<sup>33</sup> Constitutional Court of Spain, Judgment no. 337/1994 of 23 December 1994.

the reading comprehension of Catalan and Spanish students according to the Programme for International Student Assessment (PISA) reported data. The two groups of students have similar linguistic skills.

**Figure 10. PISA reading level of comprehension results (2021)**



Source: Government of Catalonia (2021)

Although there has been a significant amount of political debate on Catalan linguistic policy ever since the beginning of the 1980s, during the last decade, legal and political tensions have taken center stage, especially since the reform of the Statute of Autonomy of Catalonia (SAC) in 2006. Article 35 of the 2006 SAC establishes the duty to know Catalan and Spanish by the end of compulsory schooling. In 2010, the Constitutional Court upheld these provisions<sup>34</sup> but emphasized the need for an *equal use* of Spanish in the education system. Since then, the linguistic rights of Spanish-speaking families have been debated in several court cases. These debates concern the right of children to receive their early primary schooling in the language they speak at home (i.e., Spanish), the right of parents to communicate with school administrators in both languages in private schools, and the right to receive bilingual education in a different proportion, i.e., with an increased proportion of Spanish. At the same time, new political forces in the Catalan parliament (e.g., the *Ciutadans/Ciudadanos* party) have been campaigning for the rights of Spanish speakers to

<sup>34</sup> Constitutional Court of Spain, Judgment no. 31/2010 of 28 June 2010.



receive education in Spanish in public schools. Despite these developments and the numerous individual court cases, so far, the *linguistic conjunction* system and the general linguistic policies of the *Generalitat* remain in force.<sup>35</sup> Nonetheless, in the last years Catalonia witnessed an escalating judicial offensive regarding the school language policy. In December 2020, the High Court of Catalonia ruled that at least 25% of school subjects must be taught in Spanish.<sup>36</sup> The *Generalitat* lodged a cassation appeal against this judgment but the Supreme Court dismissed it in November 2021.<sup>37</sup> While the Catalan government and civil society expressed strong disagreement with the Supreme Court's decision, the Popular Party, *Ciudadanos* and the extreme right-wing party Vox called on the Spanish government to trigger Article 155 SC in order to compel the *Generalitat* to implement the requirement of 25% instruction in Spanish.<sup>38</sup>

## 10. Membership and Special Rights

Catalonia's Aran Valley is an illustrative example of asymmetry and internal territorial autonomy. Aran is located in the West Pyrenees, in the province of Lleida. It has 9,930 inhabitants and it covers an area of 600 km<sup>2</sup>. Aran has its own institutional organization; therefore, it constitutes a case of special rights within Catalonia.

Aran's governmental body is the *Conselh Generau* (general council), which consists of the *Síndic* (president), the *Plen des Conselhèrs e Conselhères Generaus* (plenary of general councilors) and the *Comission d'Auditors de Compdes* (audit committee). The *Síndic* is the highest representative of the *Generalitat* in Aran.<sup>39</sup> As far back as 1979, the Statute of Autonomy of Catalonia (SAC) recognized the need to promote the language of Aran, and in 1990 the *Conselh Generau* was re-established by the Catalan parliament's Law 16/1990.<sup>40</sup> Article 11 of the 2006 SAC recognizes Aran as "a unique territorial entity within Catalonia, subject to specific protection under a special legal system." In addition, Article 6(5) SAC declares that the Occitan language known as Aranese "is Aran's own language and is official in Catalonia". In 2010, the Catalan parliament passed specific legislation, which expanded the SAC's provisions regarding Aran's Occitan language.<sup>41</sup> In 2015, the Catalan parliament approved Law 1/2015 which recognizes the *Occitan national reality* and Aran's right to decide its constitutional framework.<sup>42</sup> The law divides Aran into six sub-entities and recognizes its

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<sup>35</sup> For an overview of the pro and con arguments regarding the Catalan *linguistic conjunction* system, see Morales-Gálvez and Cetrà (2021).

<sup>36</sup> High Court of Catalonia, Judgment no. 5201/2020 of 16 December 2020.

<sup>37</sup> Supreme Court of Spain, Order of 18 November 2021 (Cassation appeal procedure no. 1676/2021).

<sup>38</sup> On language, political conflict and polarization in Catalonia, see Sanjaume-Calvet and Riera (2022).

<sup>39</sup> Article 94 SAC.

<sup>40</sup> Law 16/1990 of 13 July 1990 on the special regime of the Aran Valley.

<sup>41</sup> Law 35/2010 of 1 October 2010 on Occitan, Aranese in Aran.

<sup>42</sup> Law 1/2015 of 5 February 2015 on the special regime of Aran. It replaced Law 16/1990 of 13 July 1990 on the special regime of the Aran Valley.

flag, coat of arms, national holiday and national anthem; it also provides that Aran's language is the preferential language of the public administration in this region.

The relationship between Aran and Catalonia has deep historical roots. In 1213 the Catalan-Occitan coalition lost the battle of Muret against the French knights led by Simon de Montfort the Elder. Thereafter France controlled the Occitan region and pursued a policy of cultural and political assimilation. In 1313, King James II of Aragon ratified the privileges of the Aran Valley as set out in the ancient document *Era Querimònia*. During the War of the Spanish Succession, at the beginning of the 18<sup>th</sup> century, Aran fought alongside Catalonia in support of Charles III of Austria. However, the House of Habsburg lost the war and failed to gain the throne. The new King of Spain, Philip V of Bourbon, appointed the baron of Les as governor of Aran and made him responsible for punishing the people of Aran for their alliance with the Catalans. Over the years the Aran Valley held onto its traditional institutions, including the *Conselh Generau*, until 1834 when it was formally incorporated into the province of Lleida.

The *Generalitat* – Aran government bilateral commission has regulated the autonomy of Aran within Catalonia and the development of its powers since 2015. This commission negotiates the powers and services decentralized and transferred to the Aran Valley. However, the financial aspect of Aran's autonomy is still an open question.

## 11. General Assessment and Outlook

Catalonia has achieved the recognition of a certain degree of autonomy within Spain. The objectives of modernization and democratization of the political and social structures that were set out in 1978 have been achieved. Catalonia is currently part of the EU and enjoys a healthy and prosperous democracy in a peaceful context. In fact, since 1978, Catalonia has experienced the longest period of democracy in its history. However, the actual nature of the Catalan self-government is more administrative than political, as the capacity of self-government institutions to define their own public policies has been extremely narrowed by the expansive legislative and executive activity of central government institutions.

The dominant and expansive role of the state over self-government has also had an impact upon public opinion. According to a November 2020 public poll, 59% of Catalonia's population think that the region has achieved an insufficient level of autonomy and only 27.4% are satisfied with the current degree of self-government (Center for Opinion Studies 2020).

In spite of the undeniable achievements made by Spanish society as a whole, the actual functioning of decentralization, in general, and, more specifically, in Catalonia, did not fulfil the political and institutional expectations of the vast majority of Catalans. It is in this sense, that one has to

understand the demands from Catalonia for not just more powers but also, and fundamentally, for better self-government. During the 1990s, most Catalans supported the status quo. However, in the last decade, the preferences of the Catalan population shifted dramatically from autonomy (and federalism) to independence. The results of the 2015 Catalan election reflected this change: 72 MPs out of 135 belonged to pro-independence parties, and more than two-thirds of the MPs supported the idea of organizing a self-determination referendum. These demands have created significant tensions with the Spanish government which constantly refused to engage in either a dialogue on a referendum or on a process of constitutional reform (Cuadras Morató 2016a).

The origins of this political situation are complex and rooted in historical relations between Catalonia and the rest of Spain (Guibernau 2004), as well as the never-ending debate on the situation of the other minority nations (Galicia and the Basque Country) within the Spanish state (Keating 1996). Nonetheless, the reform process of the 2006 Statute of Autonomy of Catalonia (SAC) and the 2010 ruling of the Constitutional Court<sup>43</sup> intensified the Catalan demands for autonomy and self-determination. Since the beginning of the 2000s, a majority of Catalan political forces and citizens have been seeking more autonomy and the recognition of Catalonia as a nation. The Statute's reform was an attempt to update Catalan autonomy through a process of negotiating amendments to Catalonia's supreme law. Catalonia's demands covered diverse aspects encompassing both symbolic and material dimensions: the national definition of Catalonia's status within Spain; the protection of the exclusive powers of the *Generalitat* vis-à-vis central government expansion; the redefinition of fiscal powers, international relations, and the scope of powers. During the negotiation of the Statute's reform, some of these objectives had to be abandoned or watered down, especially when the Spanish parliament debated the draft SAC in 2006. However, it was the 2010 ruling of the Constitutional Court, four years after the approval of the new SAC in a regional referendum, that basically frustrated the objectives of the reform (Viver Pi-Sunyer 2011a).

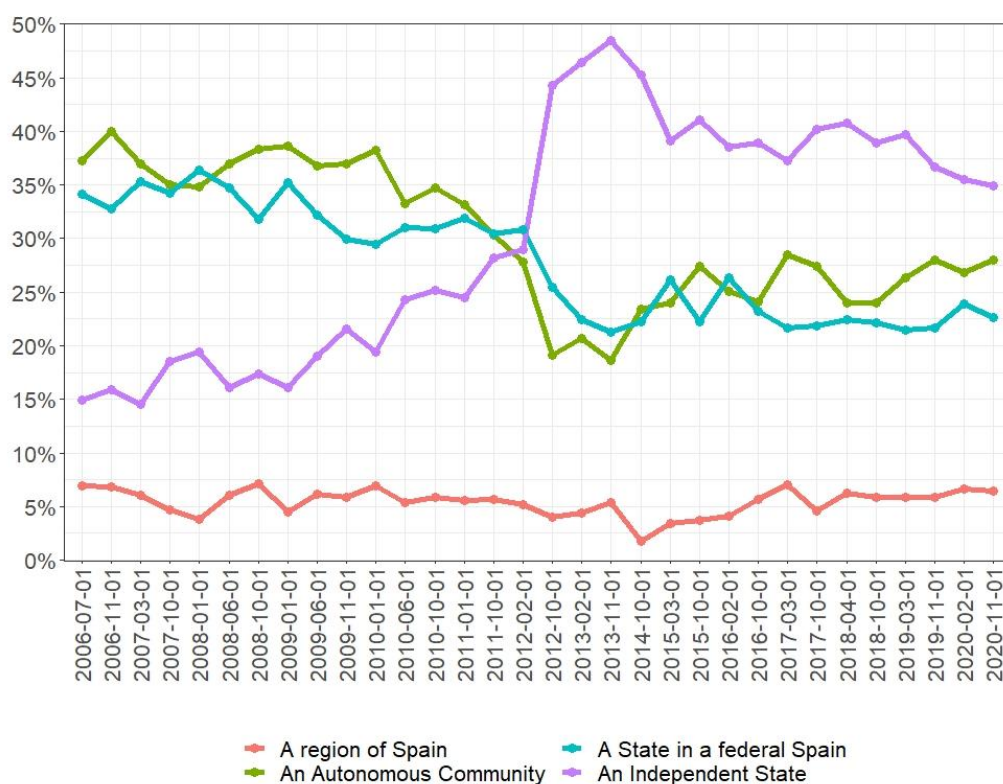
After that, Catalonia's agenda has focused on the territorial debate and the right to self-determination. Several grassroots political and social platforms in Catalonia have been consistently mobilizing the population. Civil society groups organized a series of demonstrations and local consultations on independence in more than half of Catalonia's municipalities between 2009 and 2011 (Guinjoan and Rodon 2016; Muñoz and Guinjoan 2013). According to poll data, public opinion has dramatically changed in regard to territorial governance. Independence was a marginal option in 2006, scoring less than 15%, while status quo was by far the most popular territorial option (see Figure 11). However, support for secession gradually increased from 2007-2009 and by the end of 2011 it had become relatively majoritarian among Catalans. Despite a slow reduction in the support

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<sup>43</sup> Constitutional Court of Spain, Judgment no. 31/2010 of 28 June 2010.

since 2014, Catalonia being an independent state remains the option with the highest percentage of support.

**Figure 11. Preferences regarding territorial governance in Catalonia (2005–2020)**



Source: Center for Opinion Studies (n.d.)

Starting from 2012, the Catalan government, with the support of a majority of elected members of the Catalan parliament, continually asked the central government to reach an agreement regarding the organization of an independence referendum in Catalonia. This demand faced important political, constitutional and legal obstacles and was repeatedly rejected by the Spanish parliament and the Constitutional Court. Firstly, the majority of statewide political parties (i.e. Popular Party, Socialist Party and *Ciudadanos*) rejected the right of Catalonia to decide its constitutional future<sup>44</sup> and did not accept the proposals for holding a referendum (Guibernau 2013). *Podemos* was the only statewide party that came close to accept these demands.

Secondly, the constitutional doctrine does not recognize the right of Catalonia to hold a self-determination referendum (Bossacoma and López Bofill 2016). The Constitutional Court has repeatedly stated that, according to Article 2 of the Spanish Constitution (SC), sovereignty “belongs to all Spaniards”. In this sense, in its 2014 ruling on a Catalan parliamentary resolution of sovereignty

<sup>44</sup> The conservative government led by the Popular Party strongly opposed the idea of a self-determination referendum in Catalonia. The Socialist Party, the main opposition party, rejected this idea as well and proposed a federal reform of the Constitution.

and the right to decide, the Constitutional Court referred to the demands for the *right to decide* as being politically legitimate but requiring a previous constitutional reform to be legally considered.<sup>45</sup>

The Court also declared the unconstitutionality of several legislative initiatives passed by the Catalan institutions that aimed to provide a legal framework for a consultation on independence (Bossacoma and López Bofill 2016). The Catalan government supported a non-binding civil society consultation that took place on 9 November 2014. Out of the 2.3 million Catalans who took part, 1,861,753 voted for independence. Several members of the then Catalan government, including its prime minister Artur Mas, were prosecuted for providing institutional support to this consultation, sentenced to large fines and banned from public office for several years (BBC 2017a).

On 1 October 2017, the Catalan government held a unilateral independence referendum despite the strong opposition of the central government and the unionist parties in the Catalan parliament.<sup>46</sup> While the referendum was declared illegal by the Spanish authorities, the Catalan government defended its legitimacy based upon the democratic mandate received in the 2015 elections, when pro-independence parties gained the parliamentary majority. The vote was marred by violent scenes as Spanish police made a disproportionate use of force in the attempt to prevent people from going to the polls. However, more than two million people voted, and the registered turnout was 43.03%. It is worth noting that 90.18% of the votes were for independence (Government of Catalonia 2017). The Spanish authorities reacted with a series of coercive measures including criminal charges against members of the Catalan government and parliament for misuse of public funds and sedition. On 27 October, the Catalan parliament adopted a unilateral declaration of independence. Out of the 135 MPs, 70 voted in favor, 10 against, two abstained and 53 left the legislature before voting as a sign of protest (BBC 2017c).<sup>47</sup>

In response, the Senate, at the initiative of the Spanish government, approved direct rule over the region by means of triggering Article 155 SC. Article 155 establishes a mechanism of control and even coercion that is meant to provide central government with the powers to directly intervene in the functioning of an autonomous community (AC)'s institutions in case the respective AC does not fulfil its constitutional obligations. The triggering of Article 155 and the approval of the package of measures that had been previously agreed between the Spanish government and the main opposition political force, the Socialist Party, brought the removal of the Catalan government and the assumption by the Spanish prime minister of the Catalan premier's functions and responsibilities. Consequently, the Spanish prime minister dissolved the Catalan parliament and

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<sup>45</sup> Constitutional Court of Spain, Judgment no. 42/2014 of 25 March 2014.

<sup>46</sup> In September 2017, the opposition parties in the Catalan parliament boycotted the vote on the laws on the referendum and the juridical transition. See BBC (2017b).

<sup>47</sup> See Ferreira (2021) and López and Sanjaume-Calvet (2020) for an interesting interpretation of the events.

called for early elections that were held on 21 December 2017. The three pro-independence parties<sup>48</sup> won 70 seats and preserved a pro-independence absolute majority in the Catalan parliament. However, it took almost six months to form a new government. Between the end of October 2017 and early June 2018, the Spanish government directly ruled the Catalan administration. In parallel, Spain's attorney general charged the removed Catalan prime minister Carles Puigdemont, his deputy, most of the removed members of the Catalan government and the removed speaker of the parliament with rebellion, sedition and misappropriation of public funds. Spanish authorities started criminal proceedings against more than 1,000 officials, including 700 majors, for their role in the organization of the independence referendum.

At the end of May 2018, after several failed attempts to appoint several other candidates, the Catalan parliament elected Quim Torra as the new prime minister and a new pro-independence government was formed. The new government had to face a very complicated situation with the secessionist movement divided over the strategies to pursue, and the continuous control and intervention of the judicial powers. Shortly after the government formation, at the end of May 2018, and following the sentencing of several Popular Party leaders for corruption, the Socialist members of the Spanish parliament used their prerogative to call a vote of no-confidence on the Spanish prime minister and successfully removed him and his party from power. This was the first successful no-confidence vote since the establishment of the current political regime and it was possible thanks to the support of the two main Catalan pro-independence parties represented in the Spanish parliament. The parliamentary support that *Esquerra Republicana de Catalunya* (ERC) and *Junts per Catalunya* (JxC) provided to the Socialist Party—despite the political situation and the intense institutional conflict—seemed to open the door for a new political context.

The political fragility of the new Spanish minority government opened new opportunities for the pro-independence parties: in exchange for their parliamentary support, they could negotiate some key issues with the Socialist-led government. However, this strategy of political bargaining soon showed its risks and limitations and failed twice. In February 2019, the Spanish government called for early elections after being unable to reach an agreement with the Catalan pro-independence parties on the budget negotiation. After the April 2019 elections, the Socialist leader Pedro Sánchez failed to be confirmed as prime minister by the Spanish parliament and new elections were called for November 2019. The obstacles to reaching agreements in spite of the favorable negotiation context, were in part due to the internal debate and subsequent change of strategy of JxC, one of the coalition parties in the Catalan government. The party was divided between its traditional

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<sup>48</sup> Together for Catalonia (*Junts per Catalunya*), Republican Left of Catalonia–Catalonia Yes (*Esquerra Republicana de Catalunya–Catalunya Sí*) and Popular Unity Candidacy–Constituent Call (*Candidatura d'Unitat Popular–Crida Constituent*).

leaders who supported a pragmatic approach to negotiations with the new Spanish government, and the new leadership—linked to the former prime minister Carles Puigdemont—who insisted on a binding referendum on independence. The latter position prevailed and, after the November 2019 Spanish election when the Socialist Party openly explored the possibility of making some concessions to the pro-independence parties in exchange for their support, the JxC voted against the reappointment of Sánchez as the Spanish prime minister.

That difference of strategies between the ERC and the JxC in the Spanish parliament generated some tensions within the Catalan government that became apparent at the end of 2020 when prime minister Torra was disqualified from public office by the Supreme Court and had to resign. The two parties lacked a common strategy and the trust issues between them brought about a new early election. Despite the pandemic, a new Catalan legislature was elected February 2021. This parliament is similar to the previous one in terms of the balance between pro-independence and anti-independence parties. However, the balance of power shifted within the two camps as ERC received more support than JxC and the Catalan socialists received more support than *Ciudadanos*. ERC decided to maintain the governing coalition with JxC, but the election results gave the ERC's leaders the legitimacy to continue with their strategy of pushing for a dialogue with the Spanish government. The first meeting between the ERC members of the Catalan government and members of the Spanish government took place in September 2021.

It remains to be seen whether this dialogue between the two governments will solve the political crisis or not. Nonetheless, it seems that the time has come to revise the Spanish decentralization model as defined in the 1978 Constitution and to politically address the Catalan conflict. The *Estado de las Autonomías* was part of a successful transition to democracy and the modernization of Spain's public administration, but today a large part of the Catalan society claims the right to reform a constitutional agreement reached more than four decades ago in a very different context.

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## List of abbreviations

AC – Autonomous Community

ERC – *Esquerra Republicana de Catalunya* (Republican Left of Catalonia)

EU – European Union

IGR – Intergovernmental relations

JxC – *Junts per Catalunya* (Together for Catalonia)

SAC – Statute of Autonomy of Catalonia

SC – Spanish Constitution

## About the authors

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