

Fiscal Sovereignty and Nationalist Politics in Spain:  
The Influence of Regional Financing on the Territorial  
Agendas of Basque and Catalan Nationalist Parties

Thesis submitted in accordance with the requirements of the University  
of Liverpool for the degree of Doctor of Philosophy

by  
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May 2016

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**Abstract**

This PhD thesis investigates the influence of the regional financing systems in Spain on the evolution of the territorial agendas of the mainstream Basque and Catalan nationalist parties, the Basque Nationalist Party (*Partido Nacionalista Vasco*, PNV) and Democratic Convergence of Catalonia (*Convergència Democràtica de Catalunya*, CDC). Spain offers the opportunity to compare two different models of fiscal decentralisation and their significance for the political evolution of two contrasting nationalist movements. While Catalonia forms part of the common financing system, which gives the regions relatively limited tax-raising competences and involves substantial revenue transfers from central government, the Basque region raises almost all of its own taxes under a separate system of extensive fiscal autonomy (the *Concierto Económico* or Economic Agreement).

At different times since the late 1990s, both the PNV and CDC have sought a fundamental reconfiguration of their respective territories' relationship with Spain. The question posed is why the form of accommodationist politics practised by the PNV and CDC in the 1980s and 1990s has been transformed since then, leading to shifts towards pro-sovereignty agendas, which embrace a spectrum of potential projects ranging from some degree of statehood and political sovereignty within Spain through to full independence. This thesis investigates the issue of regional financing as one explanatory factor. Based on an extensive programme of elite interviews with current and former politicians and civil servants in the Basque and Catalan regions, it is argued that in both cases, albeit in different ways and to different degrees, the regional financing systems have played a fundamental role in influencing the nationalist parties' evolving territorial agendas. These systems, and the different levels of fiscal autonomy and financial resources they provide, have influenced the timings of shifts in strategy and the prospects of one agenda or another being adopted, especially when a party is already under pressure to change. Moreover, they have often informed the very content of these agendas.

Bilateral tensions with Madrid, as well as wider inter-regional dynamics within Spain, have influenced regional financing preferences; but so too have intra-regional factors such as territorial heterogeneity and/or party competition within the home region. The internal political dynamics of regional financing in each autonomous community have had different consequences for the territorial strategies and behaviour of the nationalist parties in each case.

## *Acknowledgements*

First and foremost, I would like to express my deepest thanks to my supervisor, Richard Gillespie, not only for giving me the opportunity to undertake this PhD in the first place, but also for his valued comments and guidance throughout it. I had been rather fixated for a while beforehand about wanting to do a PhD on some aspect of contemporary Spanish history and politics, and Richard gave me the perfect opportunity when this studentship arose in conjunction with his own project on nationalist movements in Spain. I am very grateful to him for involving me directly in his wider project, which included organising two workshops together and co-editing a special issue of a journal, also published in book format. In all these activities Richard treated me as a colleague and friend rather than a mere student. I also enjoyed the interviews we conducted together in the Basque region, as well as our frequent conversations, be it in person or via email, about Spanish, Basque and Catalan politics in general. I am also immensely grateful to him for his eternal patience throughout the trials and tribulations of the final write-up year.

This PhD has involved extensive fieldwork in both the Basque Country and Catalonia, and my warmest thanks go to all the many interviewees who were willing to give up considerable amounts of their time to answer my questions, some of whom were also happy to meet up a second or even third time, or to respond to further queries by phone or email, as well as to provide introductions to other people I was keen to interview. They are too numerous to mention here, but a list of interviewees is provided in the Appendix. One person in particular I must however name and thank here is Pello Caballero, who was the first person I was introduced to when I landed in Bilbao, who took a great interest in my research from the outset, and went out of his way time and time again to recommend people I might want to speak to and also to help facilitate access to them, as well as to provide a friendly face in Bilbao while I was living there. I would also like to thank the wonderful group of Basque friends who took me under their wing and integrated me into their ‘cuadrilla’ as one of their own while I lived in Bilbao for nine months. They gave me a chance to explore and experience the Basque Country with them and gain a real feel for its vastly different landscapes and geographies and for life in general there.

My thanks also go to Bill Murray, whose guidance I worked under at the British Embassy in Madrid a couple of years prior to starting this thesis. Having studied Spanish literature for my BA and Masters degrees, I knew very little about contemporary Spanish politics and the economy when I started to work for him, but he gave me an excellent crash course throughout the year, sparking my interest in particular in the complexities of regional politics in Spain and the intricate connection between politics and the economy, which helps to explain the origins of this thesis. I am also eternally grateful to Jonathan Thacker in the Spanish department at Oxford, who first taught me when I was an undergraduate there, later supervised my Masters on Golden Age Spain, and subsequently supported all my Spain-related endeavours thereafter.

This work has been made possible financially thanks to a PhD studentship from the Economic and Social Research Council (ESRC) of the UK [ES/J500094/1], and also to the 2015 BBVA scholarship awarded by the BritishSpanish Society. I would like to thank Philip Paddock of BBVA not only for the generous award itself, but also for the interest he took in my project and the opportunity he gave me to meet and discuss my research with BBVA analysts in Madrid and London. I am also grateful to the trustees and members of the BritishSpanish Society who took an

interest in my research and approached me to talk about it at the Scholarship Awards Ceremony at the Spanish Embassy in London in May 2015. It was a wonderful opportunity to meet so many people keen to foster Spanish-British relations.

Some of the ideas contained in this thesis have been published previously in two journal articles written in earlier stages of the PhD, one in the *International Journal of Iberian Studies* (Gray 2014) and the other in *Nationalism and Ethnic Politics* (Gray 2015), the latter of which was also published as a book chapter in a volume by Routledge (Gillespie and Gray 2015). Some of the views expressed in those publications have however been slightly modified or nuanced in this thesis with the benefit of further research. As inevitably occurs with topics of a highly politicised nature, as is the case of this thesis, there is a considerable risk of potentially causing offence by not taking one side or the other. This is particularly so with research on Spain, a country where political scientists and historians carrying out academic research are often associated with a partisan stance. This study attempts to provide an analysis that spans the divide in perspectives and I hope to have provided as balanced an account as possible, taking into account the wide range of opinions expressed in interviews and other available data, but I apologise wholeheartedly in advance if any reader feels I have misrepresented any events or given too much credence to one political view over another. It goes without saying that any shortcomings in the design and content of this thesis are entirely my own doing.

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## *List of abbreviations*

ANC	Assemblea Nacional Catalana (Catalan National Assembly)
BNG	Bloque Nacionalista Galego (Galician Nationalist Bloc)
CDC	Convergència Democràtica de Catalunya (Democratic Convergence of Catalonia)
CiU	Convergència i Unió (Convergence and Union)
CPFF	Consejo de Política Fiscal y Financiera (Fiscal and Financial Policy Council)
CUP	Candidatura d'Unitat Popular (Popular Unity Candidature)
EA	Eusko Alkartasuna (Basque Solidarity)
EB	Ezker Batua (United Left)
Ecofin	Economic and Financial Affairs Council
EE	Euskadiko Ezkerra (Basque Country Left)
ERC	Esquerra Republicana de Catalunya (Republican Left of Catalonia)
ETA	Euskadi ta Askatasuna (Basque Homeland and Freedom)
FFPP	Fondo de Financiación para los Pagos a Proveedores (Fund for Financing Payments to Suppliers)
FLA	Fondo de Liquidez Autonómico (Regional Liquidity Fund)
FNEC	Federació Nacional d'Estudiants de Catalunya (Catalan National Federation of Students)
HB	Herri Batasuna (Popular Unity)
ICV	Iniciativa per Catalunya Verds (Initiative for Catalonia Greens)
INE	Instituto Nacional de Estadística (National Statistics Institute)
IRPF	Impuesto sobre la renta de las personas físicas (personal income tax)
IU	Izquierda Unida (United Left)
JNC	Joventut Nacionalista de Catalunya (Catalonia's Nationalist Youth)
LOAPA	Ley Orgánica de Armonización del Proceso Autonómico (Organic Law on the Harmonisation of the Autonomy Process)
LOFCA	Ley Orgánica de Financiación de las Comunidades Autónomas (Organic Law on the Financing of the Autonomous Communities)
LTH	Ley de Territorios Históricos (Law of Historical Territories)
PNV	Partido Nacionalista Vasco (Basque Nationalist Party)
PP	Partido Popular (Popular Party)
PSC	Partit dels Socialistes de Catalunya (Catalan Socialist Party)
PSE	Partido Socialista de Euskadi (Basque Socialist Party)
PSOE	Partido Socialista Obrero Española (Spanish Socialist Workers' Party)
PSUC	Partit Socialista Unificat de Catalunya (Unified Socialist Party of Catalonia)
SCPT	Sistema de Cuentas Públicas Territorializadas (Territorialised Public Accounts System)
UCD	Unión de Centro Democrático (Union of the Democratic Centre)
UDC	Unió Democràtica de Catalunya (Democratic Union of Catalonia)
UPyD	Unión Progreso y Democracia (Union Progress and Democracy)

# Chapter 1

## Introduction and framework

### Introduction

This thesis investigates the influence of the regional financing models in Spain on the evolution of the territorial demands of the mainstream Basque and Catalan nationalist parties. Spain offers the opportunity to compare two different models of fiscal decentralisation in relation to two different nationalist movements. Spain's 17 regional governments all gradually acquired extensive public spending competences in the decades following the Spanish transition to democracy of the late 1970s, but their revenue-raising powers differ substantially since the historical development of the Spanish state and its relationship with specific regions has resulted in asymmetric fiscal decentralisation arrangements. On the one hand, Catalonia forms part of the common financing system (*régimen común de financiación*), a revenue-sharing system applicable to 15 of Spain's 17 autonomous communities or regions, under which the regions have some relatively limited tax-raising competences while also depending heavily on financial transfers from the central government. On the other hand, for historical reasons, the Basque region raises almost all of its own taxes under a separate system of substantial fiscal autonomy, the *Concierto Económico* or Economic Agreement (hereafter *Concierto*), as also does the neighbouring region of Navarre under its respective *Convenio Económico* (hereafter *Convenio*). The two Economic Agreements, the *Concierto* and the *Convenio*, together form the 'foral' financing system (*régimen foral de financiación*, where 'foral' stems from 'fuero' or medieval charter) (see Figure 1, p.2). How have these different regional financing models contributed to contemporary shifts in the Basque and Catalan nationalist parties' territorial agendas, understood as their goals regarding the relationship of their respective regions to the Spanish state?

Across Europe, the 21<sup>st</sup> century has witnessed a rise in demands for political sovereignty from nationalist parties that had previously seemed reconciled to seeking greater decentralisation or devolution rather than full independence (Gillespie 2015a: 3-4). The Scottish National Party (SNP)'s achievement of a referendum on independence for Scotland in September 2014 was a crucial example. Spain is a

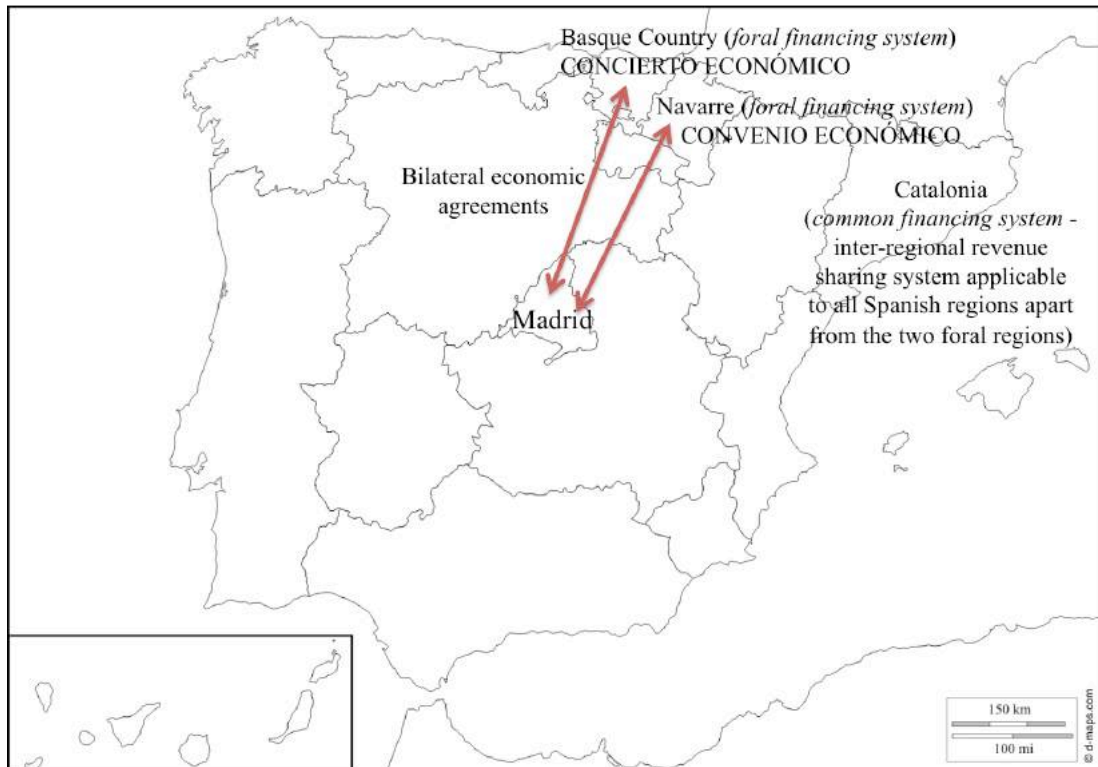


Figure 1: Different regional financing systems in Spain

particularly interesting case where pro-sovereignty movements have emerged in two different regions, yet with important differences in the objectives pursued. The mainstream Basque and Catalan nationalist parties, traditionally preeminent in their regions in the democratic period, have each sought, at different times since the turn of the century, to secure a fundamental reconfiguration of their fit within or with Spain. Notwithstanding different approaches, they share the demand for their respective peoples to be granted the ‘right to decide’ their own political future and for their governments to be invested with sovereign political power, rather than this being the sole preserve of the Spanish state. The nationalist parties under consideration are the Basque Nationalist Party (*Eusko Alderdi Jeltzalea-Partido Nacionalista Vasco*, EAJ-PNV, hereafter PNV) and Democratic Convergence of Catalonia (*Convergència Democràtica de Catalunya*, CDC), both of which are centre-right parties. CDC was the dominant partner in a longstanding alliance with the smaller Christian Democrat party, Democratic Union of Catalonia (*Unió Democràtica de Catalunya*, UDC), which saw them enter elections together as Convergence and Union (*Convergència i Unió*, CiU), initially as an electoral coalition from 1978 and then as a federation from 2001, until its dissolution in June



2015.<sup>1</sup> Both the PNV and CiU won their first respective regional elections held in 1980 following Spain's transition to democracy and became the predominant political force in their regions from then onwards. In the 35 years since, they have formed governments (usually minority or coalition governments) after almost all of their respective regional elections, apart from a period spent in opposition to Socialist-led governments due to coalition politics (2003-2010 in the Catalan case; 2009-2012 in the Basque case).<sup>2</sup>

Throughout most of the 1980s and 1990s, CiU and the PNV both prioritised an essentially 'accommodationist' stance, which involved seeking further autonomy within existing legal and political frameworks and by working with Spanish political actors. This was achieved fundamentally by collaborating with and supporting Spanish governments in return for gains in autonomy. Of the two, CiU at the time came across as the more resolutely pro-autonomy party, while the PNV's long-term territorial goals appeared relatively more ambiguous due to its longstanding more factional party organisation, divided between those in favour of an 'accommodationist' strategy aimed at winning more autonomy within the Spanish state and those taking a more radical stance in favour of secession. From the turn of the century, first the PNV and later CiU (especially CDC) would increase their demands to advocate the right of the Basque Country and Catalonia to self-determination and some degree of statehood, if not outright secession. In the Basque region, the PNV's main shift would occur under the leadership of regional president (*lehendakari*) Juan José Ibarretxe, with his frustrated attempt from the turn of the century to upgrade the Basque region's autonomy to turn it into a semi-independent associated state of Spain. In Catalonia, the change would come later, with CiU's fundamental shift in strategy away from accommodationist approaches towards a pro-sovereignty stance taking place in 2012, presaged by developments from around 2007 onwards – differences over which eventually led to the breakdown of the CiU coalition in 2015, when UDC rejected the secessionist agenda embraced by CDC. Nevertheless, the trajectory from accommodationist to pro-sovereignty politics has

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<sup>1</sup> Throughout this thesis, CDC/CiU will often be used when reference is made to CDC during

<sup>2</sup> In CDC's case, at the latest regional election on 27 September 2015 it did not win alone but rather as part of a single list *Junts pel Sí* comprising CDC, ERC and other independent candidates, and the party then changed its name to run as *Democràcia i Llibertat* in the December 2015 Spanish elections. This thesis focuses primarily on the development of CDC prior to this, but an explanation of these developments in late 2015 in relation to the party is provided in Chapter 2 (pp.77-79).

not been wholly consistent, nor are the two always entirely mutually exclusive: the PNV, for example, returned to more accommodationist tactics in the years after Ibarretxe's plan was thwarted, though by means of these it would still seek to work towards a new political relationship with Madrid based on a more bilateral partnership of equals, involving the possibility of self-determination and co-sovereignty.

Such developments raise the question of why the pre-eminence of the form of accommodationist politics practised by these parties in the 1980s and 1990s has been transformed since then, leading to periodic shifts towards more pro-sovereignty stances, which embrace a spectrum of potential territorial projects from some degree of statehood and political sovereignty within Spain to full secession from it. An emerging literature has identified a number of different external dynamics influencing these parties' shifts between territorial accommodationism and pro-sovereignty demands: for example, the state of bilateral relations between the region and the central Spanish government; pressures from the support bases of nationalist parties and civil society groups; competition from other parties in the home region; and international influences (Gillespie and Gray 2015). Identifying the evolution of the regional financing systems in Spain as one such external dynamic, this thesis aims first and foremost to contribute to this literature by investigating the influence of the regional financing systems on the evolution of the territorial agendas of the PNV and CDC. Most existing research on the regional financing models in Spain is by economists and focuses on economic outcomes (e.g. Zubiri 2015, De la Fuente 2013a, López Casanovas and Pons Novell 2005, etc.). This research focuses instead on the political drivers behind regional financing reforms and the political consequences of these for the evolution of nationalist party agendas.

The following sections introduce the specific aims and rationale of the thesis; the research questions it poses; the time period under study; the proposed terminology; and the analytical framework and methodology. The latter section includes subsections on the theoretical background to the thesis, on the choice of elite interviews as the main research method and on the choice of case studies. Finally, an introduction to the historical reasons for two different regional financing systems in Spain is provided, followed by a chapter outline for the thesis.

## **Background, aims and rationale**

In Spain, the existence of two different models of regional financing, the common financing system (*régimen común*) on the one hand and the ‘foral’ financing system (*régimen foral*) on the other, has been a source of endless controversy and intense political debate, owing first and foremost to the different economic outcomes of each model. Since at least the late 1990s, numerous studies have shown that the ‘foral’ financing system results in significantly higher per capita financing levels than the common financing system (e.g. Castells et al. 2000; De la Fuente 2012a, 2014; Uriel and Barberán 2007; Zubiri 2015). This is primarily on account of the fact that the Basques and Navarrans do not contribute to the equalisation mechanism for financing public services included in the common regime, which has become the main means of inter-regional solidarity in Spain, overtaking the Inter-Territorial Compensation Fund originally designed for this purpose and to which the Basques and Navarrans do contribute. The resources the Basque and Navarran regions receive are based on their own fiscal capacity since, broadly speaking, they keep all their tax revenues, except for the small proportion (in the Basque case, around 7%-10%) which they pay each year as a quota to the Spanish government to cover their share of the few remaining centralised spending competences in Spain, such as foreign affairs, defence and areas of infrastructure. Since the Basque Country and Navarre are relatively rich regions whose GDP per capita is among the highest in Spain, a system in which their resources are based on their own fiscal capacity rather than estimated needs (as in the common regime) gives them greater resources. This contributes, among other factors, to a level of per capita financing far higher than the average of the other fifteen regions (De la Fuente 2012a: 4-5; Zubiri 2010: 112; see also Chapter 3) (see Table 1, p.6).

This debate over the different levels of solidarity that the two regional financing systems entail became increasingly politicised from the late 1990s onwards, and in particular in the wake of the financial crisis of 2007-2008. This was fundamentally due to opposition from Catalonia to its fiscal and financial treatment under the common financing system, though several other regions have also voiced dissatisfaction with aspects of the system that they perceive as prejudicial to their respective territories. The equalisation mechanism included in the common financing system produces arbitrary outcomes, proving overly redistributive in some cases but

**Table 1: Resources provided by the regional financing systems for homogeneous competences (average 2007-2011)**

	Basque Country	Catalonia	Average (of 15 regions under the common system)
Resources per capita (in euros)	4887 (204)	2433 (102)	2396 (100)
Resources as % of GDP	16.2% (153)	9.0% (88)	10.6% (100)

Source: Based on Zubiri 2015: 215

**Table 2: Basic statistics for the Basque and Catalan regions**

	Basque Country	Catalonia	Spain
Area (sq km)	7234 (1.4)	32113 (6.3%)	506030 (100%)
Population (million)	2.19 (4.7%)	7.52 (16.2%)	46.52 (100%)
GDP (€bn)	65.9 (6.1%)	204.7 (18.9%)	1081.2 (100%)
GDP per capita (€)	30459 (130.8)	27663 (118.8)	23290 (100)

Sources: Anuario Estadístico de España, 2000, INE (area data); Padron 1 January 2016, INE (population data – provisional); Contabilidad Regional de España, 2015, INE (GDP at market prices and GDP per capita, estimates for 2015).

insufficiently so in others (e.g. Bosch and Durán 2008; De la Fuente 2012b, 2012c, 2013a). Most notably, the relatively richer regions under the system – particularly Madrid, the Balearics and Catalonia – tend to be overly penalised, losing their comparative advantage post-equalisation and falling significantly in the ranking of regions in terms of per capita resource levels. Political obstacles have repeatedly prevented a proper revision of the common financing system to improve the equalisation mechanism and other flaws in the system, since the fight for resources is a zero-sum game between different regions and each reform has been at the mercy of central and regional governments’ political strategies (Blöchlinger and Vammalle 2012: 113-121; León 2009, 2010). As a result, Catalonia started to make repeated calls, in particular from the late 1990s onwards, for a form of bilateral fiscal pact akin to the Basque Concierto instead. The Basque and Catalan regions are

comparably wealthy (relative to other parts of Spain) in GDP per capita terms, but Catalonia is much larger, accounting for approximately 19% of Spain's GDP, compared to around 6% in the Basque case (see Table 2, p.6). Successive Spanish governments have refused to consider a bilateral deal for Catalonia akin to the Basque Concerto – the Basque model is not easily generalizable (Spain would not raise any revenues of its own otherwise) and Spain would struggle to afford it for a region as large as Catalonia. This impasse over regional financing became one of the key factors contributing to the deterioration in Spanish-Catalan relations, particularly in the wake of the financial crisis and thus the increased pressure on resources. The phrase 'Spain robs us' (*España nos roba*) and reference to Catalonia as a victim of Spain's 'fiscal plundering' (*expolio fiscal*) became oft-repeated leitmotifs among Catalan nationalist and pro-independence forces and supporters.

In the light of this intense debate, most of the recent literature on regional financing in Spain has focused on analysing the shortcomings in particular of the common financing system and to a lesser extent of the 'foral' system, and on comparing them in terms of the different levels of resources they provide (e.g. De la Fuente 2009, 2012a, 2012b, 2013a, 2014; Castells 2014, etc). It is generally accepted that Catalonia is disadvantaged by the common financing system in the sense that it falls significantly in the ranking of regions post-fiscal equalisation, a problem that also affects other regions of comparative wealth per capita, most notably Madrid and the Balearics. Nevertheless, heated political debate has emerged over the question of to what *extent* the system disadvantages Catalonia and to what *extent* it is to blame for the region's financial woes, relative to discretionary spending decisions taken by the Catalan government. The debate has been exacerbated by the difficulties inherent in quantifying Catalonia's fiscal deficit with the Spanish state and the political bias to which the different possible calculations are invariably subject. Numerous studies have centred on the different methods of calculating the fiscal balances of each region with the central Spanish government (where the net fiscal balance is usually based on the difference between the amount of money a region receives from the central government to pay for its public services and what its residents contribute to the central government in taxes), and their relative merit and utility (e.g. Bosch et al. 2010; López-Casasnovas and Rosselló-Villalonga 2014). More recently, a group of economists undertook a project commissioned by the Madrid-based Sepi Foundation, a government-linked public organisation, which involved developing a

new methodology for calculating each region's respective and relative position in terms of financing levels, to provide a new System of Territorially Public Accounts (*Sistema de Cuentas Públicas Territorializadas*, SCPT) (De la Fuente 2014). The new methodology, first made available in July 2014, would thereafter be used by the Spanish government. The aim was to go beyond the limitations of looking at traditional fiscal balances, which are often based on the direct financial amount that each region derives from central administration in comparison with their tax contribution, but risk overlooking the benefits a region may derive from public policy decisions which do not involve spending money directing in the region (for example, Spanish embassies funded by the Spanish government around the world are designed to benefit all Spaniards including Catalans, but the expenditure is clearly not made in Catalonia itself). The SCPT inevitably gives results that suggest that the territorial inequalities produced by the system are not as large as other more traditional methods of calculating fiscal balances might suggest.

Given the lack of one standard or universally accepted method of calculating the impact of the regional financing system on individual regions, the issue has been heavily subject to political bias and interpretation, with politicians invariably citing versions of figures that best suit their argument and rejecting those that do not. The announcements made in mid 2014, regarding the fiscal balances for 2011 – the first time the Spanish government used its new methodology – were emblematic of the discrepancy. In June 2014, the Catalan government published its report on the fiscal balance of Catalonia with the Spanish state in 2011 with a headline figure that Catalonia had suffered a EUR 15.006bn deficit that year (7.7% of its GDP).<sup>3</sup> This was the deficit the Catalan government had calculated under the monetary flow method, which calculates the balance between taxes paid by residents of the region to the central government and direct expenditure by the central government in the Catalan region. Further down in the report, the Catalan government acknowledged that the figure reduced to EUR 11.087bn (5.7% of GDP) under the tax-benefit method of calculation, which also takes into account central government expenditure on policy areas that may benefit Catalonia but not involve a direct payment to the region. The monetary flow method, which gives a higher deficit, is nevertheless the

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<sup>3</sup> Generalitat de Catalunya, 'Els resultats de la balança fiscal de Catalunya amb el sector públic central l'any 2011', June 2014. Available online here: <http://file02.lavanguardia.com/2014/06/12/54408942366-url.pdf>

one almost always cited by Catalan nationalist and pro-independence politicians and forces, with repeated references in public declarations and the media to an average annual Catalan deficit of around EUR 16bn or 8% of GDP.<sup>4</sup> In contrast, the new SCPT system (similar in principle to the tax-benefit method with some further adaptations) gave a Catalan deficit of EUR 8.455bn (4.35% of GDP) for 2011.<sup>5</sup> Both sides accused the other of political bias in their calculations.

Beyond strictly academic literature designed primarily for an academic audience, the debate has also spawned a plethora of paperback books designed to make the issues as accessible as possible for a more general public interested in understanding the economic issues at stake. Usually written by academics and experts in their field or sometimes by more general commentators, these books are designed to convince the reader firmly of one side or the other. Either they have sought to explain Catalonia's 'poor' financial treatment by the Spanish state and make the economic case for independence (e.g. Bosch and Espasa 2014; Paluzie 2014) or, alternatively, they analyse the smoke and mirrors in the figures and economic arguments repeatedly cited by nationalist and pro-independence politicians in order to suggest flaws in those arguments (e.g. Borrell and Llorach 2015).

Exact numbers aside, it is widely acknowledged that the issue of the Catalan fiscal deficit – alongside other economic matters such as the perceived lack of sufficient central government investment spending in Catalonia – has contributed to the rise in pro-independence sentiment in Catalonia in particular from 2010 onwards, with tensions reaching a height in the wake of the financial crisis. After Spanish prime minister Mariano Rajoy once again refused to consider a fiscal pact for the region in 2012, Catalan regional president Artur Mas and his party CDC decided to join and lead the rising tide of pro-independence sentiment. In stark contrast, in the Basque Country, the fact that the region weathered the crisis better than most regions in Spain (see Tables 3 and 4, p.10) helped the PNV to retain popularity with a more moderate territorial agenda. Figures show that since tax collection in Spain as a whole dropped more rapidly than in the Basque region during the crisis, the Basque region's comparative advantage in terms of resource levels relative to other regions

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<sup>4</sup> For example, 'La Generalitat cifra en 15.006 millones el déficit fiscal de Catalunya en 2011', *La Vanguardia*, 12.06.14.

<sup>5</sup> For example, 'El déficit fiscal de Catalunya es de 8.455 millones según las balanzas del Gobierno', *La Vanguardia*, 23.07.14.

in Spain actually increased further during the crisis (Zubiri 2015: 218). Since the Basque region clearly emerges at a distinct advantage in terms of final resource levels regardless of which method of calculation is used, politicians in Basque government, technical teams within the Basque treasuries, and a number of Basque academics have focused their efforts on negating any untoward ‘privilege’ by explaining the historical origins of the Basque model and attributing the region’s higher resource levels to better fiscal management rather than a lack of solidarity, given the level of fiscal responsibility that fiscal autonomy requires (e.g. Uriarte 2015).

**Table 3: Regional debt to regional GDP (%)**

	2008	2009	2010	2011	2012	2013	2014	2015
Basque Country	1.5	4.1	7.7	8.6	11.4	13.2	14.1	14.4
Catalonia	10.0	12.7	17.5	22.0	26.7	29.9	32.7	35.3
Spain	6.6	8.6	11.4	13.6	18.1	20.3	22.7	24.2

Source: Bank of Spain

**Table 4: Regional unemployment rates (%)**

	2008	2009	2010	2011	2012	2013	2014	2015
Basque Country	6.6	11.3	10.7	12.3	15.6	16.6	16.3	14.8
Catalonia	8.9	16.2	17.7	19.2	22.5	23.1	20.3	18.6
Spain	11.2	17.9	19.9	21.4	24.8	26.1	24.4	22.1

Source: INE: Annual average unemployment based on EPA Quarterly unemployment data

Beyond the frenzied debate and value judgements as to which numbers or calculations are right or wrong, there has been insufficient attention in both the economic and political science literature to the question of how the issue of regional financing in all its complexity has contributed to the evolution of the territorial agendas of CDC/CiU and the PNV in recent decades. While economists have focused on the numbers to make specific economic arguments, historians and political scientists have tended to focus their efforts on analysing other external dynamics (social, institutional and political factors) that have shaped strategic shifts in territorial agendas, usually with only a cursory mention of regional financing in



passing. Often, such cursory mentions can be misleading, since statements suggesting that Catalonia suffers an ‘annual deficit of 8% of GDP due to the financial arrangements imposed by the Spanish state’ (Guibernau 2014: 17), without acknowledging the methodological disputes over this figure, fail to acknowledge the complexity of the issue. The focus on the numbers by economists, and on other social, institutional and political factors by political scientists and historians, has obscured a fuller appreciation of the significance of the political dynamics of regional financing for the evolution of territorial agendas. This thesis hopes to help bridge the gap between the two types of study by providing an in-depth analysis of this dimension. To do so will require providing an extensive account of the many debates over regional financing and reforms of both the common and ‘foral’ regional financing systems that have taken place since the first regional financing systems of the democratic period were designed in 1980, with a particular focus on the more conflictive period since the late 1990s. Rather than entering into value judgements about the relative merits of these, the intention will be to do justice to the full complexity of the debates and the divide in perspectives as a foundation for analysing what factors have shaped the stances and strategies of CDC/CiU and the PNV towards their respective regional financing arrangements in different periods, and what the wider consequences have been for their territorial agendas regarding the relationship of their respective regions to Spain. Regional financing preferences and the extent to which these have influenced the territorial agendas of the Basque and Catalan nationalist parties have depended not only on bilateral Catalan-Spanish and Basque-Spanish tensions over the issue and wider inter-regional dynamics within Spain, but also on intra-regional dynamics such as party competition, which require an adequate exploration.

The main aim of this thesis, as stated, is thus to contribute to the literature identifying the different dynamics influencing shifts in territorial agendas undertaken by the PNV and CDC by investigating the influence of the regional financing systems as one such dynamic. As a qualitative case study intended to provide an in-depth comparative case study of the Basque and Catalan cases within Spain, this thesis does not intend to extract conclusions that are necessarily generalisable to other countries and contexts, particularly given the vastly different levels of fiscal centralisation or decentralisation in different European countries, which make generalisations problematic. It is nevertheless hoped that the thesis will also be of

wider interest to political scientists interested in the evolution of nationalist party behaviour in Europe and to political economists studying the pros and cons of different models of fiscal federalism. While comparisons between the common and foral financing systems are commonly made within Spain, cross-country comparisons of fiscal federal systems tend usually to factor the common system only in Spain into their comparative analyses, with little more than a passing reference to the fact that the Basque and Navarran regions come under a separate model (e.g. Blöchlinger and Vammalle 2012; Cottarelli and Guerguil 2014). Since the foral financing system offers the most substantial level of fiscal autonomy at substate level within any EU member state, Spain offers a unique opportunity to compare and contrast a revenue-sharing model (the common regime) with a model of substantial fiscal autonomy, in terms of their implications for the accommodation of nationalist movements within Spain.

## **Research questions**

In the light of the above, the main research question this thesis will investigate is:

- How have the regional financing models in Spain contributed to shaping the evolution of the territorial agendas of the mainstream Basque and Catalan nationalist parties, in terms of their respective shifts along a continuum between accommodationist and pro-sovereignty politics?

This will involve exploring the following sub questions:

- What shifts have occurred in the territorial agendas of the PNV and CDC along the spectrum from territorial accommodation to pro-sovereignty politics since the late 1990s?
- What political, social and economic drivers help to explain these shifts?
- What influence have regional financing issues had on the shifts in conjunction with other drivers?
- What factors have driven the PNV and CDC's evolving aspirations with regard to the respective financing models in their regions since their first design in the democratic period in 1980? And what have been the main areas of contention with Spanish governments and other parties in this regard?
- Why have reforms of their respective regional financing systems repeatedly failed to satisfy the PNV and CDC?

- How has the bilateral nature of the Concierto contributed to shaping the PNV's conception of sovereignty?
- Beyond bilateral Spanish-Basque fiscal and financial relations, what are the consequences of the complex nature of the intra-regional dimension of the Concierto (in terms of fiscal and political relations between provincial and regional administrations) for the PNV's territorial agenda?

### **Time period under study**

The main focus of analysis in this thesis will be on the behaviour of the PNV and CDC from the mid 1990s until the end of 2015, an approximately 20-year period in which a number of fundamental developments that would impact their territorial agendas took place. Some of these factors enabled a continuation of accommodationist tactics, but many favoured shifts towards more pro-sovereignty agendas. Understanding some developments from the mid 1990s nevertheless also requires knowledge of their origins or background in the earlier years of democracy. This thesis will therefore take into account Spain's national and territorial problematic from the transition to democracy of the late 1970s onwards (after the death of dictator Franco in 1975), including the development of the regional financing systems ever since both the common system and the Basque Concierto of the democratic period were first designed in 1980.

A first significant development in the mid 1990s was the change from 11 years of absolute majority Spanish government under the Socialist party (1982-1993) to the first of what would become a regular occurrence of minority Spanish governments dependent upon the regionally-based nationalist parties for support in the Spanish parliament, given the absence of alternative state-wide coalition or alliance partners at the time for either the PSOE or the PP. The turning point came in 1993, when the PSOE won the Spanish general elections with only a relative majority, following its lengthy period of absolute majority government from 1982 to 1993. At the next general elections in 1996, the PP under José Maria Aznar won for the first time but with a relative majority too, thus also forming a minority government dependent upon the support of regionally-based nationalist parties. The start of Aznar's first mandate reinforced the emerging trend whereby CiU and/or the PNV would negotiate gains in regional autonomy in return for lending support in the

Spanish parliament to the governing statewide party. From then on, this became the main ‘accommodationist’ tactic nationalist parties could use to extract decentralisation or economic gains from the central government (minority Socialist-led Spanish governments were also formed in 2004-2008 and 2008-2011), whereas their bargaining power during times of absolute majority PP-led Spanish government (2000-2004 and 2011-2015) would be severely diminished.<sup>6</sup> Spain had previously experienced four years of minority government under UCD following the first post-constitution elections (Suárez 1979-1981, Calvo Sotelo 1981-1983) and regional parties including CiU had lent their support, but at that stage regional governments were still at the formative stage (the first regional elections were held between 1980 and 1983) and the consensual political context of the Transition was in place. By 1993, when minority governments became a feature of the Spanish political landscape again, the context was very different: a spirit of political competition had replaced the spirit of consensus (Hopkin 2005), and regional governments had become firmly established political arenas.

However, other dynamics from the mid 1990s onwards contributed to shifts away from accommodationism towards pro-sovereignty agendas. In particular, the second half of the 1990s witnessed the beginnings of a significant shift in the PNV’s territorial agenda. In 1998, the party’s longstanding alliance with the Basque federation of the Socialist Party (with which it had been in coalition in regional government since 1985) came to an end, and it signed the Lizarra Pact (*Pacto de Lizarra*) to ally instead with left-wing nationalist and secessionist parties. The alliance was short-lived, but a new PNV-led Basque government headed by Juan José Ibarretxe would subsequently attempt to take forward proposals (which were ultimately thwarted) to turn the Basque region into a new semi-independent associated state of Spain.

In Catalonia, an explicit shift within CDC towards a pro-sovereignty agenda and alliances, such as that undertaken by the PNV in the late 1990s and early 2000s, would not come until several years later. CDC started to make moves in this direction from around 2008 onwards, before the shift became explicit in 2012. Nevertheless, some crucial developments in this regard began to take place earlier, from the late 1990s onwards. For example, after the 1996 reform of the regional

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<sup>6</sup> On the behaviour of minority governments in Spain, see Field 2009, 2014, 2015, 2016.

financing system very quickly proved insufficient to satisfy Catalan interests, the then longstanding Catalan president and leader of CDC/CiU Jordi Pujol came out publically in favour of a new bilateral fiscal pact for Catalonia akin to the *Concierto* for the first time from 1997. Such developments were tentative only, and at this stage moderate and accommodationist tendencies continued to prevail within CDC and CiU under Pujol. Artur Mas, Pujol's successor, then ended up in opposition to a left-wing coalition government headed by the Catalan Socialists and including ERC and ICV, which would be the parties to take forward statute reform in Catalonia from 2003 onwards, with CiU in opposition. Many years later, in 2012, when the opportunity came for Artur Mas, now president, to lead a pro-sovereignty process for Catalonia, CDC would this time want to take the lead on issues relative to Catalonia's autonomy.

## **Terminology**

Terminology in the field of nationalism studies is inherently problematic, and particularly so in the case of nationalisms in Spain. This is because many terms from the social sciences have become associated with a particular political standpoint, and often this has indeed become the expectation, since political scientists and historians carrying out academic research in Spain are often associated with a partisan stance. This study attempts to provide an analysis that spans the divide in perspectives, and the following clarifications are thus essential to avoid misinterpretation of meaning. In all cases, the terminology chosen is not intended to convey any political bias or value judgement, either positive or negative.

This thesis investigates shifts in territorial agendas by mainstream nationalist parties between accommodationism and pro-sovereignty politics, where 'territorial accommodation' is understood as 'the capacity of states to contain conflict within the mechanisms and procedures embedded in existing institutional arrangements' (Gillespie 2015a: 4; after Muro 2009: 453). Accommodationist strategies, when used by Basque and Catalan nationalist parties, have involved working with Spanish political actors to seek incremental gains in autonomy within the existing legal frameworks of the Spanish Constitution and the regional statutes of autonomy. These statutes themselves have allowed for flexibility, making accommodationism compatible in principle with initiatives for new statutes. Accommodationism

involves accepting, at least temporarily, the existing structures of the Spanish state to concentrate on what can be achieved within that context. Often, this has been achieved through informal pacts or mutual support arrangements with the central government, whereby the nationalist party supports the governing Spanish party in central parliament in specific areas of legislation, and in return secures a commitment from the Spanish government to certain advances in decentralisation or a favourable resolution to certain pending central-regional government disagreements regarding regional competences. Such ‘accommodationist’ politics is often also referred to as ‘moderate’ or ‘pragmatic’ nationalist politics in the media and academia – words with positive connotations, and thus often indicative of the general sympathy in the media and the wider Spanish political arena for accommodationist behaviour by nationalist parties (in contrast with pro-sovereignty politics that risks a rupture with the Spanish state). The terms ‘accommodation’, ‘moderation’ and ‘pragmatism’ will all be used within this thesis but in the full knowledge that whether or not a nationalist party can behave in a ‘moderate’ and ‘pragmatic’ way is not always down purely to party choice. External contexts and constraints, including the behaviour of the central Spanish government, can limit the viability of moderate and pragmatic nationalist politics.

In contrast, pro-sovereignty politics involves a determined push by Basque and Catalan nationalists for their respective territories to be granted the ‘right to decide’ their own political future and to be invested with sovereign political power, rather than this being the sole preserve of the Spanish state. It refers to their desire for substantial changes to the Spanish legal and constitutional framework, or to break with it, to secure a fundamental reconfiguration of their respective territories’ fit within or with Spain. Pro-sovereignty politics can, but does not have to, imply a push for full independence or secession. It can also imply attempts to reconstruct centre-periphery relations on a different basis from the existing ‘state of autonomies’, involving a push for some form of confederalism involving bilateral relations and co-sovereignty with the Spanish state (Gillespie 2015a: 10). Former PNV regional president Juan José Ibarretxe, for example, sought to upgrade the status of the Basque region to that of a semi-independent associated state of Spain, based on bilateral relations and co-sovereignty between the Basque Country and Spain. After adopting an explicitly pro-sovereignty lexicon from 2012 onwards, CDC still maintained a degree of ambiguity for a while as to whether the ‘state structures’ it

sought for Catalonia implied full secession or, rather, could be incorporated into a more confederal Spain. Shifts away from traditional accommodationism towards such pro-sovereignty stances by Basque and Catalan nationalist parties thus take place on a continuum which can involve various different options ranging somewhere between the polar opposites of the status quo and secession.<sup>7</sup> Moreover, accommodationist and pro-sovereignty politics are not necessary entirely mutually exclusive. From 2009 onwards, for example, the PNV under the new leadership of Iñigo Urkullu would return to more accommodationist tactics in the years after Ibarretxe's plan was thwarted, though he would use accommodationist tactics to seek to work more gradually towards a new political relationship with Madrid based on a more bilateral partnership of equals, involving the possibility of self-determination and co-sovereignty, hoping to build a greater consensus among political parties in the Basque region (including the Basque federation of the Spanish Socialist party) in this regard.

There is no consensus in Spain as to the language used to describe such shifts towards pro-sovereignty politics. For political opponents, it marks a 'radicalisation' of agendas, while Basque and Catalan pro-sovereignty forces, on the other hand, reject the pejorative connotations of such a word and see their actions as healthy democratic practice. This thesis will refer fundamentally to *shifts* between accommodationism and pro-sovereignty politics. Where 'radicalisation' is very occasionally used in reference to territorial agendas, it is intended only to denote movement along the continuum between accommodationist and pro-sovereignty politics, without any value judgement intended. 'Radical' itself is reserved for reference to the anti-capitalist, anti-systemic and secessionist left-wing parties of the *izquierda abertzale* in the Basque region, and the CUP in Catalonia (see below).

Terminology regarding place names also needs to be clarified. Within the Spanish 'state of autonomies', the Basque Country refers to the autonomous community of that name (also officially denominated Euskadi), while Catalonia refers to the autonomous community of Catalonia. However, there can be some confusion since the Basque Country in its widest sense, for historical reasons long prior to the creation of the Spanish state of autonomies, also incorporates Navarre (an autonomous community of its own) and parts of the south of France. In the

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<sup>7</sup> For a more in-depth description of the wide-ranging continuum of 'autonomist', 'federalist' and 'independentist' options that regionally-based parties can embrace, see Lluch 2014.

Catalan case, the wider Catalan-speaking territories in Spain (primarily Valencia and the Balearics, as well as Catalonia) and France are known as the ‘Catalan Countries’ (*Països Catalans* in Catalan) rather than Catalonia, thus reducing the risk of confusion. In the Basque case in particular, there remains an attachment among Basque nationalists to the wider Basque homeland, which they refer to as *Euskal Herria* in Basque (meaning ‘country of euskera’, the Basque language). Certainly, greater cooperation with Navarre is something to which many Basque nationalists would still aspire, if there were sufficient political will from Navarre itself. From a practical perspective, however, the PNV focuses its efforts regarding the political future of the Basque Country first and foremost on what is achievable for the Basque autonomous community, just as CDC’s efforts are centred on the autonomous community of Catalonia, since the autonomous communities are the most significant levels of political action for these parties in the period under analysis. The PNV does have a reasonably significant presence in Navarre but it has never attained anywhere near the dominance there that it has had in the Basque autonomous community. In addition, the regional financing arrangements under study here apply to the autonomous communities. In the light of this, since the analysis in this thesis is focused on political action and regional financing arrangements at the level of the autonomous community, the term ‘Basque Country’ is usually used to refer strictly to the Basque autonomous community or region. Basque Country and Basque region will be used interchangeably in this thesis. In all cases, where possible, English translations of names of territories and places are used rather than the Spanish, Catalan or Basque versions. However, where there is no widely used translation in English, the most commonly known version (in Spanish/Catalan/Basque) will be used. For example, the capital of Guipúzcoa will be referred to as San Sebastián (rather than by its Basque name Donostia) and the capital of the Basque Country as Bilbao (rather than Bilbo).

For historical reasons and to respect their tax-raising tradition, the Basque provinces retained elected governments (*diputaciones forales*) and parliaments or assemblies (*juntas generales*) under the Basque statute of autonomy, in contrast to the provinces elsewhere in Spain which are more purely administrative levels of authority. These will be referred to as Basque provincial governments and provincial parliaments or assemblies in this thesis. The Basque provinces, also known as ‘foral territories’ or ‘historical territories’ (as reflected in the First Additional Disposition



of the Spanish Constitution) are thus endowed with far more substantial powers than the provinces elsewhere in Spain. Some Basque officials dislike the use of the term 'provincial' to refer to their territories, governments and parliaments at provincial level, arguing that it risks confusion with other provinces in Spain which have fewer powers, and thus they tend to use 'foral' or 'historical' instead. The view here, however, is that it is preferable wherever possible to use 'provincial' in English, while fully acknowledging and explaining the specific characteristics of the Basque provinces, since 'foral' and 'historical' are specific to the Basque history and context and have no direct equivalent in English.

The term 'nation' is hotly disputed in Spain. The Spanish Constitution only recognises Spain as a nation, while the Basque Country and Catalonia are considered 'nationalities' but not 'nations', and in an administrative sense they are designated as autonomous communities. Nevertheless, Basque and Catalan nationalists consider the Basque Country and Catalonia to be nations and have sought their official recognition as such. The then Spanish prime minister Zapatero agreed to allow the 2006 Catalan autonomy statute to refer to Catalonia as a nation in the preamble, but not in the body of the text itself, which would have been required to make the term official. Basque and Catalan nationalists tend to avoid any designation of their autonomous communities as 'regions' or use of the term 'regionalist' to describe themselves or their projects, since they consider themselves a nation. 'Regionalist' has only been used historically in the Catalan case by pre-Civil War pro-autonomy forces (e.g. the Lliga Regionalista) and very occasionally in relatively more recent times to refer to the pro-autonomy stance of the Catalan Socialists, though more often than not the latter's stance has been referred to instead as 'Catalanist'. Catalanism also requires definition here, since it is an umbrella term used to cover all parties (not just nationalist, but also the Socialists and other left-wing parties such as ICV) that have at times sought recognition of Catalonia as a nation and/or its right to shape its own autonomy (be it on specific issues such as language, or on matters more generally), thereby taking a stance able to compete with the nationalists. In more recent years, the Catalanist phenomenon has also evolved to embrace a fluid relationship between parties and civil society in support of Catalonia's 'right to decide'. Returning to the question of regions and nations, however, the Spanish autonomous communities are regularly referred to in literature in English as 'regions' and their governments as 'regional governments' for purely practical

reasons, since ‘autonomous community’ is a term unique to the Spanish setup and ‘region’ is its closest generic equivalent in English. As a result, ‘region’ and ‘autonomous community’ will be used interchangeably in this thesis to refer to that level of political administration. The decision to use the term ‘region’ does not reflect any judgement as to whether or not the Basque Country and Catalonia should be officially recognised as nations. It is simply a shorter means of referring to the administrative level of government of the autonomous communities, widely used in English translation.

Use of the term ‘Spanish state’ also requires clarification here. Basque and Catalan nationalists who consider themselves first and foremost Basque or Catalan rather than Spanish, and who wish to distance themselves from Spain, frequently refer to ‘the Spanish state’ (‘el Estado español’) instead of Spain. ‘Spanish state’ has thus become a rather pejorative and negative means of referring to Spain when used in this sense. In political science literature, however, the term ‘state’ is widely used in a neutral sense as part of standard terminology to distinguish between supranational, state and substate levels of government. In this thesis, where frequent reference is made to the ‘Spanish state’, it is strictly in this neutral sense, without any negative connotations intended, in order to make clear the distinction between state and substate levels using the standardised political science terminology.

Another area of terminological confusion is how to refer to non state-wide or stateless political parties based in specific regions of a state. In the wider literature on such parties throughout Europe, they have variously been referred to as ‘ethnoregionalist’, ‘nationalist’ or ‘autonomist’ parties, among various other labels (Hepburn 2009). This thesis, in accordance with general usage in the literature on Catalan and Basque parties, will refer to the PNV and CiU as nationalist parties, while acknowledging that the term ‘nationalist’ is a problematic one. Many within the PNV and CiU do not consider themselves as such and dislike the term, since they tend to believe the term ‘nationalist’ is more appropriate for Spanish centralist parties like the PP. They argue that the PP is more ‘nationalist’ since it seeks to use the Spanish state to create a Spanish nation, in contrast to Catalonia and the Basque Country which they consider pre-existing nations seeking to create a state.<sup>8</sup> Some within the PNV would in fact prefer to change the party’s name to Basque National

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<sup>8</sup> For example, personal interview with Germà Bel, 27 April 2015.

Party instead of Basque Nationalist Party.<sup>9</sup> Still, there is a general acceptance amongst the PNV and CDC/CiU that they form part of the nationalist party family as broadly conceived of in the social sciences, and the term will be widely used in this thesis in this sense. The term nationalist will not only be used to refer to the substate nationalist movements (also often described in the literature as ‘peripheral nationalisms’), but also to Spanish nationalist discourse, which sectors of the PP in particular have sought to reassert to create a Castilian-centred national identity, in particular on the occasions where the party has been able to form absolute majority governments in Madrid (2000-2004 and 2011-2015). In Spain, there is thus a clash between competing nationalisms at state and substate levels.

Aside from the PNV and CDC/CiU, the traditionally dominant centre-right nationalist parties, both the Basque and Catalan regions are also home to left-wing, separatist parties. In Catalonia, the main left-wing secessionist party has traditionally been the Republican Left of Catalonia (*Esquerra Republicana de Catalunya*, ERC), while another secessionist party with more radical left-wing views has been the Popular Unity Candidacy (*Candidatura d’Unitat Popular*, CUP). These parties will usually be referred to in this thesis primarily as secessionist or pro-independence parties, while acknowledging that in the case of ERC, the party has not always formally pushed for independence, even since it formally committed itself to this goal in the late 1980s – most notably, it moderated its territorial ambitions to enter government during the years of tripartite coalition government in Catalonia in 2003-2010. These parties may also be grouped under the label ‘nationalist’ if a generic term is needed to describe them together with CDC. In Catalonia, around the time when CDC shifted to a more pro-sovereignty lexicon from 2012 onwards, many citizens who had never been Catalan nationalist supporters previously were joining the separatist cause, and the distinctions between the more mainstream nationalist party and other more traditionally separatist parties (ERC and the CUP) in terms of their territorial agendas became more blurred. The terms *soberanista* or *independentista* have become the preferred term by many within those parties and their supporters to describe themselves, since many do not see themselves as nationalists from the Catalan nationalist tradition (and since the traditional ‘nationalists’ often do not like that term in any case). Those terms, *soberanista* and

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<sup>9</sup> For example, personal interview with Iñaki Goikoetxea, 7 July 2014.

*independentista*, or alternatively pro-sovereignty and pro-independence politicians and voters, may also be used in this thesis where appropriate.

In the Basque region, the radical left, secessionist alternative has been the parties of the *izquierda abertzale* (literally, ‘the patriotic left’, where ‘izquierda’ is the Spanish word for ‘left’ and ‘abertzale’ the Basque word for ‘patriotic’). The ‘izquierda abertzale’ is an umbrella term used to denote the various left-wing, separatist parties and organisations in the region which have tended to ally together. Aside from their vision of an independent Euskal Herria, they are also known for their radical anti-capitalist and anti-system ideology. The term ‘izquierda abertzale’ will thus be used in this thesis but it requires some clarification here, since it has embraced a complex and changing mix of parties and party names over the decades. The izquierda abertzale was originally considered first and foremost the political wing of ETA when the terrorist group was in operation, though it would also come to embrace left-wing, secessionist parties critical of ETA but sharing the radical left-wing, secessionist ideology of that milieu. The main formation was Herri Batasuna (HB, Popular Unity) from 1978 onwards, which registered as a political party in 1986 and was later refounded as Batasuna in 2001, at which stage a minority faction which formed a critical current against ETA chose to leave and found a separate party, Aralar. In a controversial decision, Batasuna was outlawed in 2003 under the Spanish Law of Parties of 2002, which banned any political parties with links to terrorism. Previous formations HB, Batasuna and Euskal Herritarrok (‘Basque Citizens’) – the latter of which was a coalition including HB Batasuna formed in 1998 – were also banned. Sortu (‘Create’), a new party created in 2011, was considered the main heir to Batasuna. Since Sortu was initially outlawed too (though the decision was later reversed on appeal), the izquierda abertzale formed instead a coalition called Bildu (‘Gather’) to stand at the 2011 regional and municipal elections. Bildu brought together the two parties Eusko Alkartasuna (EA, Basque Solidarity) and Alternatiba (‘The Alternative’), as well as some other organisations and independents of the izquierda abertzale. EA was the party that had formed after the split within the PNV in 1986, which had often allied with the PNV thereafter, but from 2009 onwards it had shifted definitively to join the izquierda abertzale. Alternatiba, meanwhile, was founded in 2009 as a result of the split within the Basque federation of the Spanish United Left party (*Izquierda Unida*, IU). While Bildu was the denomination used in the Basque region for the purpose of Basque

regional and provincial elections, it presented itself as Amaiur ('Mother Earth') at the 2011 Spanish elections. The Bildu coalition would be succeeded in 2012 by Euskal Herria Bildu (EH Bildu), a new version of the coalition also incorporating Sortu (now legalised following a successful appeal against its outlawing) and also Aralar, to stand at the 2012 Basque regional elections for the first time.

Finally, the definitions of and distinction between fiscal autonomy and fiscal sovereignty used in this thesis need to be explained here, since these are not clear-cut. In brief, fiscal autonomy when applied to substate governments usually describes a large degree of freedom in raising and spending taxes but still within the boundaries of some rules set by the wider state, as is currently true of the Basque region. Fiscal sovereignty, meanwhile, is more often applied to states themselves and suggests complete autonomy in setting fiscal policies without any outside interference. In practice, complete fiscal sovereignty has now become almost obsolete in Europe since individual member states are subject to some wider European fiscal legislation, especially in the case of indirect taxation. In this thesis, however, fiscal sovereignty when applied to the Basque provinces describes the aspiration to reach the same level of sovereignty in setting tax structures and policies in most respects as held by Spain itself. Representatives of the Basque institutions refer to the provinces as fiscally sovereign already in the case of taxes for which they have been granted regulatory autonomy (within the limitations of the harmonisation rules with Spanish legislation).

### **Analytical framework and methodology**

This study is interested first and foremost in achieving an in-depth knowledge of the distinctiveness of the particular cases under study, in order to be able to contribute both to the specific debates surrounding their individual relationships to the Spanish context and to comparative Catalan-Basque analysis of the subject. A qualitative methodology will be used, informed by the conviction that in-depth inductive, qualitative case studies of the Basque and Catalan nationalist parties are still much needed to unearth the different dynamics and drivers shaping their evolving behaviour. By investigating the impact of regional financing on the evolving territorial agendas of nationalist parties, this thesis is located in the political science literature on the behaviour of regionalist and nationalist parties in Western

Europe. This section serves first to situate this thesis within the context of some of the relevant European literature in this field, using this as an introduction to the justification and explanation of the methodological approach chosen. The next subsection explains the choice of elite interviews as the main research method. Separate subsections then look at the reasons for the choice of a Basque-Catalan comparative case study (including key works on the topic) and the exclusion of Galicia and Navarre, while a final subsection provides an introduction to the two regional financing systems.

***Theoretical background: The literature on regionalist and nationalist party behaviour***

The literature on nations, nationalisms and nationalist parties encompasses a very wide field of study. This thesis does not intend to enter into theoretical debates on the definition of nations or nationalisms, but rather it is located in the literature which seeks ‘to investigate the complex heterogeneity of political orientations within national movements and their temporal evolution’ (Lluch 2014: 3). Lluch (2014) points out that theorists have too often assumed that nationalist parties who seek increasing increments of sovereignty are ultimately aiming towards the full and ultimate goal of full independence or secession, when in actual fact their visions of sovereignty can embrace a range of autonomist, federalist and secessionist options and their ‘orientations can evolve over time’ (2014: 4), which calls for a deeper exploration of what causes such shifts in nationalist party orientation. Moreover, this thesis is located in the wider growing body of literature seeking to understand and explain the behaviour of stateless regionalist and nationalist parties (hereafter regionalist-nationalist parties) as they strategize along both the territorial and left-right dimensions of party competition (e.g. Hepburn 2009, Massetti 2009, Elias and Tronconi 2011a and 2011b, Elias et al. 2015; Massetti and Schakel 2015). Notwithstanding the diversity of the ideological identities of the parties included under this definition, they are widely considered a ‘party family’ since they are united by the fact that their ‘party politics is firmly anchored in the specificity of their territorial claims’ (Gómez-Reino 2008:9, as cited in Hepburn 2009: 480-1). This subsection therefore provides an overview of the growing literature on regionalist-nationalist party behaviour and considers how this thesis fits within and contributes to it.

When political scientists from Anthony Downs (1957) onwards first started to devise analytical frameworks for the study of party systems and competition in Western Europe, the focus was almost exclusively on the level of the nation-state and the left-right axis of competition (Alonso et al. 2015: 851). Jeffery (2009: 640) points out that when scholars from Stein Rokkan and his colleagues onwards then looked for evidence of the resurgence of territorial identities in the 1960s and 1970s having a significant impact on statewide party systems, ‘they did not find it’. Nationalist-regionalist parties were largely dismissed at the time as ‘niche’ or ‘single-issue’ parties concerned with the territorial rather than left-right dimension, which commanded too little support to have an impact on the main pattern of competition. Alonso et al. (2015: 851) suggest that this interpretation of party competition ‘was later complemented by the notion of valence issues (Stokes 1963) and by the idea that parties also strategize by emphasizing issues, positional or valence, in which parties have a reputational or credibility advantage while ignoring issues for which these advantages do not exist (Budge and Farlie 1983).’ This, in turn, led to the interpretation that the issues raised by ‘niche’ or ‘single-issue’ parties tended to be absorbed by the mainstream parties and subsumed into the dominant left-right dimension (Alonso et al. 2015: 851).

The outlook would however change as the sub-state level in Western Europe was strengthened with the introduction of regional elections in Spain, France, Belgium and the UK in the 1980s and 1990s and powers were gradually devolved to the regional or substate government level. As the number of regionalist-nationalist parties began to grow, so did their electoral and political success at substate level. Thereafter, a substantial number of regionalist-nationalist parties began to successfully gain control at sub-state level as majority or minority governments, or to contribute to substate governments through coalitions or more informal parliamentary support arrangements and alliances. In turn, the increased success of regionalist-nationalist parties at sub-state level would lead to many entering government coalitions at the state level (in Italy, Belgium and Germany) or supporting the central government through alliances, as seen in Spain, usually in return for concessions at the regional level.

This has prompted political scientists in the past decade to start to develop new analytical frameworks for the study of party systems in Western Europe to account for their *multi-level* and *multi-dimensional* nature. Swenden and Maddens

(2008) describe how reconceptualising party systems as multi-level requires taking into account the nature of regional party systems as well as the state-wide one; how regional party systems within a state interact with each other; and how they interact with the state-wide system via both top-down and bottom-up processes. Similarly, new frameworks now seek to account for the fact that party systems operate in *multidimensional* policy spaces where the left-right divide is only one among various axes of competition. In the case of Spain, for example, studies have emphasized that the main issues driving party competition are territorial decentralisation, immigration and the state-Church relationship, rather than the classic left-right divide (Sánchez-Cuenca and Dinas 2012; Dinas 2012). Importantly, in the new literature on nationalist-regionalist party behaviour, ‘spatial and salience theories of party competition are increasingly seen as complementary rather than competing approaches’ (Elias et al. 2015: 839-840).

In this context, various studies from around 2008 onwards have focused in particular on the following three elements of party systems and competition in multi-level and multi-dimensional policy settings in Western Europe:

- 1) *The adaptation of state-wide parties to regional party competition.* Analytical frameworks have been developed to account for the strategic and organisational adaptation of state-wide parties to substate electoral arenas (e.g. Roller and Van Houten 2003, Fabre 2008, Swenden and Maddens 2008, Hopkin 2009) and the role of state-wide parties in decentralisation processes in Western Europe (e.g. Toubeau and Massetti 2013). State-wide parties show varying levels of organisational decentralisation and give varying degrees of autonomy to their regional branches in terms of campaign strategies, coalition formation options and policy decision-making. The main independent variables which have been cited as determinants of these variations include institutional features, cleavage structures, electoral and party system variables and party-specific variables.
- 2) *The behaviour of regionalist-nationalist parties.* This strand of the literature focuses primarily on how regionalist-nationalist parties make the transition from being niche parties focused almost exclusively on territorial questions to becoming mainstream parties, developing broader policy agendas in order to cross thresholds of representation (e.g. De Winter and Tursan 2004;



Hepburn 2009; Massetti 2009). It also considers the consequences of government incumbency for regionalist-nationalist parties if and when they reach the stage of entering government (e.g. De Winter et al. 2006; Elias and Tronconi 2011a and 2011b).

- 3) *Government formation in regional party systems, especially in terms of coalition arrangements and behaviour.* This literature (e.g. Stefuriuc 2009) has sought to develop new models to explain government and coalition formation at sub-state level in multi-dimensional and multi-level political contexts. In so doing it has sought to combat the longstanding theoretical and practical problems plaguing classical coalition theories originally devised in the 1950s and 1960s, which were based on assumptions that the policy space was unidimensional (focusing solely on the left-right axis) and treated parties as unitary actors with clear goals (thus essentially ignoring intra-party divisions and bargaining) (see De Winter and Dumont 2006).

The second of these areas of literature is of particular relevance to this thesis. The emergence of regionalist-nationalist parties has inspired a growing literature in recent years seeking to develop analytical frameworks to explain their positioning and behaviour. In this regard, as stated, the dominant trend has been to focus on the trajectory of these parties from ‘niche’ or ‘outsider’ to ‘mainstream’ or ‘normal’ (e.g. Hepburn 2009, Massetti 2009, Elias and Tronconi 2011a and 2011b, Elias et al. 2015, Massetti and Schakel 2015). This has involved combining sociological, institutional and rational choice approaches to analyse the evolving priorities of regionalist-nationalist parties and their changing role in party systems as they seek to cross various thresholds of representation by gaining votes, policy influence and office, thus forcing them to develop mainstream policy agendas in addition to their traditional focus on their territorial goals. It has also involved analysing the opportunities, challenges and consequences for parties of seeking to compete in both a multidimensional policy space (beyond just the traditional left-right axis) and a multi-level sphere (comprising sub-state, national and supranational levels), in contrast to the almost exclusive focus on the left-right axis and the state level in early political science frameworks.

In this regard, the literature has focused on the increased complexities which regionalist-nationalist parties face in seeking to reconcile different objectives. Elias (2011a: 508), for example, argues that: ‘There are often tradeoffs between being in office, on the one hand, and policy influence and/or future electoral performance, on the other; these tradeoffs may be particularly complex in a multi-level context.’ Hepburn (2009: 479) points out that, ‘Experience in government has created new challenges for these actors. In particular, they must strike a balance between establishing themselves as an effective and competent party of government, whilst at the same time maintaining their commitment to radically overhauling the state.’ For example, a regionalist-nationalist party forced to moderate its territorial goals to enter office and then suffer the attrition that comes with having to take ‘hard choice’ policy decisions must weigh up the risk of losing its hard-line supporters (e.g. ERC lost support after its experience as part of a tripartite coalition in Catalonia). At the opposite end of the spectrum, a regionalist-nationalist party which is successful in promoting its territorial goals once in office may risk losing its *raison d’être*. Deschouwer (2009) argued that the fate of the original regionalist-nationalist parties seeking greater autonomy for their regions in Belgium is a case in point. Said parties became obsolete after years of collaboration with state-wide parties in coalitions had narrowed the distinction between the two, the state-wide parties had assumed the regionalist-nationalist parties’ demands for more autonomy, and new secessionist parties had emerged.

In seeking to show that regionalist-nationalist parties can no longer be considered ‘niche’ or ‘single-issue’ actors, academics have focused in particular on the importance of the class-based or economic interests and characterization of these parties, which has traditionally been neglected. Hepburn (2009: 490), for example, recalls Freedman’s (1998: 751) argument that nationalism focused narrowly on the idea of nation and national self-determination is too ‘thin’ an ideology for a political party seeking office and must therefore be supplemented with other ‘idea systems’ which mainstream ideologies address, such as social justice and the distribution of resources. In their study of regionalist-nationalist parties in Spain and the UK, for example, Alonso et al. (2015) explore the party strategies used in a two-dimensional space (comprising the left-right and centre-periphery axes of competition) and the circumstances in which the parties use one or another strategy, finding that ‘regionalist parties engage mostly in blurring and two-dimensional strategies’ and do

not use the one-dimensional strategy (2015: 859). Moreover, Hepburn (2009: 479) reminds us that, ‘In many cases, the territorial goals of SNRPs are strongly informed by their socio-economic programmes, which shape their vision of the kind of society that they would like to create for the territory.’ Thus, adopting positions on mainstream left-right political issues is not just a mere rite of passage in order to gain votes, policy influence and enter government, and the centre-periphery and left-right axes of competition are not necessarily independent of one another. Rather, the socio-economic vision that a nationalist-regionalist party has regarding its territory very often forms a strong part of its vision of what the nation should be. Socio-economic goals and territorial goals, in this sense, often go hand in hand.

The proposed study of the PNV and CiU in this thesis offers an opportunity to contribute insights to develop these emerging analytical frameworks on the behaviour of the regionalist-nationalist party family. Since the mainstream nationalist parties CiU and PNV are among the regionalist-nationalist parties in Western Europe which have governed at sub-state level for the longest, they offer excellent case studies to explore in more detail the challenges that regionalist-nationalist parties face both to retain voters and achieve their goals once in power. Both parties are a somewhat awkward fit for the ‘niche-to-normal’ framework since this assumes the gradual movement of regionalist-nationalist parties into the mainstream, whereas the PNV and CiU became mainstream parties from winning their first respective post-Constitution regional elections in 1980 onwards, and due to Spain’s specificity as a relatively young democracy it had no great period of centralised democratic rule pre-devolution. Moreover, the two parties have managed to hold onto power for far longer than most regionalist-nationalist parties. The PNV’s 29 years in power in the Basque Autonomous Community from 1980 to 2009 (30 if we include its leadership of the Basque General Council from 1979) gave it the longest regional incumbency record in Western Europe after the SVP in the South Tyrol region of Italy (De la Calle and Sánchez Cuenca 2009: 211), and it returned to power in 2012. CiU is not far behind, governing in Catalonia for an uninterrupted 23-year period from 1980 to 2003 and returning to power from 2010 onwards. Not only do the PNV and CiU feature among the regionalist-nationalist parties with the longest incumbency records, but during that period they also practiced ‘accommodationist’ politics for a longer period than most, prioritising pro-autonomy rather than secessionist positions and cooperation with state-wide parties and the

central government in Madrid, certainly in the 1980s and 1990s. For much of their time in power in their respective regions, the two parties' moderate approach led to increasing gains in regional autonomy, and yet these neither led to a waning in their *raison d'être* nor to a need to 'radicalise' their territorial agendas to maintain their relevance – frequent outcomes for regionalist-nationalist parties once in power. From the mid 1990s pressures on the ability of both CiU and PNV to continue to garner support while maintaining their traditional autonomist stances would nevertheless emerge amid changing circumstances, some shared by both regions and some specific to each.

While the 'niche-to-normal' framework has often focused on the prior conditions (social, institutional, political and ideological) which shape the positioning of emerging regionalist-nationalist parties, the Basque Country and Catalonia thus offer excellent case studies to explore in more detail the challenges that regionalist-nationalist parties already in the mainstream face to stay in power and the implications for their territorial agendas. Cross-country studies have begun to emerge to provide analytical frameworks for assessing the consequences of government incumbency for regionalist-nationalist parties (e.g. De Winter et al. 2006; Elias and Tronconi 2011a and 2011b). We are concerned here with the implications in particular for their territorial agendas. In the Basque and Catalan cases, the strategic behaviour of the PNV and CDC/CiU on territorial matters has been analysed in terms of the external dynamics acting upon their shifting agendas (Gillespie and Gray, eds. 2015). This thesis hopes to be innovative by looking in detail at the influence of the regional financing models on the evolution of territorial strategies and behaviour of the PNV and CDC/CiU as both have fought to stay in power in their respective regions. Spain is a particularly interesting case in that it offers the opportunity to investigate two different models of fiscal decentralisation in relation to two different substate nationalist movements, since the Basque and Catalan regions are each afforded different levels of fiscal authority.

Generalised theories cannot account adequately for the specific characteristics, nuances and complexities of the individual cases under study here, which need to be analysed in depth in order to provide a more comprehensive account of the impact of the regional financing systems on territorial agendas in those cases, which constitutes the purpose of this thesis. This research thus seeks to uncover explanatory factors to explain individual cases for which existing theories

are lacking or too generalised, making a qualitative, inductive approach appropriate. This is in contrast to much quantitative research which derives hypotheses from pre-existing theoretical frameworks and seeks to improve those frameworks by discovering explanatory variables that are generalizable across different cases. Since the regional party systems at work in different countries – as well as their respective relationships to the state-wide party system in each – vary widely, large-N cross-country quantitative studies can risk overlooking important country-specific explanatory factors which a qualitative approach is more likely to capture. In seeking to explain the dynamics behind shifts in the orientation of nationalist parties, regional financing is certainly one such factor whose full significance in Spain risks being overlooked in cross-country comparative studies. Spain offers the opportunity to investigate two different models of fiscal decentralisation in relation to two different substate nationalist movements, since the Basque and Catalan regions are each afforded different levels of fiscal authority. While some other federal and decentralised states in Europe also have federal and decentralised fiscal frameworks, the characteristics of these differ considerably, making generalisations problematic, and there is no other region (apart from Navarre) in Europe with the extent of fiscal autonomy afforded to the Basque Country.<sup>10</sup>

Recent studies seeking to analyse party systems and competition in multi-level political contexts and multi-dimensional policy environments have clearly demonstrated the need for inductive, qualitative methods to gain a fuller understanding of the factors driving the behaviour of parties in such complex settings, thus also justifying the approach selected in this thesis. The traditional focus almost exclusively on the framework of the nation-state and the left-right axis of competition in early political science literature placed significant emphasis on rational choice approaches of understanding party ideology and positioning as a function of the conditions of electoral demand and supply and tended to treat parties as unitary actors with clear goals. Such rational choice institutionalist approaches were combined with cleavage-based sociological approaches. The factors which these approaches failed to take adequate account of – most notably, the internal life of parties and the human behaviour of the actors involved – become ever more important in multi-dimensional and multi-level contexts, and in regionalist-

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<sup>10</sup> The closest similarities are with the Italian regions of Val d'Aosta and South Tyrol-Trentino (Colino 2010:1).

nationalist parties where strong internal disagreements may emerge over issues such as the level of compromise members are prepared to accept between office-seeking goals and their ideological tradition.

As an example, Stefuriuc's case study (2009) of regional government formation in Spain demonstrates as much. She compiles a dataset of a total of 55 regional coalition and minority governments that formed in Spain from the mid-1980s to 2007, using average policy scores from post-electoral surveys carried out by the Spanish Centre for Sociological Research (*Centro de Investigaciones Sociológicas*, CIS) to measure party policy positions, and implements a conditional logit model to estimate the effects of a series of determinants of coalition choice (see Stefuriuc 2009: 105ff). The results of her quantitative analysis confirm the relevance of classical predictors of coalition formation (related to size, ideology and familiarity) as the model fit gradually improves with the addition of each. Yet when new variables are added to the model to investigate multi-level variables including the territorial dimension of party competition and coalition congruence, they surprisingly do not prove statistically significant. However, when Stefuriuc proceeds to carry out a more in-depth qualitative analysis of two coalition formation processes in Catalonia (2003 and 2006) using qualitative process-tracing, this contradicts the results of the quantitative analysis by showing clearly the crucial role of multi-level factors and the territorial policy dimension. The rationales for the two coalition formations comprise an 'intricate mix' of policy-, office- and vote-seeking motivations as well as multi-level considerations, and both the left-right and territorial policy dimensions contribute to the outcomes. Noticeably, CiU – the median legislator on the territorial dimension – was absent from both coalitions and hence the coalition that formed was disconnected, thus indicating that '[classical rational choice] characteristics, such as the median legislator or policy connectedness, do not always adequately grasp the policy calculations of political parties in multi-level settings' (Stefuriuc 2009b: 112).

Stefuriuc thus concludes that sufficient data for quantitative comparative analyses of regional government coalition formation is currently lacking. More in-depth qualitative studies are needed to fully capture the multi-level dynamic in different countries in order ultimately to build a better model. This thesis, in a similar spirit, starts from the premise that an in-depth qualitative study is needed to reach an understanding of the full complexity of the relationship between the

regional financing models in Spain and the evolution of Basque and Catalan territorial agendas.

***Research method: The choice of elite interviews***

This research is qualitative and inductive in nature, informed first and foremost by an extensive programme of in-depth semi-structured elite interviews in the Basque and Catalan regions carried out by the author in 2014-2016 during extended periods of fieldwork based in the Basque Country and Catalonia, respectively (see Appendix 1 for a full list of interviewees and short biographies of each, Appendix 2 for the information sheet provided to interviewees about the project, and Appendix 3 for a selection of sample interview questionnaires). Interviews with elite actors involved in Basque and Catalan politics at different times since the 1980s were considered essential in order to explore why party decisions were taken at certain junctures and what happened in their interactions with other elites over time. Given the often opaque nature of many of the negotiations over regional financing in Spain, elite interviews with a range of actors with direct experience of regional financing negotiations were also deemed essential in order to elucidate the different dynamics involved specifically in regional financing negotiations and ultimately their impact on the behaviour of CDC and the PNV.

The original strategy was to aim to interview subjects who had been centrally involved in policy making in the Basque and Catalan regions at different periods since the 1980s (i.e. key members of current and former regional governments and party executive members), but also to obtain responses from different currents within the party (in the case of the PNV and CDC) and to access party subjects across the region where relevant (particularly in the Basque case, where interviews needed to be conducted at both regional and provincial level, since it is the Basque provinces that raise and collect the taxes for the region). While this original strategy was pursued as much as possible by identifying and contacting a wide range of appropriate interview subjects, the fact that some interviewees subsequently provided introductions to other interviewees during the project was seen as a bonus, providing additional information and further accounts of the same events – and thus a safeguard against the fragility of human memory – and sometimes additional documentation regarding negotiations. Some interviews were conducted with

representatives of the other parties in the region about the main nationalist parties, which was also intended to ward against bias insofar as possible.

A 'general inductive approach' (Thomas 2006) was deemed most appropriate, whereby the research was guided by overall evaluation objectives rather than concrete hypotheses, since the aim was to unearth explanations rather than to test pre-existing theories. Potentially relevant areas of interest were identified which might contribute to gaining a fuller understanding of: (1) the impact of the different regional financing models in the two regions on the evolution of the territorial agendas of the respective mainstream nationalist parties in each, in comparison with or in interaction with other drivers; and (2) the in-depth dynamics of regional financing negotiations at different periods, and ultimately their impact on the behaviour of the PNV and CDC. Some interviews were also conducted on the evolution of Basque and Catalan nationalist politics more generally, to put regional financing concerns in context. In all cases, interviews were semi-structured, with interview questionnaires being used as an approximate guide only and questions being deliberately open. Such flexibility allowed a wider range of findings to emerge from interviewees' accounts of their experiences, rather than the interviewer seeking to test pre-existing ideas and theories.

Questionnaires were also tailored to each specific interviewee and his/her experience of party politics in general and/or regional financing negotiations, since different interviewees had been involved in politics at different times and had taken part in different negotiations, therefore it was not possible to use just one interview template since the aim was to understand different key junctures and negotiations in as much depth as possible (see Appendix 3 for a sample of interview questionnaires). Tables 5 and 6 (pp.35-37) provide details of the main topic areas which interviewees were asked about, and which interviewees contributed to which topic. Sometimes interviewees were asked about a particular topic in more depth than in other cases, depending on their level of involvement. In the case of all key negotiations or key turning points, at least two or three different actors involved were interviewed in order to ensure different perspectives were sought, so that the comments of one interviewee could be corroborated with at the very least one other, as a safeguard against bias. For example, interview questions on the debates over regional financing during the negotiations for the drafting of a new Catalan regional statute were posed to the main relevant spokespeople for each of the three parties forming the Catalan



tripartite coalition government at the time – Antoni Castells (PSC), Josep Huguet (ERC) and Jaume Bosch (ICV) – as well as the CDC spokesperson, Francesc Homs. To give another example, questions regarding how the PSOE and the PNV reached an agreement in 1987 to settle existing disputes over the Concierto as part of a tradeoff to allow the formation of a PNV-PSE coalition government in the Basque region were posed to representatives of both the PSE (Carlos Aguirre, Gonzalo Múgica, Manuel Salinero) and the PNV (José Antonio Ardanza, Pedro Larrea) who had been directly involved in the negotiations at the time.

**Table 5 – Interviews in the Basque Country**

TOPIC	INTERVIEWEES (in alphabetical order)
<p>1) What factors explain shifts in the PNV’s territorial strategy (along a continuum from accommodationist to pro-sovereignty politics) in the contemporary period? The main focus here was on the shift away from accommodationist politics and towards pro-sovereignty politics from the end of the 1990s under the regional premiership of Ibarretxe, and the subsequent shift back towards a more moderate agenda under Urkullu.</p>	<p>Xabier Agirre (PNV); Carlos Aguirre (PSE); Iñaki Anasagasti (PNV); Xabi Anza (trade union ELA); José Antonio Ardanza (PNV); Sabino Arrieta (PNV); Pedro Azpiazu (PNV); José Ramón Beloki (PNV); Antón Damborenea (PP); Joseba Egibar (PNV); Josu Erkoreka (PNV); Jonan Fernández (social movement Elkarri); Iñaki Goikeotxeta (PNV); Juan José Ibarretxe (PNV); Rafael Larreina (EA); Koldo Mediavilla (PNV); Laura Mintegi (Bildu); Txema Montero (formerly HB, subsequently close to PNV); Emilio Olabarria (PNV); Andoni Ortuzar (PNV); Manuel Salinero (PSE)</p>
<p>2) How does the bilateral dimension of the Concierto work? And what have been the implications for Spanish-Basque relations? The main focus here was on key instances of bilateral negotiations since the 1980s, including the 1981 Concierto law; the 1985 negotiation to devolve VAT collection powers; the agreements reached in 1987 between the PNV and the PSE to resolve discrepancies over the quota law and payments; the modifications made in 1997 to the 1981 Concierto law; the negotiations for the new 2002 Concierto law; and disagreements since 2007 over</p>	<p>Carlos Aguirre (PSE); Iñaki Anasagasti (PNV); José Antonio Ardanza (PNV); Pedro Azpiazu (PNV); Antón Damborenea (PP); Juan José Ibarretxe (PNV); Pedro Larrea (PNV); Gemma Martínez Bárbara (technical team, treasury of Bizkaia); Gonzalo Múgica (PSE); Emilio Olabarria (PNV); José Rubí Cassinello (technical team, treasury of Bizkaia); Manuel Salinero (PSE); Pedro Luis Uriarte (PNV); Aitor Uribesalgo (PP)</p>

the quota law and settlement of the annual quota payments.	
3) How does the Concierto fit within the EU framework? And what have been the implications for Spanish-Basque relations? The main focus here was on the two main areas of controversy concerning the fit of the Concierto within the EU that have emerged since Spain joined the European Community in 1986: Basque legislative powers over corporation tax, and the quest for Basque representation in fiscal matters at EU level.	Carlos Aguirre (PSE); Pedro Azpiazu (PNV); Antón Damborenea (PP); Juan José Ibarretxe (PNV); Gemma Martínez Bárbara (technical team, treasury of Bizkaia); Gonzalo Múgica (PSE); José Rubí Cassinello (technical team, treasury of Bizkaia); Aitor Uribesalgo (PP)
4) How does the Concierto work internally within the Basque regions? And what have been the implications for political relations and agendas within the region? The main focus here was on the nature of fiscal and financial relations between the three Basque provinces (which each have tax-raising powers).	Carlos Aguirre (PSE); Joseba Egibar (PNV); Helena Franco (Bildu); Juan José Ibarretxe (PNV); Gemma Martínez Bárbara (technical team, treasury of Bizkaia); Itziar Miner (Bildu); Xabier Olano (Bildu); José Rubí Cassinello (technical team, treasury of Bizkaia) (Bildu); Aitor Uribesalgo (PP); Sebastian Zurutuza Mujika (technical team, treasury of Guipúzcoa)

**Table 6 – Interviews in Catalonia**

TOPIC	INTERVIEWEES (in alphabetical order)
1) What factors explain shifts in CDC's territorial strategy (along a continuum from accommodationist to pro-sovereignty politics) in the contemporary period? The focus here was not only on CDC's explicit shift towards a pro-sovereignty agenda and alliances in 2012, presaged by developments from around 2008 onwards; but also significant developments preceding this from the late 1990s onwards, with Jordi Pujol's public shift towards support for a fiscal-type pact for Catalonia from 1997 onwards, followed by CDC's behaviour prior to and during the negotiations for the regional statute reform in the early	Germà Bel (formerly PDC, now Junts pel Sí); Jaume Bosch (ICV); Antoni Castells (PSC); Agustí Colomines (previous affiliations to left-wing nationalist parties as well as CDC); Lluís Corominas (CDC); Francesc Homs (CDC); Josep Huguet (ERC); Andreu Mas-Colell (CDC); Heribert Padrol (linked to CDC); Jordi Pujol (CDC)

2000s.	
2) Why have repeated reforms of the common financing system failed to satisfy CDC despite the leading role played by CDC/CiU in negotiating each reform?	Germà Bel (formerly PDC, now Junts pel Sí); Jaume Bosch (ICV); Antoni Castells (PSC); Agustí Colomines (previous affiliations to left-wing nationalist parties as well as CDC); Lluís Corominas (CDC); Francesc Homs (CDC); Josep Huguet (ERC); Andreu Mas-Colell (CDC); Heribert Padrol (linked to CDC); Jordi Pujol (CDC)
3) What role did dissatisfaction with the common financing system play in the quest for a new statute for Catalonia and the statute reform negotiations? Why did the 2006 statute reform fail to resolve the issue of regional financing?	Germà Bel (formerly PDC, now Junts pel Sí); Jaume Bosch (ICV); Antoni Castells (PSC); Agustí Colomines (previous affiliations to left-wing nationalist parties as well as CDC); Lluís Corominas (CDC); Francesc Homs (CDC); Josep Huguet (ERC); Andreu Mas-Colell (CDC); Heribert Padrol (linked to CDC); Jordi Pujol (CDC)
4) What role has dissatisfaction with regional financing played in the rapid rise in CDC's recent shift towards a pro-independence agenda?	Germà Bel (formerly PDC, now Junts pel Sí); Jaume Bosch (ICV); Antoni Castells (PSC); Agustí Colomines (previous affiliations to left-wing nationalist parties as well as CDC); Lluís Corominas (CDC); Francesc Homs (CDC); Josep Huguet (ERC); Andreu Mas-Colell (CDC); Heribert Padrol (linked to CDC); Jordi Pujol (CDC)

In total, personal interviews were conducted with approximately 45 interviewees in the Basque and Catalan regions (see Appendix 1). These included current and former politicians and their advisers representing political parties across the spectrum in both regions, as well as, in the Basque case, some relevant technical officials in the provincial administrations. These technical officials were interviewed not simply for technical information, but also because they had participated in key intraregional negotiations over the Concierto, giving them first hand insight into the political dynamics between the provinces. Moreover, they often reflected the policy

of the traditionally dominant party in their province. Most notably, since Vizcaya has been governed consistently by the PNV throughout the democratic period, key treasury officials there, albeit not affiliated to a political party themselves, tend both to reflect and inform PNV policy.<sup>11</sup>

Each interview lasted at least one hour; a number of interviewees were subsequently re-interviewed a second (and in some cases a third) time; and a number of more informal meetings and conversations with politicians and other experts such as academics were also held to unearth areas of inquiry. The majority of the interviews (approximately 35) were conducted in the Basque region, since the extensive role afforded to the provincial administrations there under the *Concierto* and the territorial complexity of the Basque region (which is more heterogeneous than Catalonia) made it necessary to conduct interviews not only at the regional government level, but also at the level of the three provincial governments. The dynamics of inter-provincial relations within the Basque region in relation to the *Concierto* are particularly opaque, given the very little existing literature on the subject, which made extensive interviewing at the level of the three provincial administrations necessary. This is in contrast to Catalonia, where the common financing system governs financial relations with the regional government level only, and thus interviews were focused only at this level.<sup>12</sup>

All interviews were conducted in Spanish and each interview was recorded and subsequently transcribed, but interviewees were informed at the outset (in the information sheet provided to them – see Appendix 2) that the recordings and transcriptions would be for the author’s use only and would not be made publically available. Similarly, interviewees were informed that they would not be quoted directly without their permission. This method was designed purposefully in order to encourage interviewees to reveal details about negotiations which they might not have been willing to reveal if the recordings and transcripts were to be made public. Despite this reassurance, a few interviewees still requested that the recording device be turned off at certain stages of their interviews in order to disclose certain details,

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<sup>11</sup> This was raised by PNV representative Pedro Azpiazu himself at interview.

<sup>12</sup> A wider range of interviews were also conducted in the Basque region since it was where I first started my fieldwork and the scope of my research project was initially wider (on regional financing but also other dynamics impacting the Basque and Catalan nationalist movements), but I narrowed the focus solely to regional financing in the early stages of my fieldwork there.

which was proof of the fact that interviewees were willing to provide more information without fear of being quoted directly or of interview recordings being published. Since the aim of this study was precisely to probe particular events and policy developments and get interview subjects to speak about them in detail, it was deemed fundamentally important to give the interviewees the opportunity to be as open about their experiences as possible by removing any potential fears about interview recordings or transcripts being made public. This process (including the information sheet provided to interviewees) was approved by the University of Liverpool's ethics committee in the application I made to them to gain approval for my interview method prior to undertaking the fieldwork. It follows the same method used by my supervisor Professor Richard Gillespie in the wider ESRC-funded project on 'The Dynamics of Nationalist Evolution in Contemporary Spain' [ES/J007854/1] to which my PhD research was linked.

Paraphrasing interviewees' responses in English, rather than providing direct quotations, was also considered appropriate in order to provide a succinct and economical account, especially since this study is not concerned with discourse analysis, but rather with obtaining information about the political processes and relationships that are rarely discussed in official discourse. This also justified the use of semi-structured interviews, in order to ask supplementaries when initial responses were too general or evasive. Again, paraphrasing rather than using direct quotations follows the method used by Professor Gillespie in the publications produced as part of the wider ESRC-funded project to which my PhD research was linked.

Inevitably, basing research first and foremost on interviews runs the risk of giving subjective, imbalanced accounts. I attempted, within the constraints of a PhD project, to minimise this risk by undertaking interviews with political actors representing a range of parties operating in the Basque and Catalan regions and obtaining their respective views on key turning points in party trajectories and key episodes in regional financing negotiations, in order to be able to reflect different perspectives in an attempt to counteract bias. While the interview sample covered a wide political and geographical spread, it was not possible to contrast perspectives of all the key actors involved at certain junctures through interviews alone, thus the information obtained in interviews has also been supplemented by extensive reading of media reports and, where possible, of other publically available accounts of particular key junctures and negotiations, for example as published in memoirs. With

more time and resources I would also have undertaken interviews with current and former elite actors in the central administration in Madrid representing the main Spanish parties (particularly the PP and the PSOE), but for the purposes of this project it was decided to focus instead on the spectrum of perspectives within the Basque and Catalan regions themselves, taking into account the views expressed by the Basque and Catalan branches or federations of those Spanish parties in question in order to contrast these with the nationalist parties' views. More informal consultations with Madrid-based academics and other analysts working on regional financing were, however, also undertaken.

### ***The choice of case studies: Basque-Catalan comparison***

The nature of the Basque and Catalan nationalist movements and the problematic question of their accommodation within the Spanish state have inspired an abundant literature, and yet there have been few Basque-Catalan comparative studies. This section will give an overview of relevant areas of research that have been undertaken to date and outline the reasons for the existing lack of Basque-Catalan comparative studies, before explaining why there are strong grounds for a comparative study in this thesis.

Prominent examples of existing literature include historically-informed individual case studies of the Basque and Catalan nationalist movements covering various periods from their nineteenth-century origins through to the present day (e.g. on the Basque case, Castells and Cajal 2009, De la Granja 2009, Lecours 2007, Pérez-Agote 2006; on the Catalan case, Dowling 2013, Guibernau 2004, McRoberts 2001, Smith 2014). In the Basque case, this has included in-depth study of the more radical, violent strain of nationalism under ETA (e.g. Muro 2008, Watson 2007). Various individual case studies of the two mainstream nationalist parties under consideration here have been published to date which analyse some of the internal and external factors which help to explain the relative success of the two parties, as well as the reasons for their usually moderate form of nationalist politics during much of the democratic period and their more recent swings towards pro-sovereignty politics (e.g. Barrio and Barberà 2006, 2011; Mees and De Pablo 2005; Pérez-Nievas 2006, 2011; Vazquez 2010).

On the wider context of Spain's territorial problematic, there has been extensive study of the compromise on decentralisation that was agreed during the

transition to democracy in Spain and enshrined in the Constitution of 1978, resulting in the creation of the 17 autonomous communities (e.g. Colomer 1999, Moreno 2001) and consideration of how the multi-level political dynamic in Spain, including both central-regional and inter-regional government relations, has shaped subsequent attempts by both Basque and Catalan nationalists at renegotiation of the state of the autonomies (e.g. Keating and Wilson 2009, Muro 2009). Other studies have addressed the rise in Spanish nationalism too, particularly its re-emergence in times of PP domination in Spain at various periods since the party won power for the first time in 1996, and how it impacts the Basque and Catalan nationalisms by means of competing nationalist dynamics (e.g. Núñez Seixas 2001; Balfour and Quiroga 2007; Mar-Molinero and Smith 1996; Molina 2010; Muro and Quiroga 2004, 2005). A number of studies have reflected on how territorial and cultural diversity could be accommodated in Spain today as part of broader theoretical and empirical reflections on the changing nature of the state in the modern and contemporary eras, the nature of plurinational states and means of recognition of their component parts, and the relationship between democracy and nationalism (e.g. Keating 2008, 2012; Guibernau 2014; Requejo 2005, 2010).

Despite this, there have been few direct comparative studies of the Basque and Catalan nationalist movements and their respective parties in academic research, notwithstanding frequent comparisons in the media and in general conversation (Gillespie 2015a: 5). Catalonia is more often compared to Scotland, Flanders and Quebec as examples of ‘civic nationalism’, classically being described as ‘one of the closest [among all the stateless nations] to being a ‘civic nation’, in other words, one whose nationalism is based not on ethnicity but on a common project, both political and cultural, to which all citizens can subscribe’ (McRoberts 2001: 183). In contrast, the Basque situation has tended to be compared to other ethnic conflicts with a terrorist dimension, especially the case of Northern Ireland. Thus attention has focused on ‘the puzzling question of why Basque nationalism is exclusionary and violence-prone, while Catalan nationalism is politically inclusive and accommodating’ (Encarnación 2008: 92). In contrast to the traditional desire among Catalan nationalists to articulate visions of a Spain in which Catalonia would play a fundamental role, there has also been a historically stronger tendency among Basque nationalists to seek ‘more fundamental constitutional and institutional rearrangement

than in Catalonia, when not outright secession' (Lecours 2007: 58). This, too, has traditionally mitigated against comparison of the two cases.

Most of the few comparisons of the Basque and Catalan nationalist movements that do exist (e.g. Conversi 1997, Díez Medrano 1995, Payne 1971) are generally historically-informed and focus on the origins and early development of the Basque and Catalan nationalist movements in the nineteenth and early twentieth centuries, not the more recent period, and they tend to reflect the civic-ethnic divide in interpretations. In this vein, for example, Conversi (1997) argues that widespread use and accessibility of the Catalan language served to create cohesion among the inhabitants of Catalonia and alleges violence was more likely to emerge in the Basque Country to fill this gap, given the more limited diffusion of the Basque language (euskera) and the privileging of other ethnic traits. Such black-and-white characterisations have nevertheless been problematised since then in nationalism studies in general (e.g. Harris 2009: 28-34) and also in relation to the specifics of the Basque and Catalan cases which concern us here. While the original Basque and Catalan nationalist ideological discourses and tropes of the late nineteenth and early twentieth centuries did to a large extent exemplify an ethnic-civic divide, this distinction can be more of a hindrance than a help when describing the nationalist movements in the contemporary period, for it imposes a black-and-white divide between the two cases that does not reflect the more nuanced reality. For example, there has been considerable debate over whether the privileging of Catalan language can genuinely be considered 'civic' (e.g. Miley 2006, Franco-Guillén and Zapata-Barrero 2014), while Basque nationalism is no longer so heavily based on ethnicity. Interestingly, it was ETA, not the PNV, that pioneered the attempt to bridge the traditional community divide by defining a Basque as anyone who lived and worked in the Basque Country (Ugarte 2009: 368).

Focus on the above differences between the two nationalisms has risked obscuring more fruitful comparative study from other angles in the contemporary period. In particular, the focus on the history of violence in the Basque case has detracted from study of the more moderate form of nationalist politics under the PNV in the contemporary period. Although there were notable differences in the nationalist party politics in the Basque Country and Catalonia in the early decades of the twentieth century prior to Franco's dictatorship, there have been marked similarities since the transition to democracy in the late 1970s in terms of the



behaviour of the mainstream nationalist parties in each region and the contexts in which they operate. While the PNV re-emerged after the Franco period as the dominant nationalist party in the Basque Country, in Catalonia the newly founded CDC, conceived in the early 1970s under Jordi Pujol, formed an alliance with UDC, one of the few Catalan parties of the Republic to re-emerge strengthened after the Franco era, to become the main political force of Catalan nationalism (Dowling 2001, 2012). The alliance, later becoming a federation, would last until 2015. Both the PNV and CDC/CiU have traditionally been centre-right parties of business and the middle classes, which very quickly established themselves as the mainstream nationalist parties in their respective regions. Since winning their first respective regional elections in 1980, both have held onto power aside from a few years in opposition to Socialist or Socialist-led regional governments, in both cases earlier in the 2000s (2003-2010 in the Catalan case, 2009-2012 in the Basque case). And yet they have usually only secured a relative majority of seats in their respective parliaments (the PNV has never won an absolute majority, while CiU lost its absolute majority in 1995 and never recovered it thereafter), thus both have been heavily reliant on informal alliances (or at times formal coalitions in the Basque case) with other parties in order to govern. Throughout the 1980s and 1990s, both parties tended to prioritise accommodationist politics whereby they sought to negotiate further autonomy within the context of the Spanish state, even if the PNV remained relatively more ambiguous regarding its ultimate territorial goals. Since the late 1990s, both parties have nevertheless undergone shifts in their territorial agendas between accommodationism and pro-sovereignty politics at different times, seeking a fundamental reconfiguration of their relationship to the Spanish state.

In further similarities, both parties have had the capacity at times to affect Spanish government formation or survival, gaining influence in Madrid by lending parliamentary support to minority Spanish governments on various occasions from 1993 onwards, in return for decentralisation or economic gains, in what has become known as a system of ‘mutual backscratching’ (Field 2014: 293). Since the turn of the century, both have nevertheless lost much of their bargaining power in Madrid during times of PP absolute majority government (2000-2004 and 2011-2015). Meanwhile, within their respective regions, both parties have faced similar kinds of party competition of varying degrees at different times: as moderate mainstream nationalist parties, both have faced competition on the nationalist axis from more

radical left-wing, pro-independence forces, as well as across the nationalist/unionist divide from regional branches or federations of the state-wide parties (especially of the socialist PSOE). Competition on both the territorial and the left-right dimensions contributed to increasing pressures on the viability of their form of moderate, accommodationist nationalist politics from the late 1990s (see Chapter 2). Although both parties returned to power after losing control to the Socialists in their respective regions earlier in the 2000s, they would be constrained by other parties upon whom they would have to depend for parliamentary support. Other contextual factors are important too: both parties operate in regions with a comparable record of economic success relative to most other regions in Spain in recent decades (e.g. Zipfel et al. 2015: 1).

Differences in nationalist party politics in both cases, in particular due to the history of terrorism in the Basque Country, inevitably remain and must be acknowledged and accounted for where relevant when comparing the parties. The differences on account of the history of violence have however been gradually reducing since ETA ceased its activities in 2011 and as the Basque Country becomes accustomed to a more normalised political environment, without violence. The radical pro-independence forces under the *izquierda abertzale* became a genuine competitor in the political sphere to more moderate, mainstream nationalist party politics for the first time upon entering political life properly from 2011 onwards after bans on previous parties during the last ten years. Adaptation and habituation to democratic competition takes time and many of the ramifications of the years of violence still condition Basque politics (e.g. unresolved questions regarding the regrouping of ETA prisoners, and victims' rights), but the initial phase towards a more normalised political environment is underway, thus creating genuine competition between nationalist parties within the region. At the same time, in Catalonia, competition between nationalist parties has also increased, with CDC facing stronger electoral competition in recent years from ERC and the CUP, though this has to some extent been offset by the phenomenon of pro-independence political pacts involving CDC and ERC since 2012.

The above similarities between the PNV and CDC, in terms of their behaviour and the contexts in which they operate, provide a strong basis for comparative study. The territorial agendas of the PNV and CDC seem clearly to have shifted beyond accommodationism in the 21<sup>st</sup> century and much of the older literature in no way

anticipated such a development, particularly with regard to Catalonia. It is hoped that the comparative dimension of this thesis will serve to contribute new insights into reasons for the parties' shifts and the significance of their contrasting regional financing arrangements in this regard.

### ***A stronger focus on the Basque case***

While the thesis offers a comparative Basque-Catalan study, greater attention will be paid to the Basque case. This is because the relationship between regional financing and territorial agendas is more complex and less understood in the Basque case, and also since the Basque financing model has become a point of reference for Catalan demands, notwithstanding some inconsistencies over the extent to which the Catalans have wanted to follow it. The Basque case is particularly complicated due to the complexity of political and fiscal relations within the Basque region itself (between regional and provincial administrations, since the provinces are endowed with tax-raising authority), and also due to the question of how the Basque fiscal autonomy model fits within the European context given that it offers the most advanced level of substate fiscal autonomy in Europe. These intraregional and supranational dimensions require adequate analysis, beyond purely Spanish-Basque bilateral dynamics over the *Concierto*, thus separate chapters will address each of these dimensions (bilateral, supranational and intraregional), as reflected in the chapter outline below. Catalonia does not have the same internal territorial complexity as the Basque region, and the regional financing system as applied to Catalonia is focused on the level of the regional government only, thus the focus here is first and foremost on the level of the regional government. Local financing in Catalonia and in the other regions under the common system comes under a separate system which is not the focus of this thesis, except insofar as the centralised nature of the local financing system, designed and controlled exclusively by the Spanish government, is another source of grievance for Catalan nationalist and pro-independence parties since they argue that this should be a Catalan government competence.

### ***Why not Galicia?***

Like the Basque Country and Catalonia, Galicia has a distinct historical tradition of self-government and its own language and culture, and was also

recognised in the Spanish Constitution of 1978 as one of Spain's 'historic nationalities'. The region has a significant nationalist movement too, but it is excluded from this study since it differs from the Basque and Catalan cases in almost all of the above commonalities identified (Gillespie 2015a: 5 fn. 8). Most fundamentally, the nationalist movement in Galicia has never gained the same level of support as in the Basque Country and Catalonia and the main Galician nationalist party, the Galician Nationalist Bloc (*Bloque Nacionalista Gallego*), has never held power at regional government level. The region has, instead, been governed by the Galician federations or branches of the two main Spanish statewide parties, the PP and the PSOE. While it is of interest to consider the reasons why the Galician case has evolved differently from the Basque and Catalan cases, this is not the purpose of this thesis, which aims instead to compare the evolving behaviour and territorial strategies of nationalist parties which have a long record of governing at regional government level and have shifted between accommodationist and pro-sovereignty strategies in that time.

### ***Why not Navarre?***

Like the Basque Country, as mentioned earlier, Navarre comes under the 'foral' financing system for historical reasons, and its Convenio is very similar to the Concierto (the main difference being that Navarre only has one province and therefore one treasury, whereas the Basque region has three provinces and three treasuries). However, Navarre differs from both the Basque and Catalan cases in that it has not traditionally had a strong nationalist party presence.<sup>13</sup> The dominant party in the region since the start of the 1990s has been the Navarran People's Union (*Unión del Pueblo Navarro*, UPN) which governed Navarre from 1991 until 2015, apart from one year out of government in 1995-1996. UPN is a strictly regionalist rather than a nationalist party which does not have sovereignty ambitions for

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<sup>13</sup> This may now be changing. A major shift in governance occurred when the July 2015 regional elections resulted in a very fragmented parliament and UPN was unable to form a government despite winning the most votes and seats of any party. The nationalist coalition Geroa Bai ('Yes to the Future') entered into power instead, supported by Bildu, Podemos and Izquierda-Ezkerra (the latter of which is a coalition of the Navarran branch of the United Left and other left-wing, nationalist forces). This put nationalist forces in power in Navarre for the first time. Geroa Bai includes the PNV in Navarre and the left-wing nationalist forces of Atarrabia Taldea – a political party which split from EA in 2011 – and Zabaltzea – a political association created in 2011 from ex-members of EA and Aralar.

Navarre. It is a conservative party which has traditionally been affiliated to the Spanish PP party and it has essentially behaved as a Navarran federation or branch of the PP, rather than as a nationalist party seeking to distinguish its territory from the Spanish state. Indeed, between 1991 and 2008 UPN officially acted as the Navarran branch of the PP, under an agreement which meant that the PP did not run at Navarran elections and in return the UPN supported the PP in other areas. This thesis aims to compare the evolving behaviour and territorial strategies of nationalist parties which have a long record of governing at regional government level and have shifted between accommodationist and pro-sovereignty strategies in that time, thus Navarre was not selected for study since it has not had such a party.<sup>14</sup>

### **Two different regional financing systems: some initial clarifications**

While the two financing systems will be explained in fuller detail in Chapter 3, this section provides an introduction to the historical reasons for the existence of different financing systems in the Basque and Catalan regions. The reasons why the Basque and Catalan regions have separate regional financing arrangements in contemporary Spain date back centuries. The various medieval kingdoms and regions of the Iberian Peninsular were ultimately combined to form modern day Spain through a gradual process culminating in the union of the Crowns of Castile and Aragón in 1469 and their subsequent conquest of the last remaining territories of Granada and Navarre (Lecours 2007: 31-39). Thereafter, the Catalan and Basque regions still enjoyed substantial political and fiscal autonomy over periods through to the eighteenth and nineteenth centuries respectively, due to the maintenance of their own institutions of self-government and medieval *fueros*, which afforded them significant political and fiscal autonomy (e.g. Lecours 2007: 32-33). The *fueros* were legal statutes which applied to a specific province or locality, setting the rules and rights for that province granted by the King. They were the main system of local law used in the Iberian Peninsular from the middle ages onwards. However, the specific constitutional system in Catalonia was abolished in 1714 following the War of Succession and the Basque *fueros* were eliminated in 1876 after the Basque

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<sup>14</sup> I nevertheless made a visit to Navarre in May 2014 to interview Mikel Aranburu (then member of the technical team of the Navarran treasury) and to meet with academics at the Public University of Navarre specialising in the Convenio, for purposes of comparison vis-à-vis the Concierto.

provinces had lost the Third Carlist War. And yet the fiscal dimension of the Basque *fueros* was essentially reinstated again two years later by a new arrangement, soon to be named the *Concierto Económico-Administrativo* (from 1882 onwards), and then simply the *Concierto Económico*, which would grant the three Basque provinces the right to collect taxes again.<sup>15</sup> Castile had originally agreed to the arrangement in 1878 primarily for practical reasons since the central treasury did not immediately have the technical means or capacity to collect taxes in the Basque provinces after the abolition of their *fueros*. A vestige of the *fueros* in economic terms thus remained while any political dimension in the form of self-government had been abolished. The agreement was originally intended to be a temporary one for a transitional period of eight years until the Basque provinces became fully integrated into the Castilian tax system, but instead ended up staying in force thereafter, until Franco abolished the *Concierto* in Vizcaya and Guipúzcoa in 1937 (Álava, however, retained the *Concierto* by supporting the Francoist side).

During the transition to democracy of the late 1970s and early 1980s, a new updated agreement based on the ethos of the original *Concierto* would become one of the fundamental bases of Basque regional autonomy. The Spanish Constitution of 1978 pledged in its First Additional Disposition to respect the ‘historical rights’ of the ‘foral territories’, which was fundamentally taken as a reference to the historical tradition of the Basque and Navarran provinces in raising their own taxes (Navarre, too, had retained tax-raising powers after its *fueros* had been abolished in 1841, and like Álava, it had retained them under Franco by supporting the dictator). In the Basque case, the Basque and Spanish authorities reached an agreement in 1980, approved by law in 1981, to restore tax-raising powers to the provinces of Vizcaya and Guipúzcoa and update them for Álava. While the three Basque provinces retained or regained their responsibility for tax collection, the new *Concierto* governed fiscal and financial relations with the Basque region as a whole rather than each individual province, following the creation of the autonomous community. Thus, only one annual quota payment would be made to Madrid, not three. The financing systems in the Basque and Navarran regions, the *Concierto* and the *Convenio* respectively, became known as the *régimen foral de financiación* (foral/charter financing regime, from *fuero* or medieval charter), in contrast to the

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<sup>15</sup> On the historical origins of the *Concierto*, see Alonso Olea 1995. For a shorter overview, see Colino 2012.

*régimen común de financiación* (common financing regime). The latter was developed for Spain's other autonomous communities (all except the Basque and Navarran regions) during the transition and first legislated under Organic Law 8/1980 on the Financing of the Autonomous Communities (*Ley Orgánica de Financiación de las Comunidades Autónomas*, LOFCA). Both the Concierto legislation and the common financing system legislation would undergo significant reforms and changes in the following decades, but the starting point for the two systems in the democratic period were the first laws of 1981 (Concierto) and 1980 (LOFCA) respectively. This study considers the evolution of both regional financing systems from then onwards.

For clarification purposes, it is important to note that the regional financing systems govern the raising of taxes only, not social security contributions. In Spain, the Social Security fund has remained centralised (and is often referred to as the '*caja única*' or 'single fund') since devolving social security has long been one of the 'red lines' for the PP and the PSOE alike that they are not willing to cross, given the PP's ideological centralism and the PSOE's longstanding view that one centralised fund and centralised legislation regarding pensions and other benefits is essential to ensure equality among Spaniards. Some administrative functions of the system (i.e. making payments) can be devolved to the regions under certain conditions under the provisions of the Spanish Constitution and the regional autonomy statutes, but not the authority to vary social security contributions or legislation regarding pensions and other benefits. The issue is a contentious one, since the centralisation of social security has been one of the main complaints of the PNV and CDC. For the PNV, in particular, the failure to devolve administration of the social security system is one of the main pending issues where it has accused the Spanish government of failing to fulfil the Basque autonomy statute.<sup>16</sup> Article 18 of the Basque regional autonomy statute grants the Basque region the right to implement and develop the basic Spanish state legislation in relation to social security, apart from legislation regarding the financial system of social security (where it must abide by Spanish legislation), though it can *manage* the financial system. This article was worded to respect Article 141.1.17 of the Spanish Constitution, which attributes to the Spanish state the responsibility for developing

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<sup>16</sup> Personal interviews with PNV representatives, 2014.

both the basic legislation and the financial system of social security, while recognising that these services may then be implemented by regional governments, in accordance with the relevant Spanish legislation. A Constitutional Court ruling in the late 1990s, however, determined that not even management of the financial system of social security could be transferred to the Basque region due to the risk that this would infringe the principle of the *caja única*, an interpretation which the PNV has disputed ever since. Some representatives of non-nationalist forces in the Basque region – e.g. the Basque Socialists – also dispute that interpretation of the Constitutional Court, arguing that the decentralisation of purely managing the social security system (e.g. paying pensions), while remaining fully subject to Spanish legislation regarding the raising of quotas, would not break the principle of the *caja única*.<sup>17</sup> However, at the same time, the Basque Socialists warn against the PNV's intentions, arguing that the latter's goal is fundamentally to go beyond pure management to have legislative competence (Ibarretxe sought legislative power over social security for the Basque region, and under Urkullu, the PNV commissioned a report into the viability of the Basque Country having its own pensions system). This would violate the *caja única* and, Basque Socialists suggest, thus risk inequality in Spain (in line with the view of PSOE headquarters in Madrid). The current centralisation of social security in Spain is thus a contentious issue subject to intense debate, and a fundamental source of grievance for Basque and Catalan nationalists – notwithstanding the widespread view that the Basques in particular benefit in terms of resource levels under the current system, due to the particularly high pension costs and ageing population there (see, for example, Galende 2015). While this must be acknowledged and recognised, it is not the intention to investigate this further in this thesis. In Spain, there is a clear-cut distinction between general taxes and social security contributions (to a greater extent than in the UK, for example, where there is some overlap in some respects between general taxation and the National Insurance system). The regional financing systems under study here govern general taxation only.

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<sup>17</sup> Personal interview with Manuel Salinero, 2 September 2014.



## **Chapter outline**

While this thesis focuses first and foremost on strategic shifts in the territorial agendas of the Basque and Catalan nationalist parties since the 1990s, some developments in recent decades need to be understood within the context of a longer history. Following this first introductory chapter, Chapter 2 provides an analysis of the evolution of Spain's national and territorial problematic and the challenges of accommodating the Basque and Catalan nationalist movements from the transition to democracy onwards. It then identifies specific factors underlying the strategic shifts in the territorial agendas of the Basque and Catalan nationalist parties, in order to contextualise this thesis.

The rest of the thesis then focuses specifically on how, within this context, the different financing arrangements of the two regions have contributed to shaping the evolution of the nationalist parties' territorial agendas and ideas on sovereignty. Chapter 3 is primarily technical in nature, for it is designed to explain how the Basque Concierto and the common financing system work. The explanation of each system is also used as a foundation to provide an analysis of the controversial question of whether the Basques contribute enough revenues to Spain compared to other comparably wealthy regions under the common system such as Catalonia, a longstanding source of political debate in Spain which has intensified in recent years.

Chapter 4 addresses the bilateral nature of the Basque Concierto. It investigates how Spanish-Basque bilateral fiscal and financial relations work, what the main areas of contention have been, how these differences have (or have not) been resolved, and, ultimately, what the implications have been for the PNV's territorial agenda. Chapter 5 then investigates in more detail one of the areas of contention raised in Chapter 4: the question of how to update the Concierto in the post-1986 EU context. Chapter 5 goes beyond the purely domestic Spanish-Basque debate over the Concierto's fit within the EU context to consider the opportunities or obstacles at EU level itself that impact the development of the Concierto as well, and what the implications of these debates have been for the PNV's attitudes towards the place of the Basque Country in Europe.

After this analysis of the Concierto's bilateral dimension and its place in the European context, the final chapter devoted to the Basque case (Chapter 6) then analyses the other side of the Concierto coin, namely its intra-regional nature, since

the Concierto affords tax-raising powers to each of the three Basque provinces, rather than to the regional government. This chapter explains how the Concierto works internally within the Basque region and it explores the consequences of the complex nature of this intra-regional dimension of the Concierto for fiscal and political relations between different provinces and political forces within the Basque region. This allows for an assessment of the ways in which the intra-regional dimension of the Concierto has contributed to shaping the PNV's territorial strategies and behaviour.

Chapter 7 turns to the Catalan case, examining how and when the issue of regional financing has contributed to shaping shifts in the territorial agenda of CDC. The main focus of analysis is on the history of debates over regional financing reforms and the quest for a fiscal pact and beyond, since demands for a significant reform of regional financing for Catalonia have been a major theme of political debate for more than a decade, thus long preceding the recent context of major economic recession. As well as analysing the evolving nature of relations with Madrid, the chapter considers how intra-regional factors such as party competition and pressures from civil society have had a significant bearing on the timing of CDC's shifts in attitude towards the financing question and beyond.

Chapter 8 then concludes by outlining the main findings of the thesis and where it makes a contribution to knowledge, considering each of the two case studies individually as well as the benefits of the comparative approach. A final section outlines potential future areas of research arising from this project.

## **Chapter 2**

### **Basque and Catalan nationalisms: Unravelling the drivers behind shifting party agendas**

While this thesis focuses first and foremost on strategic shifts in the territorial agendas of the Basque and Catalan nationalist movements and parties since the 1990s, many developments in that period need to be understood within the context of a longer history. This chapter provides an analysis of the evolution of Spain's national and territorial problematic and the challenges of accommodating the Basque and Catalan regions from the transition to democracy of the late 1970s onwards until the end of 2015, in order to contextualise this thesis. It then identifies specific factors underlying the strategic shifts in the territorial agendas of the Basque and Catalan nationalist parties during the democratic period. This paves the way for a more in-depth analysis in subsequent chapters of the ways in which, within this broader context, the different financing arrangements of the two regions have contributed to shaping the evolution of the nationalist parties' territorial agendas and ideas on sovereignty. Throughout this chapter, the focus is on identifying a series of political dynamics within Spain (centre-periphery, inter-regional and intra-regional), as well as international influences, that have contributed to shaping the territorial agendas and conceptions of sovereignty of the mainstream Basque and Catalan nationalist parties. The chapter starts with an analysis of Spain's national and territorial problematic in general in order to provide the overall context, before proceeding to account for the specific trajectories of the PNV and CDC respectively, investigating the drivers behind their shifting party agendas. The conclusion then compares the main differences that emerge between the two cases.

#### **Spain's national and territorial problematic**

Arguably the biggest challenge of the transition to democracy following the death of the dictator Franco in 1975 was how best to accommodate Spain's different regional identities within the Spanish state, bringing them back into the fold in a way amenable to both the nationalists themselves and a range of Spanish forces (conservative, centrist, socialist and communist) (see Colomer 1998). The founding

fathers of the Constitution of 1978 designed an ‘ambiguous constitutional compromise’ on the issue of decentralisation as part of an attempt to create a consensual text that would straddle the demands of the different political forces in Spain (Colomer 1998: 40). This involved maintaining the provinces created in the 19<sup>th</sup> century and grouping them into 17 autonomous communities or regions, each with its own regional parliament and government. Three of the autonomous communities, which represented the ‘historic nationalities’ of the Basque Country, Catalonia and Galicia, were given a ‘fast-track’ route to a certain degree of autonomy in an attempt to satisfy the nationalists in those regions (Galicia, like the Basque and Catalan regions, had approved a regional autonomy statute for the first time in the 1930s, before this was abolished under the dictatorship of Franco). While the Spanish Constitution did not recognise them as nations, conceiving of one Spanish nation only, it did nevertheless designate them as ‘historic nationalities’. The remaining 14 essentially more ‘administrative’ autonomous communities were given a slower route to autonomy. Of these, Andalusia, arguing its right to be considered a historic region, was later also fast-tracked (Colomer 1998: 45). Overall, the decentralisation formula was left deliberately vague in terms of exactly what competences the regions would eventually achieve and whether the ‘administrative’ regions would request the same level of competences as the historic regions or not – eventually they would, thus the system would later be dubbed one of ‘café para todos’ or ‘coffee for all’.

In the consensual spirit of the Transition, this formula was approved in 1978 with the support of CDC, but the PNV abstained, primarily since the Constitution did not recognise Basque sovereignty and the PNV wanted to be able to push for greater autonomy via a flexible interpretation of the Constitution thereafter (Corcuera 2009: 336; De Pablo and Mees 2005: 389-390; Lecours 2007: 88-89). Many Basques also disapproved of the fact that the founding fathers of the Constitution had included a representative of the Catalan nationalists (from CDC) but not the PNV. The PNV did, however, subsequently approve its regional statute of autonomy (the Statute of Gernika) in 1979 and *Concierto* legislation in 1981, both of which derived their legitimacy from the Constitution. Crucially, the Basques had secured recognition under the First Additional Disposition of the Constitution of the ‘historical rights of the foral territories’, a reference to the tradition of raising taxes in each of the Basque provinces. This Additional Disposition would provide the legal basis for the

restoration of tax-raising powers to all the Basque provinces under the new *Concierto Económico*, which would become the main basis of Basque autonomy and main differentiating factor between it and other regional levels of authority in Spain (except for Navarre, which also retained its tax-raising tradition). The bases for a common financing system for the rest of Spain's regions apart from the Basque Country and Navarre were later set under Organic Law 8/1980 on the Financing of the Autonomous Communities (*Ley Orgánica de Financiación de las Comunidades Autónomas*, LOFCA). While the Constitution of 1978 had granted special recognition to the three 'historic nationalities' and promised them a fast track route to autonomy, a clear step towards 'café para todos' came in 1982 when the main Spanish political forces at the time (the PSOE and UCD) approved the Organic Law on the Harmonisation of the Autonomy Process (*Ley Orgánica de Armonización del Proceso Autonómico*, LOAPA), in the difficult climate after the attempted coup of 23 February 1981 by the Spanish military. The LOAPA was designed in part to slow down the process of transferring powers and competences to the regions – a move which was vehemently rejected by Basque and Catalan nationalists, as well as other regional governments (Ugarte 2009: 358; De Pablo and Mees 2005: 40; Magone 2009: 195-196).

After the numerous difficulties of the Transition period of the late 1970s and early 1980s, the mid 1980s then saw the beginnings of a more settled pattern which would endure for at least a decade, as the regionalisation of Spain into autonomous communities seemed to be undergoing consolidation (Gillespie 2015a: 9). This involved the gradual transfer of competences to regional governments under the provisions of the Spanish Constitution and each region's autonomy statute. Spain developed one of the most decentralised political systems in Europe over the period from the 1980s through to the early 2000s in terms of spending competences. The regions gradually acquired responsibility for spending in fundamental policy areas such as health, education and social services, among others, though the decentralisation of revenue-raising competences was much more limited, except in the case of the Basque Country and Navarre. The ambiguity of the Constitution, compounded later by the recurring reliance of minority Spanish governments from 1993 onwards on alliances with regionally-based parties with representation in the Spanish parliament (primarily CiU and PNV) to secure working majorities, gave these parties bargaining power to negotiate increasing decentralisation gains, which

other regions then sought to emulate. Ultimately, however, this led to a greater degree of policy decentralisation in Spain than some of the founding fathers of the Constitution might ever have envisaged and ended up sowing more discord than it generated consensus, as the multi-level political dynamic in Spain resulted in frequent competition among the regions for competences and resources (Colomer 1998: 40). Regional governments resorted to competitive bargaining with the central government for competences and/or resources, with each seeking to secure the best deal. The few forums that bring together the central government and the regional governments in Spain – primarily the fiscal and financial policy council (*Consejo de Política Fiscal y Financiera*, CPFF), meetings of the national and regional education ministers and the consultative conference on European affairs – have also tended to descend into conflictive rather than cooperative dynamics, as each regional government has sought the best outcome for its own territory. Spain lacks a fully-fledged institutionalised framework for intergovernmental cooperation since the Spanish Senate (upper house) is not a proper territorial chamber typical of federal systems. While there is extensive decentralisation in Spain, it is not constitutionally a federal state, and there is general agreement among academics that ‘Spain does not meet the most important criteria found in federalist systems generally regarded as prototypes’ (Encarnación 2008: 103).

By the late 1990s the constitutional compromise on the national and territorial question was starting to come apart at the seams. In this context, growing calls would thereafter emerge from Basque and Catalan nationalists for a revision of their regional autonomy statutes and also of the Spanish Constitution. This also contributed to a wider wave of statute reform in other regions. While the decentralisation of policy competences has been extensive, Basque and Catalan nationalists lament the fact that the extension of the system to 17 regions has in practice put limits on their own ambitions and hindered their ability to negotiate bilaterally with the Spanish state on their own terms, without inter-regional conflict and competition. While the nationalists are usually in power in the Basque and Catalan regions, statewide parties govern in the other regions of Spain, which has meant that the party in power in Madrid has often sought to appease the regions where it governs. Although Spain is, to all appearances, one of the most decentralised countries in Europe, Basque and Catalan nationalists argue that this is only a façade for an ultimately still centralised Spanish state, in which the

traditionally dominant parties refuse to acknowledge the existence of different nations within the state or share sovereignty with these.<sup>18</sup> They also see such centralism in the fact that the Spanish government can still introduce basic laws that override regional laws even in the case of decentralised competences, and that it has often been known to renege on promises in regard to the devolution of competences and their financing. Notable sources of grievance in recent years include, for example, the highly controversial 2013 education law, known as the '*Ley Wert*' after its creator the then PP education minister José Ignacio Wert, which sought to increase Spanish control over regional education systems, the language of instruction, and course content. The politicisation of Spain's Constitutional and Supreme Courts, the decisions reached in which tend to correspond to the interests of the statewide parties, has intensified the sense of an unfair system biased towards the centre.

Both the disposition and ability of the Basque and Catalan mainstream nationalist parties to cooperate with the Spanish government in return for decentralisation gains declined thereafter in this context. The limits of the 'coffee for all' model became clear since the Basque and Catalan regions seek greater autonomy and also sovereignty for their regions than other regions of Spain, and the Catalans perceive their lack of fiscal autonomy and the fiscal deficit they suffer as a result of the overly redistributive nature of the common financing regime as an additional injustice. Moreover, the fact that supporting minority central governments became the main bargaining tool of the Basque and Catalan nationalists to secure decentralisation gains was inherently subject to the risk of instability, since it has given the nationalists' extensive leverage at times and yet has left them with little leverage at other times when a party has won the Spanish general elections with an absolute majority, as the PP has done twice since 2000. Looking beyond Spain to the wider European sphere, the nationalists' hopes in the 1990s that the notion of a 'Europe of the regions' and the revisiting of the concept of the state would afford them greater prominence were largely frustrated as it became clear by the turn of the century that the development of the supranational sphere was not facilitating the strengthening of the sub-state level to the extent they had hoped (Burgess and Vollard 2006).

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<sup>18</sup> Personal interviews with current and former Basque and Catalan political representatives, 2014-2015. See also Tremosa 2007: 8-12.

Although both the Basque and Catalan mainstream nationalist parties are dissatisfied with the status quo and both have called for the right of their territories to self-determination, some degree of statehood and recognition as nations, there has been little direct collaboration between them over the years on possible ways forward since they each conceive of their own regions as being in a different position, especially due to their different financing arrangements and to the history of terrorist violence in the Basque region but not Catalonia. There has been no consensus on how to deal with Spain's national and territorial problematic among Spanish statewide parties either, which each clash with Basque and Catalan nationalists on the matter for different reasons. Right- and left-wing ideologies among the statewide parties in Spain have broadly become synonymous with centralist and decentralist positions, respectively (Dinas 2012: 477; Verge 2013). Certainly, the PP is known for its stronger ideological centralism than the PSOE, with right-wing parties in Spain historically associated with the vision of a unitary and centralised state (Grau Creus 2005: 264). And yet this distinction is only relative, since both the conservative PP and the socialist PSOE, the two traditionally dominant Spanish parties since the transition to democracy, defend the idea of one Spanish nation and Spanish sovereignty. This stance is also shared by emerging party Ciudadanos, a centre-right party which was founded in Catalonia in 2006 to provide an alternative to Catalan nationalism, before it expanded to operate throughout the whole Spanish state and became one of the two new parties to thwart the traditional two-party dominance of the PP and PSOE at the Spanish elections in December 2015, coming fourth with 40 seats (out of 350).<sup>19</sup> Ciudadanos can be seen as even more centralist than the PP and the PSOE in the sense that it was one of two new parties in Spain's recent history to campaign for the abolition of the Basque and Navarran 'privileges' in term of their regional financing arrangements (the other, UPyD, never attained the same degree of electoral success as Ciudadanos). In stark contrast, the other other newcomer on the scene, the left-wing Podemos, which came third in the 2015 Spanish elections (with 69 seats) and reaped some of its best results in the Basque and Catalan regions, is the only Spanish party ever to have campaigned for the 'right to decide' (in other words, self-determination) of Spain's constituent parts, arguing that only it can keep Spain together going forward by

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<sup>19</sup> For the election results, see *El País*, <http://resultados.elpais.com/elecciones/2015/generales/congreso/index.html>



recognising and respecting its plurinational character and allowing Catalonia to hold a referendum. With the rise of both Podemos and Ciudadanos, the December 2015 Spanish elections marked a sea change in the Spanish political scene, bringing an end to the traditional dominance of the PP and PSOE, amid a political crisis characterised by widespread disillusionment with existing political institutions, parties and politicians. While the PP and the PSOE still came first and second respectively, the inability of either to form a government for the first time since the PSOE won the 1982 elections was in part caused by the lack of agreement between possible coalition partners on the national and territorial question, among other factors. One of the many obstacles to a potential coalition of the PSOE, Podemos and a handful of other left-wing and peripheral nationalist parties, for example, was the disagreement between the PSOE and Podemos on how to address the situation in Catalonia.

With regard to the PSOE, while it is relatively more pro-decentralisation than the PP and Ciudadanos, it remains clearly in favour of a symmetric form of decentralisation to ensure equality for all Spaniards, in contrast to the Basque and Catalan nationalists who have traditionally sought a greater degree of asymmetric decentralisation to give their regions something approaching a more confederal arrangement (Balfour 2005: 5). The PSOE, like Ciudadanos, also strongly supports centralisation of competences in cases where it believes centralised management will best ensure equal treatment of all Spaniards.<sup>20</sup> Most notably, the Socialists have therefore opposed calls from nationalist parties to devolve the *caja única* (single fund) of the social security system. While the PSOE's current leader Pedro Sánchez claims to be in favour of a federal model for Spain, Basque and Catalan critics argue that the PSOE's vision of federalism is a distortion of the reality of federalism in other countries and its theoretical conception in political science, where federalism is not subordinated to the ultimate purpose of ensuring equality of outcomes for all citizens but rather is designed to allow for a proper level of self-government at substate level.<sup>21</sup> The PSOE leadership's support for broadly symmetric federal-type models stems first and foremost from its desire for an egalitarian model that treats all

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<sup>20</sup> Personal interviews with Basque Socialists, 2014.

<sup>21</sup> Personal interviews with Basque and Catalan nationalists, 2014-2015. Some Catalan Socialists also question the 'federalist' vision of their Madrid counterparts (personal interview with Antoni Castells, 25 March 2015).

Spaniards the same, but it has been strengthened by the fact that the party has traditionally had electoral strongholds in many of the non-historic regions and in particular the relatively poorer regions in the south of Spain (Andalusia, Castilla-La Mancha and Extremadura), and thus it has needed to fight their corner. This has affected discussions over the common financing regime in particular, since any reduction in the relatively richer regions' contribution to the wealth redistribution system has usually been fiercely opposed by some of the poorer, traditionally Socialist-led regions that benefit from it, most notably Extremadura.<sup>22</sup> The situation has been complicated by the fact that the PSOE has at times been pulled in a different direction by its regional federation in Catalonia. The Catalan Socialists (PSC) have greater autonomy than the regional levels of the PSOE elsewhere in Spain since they are a federation of the party (Fabre 2008: 320; Hopkin 2009: 188-189; Van Houten 2009: 176-177). As the PSC gradually 'Catalanised' its agenda in the late 1990s and first decade of the 2000s in order to compete and govern more effectively at regional level, this led to tensions and competing priorities with the PSOE headquarters in Madrid and the regional branches of the party elsewhere in Spain (Fabre 2008; Roller and Van Houten 2003; Van Houten 2009). The PSC's decline in popularity in Catalonia during and following the experience of the PSC-led tripartite coalition governments in Catalonia in 2003-2010 can in part be attributed to the fact that it became clear the regional federation, despite its extensive autonomy, was ultimately still subordinate to the party headquarters in Madrid.

At statewide and inter-regional level in Spain, competing political dynamics have thus reduced the possibility of a viable solution to Spain's territorial problematic. There is no consensus among nationalists, socialists and conservatives and any significant change to the status of the Basque Country and Catalonia would require a willingness on all sides to agree significant amendments to the Spanish Constitution, which has not been forthcoming. This situation has been complicated further by intra-regional dynamics within the Basque and Catalan regions that impact their respective nationalist movements and parties, such as the pressures of intra-

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<sup>22</sup> Note, however, that the current common financing system does not uniformly benefit all of the poorer regions of the south, for example Andalusia's per capita financing remains below average post-equalisation, in stark contrast to Extremadura which reaps the benefits of over-redistribution. On the arbitrary outcomes of the equalisation mechanism, see Chapter 3.

regional party competition<sup>23</sup> and influence of civil society movements. The following sections look at each of the Basque and Catalan cases in more detail, investigating the shifts in territorial strategies the nationalist parties in each have undergone and the contributing factors to these shifts.

### **The PNV's evolving territorial agenda**

In the early post-Franco years, there were significant differences within the PNV over the party's territorial agenda, continuing the original factional division that the party had experienced earlier in the twentieth century between those seeking independence and those in favour of a more moderate pro-autonomy agenda (Pérez-Nievas 2011). One consequence of a traumatic split within the party in 1986 (see below) was a reduction in internal factionalism thereafter and a strengthening of moderate pro-autonomy stances within the party, though shifts in the PNV's territorial agenda would still occur in subsequent decades (Pérez-Nievas 2006: 44). The party's oscillation since its creation between territorial options ranging along a continuum from autonomy to independence has been likened by scholars to the party's 'two souls', or the swing of a pendulum from one extreme to the other (De Pablo and Mees 2005). Party members themselves see the situation differently, arguing that throughout the democratic period they have all shared more or less the same ideology and end goal of the right to self-determination, nationhood, sovereignty and some degree of statehood (though not necessarily full independence) for the Basque Country, even if there are discrepancies over the exact formula under which this would be achieved and the degree of connection that would remain to Spain.<sup>24</sup> Differences within the party (e.g. during the Ibarretxe period), they suggest, have been more to do with questions of speed and timing (i.e. when it is appropriate to take active steps towards this goal, depending on both Basque and Spanish contextual factors) rather than the fundamental essence of the end goal itself.<sup>25</sup> Thus some party members who have generally been described in academic literature and the media as emblematic of the 'moderate' sector within the PNV – examples include former lehendakari José Antonio Ardanza and current party president

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<sup>23</sup> On the different structures of party competition at regional level of government compared to the Spanish state level of government, see Wilson (2012).

<sup>24</sup> Personal interviews with current and former PNV politicians, 2014.

<sup>25</sup> Personal interviews with José Antonio Ardanza, 10 and 28 April 2014; and with Andoni Ortuzar and Iñaki Goikoetxea, 10 April 2014.

Andoni Ortuzar – describe themselves instead as firm advocates and supporters of the end goal of self-determination and sovereignty for the Basque people, when the time is right to pursue it. Their criticism of Ibarretxe was not directed against the nature of the Plan itself, but rather Ibarretxe’s attempt to try and forge ahead with it even once it had become clear that circumstances were not propitious. There is also a clear acknowledgment within the party that how to articulate conceptions of sovereignty and nationhood for the Basque Country differ depending on which particular city, town or village each member comes from, given the vastly different geographic and sociodemographic makeup of different areas within the Basque region: in some the PNV coexists with the Basque Socialists while in others it coexists with the *izquierda abertzale*, which inevitably contributes to PNV members from different areas prioritising the need to secure agreement on the Basque Country’s relationship to Spain with the one or the other.<sup>26</sup> Thus questions of *timing* and *place* have contributed to differences within the PNV on how to achieve its end goal, even if there is more or less agreement within the party that this end goal involves the right to self-determination and sovereignty for the Basque Country in some shape or format. In the light of this, rather than talking of shifts between pro-autonomy and pro-sovereignty stances within the PNV, it may be more appropriate to speak of a *de-emphasis* of the party’s pro-sovereignty territorial agenda during times of territorial accommodationism.

Such a de-emphasis of more ambitious territorial agendas came during the fourteen-year period of PNV-led regional governments headed by lehendakari José Antonio Ardanza from 1985 to 1999, for the most part under stable coalition arrangements with the Basque federation of the Socialist Party (PSE). The PNV under Ardanza’s regional premierships became known for its moderation and territorial accommodationism, seeking to develop Basque autonomy within the parameters of the Basque autonomy statute and the Spanish Constitution, and in collaboration with Spanish parties. Ardanza himself makes a distinction between ‘the important’ and ‘the urgent’, where the former involves pursuing the PNV’s longstanding goal for the Basque Country to be recognised as a legal subject and the articulation of this via self-determination, while the latter involves addressing

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<sup>26</sup> On the complexity of Basque nationalism, see, for example, Gurrutxaga 1996.

immediate day-to-day crises that affect the Basque people's everyday wellbeing.<sup>27</sup> When Ardanza took over the reins of Basque government in 1985, he was clear that addressing the 'urgent' had to be his priority, for three main reasons: (1) the trauma and instability within the PNV itself given the recent split within the party, which would result in the party's poor performance at the subsequent 1986 regional elections; (2) the context of severe economic crisis in the Basque region; and (3) ongoing political violence under the terrorist group ETA.<sup>28</sup> In this context, with such issues of immediate urgency to address, the PNV's territorial agenda during the Ardanza years was focused on seeking and negotiating the transfer of competences to the Basque autonomous community envisaged within the Gernika statute, while more ambitious territorial goals aimed at achieving sovereignty and self-determination for the Basque region were for a long time put on the backburner.

Ardanza first assumed the role of lehendakari in 1985 in very difficult circumstances for the PNV, following the acrimonious split which had seen then lehendakari Carlos Garaikoetxea resign and found a new party, EA (De Pablo and Mees: 412-421; see also Chapter 6). The split weakened the PNV significantly at the time, with the party performing poorly in the subsequent regional elections in November 1986. This resulted in the first of a series of stable PNV-PSE coalition governments headed by Ardanza until the late 1990s. In this difficult context, Ardanza aimed first and foremost to get the party back on track and to address the immediate challenges of the economic crisis afflicting the Basque region and the ongoing political violence in the second half of the 1980s. To tackle the economic crisis, the late 1980s and early 1990s were marked by Basque government initiatives agreed between the PNV and the Socialists. These included programmes to fight poverty to address deprivation in the immediate term by making subsidies available to the unemployed (the unemployment rate was over 25% at the time), as well as investment plans with a medium- to long-term impact to develop the appropriate infrastructure to facilitate a fundamental industrial reconversion in the Basque Country, away from the traditional sectors of steelworks, mining and shipbuilding (Ardanza 2011: 233-234). Meanwhile, to address the question of political violence, Ardanza spearheaded the Agreement for the Pacification and Normalisation of

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<sup>27</sup> Personal interviews with José Antonio Ardanza, 10 and 28 April 2014.

<sup>28</sup> Personal interviews with José Antonio Ardanza, 10 and 28 April 2014.

Euskadi (the Ajuria Enea Pact),<sup>29</sup> which was signed in January 1988 by all parties operating in the Basque region (including the Basque branches of statewide parties) apart from HB. The Pact's twofold plan involved (1) forming a joint front against violence and (2) seeking to ensure the full implementation of the Basque autonomy statute of 1979, by agreeing criteria for the transfer and financing of pending competences. The aim was to work towards a 'final dialogado' (in other words, an end to the conflict via dialogue) and to make it clear that acts of violence and demands for autonomy were two entirely separate issues, in order to isolate ETA and HB and encourage them to join the political mainstream to undertake legitimate negotiations regarding the relationship of the Basque Country to Spain (Pérez-Nievas 2006: 33).

The PNV and the Basque Socialists collaborated together as coalition partners to reach numerous agreements with PSOE-led Spanish governments in Madrid over the transfer of competences to the Basque government and their financing. Under the first PNV-PSE Basque coalition government headed by Ardanza from 1987 to 1990, several key competences were devolved, including health and social services, and the relevant arrangements for a Basque regional justice system and a Basque regional police force (Ertzaintza) were put in place (Ugarte 2009: 369-370). In all cases, negotiations for the transfer of each competence also involved agreeing the valuation of the competence in financial terms and how the competence would be financed. Inevitably, negotiations over the devolution of competences and their financing were often subject to significant dispute between the Basque and Spanish authorities, particularly over the valuation of the competences (see Chapter 4). In almost all cases, the PNV and the Basque Socialists would agree their aims and objectives with regard to each competence, but the PSE would leave it to the PNV to take the lead in negotiations with Madrid, in order to avoid internal conflict within the Socialist party between the regional federation and party headquarters.<sup>30</sup> Once the transfer was secured, a PSE member would then take charge of its implementation in the Basque Country. Notwithstanding the inevitable Spanish-Basque tugs-of-war over the transfer of competences and their financing, this system worked relatively well under the first 1987-1991 Ardanza government, in the sense that major agreements over the transfer of a number of competences were reached and implemented within the space

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<sup>29</sup> For the full text of the agreement, see Ardanza 2011: 481-492.

<sup>30</sup> Personal interviews with José Antonio Ardanza, 10 and 28 April 2014.

of a few years. Ardanza would thereafter praise his Socialist deputy Ramón Jauregui for his ‘talante conciliador’ (conciliatory nature) (Ardanza 2011: 247) and both the PNV and many Socialists alike still speak of the period as one of fruitful collaboration.<sup>31</sup>

Such collaboration would continue under subsequent Ardanza-led PNV-PSE Basque coalition governments in the 1990s. One of the most notable developments under the 1991-1994 regional government term, for example, was PNV-PSE collaboration for the creation of a Basque education model for the first time since the policy competence for education had been devolved in 1981 (Ugarte 2009: 370). The PNV, the PSE and EE reached the *Pacto Escolar* (‘School Pact’) in 1992, and subsequently approved legislation on this basis in the years immediately thereafter. This laid the legal and organisational framework for a Basque education model, which remains the general basis for the system today. It was a Socialist (Fernando Buesa) who was Basque education minister at the time. Creating a specifically Basque education system was thus not solely the preserve of the nationalists, but rather the result first and foremost of joint PNV-PSE collaboration, with the contribution too of other parties. The fact that such cross-party agreements could be reached to address specifically Basque interests meant the PNV could reap satisfactory results while working within the bounds of the Gernika statute and the Spanish Constitution.

While the PNV’s territorially accommodationist approach would thus prevail for most of the 1990s, from the late 1990s the party would undergo a fundamental change in territorial strategy (Pérez Nieves 2006). First, the PNV shifted away from cooperation with statewide parties to seek cooperation with Basque separatist forces. It broke its long-established regional coalition arrangements with the Basque Socialists to pursue an alliance instead with the *izquierda abertzale* under the Lizarra Pact, a declaration of principles signed in September 1998 by the PNV, HB, EA and around 20 other nationalist and pro-independence organisations (including, for example, nationalist trade unions). Following the regional elections a month later on 25<sup>th</sup> October 1998, the PNV, EA and the Basque federation of the United Left (*Izquierda Unida*, IU) would form a coalition government with the external support of *Euskal Herritarrok* (the name which the *izquierda abertzale* used to stand at those

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<sup>31</sup> Personal interviews with current and former PNV and PSE members, 2014.

elections). When that arrangement quickly fell through (due to ETA breaking the requisite ceasefire), following new elections in 2001, PNV lehendakari Juan José Ibarretxe would spearhead a new initiative which became known as the ‘Ibarretxe Plan’, seeking a revised regional autonomy statute to allow for a referendum on self-determination in the Basque region and a redefinition of its relationship with the Spanish state as one of ‘free association’. What was proposed was essentially a confederal solution rather than full independence, but it would have left the Basque Country with a very loose connection to Spain, going well beyond its already extensive fiscal and policy competences to reconceptualise the region as a nation on an equal footing to the Spanish one and to establish a bilateral relationship of equals sharing sovereignty between them. The proposal was thus rejected by both the PP and PSOE as unconstitutional and a challenge to the integrity and national sovereignty of Spain. What factors and developments throughout the 1990s led to this change in the PNV’s territorial strategy?

Party representatives attribute the shift to two main factors: first, a growing sense within the party by the late 1990s that the Basque Country would struggle to make further gains in competences under the Spanish state of autonomies; and second, the need to address the ongoing problem of political violence by seeing a realignment with nationalist forces, in the hope that concerted joint efforts towards securing a new political relationship for the Basque Country with Spain might persuade ETA too to abandon violence and join the political route.<sup>32</sup> Political opponents and critics of the PNV see the situation differently, however, arguing that the PNV’s shift in strategy marked a sign of the party being swept along by the radicals at the time, or becoming ‘radicalised’ itself.

On the first point, the feeling within the PNV that it would struggle to secure further competences within the context of the Spanish state of autonomies had gradually grown over the course of the 1990s. Once the main competences had been transferred in that period (in relation to health, education, justice and police, among other areas) as well as several other more minor competences, PNV interlocutors suggest they began to detect an increasing reluctance from the PSOE governments in Madrid to accede to further devolution in other areas.<sup>33</sup> By 1995, Ardanza had concluded that the PNV’s relationship with the PSOE had reached its limits

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<sup>32</sup> Personal interviews with current and former PNV politicians, 2014.

<sup>33</sup> Personal interviews with PNV representatives, 2014.



(Ardanza 2011: 332). Two years previously, the PNV and their Basque Socialist colleagues had drawn up what would become known as the Zubia Report (*Informe Zubia*), named after PNV deputy Joseba Zubia who led the process. In the spirit of the Ajuria Enea agreement of 1988, this document offered a shared diagnosis agreed by different parties in the Basque Country as to which articles of the Gernika statute had not yet been fulfilled, specifically in terms of which competences could still be devolved under the statute's provisions, and it was approved by the Basque parliament in 1993. A further text based on the Informe Zubia, establishing the priorities in terms of the transfer of competences, was also approved unanimously in the Basque parliament in 1995. The PSOE's reluctance immediately to accept and act upon this text approved unanimously in the Basque parliament, with prime minister Felipe González saying that an agreement reached in a regional parliament was not binding for the Spanish government, was the culmination of a growing list of frustrations for Ardanza and the PNV, another being the increasingly politicised decisions of Spain's Constitutional Court.

The tables seemed initially to turn again under the new PP government. Despite the PP being a more centralist party than the PSOE, the agreements then struck with the new PP minority Spanish government in 1996 to enhance Basque autonomy gave rise to the oft-cited comment by the then PNV party leader Xabier Arzalluz, 'I've achieved more in 14 days with Aznar than in 13 years with Felipe González.'<sup>34</sup> While PNV members themselves have subsequently warned against taking this one off-the-cuff comment entirely at face value,<sup>35</sup> it certainly reflected the spirit of optimism and satisfaction with developments at the time. Parliamentary support from CiU and the Canaries Coalition (*Coalición Canarias*, CC) would have been enough to allow the PP minority government to govern, but Aznar was keen to get the PNV on board too. Although the PNV was initially very hesitant to lend parliamentary support to the PP, to its surprise, Aznar agreed to the list of enhanced competences that the PNV drew up as a condition, including significant developments to the Concierto to increase the region's fiscal autonomy (see Chapter 4), and thus a deal was struck. Such optimism would nevertheless soon prove short-lived. From the PNV's perspective, Aznar's initially conciliatory stance only lasted about a year and a half. From autumn 1997, they started to detect a new, very

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<sup>34</sup> For example, 'Arzalluz: "Logré más de Aznar que del PSOE"', *El País*, 19.10.10.

<sup>35</sup> Personal interviews with PNV representatives, 2014.

different phase, in which the PP adopted a more centralist stance and relations between it and the PNV cooled considerably. Ardanza would come to the conclusion that Aznar had only taken a conciliatory approach for an initial period as he sought to take hold of ‘the reins of power’ in Spain, making profound changes to institutions and structures that had long been in the hands of the Socialists, but once he had those reins firmly in his grasp, he and his party showed their ‘true colours’ (Ardanza 2011: 337).

Ever since it was drawn up, the Informe Zubia has to this day provided the main basis for the PNV’s criticism of Spanish governments for failing to transfer all the competences envisaged under the Gernika statute. When the Report was first approved in 1993, the number of competences still subject to potential transfer was put at 54 (out of a total of 144 initially). Given that some of the competences have been transferred in the past two decades, this number has since reduced to approximately 35, according to a report published by the PNV in 2015 criticising the central government for not fulfilling the Gernika statute.<sup>36</sup> Critics of the PNV nevertheless argue that the party has exaggerated the issue, since the qualitative weight of the competences still to be transferred is not the same as their quantitative number.<sup>37</sup> Only a few of the remaining pending competences are qualitatively significant – most notably, management of the social security system and of the prison system – while others tend to be competences of relatively minor qualitative importance, such as coastal search and rescue services or weather forecasting. While the PNV tends to put the emphasis on what has *not* been devolved, its critics thus argue that this can be misleading since it detracts from a focus on the extensive competences that *have* been devolved, which make the Basque Country one of the most autonomous regions in Europe. Moreover, agreement over the numbers of competences still to be transferred is not unanimous. PSE members who were involved in the drawing up of the Report suggest that the PNV has thereafter at times misrepresented it for political purposes as a black-and-white list of competences to be transferred, when the wording is more complex in the case of some competences where an overlapping of state and regional obligations and dual competence which does not always allow for a simple transfer.<sup>38</sup>

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<sup>36</sup> See, for example, ‘35 competencias pendientes’, *El Mundo*, 08.08.15.

<sup>37</sup> Personal interviews with current and former Basque PP and PSE representatives, 2014.

<sup>38</sup> Personal interview with Manuel Salinero, 2 September 2014.

Regarding the need to address the ongoing problem of political violence in the late 1990s (the second main point above, identified by the PNV as a reason for its shift in agenda), it was informal contacts between PNV interlocutors and Herri Batasuna (HB), the main party of the *izquierda abertzale* affiliated with ETA in the late 1990s, that led the former to argue in favour of a realignment with nationalist forces, in the hope that concerted joint efforts towards securing a new political relationship for the Basque Country with Spain might persuade ETA too to abandon violence and join the political route. At the time, the Ajuria Enea Pact, after nearly ten years in operation, was starting to founder due to increasing discrepancies between the parties signatory to the agreement. The PP was distancing itself from the notion of a ‘final dialogado’ to which the conservatives had subscribed under the 1988 Pact, since many within the party accused this of being too conciliatory towards terrorists and called for a tougher, more confrontational approach. From January 1997, Ardanza, heeding the request of the Ajuria Enea Committee, would make a final attempt to get the Pact and the notion of a ‘final dialogado’ back on track by drawing up a new plan for an agreement between the parties of the committee on how to bring the Basque conflict to an end, which became known thereafter as the Plan Ardanza.<sup>39</sup> In the midst of these efforts, ETA kidnapped and killed the PP town councillor for Ermua (in Vizcaya), Miguel Ángel Blanco, in July 1997, which resulted in a further hardening of the PP’s stance. In January 1998, Ardanza presented the Plan to the Ajuria Enea Committee, knowing full well (following prior personal negotiations) that both the Basque Socialists and PSOE headquarters in Madrid were in favour of backing the plan, but the PP was not so forthcoming, and the PSOE was reluctant to sign unless Aznar agreed to as well, given the pressure the PSOE was now under in Madrid having been forced into opposition. Although it was the Basque federations or branches of the statewide party that had to agree and sign, they could not do so on such an important issue without the backing of their party headquarters in Madrid. In the end, the PP would not support the plan. When the Basque PP representative Carlos Iturgáiz refused to sign, the by then PSE leader Nicolás Redondo also refused to sign. The dynamics within the PSE had changed following the loss of the PSOE’s power in Madrid in 1996. Amid the party’s organisational crisis, both Ramón Jauregui and Txiki

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<sup>39</sup> For the full text of the agreement, see Ardanza 2011: 493-512.

Benegas, the PSE members who for the past ten years had established a close working relationship with the PNV (especially Jauregui), left the Basque political scene to take up positions in Madrid. Jauregui was replaced in his role of general secretary of the PSE by Nicolás Redondo who, according to Ardanza and his PNV colleagues, would lack Jauregui's conciliatory nature and disposition for dialogue.<sup>40</sup> The refusal of both the Basque PP and PSE to sign the Plan Ardanza in March 1998 marked the final meeting of the Ajuria Enea Committee and effectively brought the Ajuria Enea Pact to an end. Nicolás Redondo would also have the Socialists leave the PNV-PSE coalition government a couple of months later. Many within the PSE were in profound disagreement and uncomfortable with Redondo's decisions, though at the same time there was a feeling within the party that the gradual shift of the PNV towards a territorial agenda going beyond the parameters of the Gernika statute from 1996/1997 onwards had reduced the viability of continued PSE-PNV collaboration.

In the meantime, the PP had won the Spanish general elections in Madrid in 2000 with an absolute majority for the first time. No longer needing the support of nationalist parties in the Spanish parliament, it could toughen its centralist stance and its opposition to Basque nationalism in general, with its most hardline members seeking to equate all Basque nationalism with terrorism. This rise of the PP meant the Basque nationalists faced a stronger Spanish nationalist discourse than they had under the previous Spanish Socialist governments, pitting Basque and Spanish nationalisms against one another. The PP had also gained significant traction in the Basque Country throughout the 1990s to become the second largest party in the 1998 regional elections. The fact that ETA had begun to target PSE and PP politicians led to increasing polarisation between nationalist parties on the one hand and statewide parties on the other, with the PSE essentially joining forces with the PP – its arch political rival – against the PNV and the *izquierda abertzale*.

Despite the failure of the Lizarra Pact (since ETA broke the ceasefire on which it depended), a significant win for the PNV under Ibarretxe at the 2001 elections propelled the party – and particularly Ibarretxe himself – to continue alone on its new trajectory. The Ibarretxe Plan, like the Lizarra Pact before it, was motivated to a significant extent by the fact that many within the PNV had by then lost patience

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<sup>40</sup> Personal interviews with José Antonio Ardanza, 10 and 28 April 2014.

with the fact that the ongoing problem with terrorist violence was limiting the political progress they could make in terms of gains in autonomy and sovereignty for the Basque Country, thus the party wanted to make its own progress in this regard. For Ibarretxe, the extensive fiscal autonomy afforded to the Basque region under the Concierto was manifestly insufficient without full political self-government: using the analogy of a body, he likens fiscal autonomy to the ‘blood’ and political self-government to the ‘bones and muscles’ needed to allow that blood to flow.<sup>41</sup> The PNV also again argued that an improved status for the Basque Country would, as a by-product, remove ETA’s justification for violence, and Ibarretxe made it a condition that there would have to be a new ETA ceasefire before any referendum on an improved status could take place (a referendum would have been held to obtain societal backing for the plan if the plan had been approved by both the Basque and Spanish parliaments). The plan thus closely followed the moves in this direction under the Lizarra Pact, though in this case the PNV had to take the lead rather than establishing any firm alliances with HB, since ETA’s renewed activity had made any alliance with the HB politically unviable at the time. The Ibarretxe Plan was also motivated by international influences, since it resembled attempts by other nationalist movements to seek a ‘third way’ between state centralisation and devolution, proposing instead a form of ‘sovereignty-association’ with the member state (a notion the Parti Québécois had attempted to formulate with Canada), in a new ‘post-sovereign’ era (Keating and Bray: 206: 348).

Several contextual factors help to explain the leading role Ibarretxe assumed and his determination to take forward a pro-sovereignty agenda in that particular period. In contrast to Ardanza, who had taken hold of the reins of Basque government at a time when contextual circumstances made it important to focus on ‘the urgent’, Ibarretxe became lehendakari at a time when circumstances seemed to make it relatively more possible to concentrate on ‘the important’ again, in particular since the Basque economy was by then much stronger. Also, ETA had been weakened by years of police action against it and figures within HB were working hard to bring an end to ETA’s violence and bring the *izquierda abertzale* into democratic practice, making the possibility of ceasefires and an end to violence relatively more likely. The intensification of the PP’s Spanish conservatism and

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<sup>41</sup> Personal interview with Juan José Ibarretxe, 28 October 2014.

nationalism under Aznar also caused intense polarisation, encouraging Ibarretxe, in turn, to intensify his position further in the opposite direction. The PP was increasingly perceived as a serious threat to Basque competences and institutions as Aznar started to make attempts to recentralise powers in some areas or approve basic state legislation that would take precedence over regional legislation.<sup>42</sup> Other steps which caused a furore included attempts by some PP representatives to associate all Basque nationalism with terrorism and the PP's decision to approve a controversial Law on Political Parties in 2002, first and foremost to enable it to outlaw Batasuna for links to terrorism – a move which many Basque nationalists interpreted as an illegitimate attempt to prevent the incorporation of the political ideology of the *izquierda abertzale* into the democratic, political arena.<sup>43</sup> Such decisions and the climate of polarisation between statewide and nationalist forces mobilised voters that might not usually back the PNV to do so (especially *izquierda abertzale* supporters, but also non-nationalists concerned about the intensity of the PP's anti-Basque nationalism), contributing to Ibarretxe's strong victory in the 2001 elections, which further convinced him to forge ahead.<sup>44</sup>

Changes in party leadership during the parliamentary term would also become a contributing factor. The PNV is unusual in that the party leader and the party's candidate for *lehendakari* are separate roles, resulting in 'a more dispersed style of leadership' (Acha and Pérez-Nievas 1998: 101). Xabier Arzalluz, longstanding president of the PNV since 1980, would announce in 2003 his decision to step down. Under Ardanza's years as *lehendakari*, a pattern was established whereby the president of the party (Arzalluz) became associated with stronger defence of the party's ultimate territorial objectives, while the role of the *lehendakari* became known for relatively greater moderation, given the need to combine the PNV's ultimate territorial goals with the practicalities of day-to-day governance. When Arzalluz neared retirement, however, the roles seemed to be reversed and Ibarretxe seemed to step into his shoes, taking the lead on the party's territorial project. New party leader Josu Jon Imaz – the more moderate candidate of the two for the party leadership at the time, the other being Joseba Egibar – was more moderate in

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<sup>42</sup> For example, personal interviews with José Ramón Beloki, 27 February 2014, 8 April 2014; and with Joseba Egibar, 8 April 2014.

<sup>43</sup> Personal interview with Joseba Egibar, 8 April 2014.

<sup>44</sup> Personal interviews with José Ramón Beloki, 27 February 2014, 8 April 2014.

comparison and would ultimately contribute in his four years in the role to returning the PNV to a relatively more moderate position on territorial matters.

The Basque parliament approved the Ibarretxe Plan in December 2004 but the vote was only just won due to the last-minute u-turn of three deputies from Batasuna (HB had been refounded as Batasuna in 2001), which had by then been outlawed under the controversial Spanish Law on Political Parties, due to its links with ETA. Most Batasuna members had deemed the Ibarretxe Plan insufficiently far-reaching. The plan then failed as it was rejected overwhelmingly by the Spanish parliament as unconstitutional after being presented to it in January 2005, and the PNV then suffered electoral decline at the early regional elections called by Ibarretxe in April 2005 – in contrast to Ibarretxe’s own expectations of a strong win. Ibarretxe proposed holding an official vote in the Basque region incorporating two questions – one asking citizens whether they supported a negotiated end (‘final dialogado’) to violence, if ETA were to definitively renounce violence beforehand as a precondition; and a second asking whether Basque parties should initiate negotiations to reach an agreement on exercising the ‘right to decide’ of the Basque people – and submitting the agreement to a referendum by end 2010. The Basque parliament approved a Basque Consultation Law to this effect in 2008, but it was rejected by the Constitutional Court as unconstitutional, for infringing state competences under Article 149 of the Spanish Constitution. The subsequent year, the PNV lost power in 2009 for the first (and so far only) time despite winning the most seats, since coalition politics (a PSE-PP alliance) forced it into opposition, upon which Ibarretxe retired from political life.

In analysing why the Ibarretxe Plan failed and why the PNV’s support in the Basque region decreased immediately after rejection of the Plan by Madrid, there is widespread feeling within the PNV that in the end the timing was not right.<sup>45</sup> Critics, on the other hand, argue that it was not simply a question of timing, but rather of the fact that the plan was too divisive, aimed at nationalist voters only (see, for example, Keating and Bray 2006: 360). Such an ambitious plan, which was almost inevitably going to be deemed unconstitutional by Madrid, needed ample support from Basque politicians and society to stand a chance of being taken seriously, not just a narrow majority dependent upon the support of politicians from HB, a party which had still

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<sup>45</sup> For example, personal interviews with Andoni Ortuzar and Iñaki Goikoetxea, 10 April 2014; and with Joseba Egibar, 8 April 2014.

not managed to sever links with ETA and its violence, of late directed at PP and Socialist politicians. ETA's renewed activity at the turn of the century had made much of Basque society very wary, the process of devising the Ibarretxe Plan was too heavily party-led without sufficient backing from society, and in the climate of political polarisation there lacked a much-needed cross-party consensus with non-nationalist political forces in the region (at least the Basque Socialists). Ibarretxe was also penalised for losing sight of more everyday matters, most noticeably the social conflicts over health and education that emerged during his 2001-2005 mandate, which is thought to have contributed to the party's poorer performance than expected by Ibarretxe himself at the 2005 regional elections. By then, the change from the PP Spanish government under Aznar to a new Socialist government under Zapatero in 2004 also heralded the promise of a less conflictive Spanish-Basque dynamic, thus traditionally non-nationalist voters who had turned to voting the PNV in 2001 during Aznar's particularly belligerent period now had hope for a different future under the PSOE.<sup>46</sup>

The thwarting of the Ibarretxe Plan and subsequent loss of power led the PNV to de-emphasise its territorial agenda once again, as became clearly evident when the party returned to power in the 2012 regional elections with Iñigo Urkullu as lehendakari, and again in 2015. Urkullu put the PNV's territorial agenda temporarily on the backburner to focus first and foremost on ensuring the Basque Country would emerge from the economic crisis of 2007-2008. And in 2013 he prioritised restoring the PNV's traditional relationship with the Basque Socialists (which had been broken for over a decade when the parties in the Basque Country divided into nationalist and non-nationalist blocs) to ensure his minority government would receive their support for the everyday matters of governance. The PNV had originally hoped to be able to govern by shifting alliances from the outset of its term following the 2012 elections, but its inability to secure parliamentary support for the region's 2013 budget made it realise a more stable alliance was necessary. Noticeably, the areas covered by the pact or alliance which Urkullu re-established with the Basque Socialists in September 2013 to secure their support in regional and provincial administrations did not include any issues of Basque sovereignty or the region's relationship with Spain – the focus was instead on fiscal reform during a

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<sup>46</sup> Personal interviews with José Ramón Beloki, 27 February 2014, 8 April 2014.



time of economic crisis. The *izquierda abertzale* had re-entered formal politics under the Bildu coalition (subsequently EH Bildu) from 2011 onwards, gaining control over Guipúzcoa at the 2011 provincial elections. This followed ETA's decision to make its ceasefire permanent in 2011. Batasuna had been refounded as Sortu, which joined the Bildu coalition (becoming EH Bildu) shortly afterwards, as soon as it was clear the party was not to be outlawed. And yet the PNV preferred to return to an alliance with the Socialists rather than pursuing collaboration with the *izquierda abertzale*, which had only just entered properly into formal politics and would take time to gain experience in democratic practice. Following the 2015 regional and provincial elections, which returned the PNV to power in the regional government and the province of Vizcaya as well as restoring it to power in Álava and Guipúzcoa (where it had been in opposition to the PP and Bildu respectively), the PNV consolidated its alliance with the Basque Socialists.

The relative de-emphasising of territorial politics under Urkullu's 2011-2015 government term, and the return to collaboration with a statewide party rather than the separatists, did not however mean the PNV had renounced its territorial objective. The party remained committed to seeking a new status which would allow for bilateral relations between the Basque Country and Madrid as equal partners and the Basque right to self-determination and co-sovereignty. Under Urkullu, the PNV's conception of the notion of co-sovereignty that it seeks has envisaged an extension of the bilateral nature of the economic *Concierto* (whereby both Spanish and Basque delegations have equal negotiating rights and veto power) to wider political relations, with explicit calls for a 'political *Concierto*'.<sup>47</sup> In 2013, the PNV launched a parliamentary committee on self-government to investigate possibilities for a new autonomy statute defining a new political relationship with Madrid involving self-determination and co-sovereignty. However, the committee's progress would be slow, and reach the end of 2015 without any definitive conclusions as to the best way forward. Even within sectors of the party itself there had been scepticism it would achieve much, since the fundamental dilemma for the PNV remains how to secure a broader consensus within the Basque Country for a project which would in essence resemble the Ibarretxe Plan in many ways, so that it is not just a nationalist

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<sup>47</sup> For example, 'El PNV pide extender el sistema bilateral del concierto a todo el autogobierno vasco', *Deia*, 10 July 2014.

project.<sup>48</sup> Political opponents accused the PNV of using the committee simply to buy time without defining its ultimate intentions, thereby avoiding ‘getting its feet wet’. This time around, the PNV has been taking its time so as not to risk the same mistakes of the Ibarretxe period. It is reluctant to take any plan forward which does not have the backing of both the *izquierda abertzale* and the Basque Socialists, to ensure cross-party support which spans the nationalist-statewide divide – a very difficult feat to achieve – as well as sufficiently clear support from society. It has also been biding its time to wait and see what happens in Catalonia.

The ongoing ramifications of the history of terrorism in the region still condition the PNV’s political project and the feasibility of nationalist alliances with the *izquierda abertzale*, since the *izquierda abertzale* is still very new to the democratic arena and issues such as the regrouping of ETA prisoners in the Basque Country, their reinsertion in society, and victims’ rights remain unresolved. Both the PNV and the *izquierda abertzale* are also in competition with one another to lead the process of securing a new relationship of the Basque region to Spain, which further complicates the potential for nationalist alignment. At the same time, Basque society has been concerned first and foremost in recent years with the impact of the economic crisis, which it is the sole responsibility of the Basque government to address, since the fiscal autonomy model means it cannot look to Madrid for additional financing or blame Madrid for the region’s financial woes (in contrast to Catalonia). Like everywhere the Basque region has suffered during the crisis, but in comparative terms, it has fared significantly better than much of the rest of Spain (Zubiri 2015; see also Tables 3 and 4, p.10). This is both because the *Concierto* affords it relatively more resources than comparable regions under the common financing system, and because construction was not a major sector in the Basque region, so it was not hit by the crash of the construction boom that badly afflicted Spain elsewhere. All of these factors mean that securing a new status for the Basque Country has not been an immediate priority in recent years for many within Basque society nor indeed for many within the PNV itself.

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<sup>48</sup> Personal interviews with some PNV members, 2014.

## **CDC's evolving territorial agenda**

In CDC's case, a long period of a relatively stable, accommodationist approach came during the 23 years of Jordi Pujol's role as Catalan president from the first regional elections in 1980 until 2003. Under Pujol's leadership, CDC, as part of CiU, committed to seeking incremental gains in self-government within the framework of the Spanish Constitution and state of autonomies, achieving this via bilateral pacts and collaboration with central Spanish governments (Barrio and Barberà 2011; Dowling 2005, 2013). The party's original statutes (CDC was founded in 1974) had included the objective of developing 'full national sovereignty', so in a limited sense, party members could claim that the party's ultimate goal from the outset was to secure sovereignty as the culmination of incremental gains in autonomy (Gillespie 2015c). In practice, however, evidence of the party's actual behaviour throughout the Transition and under Pujol's Catalan regional premierships suggested that it wanted to be able to realise its ambitions for Catalonia via an accommodationist approach through a flexible interpretation of the Spanish Constitution, in a way which would enable Catalonia to play a leading role in Spain. Thus CDC did at this stage seem more genuinely pro-autonomy and less ambiguous in this regard than the PNV. An explicit shift within CDC towards a pro-sovereignty agenda and alliances would not come until much later, from 2012 onwards, presaged by developments from around 2008 onwards, as discussed below.

During the Transition, CDC representatives – especially Miquel Roca Junyent, one of the seven 'founding fathers' of the Spanish Constitution – gave their Spanish and Basque counterparts the clear impression that CDC wanted Catalonia to be a leading example for the Spanish transition and to play a leading role in designing the state of the autonomies, rather than to risk destabilising the system. Following the transition, the lack of a real competitor on the left in Catalonia in regional government elections throughout the eighties and most of the nineties contributed significantly to CDC's ability, working together with UDC as part of the CiU coalition, to maintain control of the Catalan political scene for 23 years under Jordi Pujol and his ability to use ambiguity on the territorial question to strategic affect and modify the strength or tone of his nationalism depending on whether his

audience was Madrid or Catalonia (Dowling 2005, 2013).<sup>49</sup> CiU's privileging of an accommodationist approach was clear, as Pujol established close working relations with PSOE and PP politicians in Madrid and, when the opportunity arose, extracted decentralisation gains in return for supporting the minority Spanish governments of Felipe González (PSOE, 1993-1996) and José María Aznar (PP, 1996-2000) (e.g. Dowling 2005: 107; Dowling 2009: 188). Like the PNV, CiU secured strong gains for Catalonia in particular when Aznar first gained power – this included CiU playing a significant role in negotiating a new reform of the common regional financing system in 1996. Throughout the 1980s and 1990s, CiU often secured competences for Catalonia prior to the Basque region, since it preferred to secure a particular competence even without an optimal deal on the financing for it, with a view to subsequent further negotiations to improve the financing, whereas the PNV only accepted the competence in each case once it had reached agreement with Madrid on the valuation of the competence it wanted. This difference in approach was in part due to the different financing systems in each region – under the *Concierto*, the Basques would not easily be able to claim additional financing for a competence once the deal on its valuation had been reached, whereas for Catalonia it was in theory relatively more feasible to negotiate future improvements in financing under the common financing system.<sup>50</sup> In practice, however, the Catalan approach risked leaving the region relatively under-financed in some respects, and complaints would later emerge that fundamental competences such as health and education had been transferred with a sizeable deficit (see Chapter 7).<sup>51</sup>

By the late 1990s, there were signs of emerging pressures on the continued viability of CiU's accommodationist approach, although the party federation under Pujol remained committed to it at the time, notwithstanding the emergence of some degree of internal pressure from pro-sovereignty sectors within CDC (Gillespie 2015c). There was a growing sense within Catalan society that the provisions of the existing Catalan autonomy statute were too limiting to enable Catalonia to be able to face new policy challenges such as rapidly increasing immigration, slow economic growth and deteriorating public services and infrastructures (Elias 2015). CiU had

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<sup>49</sup> The PSC did nevertheless perform well in municipal and general elections, better than CiU (Barberà and Barrio 2006: 103).

<sup>50</sup> Personal interview with José Antonio Ardanza, 28 April 2014.

<sup>51</sup> Personal interviews with Germà Bel, 27 April 2015, and with Andreu Mas-Colell, 25 January 2016.

lost its absolute majority of seats (achieved at three successive Catalan elections in 1984, 1988 and 1992) to secure only a relative majority in 1995, and thereafter it started to face increased party competition within Catalonia with the rise of both ERC and the Catalan federation of the Socialist Party (PSC) as genuine competitors from the mid 1990s onwards, providing a left-wing alternative to CiU's centre-right agenda (Dowling 2009; Wilson 2012: 135). From the mid 1990s, Pujol had brought some clearly pro-sovereignty figures into key positions in CDC and, with the support of pro-sovereignty forces, he resisted attempts by the clearly moderate UDC leader Duran to inherit the CiU leadership from him, as the question of who would succeed him came to the fore (Gillespie 2015c). Against a backdrop of the fall of the Berlin wall and the dissolution of the Soviet Union, pro-sovereignty theories had started to take shape within some sections of CDC (especially the younger generations), who wanted to push for sovereignty for Catalonia and adequate recognition of the Spanish state as multinational (Barberà and Barrio 1996: 114, 127). Still, such developments were only very tentative at this stage and were not indicative of a party shift towards a pro-sovereignty stance. At this stage moderate and accommodationist tendencies continued to prevail within CDC/CiU, which remained reluctant even to seek reform of the regional autonomy statute, despite the increasing pressure the party was under from ERC over the issue. During 1996-2000, Pujol prioritised instead providing parliamentary support to the PP government in Madrid in return for the PP's support in the Catalan parliament back home (the PP had been the main beneficiary of CiU's losses at the 1995 regional elections). This reliance on PP support in the Catalan parliament – which continued in 2000-2003, once the PP had an absolute majority in the Spanish parliament and no longer needed CiU there – significantly limited CiU's room for manoeuvre.<sup>52</sup> ERC did offer its support to CiU on a number of occasions, but CiU declined (Barberà and Barrio 2006: 131). When a parliamentary committee was created in 2001 to study improvements in self-government for Catalonia, one of the objectives of the Pujol government at the time, the debate ended up being characterised by a divide between ERC, ICV and the PSC on the one hand, and the PP and CiU on the other. It was the former group who argued convincingly in favour of a statute reform to achieve improvements to Catalan autonomy, whereas CiU, under pressure from the PP, was reluctant to

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<sup>52</sup> Personal interviews with Andreu Mas-Colell, 25 January 2016 and with Francesc Homs, 28 January 2016.

commit to a statute reform, arguing instead that the necessary changes could be achieved within the context of the existing statute.<sup>53</sup> This was in stark contrast to the situation in the Basque region at the time, where frustration with the limitations of the state of autonomies had by then contributed (among other factors) to the PNV's breaking of its collaboration with statewide parties and turn towards pro-sovereignty alliances and projects.

CiU's explicit alliance with Spain's right-wing PP party, a centralist party with a strong unitary conception of the Spanish nation and profound ideological scepticism about decentralisation, emphasized the centre-right positioning of CiU, which in previous years had been able to span right and left dimensions relatively more easily.<sup>54</sup> CiU's privileging of this relation over any serious consideration of statute reform at the time alienated some CiU voters, who started to look to either the PSC or ERC as alternatives.<sup>55</sup> The PSC, under the leadership of Pasqual Maragall from 2000 onwards, shifted towards a more 'Catalanist' agenda at the same time as ERC began to prioritise its efforts on what was more immediately possible (a reform of the Catalan autonomy statute, as well as improvements in social issues) rather than its long-term goal (independence).<sup>56</sup> ERC representatives at the turn of the century also clearly perceived the PSC as a more viable potential partner than CiU, not only in terms of left-wing agendas but also territorial agendas, since the PSC, under the leadership of Pasqual Maragall, embraced the goal of a reform of the Catalan regional autonomy statute in the leadup to the 2003 Catalan elections more convincingly than CDC/CiU.<sup>57</sup> Artur Mas, Pujol's chosen successor and previously CDC secretary general, took a back seat on the issue in comparison, since the leadership change from Pujol to Mas was characterised, at least at first, by a continuation of moderate, accommodationist behaviour. Despite winning the 2003 elections, CiU ended up in opposition to a left-wing tripartite coalition headed by the

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<sup>53</sup> For example, 'CiU y PP avisan de que la comisión del autogobierno no reformará el Estatut', *ABC*, 02.02.01; 'CiU y PP frenan las conclusiones de la comisión del autogobierno', *El País*, 25.05.02.

<sup>54</sup> On CDC's shifting positioning on the left-right spectrum, see, for example, Barberà and Barrio 2006: 116-117.

<sup>55</sup> Personal interviews with Agustí Colomines, 23 March 2015, and with Josep Huguet, 9 June 2015.

<sup>56</sup> Personal interview with Josep Huguet, 9 June 2015. On the PSC and its Catalanism, see, for example, Roller and Van Houten 2003.

<sup>57</sup> Personal interview with Josep Huguet, 9 June 2015.

PSC and incorporating both ERC and ICV. They would be the parties to take forward statute reform in Catalonia from 2003 onwards.<sup>58</sup>

Throughout the statute reform process under the tripartite coalition government, CiU, from its position in opposition, would try to outbid ERC with more territorially ambitious proposals in order to reassert itself as the best defender of Catalan interests, leading to what has been described as an ‘outbidding competition’ resulting in a radicalisation of agendas (Barrio and Rodríguez-Teruel 2014) (see Chapter 7). Although not in power in Catalonia, CiU would use its leverage in Madrid (where the PSOE minority government at the time often needed CiU support in the Spanish parliament) to ensure direct involvement in the final agreement over the text, in an attempt to reassert its role as the primary actor in Catalonia. After the Catalan parliament had approved its proposed reform of the statute of autonomy in September 2005 and this had been sent to the Spanish parliament for review, then prime minister Zapatero and Artur Mas reached an agreement in January 2006 to amend the most controversial aspects of the text – particularly in relation to the definition of Catalonia as a nation (which was now to be included in the preamble only) and a new financing agreement for Catalonia, in order to secure sufficient backing for it in the Spanish parliament. Mas’ acceptance of this deal, which involved a significant watering down of key parts of the statute (especially in relation to regional financing – see Chapter 7), showed that CiU was still at this stage willing to be flexible with its territorial goals, prioritising instead its aim to recuperate electoral support and a return to government (Barrio and Barberà 2011: 93). In this case, this could best be achieved by compromising with the PSOE in order to be seen as the party responsible for striking the best possible deal in the circumstances with Madrid. Thus Artur Mas appeared in the final photo with Zapatero – much to the irritation of members of the tripartite Catalan coalition government, who felt this was fundamentally inappropriate of Zapatero in institutional and procedural terms, given that CiU was the opposition party in Catalonia. Some PSC representatives (including Antoni Castells) had already agreed with the PSOE behind the scenes most of what Zapatero and Mas announced, while ERC felt left out of the whole process.<sup>59</sup>

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<sup>58</sup> On the background to the landmark change in the Catalan political landscape ushered in by the 2003 Catalan regional elections, see Davis (2004).

<sup>59</sup> Personal interviews with Antoni Castells, 25 March 2015, and Josep Huguet, 9 June 2015.

Ahead of the 2010 regional election, CiU shifted its focus away from the statute reform and back to the economy in its campaign, in order to capitalise on its reputation for strong economic management in a time of economic crisis (Barrio and Barberà 2011: 93; Elias 2015). And yet it still combined economic and territorial agendas, in that it focused on securing greater fiscal autonomy for Catalonia in its 2010 regional election campaign as one way of addressing the economic crisis. Since tensions over the statute reform had eventually contributed to the breakdown of the tripartite coalition, CiU managed to return to power in 2010, by which time a pro-independence movement was rapidly growing in the region, in a climate of increasing dissatisfaction among politicians and citizens alike, as attempts to secure both greater autonomy and recognition for Catalan identity had been met with rebuffs from Spanish political parties (especially the PP) and institutions. A particular catalyst was the Spanish Constitutional Court ruling in 2010, which declared totally or partly unconstitutional several articles of the new Catalan statute, in particular the recognition of Catalonia as a nation. This was the result of various appeals, some lodged by the PP, with the Constitutional Court against aspects of the statute considered by critics as unconstitutional. The Constitutional Court ruling came four years after the statute had been approved in the Spanish parliament in 2006 as well as in a referendum in Catalonia that year. This, on top of the changes already made to the statute in 2006 to secure the Spanish parliament's backing, finally put paid to Zapatero's pledge years earlier to respect whatever statute was agreed in the Catalan parliament. Such developments coincided with the beginnings of political wrangling from 2010 onwards over the central government's handling of Catalonia's financial woes during the crisis and the extent of Catalonia's indebtedness, which Catalan politicians could in part attribute to the overly redistributive nature of the common financing regime – a problem which the 2009 reform of the common financing system quickly proved insufficient to resolve (see Chapters 3 and 7).

Once in power, however, CDC, which formed a minority government in Catalonia, reestablished a working relationship with the PP (then in power in Madrid from 2011), relying upon its support in the Catalan parliament in some fundamental



areas of legislation, for example its 2012 regional budget.<sup>60</sup> It was not until 2012 that CDC would make an explicit break with alliances with statewide parties and an overt shift away from accommodationist politics towards a pro-sovereignty lexicon in 2012. Caught unawares by the extent of the pro-independence march in the region on 11th September 2012, Catalan national day, Mas chose to ride the wave, deciding to receive a delegation from the organisers, the Catalan National Assembly (Assemblea Nacional Catalana, ANC), at the end of the march. The march, which attracted an estimated 1.5 million participants according to estimates in press reports,<sup>61</sup> had been organised by the then newly formed ANC, which would quickly become the leading pro-independence civil society organisation. About ten days later Mas travelled to Madrid to meet with prime minister Rajoy to make one last ditch attempt at securing a fiscal pact for Catalonia, almost certainly knowing that the request would be refused again, but also that this refusal could help to garner support for him to take matters to the next stage and lead a pro-sovereignty process going forward. Thereafter he called snap elections to be held in November 2012 with the ‘right to decide’ as the main feature of CiU’s electoral manifesto, thus stepping up his demands from greater fiscal autonomy to political sovereignty and hoping to secure a resounding majority for CiU. The timing of the elections also promised to give Mas the chance to secure a sufficient majority to avoid needing the support of the Catalan PP to pass his 2013 regional budget, which it had needed in 2012. And yet the early election plan backfired somewhat, since CiU, despite winning again, lost ground in the elections to the pro-independence party ERC, with which it subsequently formed an alliance to give it a working majority. The year 2012 thus marked a clear turning point in CiU’s strategy as Artur Mas explicitly started to advocate that the way forward for Catalonia involved achieving political sovereignty and some degree of statehood (the terminology used was deliberately ambiguous to embrace options short of full independence too). CiU then formed an alliance in parliament with a pro-independence party for the first time with the goal of working towards a referendum, and events would snowball thereafter. What factors explain this shift and the timing of it?

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<sup>60</sup> In interviews held in 2016, CDC representatives nevertheless suggested that there was a strong feeling within the party against the alliances with the PP on this occasion, far more so than during the Pujol years of PP-CiU collaboration.

<sup>61</sup> For example, ‘Masiva manifestación por la independencia de Catalunya’, *La Vanguardia*, 11.09.12. See also Cramer 2015: 105.

It has often been suggested that Mas and his party were essentially overtaken by events, surprised by the extent of citizen mobilisation in favour of the ‘right to decide’ and independence that had been growing in Catalonia under the aegis of civil society groups – most notably the ANC established in early 2012 and, on a smaller scale, the cultural association *Omnium Cultural*, among others. The dominant view has tended to see the turn towards a pro-sovereignty agenda in Catalonia as a ‘bottom-up’ process, in which CiU ended up turning towards a pro-sovereignty agenda in response to pressures from society itself. According to Guibernau (2014), for example, the nationalist movement is bottom-up, civic and ‘emancipatory’ in nature and thus Catalan calls for self-determination may be regarded as the ‘ultimate consequence’ of the notion of popular sovereignty inherent in democracy. This seems to provide a sharp contrast to the elite-led or ‘top-down’ process led by Ibarretxe in the Basque Country several years beforehand. In this context, Mas has frequently been accused in the media of political expediency in jumping on the pro-sovereignty bandwagon, in an attempt to increase political support for both himself and CDC, and thereafter becoming constrained by his alliances with pro-independence parties (e.g. *The Economist* 2014a and 2014b). Certainly, it seems that a degree of political expediency was involved, but black-and-white depictions of the civil pro-independence movement as a purely grassroots one which caught Artur Mas entirely unprepared nevertheless require nuance.

Grassroots mobilisation can be traced back in particular to 2007, when the first march in favour of the ‘right to decide’ was held in Barcelona in December to demonstrate against the poor investment by the Spanish government in Catalonia’s ageing local rail network, three lines of which had just been temporarily shut down due to problems at the time with the works to link Madrid and Barcelona by fast train (AVE).<sup>62</sup> The demonstration, which was convened by the Platform for the Right to Decide and widely supported by civil society groups in Catalonia, attracted tens of thousands of citizens and politicians, who marched under the banner ‘We’re a nation. We have the right to decide on our infrastructure’. On 10 July 2010, an estimated one million people took to the streets, convened by civil society organisations, behind banners proclaiming ‘We are a nation, we decide!’ after Spain’s Constitutional Court had ruled against key aspects of the Catalan statute,

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<sup>62</sup> Personal interview with Germà Bel, 27 April 2015.

including its designation as a nation in the preamble.<sup>63</sup> The demonstration which would prove a real game-changer and turning point, forcing politicians to react decisively, was however the afore-mentioned march on 11 September 2012 – larger numbers would follow on the same day in 2013, 2014 and 2015. Traditional Catalan nationalists who had long fought for greater recognition for Catalonia’s language and culture were increasingly being joined by a new wave of disaffected Catalans who were not necessarily traditional nationalist party supporters, but had come to resent Catalonia’s economic treatment at the hands of the Spanish state and the austerity measures being imposed during the crisis, as well as the PP’s recentralisation measures in other areas such as education.

While Mas was indeed taken by surprise by the size of the 2012 demonstration, as he himself has since acknowledged, his turn to a pro-sovereignty stance was not entirely unexpected nor did it come from nowhere, since it can be seen as the culmination of the process of moving towards a ‘national transition’, a project he had started working on around 2006/2007 (Hugh 2014). In 2007, Mas had announced a relaunch of the *Fundació Catalanista Demòcrata Trias Fargas* (CatDem), a foundation linked to CDC, appointing Agustí Colomines as its director to turn it into the ‘Casa Grande del Catalanismo’ (‘big house of Catalanism’). Aware that CDC’s electoral base was diminishing even though it was still winning elections (coalition politics rather than electoral loss that had put CiU in opposition in 2003 and 2006), Mas designed this new initiative to increase the party’s social base and recover voters disenchanted with years of CiU-PP collaboration.<sup>64</sup> The intention, as explained by Artur Mas himself in various declarations at the time, was to go beyond the party’s frontiers and reach out to civil society to refound Catalanism through collaborative efforts and reflections on how best to take Catalonia forward, though sceptics described it instead as a rather desperate attempt to regain popularity for a struggling CiU.<sup>65</sup> Academics, lawyers, economists and representatives of other liberal professions joined the project. Mas explicitly made clear he wanted the ‘casa’ to bring together all those interested in working on Catalonia’s future, from those in

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<sup>63</sup> For example, ‘Masiva manifestación en Barcelona en apoyo al Estatut y contra el Constitucional’, *El Mundo*, 11.07.10. Also Cramer 2015: 104-105.

<sup>64</sup> Personal interview with Agustí Colomines, 23 March 2015. See also, for example, ‘CDC se prepara para el congreso que consagrará la “Gran Casa del Catalanismo”’, *El Mundo*, 11.07.08.

<sup>65</sup> For example, ‘Mas propone a la desesperada crear una “gran casa del catalanismo” para acceder al poder’, *Libertad digital*, 03.09.07.

favour of more self-government through to those in favour of full independence, the idea being to join forces in a transversal project designed to rethink Catalanism and make it hegemonic. CDC under Artur Mas, via the ‘casa del catalanismo’, would gradually evolve towards a pro-sovereignty stance in a step-by-step process, moving on to a new phase each time one was thwarted by Madrid: first the idea of a bilateral financing pact specifically for Catalonia, then the ‘right to decide’, then ‘state structures’ (with ambiguity intended, leaving open the possibility of whether or not this would imply full independence from Spain or an alternative arrangement within Spain).<sup>66</sup> The origins of Artur Mas’ change of stance towards a pro-sovereignty position in 2012 can thus be traced back to several years earlier. The unexpectedly high participation in the 2012 pro-independence march on Catalan’s national day certainly seems to have accelerated his plans to lead a pro-sovereignty agenda, but the seeds of this had been in the making for a while. After the experience of being forced into the backseat when the tripartite coalition took forward plans for a new Catalan statute of autonomy, Mas and his party were not going to miss the chance again to play the lead role in taking forward a national and territorial agenda for Catalonia.

There had also been a gradual generational change within CDC since the 1990s, which contributed to the shift.<sup>67</sup> Members of CDC’s youth organisation Catalonia’s Nationalist Youth (Joventut Nacionalista de Catalunya, JNC), as well as the Catalan National Federation of Students (Federació Nacional d’Estudiants de Catalunya, FNEC), had gradually been incorporated into CDC. From the mid 1990s, the JNC had pronounced itself clearly in favour of sovereignty for Catalonia, often articulating its own viewpoint in contradiction to Pujol’s accommodationist stance, but at the time, moderate tendencies within CDC itself had prevailed. Under Artur Mas, however, a gradual generational change took place, with the incorporation of an increasing number of party representatives that had originally been formed in the JNC and FNEC, who were more in favour of a pro-sovereignty agenda than their predecessors and also far less tolerant of the tradition of CiU-PP alliances, wanting CiU to adopt a more socially progressive agenda.

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<sup>66</sup> Personal interview with Agustí Colomines, 23 March 2015.

<sup>67</sup> Personal interviews with Agustí Colomines, 23 March 2015; Lluís Corominas, 27 January 2016; and Francesc Homs, 28 January 2016. See also Gillespie 2015c.

The nature of the civil society movement also requires nuance, since black-and-white depictions of the Catalan civil society movement as a purely bottom-up process do not adequately account for the complexity of the interplay between political and civil factors, and have thus come under scrutiny. Analyses of top-down nation-building activities and discourses by nationalist political elites over the decades, and the impact of these on citizen identity formation processes in Catalonia, have pointed to a complex picture, since some top-down, elite-led processes can be seen to some extent to have preceded and influenced the emergence of an apparently bottom-up movement. Catalan nationalists themselves acknowledge the importance of Pujol and the party in this regard. Long prior to the turn to secessionism in Catalonia, the 23 years of Catalan government under Pujol from 1980 to 2003 saw the Catalan president and his party consistently employ discourses to convince Catalans and others that Catalonia was a nation worthy of special treatment, contributing to a rise in survey respondents describing Catalonia as such (Crameri 2015: 106 endnote 10). *Fer país* ('making a country') formed a central part of Catalan nationalism under Pujol (Dowling 2005: 109; Magone 2009: 236; Barberà and Barrio 2006: 127). While it was to be expected that Catalans would seek to bring Catalan heritage and history to the forefront again after decades of being suppressed under Franco, some aspects of such nation-building activities and discourses have nevertheless been subject to questioning given the inevitable risks of the use (and abuse) of history and culture for nationalist purposes. Crameri (2006), for example, explores CiU's failure to reflect a plurality of views in the version of history given in the Catalan history museum, which it designed and conceived of for nation-building purposes. Using social data about citizens' and politicians' background and attitudes, some academics have gone further to interpret Catalan citizens' evolving preferences on the national question in the 21<sup>st</sup> century as a consequence of the role played by political parties and political elites in a context of power relations and partisan struggles *within* Catalonia' (Miley 2007: 3). Miley (2006, 2007, 2013 and 2014; De la Calle and Miley 2008), for example, uses data on social structures and public opinion to suggest that the strength of Catalan nationalism has been the result of an elite-led creation of 'micro-nationalist ideological hegemony' in the Catalan political sphere over the decades, which has in turn impacted and influenced society rather than reflecting any prior societal consensus (Miley 2014: 291). He contrasts this with the situation in the Basque Country where he suggests 'the nation-building project

promoted by the regional authorities has consistently faced much higher levels of resistance among opposition parties' and thus 'the region's representative institutions have been consistently more divided, responsive to the divergent preferences of different segments of Basque society' (Miley 2014: 306). In a similar vein, Barrio and Rodríguez (2014) attribute the radicalisation of people's demands on self-government to the outbidding process by Catalan political parties during the statute reform process during the 2000s, in an atmosphere of increased party competition on the territorial axis (with CiU in opposition for the first time to a coalition led by PSC, which had 'catalanised' its agenda).

Interpretations of the evolution of Catalan territorial agendas have thus become strikingly polarised, with Miley's view emblematic of one extreme (top-down) and Guibernau's of the other (bottom-up). Both interpretations have their limitations, with top-down approaches tending to rely heavily on survey data only, and bottom-up approaches showing clear signs of partisanship. In this context, Crameri (2014, 2015) offers a more nuanced interpretation which seems more appropriate to the evidence, reconceptualising the multidimensional relationship between political power and civil counterpower as one of 'co-construction' (2015: 107). She also examines the complexity and multidimensionality of civil counterpower itself, given the extensive role of cultural and media elites within the civil pro-independence movement and its highly organised nature, which problematises bottom-up/top-down distinctions (2015: 109-11).

The alliance between CiU and ERC that was established following the 2012 elections was necessitated by the fact that CiU fell short of the absolute majority it had hoped for, but nevertheless it was not unexpected, in the sense that CiU, ever since its experience in opposition to the tripartite coalition governments, had clearly sought to move away from the traditional CiU-PP alliance arrangements (despite briefly resurrecting these in 2010-2012) in an attempt to become the leading voice within the nationalist camp again. Its efforts such as the 'Gran Casa del Catalanismo' had showed that it wanted to bring an end to the division in Catalan politics at the time between left wing parties (the tripartite coalition) and right-wing parties (PP and CiU) in order to refocus on a Catalanist sphere in which it aimed to ensure its position as the dominant party. The alliance established with ERC in 2012 would, however, inevitably limit CiU's room for manoeuvre, especially since ERC provided parliamentary support without entering into a formal coalition with CiU, which gave

it power to put pressure on CiU – pressure which was compounded by the high levels of mobilisation by civil society groups campaigning for the ‘right to decide’ and independence. From then onwards, confrontation with the PP Spanish government increased as the PP remained intransigent in term of its views on the existence of one Spanish nation only and sole Spanish sovereignty. On 23 January 2013, the Catalan parliament approved a declaration recognising the sovereignty of the Catalan people and their right to determine their relationship with Spain. The following year, CiU and ERC passed a ‘Law on Consultations’ to seek to hold a consultation on 9 November 2014 to put two questions to Catalan society, offering the option of a federated Catalan state within Spain or full independence. Catalan nationalist politicians argued that it was an opinion-sounding vote, with no legal consequences, and thus within the competences assigned to it under the Catalan statute, while Spanish politicians interpreted it as a pseudo-referendum and therefore illegal (mirroring what had happened a few years earlier in the Basque Country with Ibarretxe’s proposed consultation law). The Constitutional Court sided with the Spanish government’s interpretation, but Catalan nationalist politicians, arguing that the Court is biased, still went ahead and held the consultation. The result reached 80.8% in support of Catalonia’s secession from Spain, but turnout was only 35% (Elias 2015: 84), since the vast majority of those against secession saw it as a partisan pro-independence initiative and stayed at home. Surveys in recent years have consistently shown that a large majority of Catalan citizens are in favour of a referendum on independence, but whether or not a majority would vote for secession in such an instance has not been so clear since constitutional preferences have varied from poll to poll.<sup>68</sup>

CiU’s room for manoeuvre was by then very limited, given both the intransigence of Madrid and the continued pressure it faced from pro-independence parties and civil society groups in Catalonia. In the light of the Spanish government’s ongoing refusal to allow Catalonia to hold a referendum, Artur Mas’ next proposal was to call early elections again, this time as a plebiscite on independence, but only if ERC would join it in a common list, in part to avoid the risk of losing to the latter. Having maintained an ambiguous stance since 2012 in terms of whether CiU would seek full secession or rather a confederal arrangement

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<sup>68</sup> According to opinion polls published by the Catalan Centre of Opinion Studies (Centre d’Estudis d’Opinió, CEO).

involving nationhood and a degree of statehood for Spain, CiU now had to define its stance more firmly. The issue led CiU to split in 2015, with the traditionally more moderate UDC rejecting the secessionist stance chosen by CDC and its ever closer alliance with the left-wing pro-independence party ERC.<sup>69</sup> CDC ran for the early elections in September 2015 as part of a common list with ERC incorporating key figures from civil society too, named Junts pel Sí ('Together for Yes'). Junts pel Sí won with 62 seats, short of the 68 needed for an absolute majority on its own, but the pro-independence camp overall did win an absolute majority if the anti-capitalist pro-independence CUP (10 seats) is included. It nevertheless still fell short of 50% of votes, reaching 47% in total. Junts pel Sí announced the pro-independence camp had secured an overwhelming majority (using seats as a measure) giving it the mandate to continue with its plans to create a new Catalan state, while the opposition decried the lack of democratic legitimacy for such action. In practice, the lack of support from the CUP to the investiture of Artur Mas, given its preference for a new figurehead for the independence movement not associated with austerity cuts and corruption, forced Artur Mas to step down at the last minute and be replaced by a figure of consensus in the form of Carles Puigdemont, until then mayor of Girona.

Notwithstanding such obstacles and difficulties, the prospect of CDC returning to an accommodationist stance in the near future, while not impossible, looked much less likely or feasible in early 2016 than it was for the PNV when Urkullu took over the reins from Ibarretxe. Most CDC politicians – albeit not all – are now very strongly in favour of independence, given the strength of feeling within the party that they have exhausted all other alternatives and that engagement with Madrid is no longer genuinely possible.<sup>70</sup> The future for CDC remains uncertain, however, given that its attempt to ride the pro-independence wave has not resulted in growing support for the party itself in recent years, but rather in a gradual loss of support which has gone instead to left-wing pro-independence parties, namely ERC and the CUP. The rise in support for the 'right to decide' and pro-independence sentiment in Catalonia in recent years has not just been down to dissatisfaction with Spanish-Catalan relations. It has also been a form of response to the austerity cuts that ensued in particular from 2010 onwards in the wake of the financial crisis,

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<sup>69</sup> UDC declined thereafter and failed to gain representation at the 2015 Catalan regional elections.

<sup>70</sup> Personal interviews with CDC representatives, 2016.



imposed by both the EU and member state governments; as well as to the political crisis in Spain in general, characterised by widespread disillusionment with existing institutions and actors, who have been associated with so many corruption scandals in the boom years that came to light when the economic bubble burst. As Shea Baird (2015) states, ‘For many in Catalonia, the “double crisis”, national and economic, is really one and the same: a crisis of popular sovereignty, whether it be in the face of “authoritarian” state institutions or the global financial markets.’ The win at the May 2015 municipal elections for the new left-wing Barcelona En Comú alliance (initially Guanyem Barcelona), which incorporates Podemos in Catalonia, showed that the new type of left-wing politics in Spain, with its origins in anti-austerity movements and citizen platforms, was a strong feature of the Catalan political landscape too. This alliance then triumphed again in Catalonia at the December 2015 Spanish elections. Left-wing pro-independence parties ERC and the CUP thus also face competition from a left-wing alliance of parties under Barcelona en Comú in favour of the ‘right to decide’ but ambiguous about independence.<sup>71</sup> In many ways, CDC, given its traditional right-of-centre political orientation, its history of pacts and alliances with the PP and the PSOE, and its own involvement in corruption scandals (most notably, but not only, in relation to former president Jordi Pujol), is seen by the new wave of *soberanistas* as part of the old Spanish politics that they want to get away from. CDC has to some extent been able to disguise its decline through pacts and alliances and single lists with other left-wing pro-independence parties and independents, but only to an extent. Aware of the need to rebrand itself, the party presented itself under a new name (Democràcia i Llibertat) at the 2015 Spanish general elections, and Artur Mas, having stepped down from the role of Catalan president, has since been tasked with refounding the party anew. The new generation of the party wants it to take a more left-wing orientation, in line with current preferences in Catalan society,<sup>72</sup> but it faces a challenge to do so to compete credibly with other the left-wing pro-independence actors already present.

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<sup>71</sup> Barcelona En Comú has not yet presented a candidature at regional elections, since it has been focused on the municipal level of government, but leader Ada Colao suggested in 2016 that the possibility was being studied.

<sup>72</sup> For example, personal interview with Lluís Corominas, 27 January 2016.

## **Conclusion**

Both the Basque and Catalan cases have seen a rise and fall in accommodationist politics on the part of the PNV and CDC respectively, due to a combination of factors, including (but not limited to) declining opportunities for accommodationist practices due to the evolving political situation in Madrid; increasing Basque and Catalan demands for greater autonomy and indeed sovereignty, which go beyond what is feasible within the current Spanish constitution; and an array of factors within the home region which ultimately have a bearing on relations with the centre, such as party competition. The decline in accommodationism came first in the Basque case, with the PNV's shift to the Lizarra Pact and then the Ibarretxe Plan, due first and foremost to the need to deal with the ongoing problem of terrorist violence in the region and to the increasing clash between Basque nationalism and Spanish nationalism that this created in the political sphere too, which spurred the PNV on to seek new alliances. In Catalonia, CDC's shift away from accommodationism came later, but it has been more consistent so far. Unlike in the Basque case, where the thwarting of the Ibarretxe Plan led to a return to more accommodationist tactics under Ibarretxe's successor Urkullu, in the Catalan case, continued rejections from Madrid of the attempts made by CDC and other Catalan parties to take steps towards independence – or at least the holding of a referendum – in recent years have so far not reduced their determination.

In this regard, the difference in societal and party dynamics in both regions has been a fundamental explanatory factor. In the Basque Country, the longstanding division both between parties and in society itself created by the problem of terrorist violence, and the heterogeneity of Basque society given the vastly different geographic and sociodemographic makeup of different areas within the Basque Country, resulted in insufficient societal or political backing for the Plan spearheaded by Ibarretxe. This left the PNV acting largely in isolation and gave it little option but to return to more accommodationist behaviour when the Ibarretxe Plan was thwarted. In recent years, the division between parties – not only between statewide and Basque nationalist parties, but also within the nationalist camp itself between the PNV and the *izquierda abertzale* – has continued. This, combined with other factors such as the need to focus first and foremost on the financial crisis, and indeed the recognition that the Basque Country has suffered less than most of Spain

due in part to a fiscal arrangement that gives it far more resources than other regions receive, has meant that securing a new status for the Basque Country has not been an immediate priority in recent years for many within Basque society nor indeed for many within the PNV itself. The PNV has still made clear its intentions to work more gradually towards a new political relationship with Madrid based on a more bilateral partnership of equals, involving the possibility of self-determination and co-sovereignty, but this is combined with an acknowledgement within the party that it would first need to achieve a greater consensus among political parties in the Basque region (including the Basque federation of the Spanish Socialist party) in this regard, as well as stronger backing from society. The Catalan case is very different, as such a consensus among several political parties within the region, as well as a strong backing from society, already exists. The lack of history of violence in Catalonia has allowed for a more widespread Catalanist phenomenon to develop over the decades, and indeed centuries. From the late 1990s, this saw left-wing parties in Catalonia (both the Catalan Socialists and ICV) compete with the nationalists (ERC and CiU) in seeking recognition of Catalonia as a nation and/or its right to shape its own autonomy, and in more recent years it has also evolved to embrace a fluid relationship between nationalist and pro-independence parties and civil society organisations. In stark contrast to the PNV and its isolationism, CDC thus came under pressure to move from an accommodationist to a pro-sovereignty agenda, not only to outbid other parties in a context of increasing party competition, but also eventually to respond to demands from civil society. The decline in scope for accommodationist politics in Madrid has thus combined with intraregional pressures to push CDC to evolve in a certain direction.

While this chapter has alluded in places to the different regional financing systems in each region, this has not been a main focus, since the chapter has served instead to set the broader context in which the PNV and CDC have been operating and to provide an overview of the different dynamics and drivers affecting their territorial agendas. The rest of the thesis will now focus more specifically on the ways in which, within this broader context, the different financing arrangements of the two regions have contributed to shaping the evolution of the nationalist parties' territorial strategies and behaviour, starting with a fuller explanation of the Basque and Catalan financing systems in Chapter 3.

## Chapter 3

# Basque and Catalan financing: The fundamentals of the Concierto and the common system

This chapter is first and foremost technical in nature, for it is designed to explain how the Basque Concierto and the common financing system work, as a foundation for the analysis in subsequent chapters of the ways in which the different regional financing systems have contributed to shifts in Basque and Catalan territorial agendas and conceptions of sovereignty. The sections that follow explain first the Basque Concierto, in terms of both its fiscal and financial dimensions, and second the common financing system, focusing particularly on the problems inherent in the latter relevant to Catalonia. Finally, the third main section provides an analysis of the controversial debate over the Concierto versus the common system, concerning the question of whether the Basques contribute enough revenues to Spain compared to other comparably wealthy regions under the common system such as Catalonia.

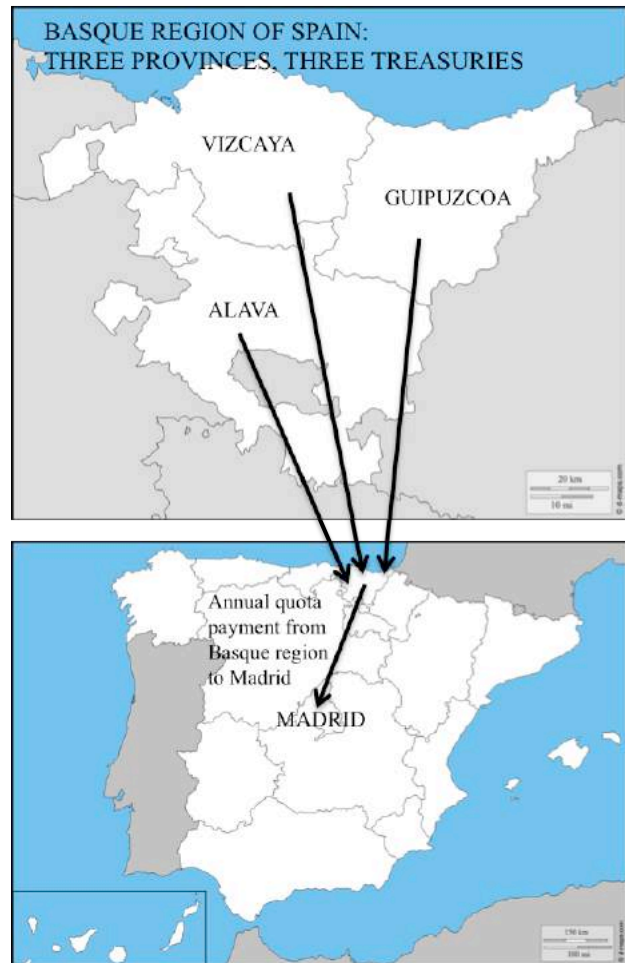
### How the Concierto works

Under the Concierto, the three Basque provinces (otherwise known as ‘historical territories’ or ‘foral territories’) are responsible both for collecting almost all taxes and for regulating the majority of them.<sup>73</sup> The Basque regional government uses most of the tax revenues raised by the provinces to cover the costs of the policy competences the region has assumed (which include the most fundamental areas of public services such as health and education) and a smaller share to pay an annual quota (*cupo*) to the Spanish government towards the few remaining centralised or non-assumed competences for which the Spanish state remains responsible (e.g.

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<sup>73</sup> For a comprehensive explanation of how the Concierto works, see Zubiri 2010. Given the relatively limited number of print sources explaining the Concierto in depth, the subsections here explaining the fiscal and financial dimensions of the Concierto draw primarily upon the works of Zubiri (especially 2010, 2014a and 2015), in conjunction with analysis of the relevant legislation (Concierto and quota laws). This has been supplemented by further information gathered by the author in personal interviews with Basque provincial treasury representatives in 2014, who covered or clarified other issues that the print sources did not address.

foreign and defence policy) (see Figure 2). A relatively small share of the total tax revenues they raise is used to pay the quota, which in recent years has accounted for around 7%-12% of the Basque budget (Zubiri 2015: 218). Of the remaining revenues, approximately 70% are passed upwards to the Basque regional government to cover its competences, while the rest are split between the provincial governments (*diputaciones*) and the local or municipal authorities (Zubiri 2010: 74; Zurutuza 2014). The internal organisation of the region is thus essentially confederal in nature.



**Figure 2: Basque revenue flows**

The first *Concierto* of the democratic period was designed in 1980 and approved by law in 1981 (Law 12/1981, of 13 May). While the three Basque provinces retained their responsibility for tax collection, for the first time they would combine to pay one single Basque quota to Madrid following the creation of the autonomous community. The *Concierto* of 1981 marked a significant departure from its predecessors, most notably in the design of the quota. This size of this had previously been equal to the total estimated sum of taxes raised by each Basque province, following deductions to allow for Basque spending on competences covered by the central government elsewhere in Spain and some tax exemptions (e.g. some villages were exempt from taxes for having supported the liberals during the Carlist wars) (Zubiri 2010: 35; Uriarte 2015: Pt IV 86). Spain had originally conceded to the first such arrangement in 1878 primarily for practical reasons since the central state treasury did not immediately have the technical means or capacity to

collect taxes in the Basque provinces after the abolition of their *fueros* or legal charters in 1876 following the Basque defeat in the Third Carlist War.<sup>74</sup> The agreement was originally intended to be a temporary one for a transitional period of eight years until the Basque provinces became fully integrated into the Spanish tax system, but instead ended up staying in force thereafter.

The Basque Concierto of 1981, which was set to expire on 31 December 2001, was updated in 2002 with a new permanent agreement (Law 12/2002, of 23 May). The Concierto comprises both a fiscal dimension (concerning the region's tax-raising powers) and a financial dimension (concerning the financial flows between the Spanish and Basque governments, including most notably the quota), which constitute chapters I and II of the Concierto law of 2002 respectively. The following sections analyse these in more detail.<sup>75</sup>

### ***The fiscal dimension***

The Concierto is dependent upon the Spanish tax structure and system in the sense that the Basque provincial governments cannot create their own taxes at will, but rather they must seek the authority to collect and regulate each Spanish tax in their own territory. Under the 2002 Concierto law, if Spain introduces a new tax or modifies an existing one, this calls for bilateral negotiations to be held between Spanish and Basque government delegations to agree whether to delegate the relevant tax-raising power to the Basque provinces and, if so, how. Fundamentally, this involves deciding whether they will only collect the tax (while remaining subject to Spanish legislation regarding the tax base and rates) or whether they will also be granted regulatory autonomy, within certain parameters.<sup>76</sup> 'Points of connection' are established, which determine who will pay the tax in the Basque provinces and whether it will be according to Spanish legislation or Basque provincial legislation (Zubiri 2010: 49-51). Thereafter the tax becomes known as an 'agreed tax' (*impuesto concertado*) governed by these parameters. All the general taxes in Spain have sooner or later been agreed in this way over the decades since the 1981 Concierto law, granting the Basque provinces at the very least the power to collect each tax, and in most cases substantial legislative autonomy too. This makes the Basque

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<sup>74</sup> On the origins of the Concierto, see Alonso Olea 1995.

<sup>75</sup> The third chapter of the Concierto law, on bilateral relations, is addressed in Chapter 4.

<sup>76</sup> Personal interviews with senior officials in the provincial treasury departments, 2014.

Country the only region in the world where the central government does not collect any tax revenues (aside from the minor exceptions detailed below) – in contrast even to the Swiss cantons, the US states and the province of Quebec, which have high levels of fiscal autonomy within their respective federations (Zubiri 2010: 49).

Under these agreements, beyond mere powers of tax collection, the Basque provinces have acquired regulatory powers to design the main direct taxes (personal income tax, corporation tax, non-residents tax, wealth tax, and inheritance and gift taxes) and the minor indirect taxes (capital transfer tax and stamp duty, and gaming duties).<sup>77</sup> They only remain subject to Spanish legislation over the main indirect taxes (fundamentally VAT and excise duties, which account for around 90% of total indirect tax revenues), which are in turn circumscribed by EU legislation, since there is a large degree of tax harmonisation over indirect taxes at EU level. In the case of VAT, for example, the EU sets a standardised tax base, as well as a range of tax rates which member states must choose between, and it stipulates that each state can only charge one standard VAT rate, which cannot be varied at regional government level. Thus EU rules do not permit the full devolution of legislative competence over VAT to the substate level (Trench 2015).

Where the Basque provinces have legislative autonomy (fundamentally over direct taxes), they are still subject to some general harmonisation rules within the Spanish state, as follows: they must adhere to the international agreements signed by Spain; they must not distort competition among firms or free movement among Spanish regions; and fiscal pressure (tax to GDP ratio) in the historical territories should be ‘equivalent’ to that in the rest of Spain. The latter two of these principles are, however, inherently ambiguous and open to different interpretation, which has resulted in decades of conflicts with the Spanish state and also with neighbouring regions (e.g. De la Hucha Celador 2009: 727; Zubiri 2010: 53-54).<sup>78</sup>

There are only three minor exceptions where the relevant tax-raising authority has not been delegated to the Basque provinces (Zubiri 2010: 48). First, the Spanish government collects the taxes on the salaries of Spanish state (central government) employees such as civil servants in the Basque region. Second, it collects the taxes on the interest on debt and other interest-bearing assets issued by the state (or any other Spanish region or local authority). However, in both these

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<sup>77</sup> Personal interviews with senior officials in the provincial treasury departments, 2014.

<sup>78</sup> The history of litigation is discussed in Chapter 5.

cases, the Basque provinces are compensated for the revenue loss since an estimation of the relevant taxes withheld on salaries and interest is deducted from the annual Basque quota payment to the Spanish government. Third and finally, the Spanish state collects the customs duties, but these in any case are almost all channelled to the EU for they constitute one of its resources.

### ***The financial dimension***

The main financial transfers between the Basque region and the central government under the Concierto are: (1) the annual quota (*cupo*) paid by the Basque region to cover its share of the competences fulfilled by the Spanish state; and (2) the VAT adjustment paid by the central government to compensate for the difference between what the Basque provincial treasuries collect in VAT and what Basque residents pay, plus a few other smaller financial flows between the Spanish state to the Basque region (Zubiri 2010: 60-69). The following sections explain the quota and VAT adjustments more fully (see also Figure 3, p.102):

#### (1) The quota

The annual quota, in basic terms, is designed to cover the Basque share of Spanish state expenditure on the competences fulfilled by the central government on behalf of the whole of Spain (the *cargos no asumidos*, i.e. ‘non-assumed charges’ or ‘non-assumed competences’). Importantly, the value of the non-assumed competences in Spain is determined by subtracting state expenditure elsewhere in Spain on competences already assumed by the Basque region (the *cargos asumidos*) but not other regions, from total state expenditure in the Spanish budget (De la Fuente 2009: 4; Zubiri 2010: 62; López Labora 2006: 7-8; Monasterio Escudero 2010: 64). More specifically, the Basques contribute to the expenditure on non-assumed competences financed exclusively by central government tax revenues (not deficit) which are not covered by any revenues the central government collects in the Basque region (fundamentally, the few non agreed taxes detailed in the previous section). The quota does not include a contribution towards the part of state expenditure on non-assumed competences that is financed by deficit because that would require the Basque region to use revenues to pay upfront for expenditure that the central government is deferring by issuing debt (bonds and loans) (De la Fuente 2009: 5; Zubiri 2010: 61-62). Instead, the interest on and repayments of the debt



incurred by the state to finance the deficit spending become a non-assumed competence to which the Basques contribute their share via the quota in future years (De la Fuente 2009: 5; Zubiri 2010: 61-62).

The Concierto legislation stipulates that the Basque share of the relevant expenditure should basically reflect the region's share of Spanish GDP, determined by a percentage known as the 'imputation index'. The exact logic of the choice of 6.24% for the imputation index under the 1981 Concierto agreement was unknown until very recently, since the figure was agreed privately between the heads of the Spanish and Basque delegations at the time. It was generally assumed to have been a compromise between the Basque position (that the imputation index should reflect the Basque share of Spanish population) and the Spanish position (that it should reflect the Basque share of Spanish GDP), since the figure was more or less halfway between the two at the time: 5.66% and 7.50% respectively in 1981, according to approximate figures from the Spanish National Statistics Institute (*Instituto Nacional de Estadística*, INE) (Zubiri 2010: 65). Only in 2015 did Pedro Luis Uriarte, head of the Basque delegation that negotiated the Concierto of 1981, finally clarify the logic behind the 6.24% figure in a book recounting his experiences of the 1980 negotiations. He and the then Spanish Treasury Minister, Jaime García Añoveros, had agreed to base the imputation index at the time on relative Basque GDP measured at factor cost (rather than market prices, the more usual method), with a slight reduction as a concession to the Basque Country given the depth of the economic crisis the region was in, and also the unreliability of official figures at the time (Uriarte 2015: Pt VIII, 423-4). The decision was thus a political compromise. The imputation index has never been changed since it was first set at 6.24% in the Concierto law of 1981. Thus it has broadly rather than exactly reflected the region's relative GDP, which has declined from 7.5% in 1981 to approximately 6.2% in the present day, due first and foremost to the decline in Basque population relative to that of Spain (Zubiri 2015: 211).

Following the calculation of the Basque share of the relevant expenditure, some deductions are then applied to the resulting quota to cover other transfers and compensations paid by the Spanish state to the Basque region (Monasterio Escudero 2010: 65; Zubiri 2010: 63). For example, on occasions where the central government has provided additional financing to the regions for certain competences to improve the provision of services, the relevant Basque share of the funds has usually been

deducted from the quota. Most notably, in the Basque case, since 1981 there has always been a deduction to compensate the Basques for the fact that the Basque police force (Ertzaintza) costs significantly more to run than the police elsewhere in Spain (due in large part to the history of terrorism).

Since 1981 the Concierto legislation has stipulated that the quota should be governed by five-yearly quota laws negotiated bilaterally between Spanish and Basque delegations (see Bilbao 2002). Under this system, the net quota is not calculated from scratch each year but rather for the first year (or ‘base year’) of each five-year period. The net quota payable for the following four years is calculated by applying an ‘updating index’ (*índice de actualización*) to the net quota of the base year and then deducting the relevant compensations, which are agreed during the quota law negotiations. The updating index is based on the rate of increase (or decrease) in the state collection of the agreed taxes covered by the Concierto in the rest of Spain relative to the base year (i.e. the tax revenues of the state that have not been ceded to the regions). Since the Spanish budget is used to calculate the non-assumed charges for the base year, the quota is based on the projected cost of competences, in contrast to the common financing system where financing levels are calculated on the basis of the real cost of competences. The base year quota including all its components (the imputation index, the compensations, etc.) and the updating index are all subject to bilateral agreement during the quota law negotiations.

## (2) The VAT adjustment

In 1985, the responsibility for collecting VAT in the Basque region was transferred to the Basque provincial treasuries (Atxabal and Muguruza 2006: 26). From then on this would necessitate an adjustment to compensate for the difference between how much the Basque provincial treasuries collect and how much they are owed, since VAT is a tax on individual consumption but collected through a tax on corporate production (Monasterio Escudero 2010: 67; Zubiri 2010: 67-68). The aim is to ensure that the final VAT resources of the Basque region are relative to its weight in Spain’s total consumption. Therefore, there are two dimensions to the VAT adjustment: first, an adjustment for imported goods from outside the EU whereby the Spanish state, which collects the VAT on such goods, gives the Basque region a share relative to the consumption of Basque residents; and second, an

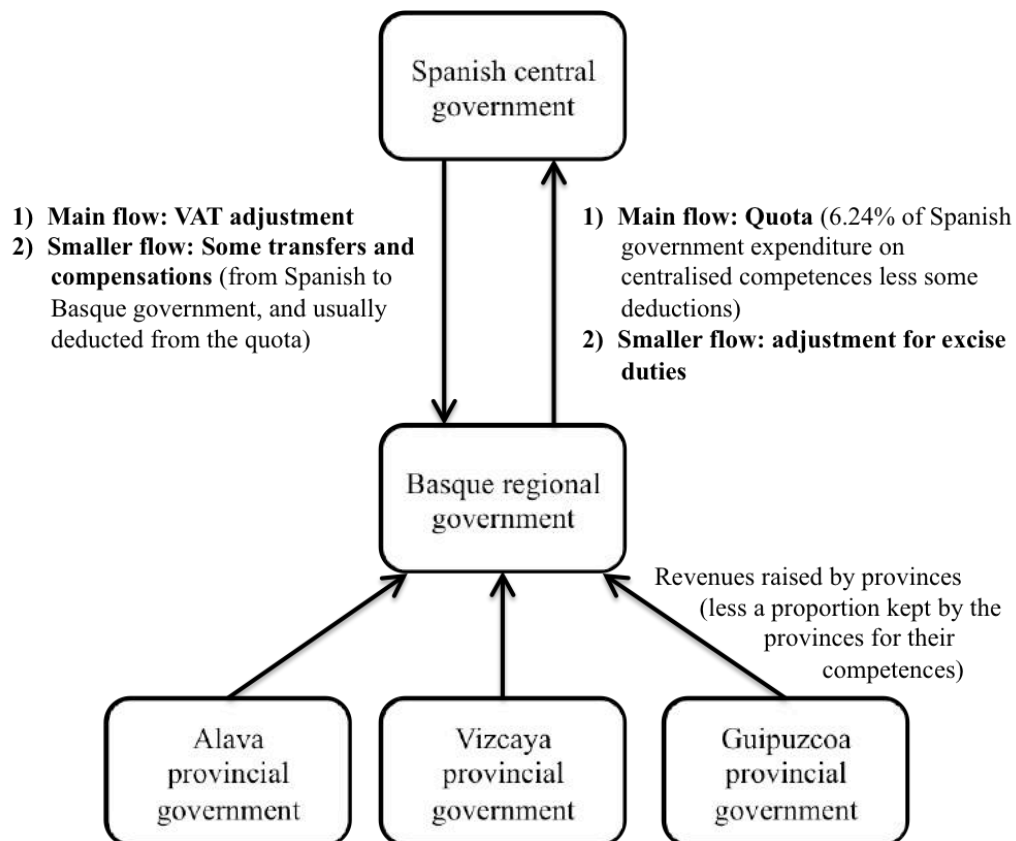
adjustment for the internal market, to reconcile the difference between the VAT the Basque treasuries collect on the value added of firms in the Basque region and the VAT paid by Basque residents on purchases of goods produced in the EU (Zubiri 2010: 127-128). The second component of the adjustment could theoretically imply a transfer in either direction between the Basque region and the Spanish state but in practice the Basque region has consistently been the recipient since it is a net importer from the rest of Spain (i.e. the consumption of Basque residents is greater than the value added of Basque firms). Under the Concierto legislation, both the relative rate of Basque consumption and the relative rate of Basque VAT collection capacity are prescribed by the quota law and thus subject to revision every five years. In practice, both rates have remained unchanged since they were first set in 1985: 6.875% and 5.765% respectively (Zubiri 2010: 128).

While the VAT adjustment involves a far more sizeable transfer of funds, a similar adjustment procedure also applies to excise duties (on alcohol and alcoholic beverages, intermediate products, beer, mineral oils and manufactured tobacco) – the other main source of indirect taxation which the Basque provincial treasuries have been responsible for collecting since 1997 (Monasterio Escudero 2010: 68). In this case, however, the Spanish state is the overall beneficiary of the sum of all excise adjustments. Other smaller financial flows also include some other transfers and compensations from the Spanish state to the Basque region. In relation to excise duties, for example, it was agreed that the transfer in 1997 of the responsibility for collecting the duties should not have a positive or negative impact on total Basque resources, which in practice resulted thereafter in a compensation from the Spanish state to the Basque provinces. Another transfer relates to the share of the Basque municipal or local councils in Spanish state revenues. The municipalities in Spain are in part financed by a share of Spanish tax revenues. In the Basque region, it is the responsibility of the Basque provincial governments to pay the respective share of the agreed taxes which it collects, but the state still makes a small transfer to the Basque municipalities for their share of the reduced number of taxes collected centrally (Zubiri 2010: 68).

The final balance of financial flows is more or less equal, since the quota payment that the Basque region pays to the Spanish state each year comes to approximately the same amount as the sum the Spanish state pays to the Basque

region for the VAT adjustment (Zubiri 2010: 69; Monsterio Escudero 2010: 70). The Basque government pays three provisional instalments per year to cover the quota (in May, October and December) calculated on the basis of the figures in the Spanish budget – payments which are then reconciled the following year when the final budgetary figures are known – while the Spanish state makes quarterly payments to the Basque region to cover the VAT adjustment. The fact that the final balance of flows is more or less equal is very significant: when there are political disputes between Spanish and Basque governments over issues such as the final amount owed under the quota payment, both sides have almost equal power to withhold money from each other until an agreement is reached.<sup>79</sup>

**Figure 3: Spanish-Basque fiscal and financial flows**



<sup>79</sup> Personal interviews with senior officials in the Guipúzcoan provincial treasury department, 2014.

## **How the common financing system works**

Aside from the Basque Country and Navarre, the remaining fifteen of Spain's regions conform to the common financing regime (*régimen común de financiación*), a revenue-sharing model under which the regions receive revenue transfers from the central government and obtain some additional resources via more limited regional taxation powers and local charges for services. The model was first regulated by the 1980 regional financing law (*Ley Orgánica de Financiación de las Comunidades Autónomas*, LOFCA) and was subject to five-yearly revisions from 1986 until 2001, at which stage the five-yearly requirement for a reform was removed (Blöchlinger and Vammalle 2012: 114; López Laborda 2006: 2-3). The next reform took place in 2009 and was motivated first and foremost by the fact the new Catalan autonomy statute of 2006 had necessitated a reform of the LOFCA, though other regions had also approved new statutes in those years in ways which called for a new reform too (Blöchlinger and Vammalle 2012: 117; Bosch 2010: 1). At the time of writing, a new reform is considered long overdue and is expected to take place under the new government due to be formed in 2016.

Unlike the Basque *Concierto* and the Navarran *Convenio*, where resource levels per capita are based fundamentally on each region's own fiscal capacity, the common financing system is primarily a needs-based system (e.g. López Labora 2006: 7). The final resource levels afforded to each region by the central government are based first and foremost on estimates of what each region needs to fulfil its competences, calculated in a way which is meant to respect the principles of sufficiency and solidarity. In other words, each relevant administration should have appropriate revenues to provide a similar level of basic services, thereby ensuring equality among Spaniards. Articles 156 and 157 of the Spanish Constitution outline the basic principles to inform the regional financing system, establishing that the fifteen regions under the system will obtain resources primarily from two main revenue sources: (1) taxes which are fully or partially ceded to the regions and (2) a contribution derived from non-ceded tax revenues. Some additional, limited funds are raised via regional taxes in the few cases where their creation at regional level is permitted by the central government, in instances where there is no overlap with state taxes (though in practice any such taxes are often faced with legal challenges

from the Spanish government). Additional resources also come from local charges for services and debt issuances.

These basic principles established in the Constitution were fleshed out and developed into a regional financing system regulated by the LOFCA of 1980. While there was some parliamentary debate and discussion at the time regarding the need and desirability for the regions to have some tax-raising powers of their own rather than being entirely dependent on revenue transfers from the central government, the LOFCA of 1980 afforded very little in the way of genuine fiscal competences to the regions and emphasis was placed instead on ensuring sufficiency and solidarity in the final distribution of resources (Alonso Olea 2014: 80-82). Fiscal co-responsibility, which required a meaningful increase in regional fiscal competences, would not properly start to be introduced in the model until the major reform of 1996, increasing further in the subsequent reforms of 2001 and 2009 (Alonso Olea 2014: 71; Ordóñez and Rivas 2007). This was gradually achieved by increasing the legislative competences of the regions by devolving or ‘ceding’ a greater share of taxes to the regions. This was done under the provisions of the LOFCA and the related Law 30/1983 regulating the Cession of Taxes from the State to the Autonomous Communities, which was later updated in 1996 (Mora Lorente 2004: 109-110). Taxes are ‘partially ceded’ in the case where some but not all taxable events related to that tax are ceded to the regions. Over the decades, since the first cession of 15% of IRPF (*impuesto sobre la renta de las personas físicas*, income tax) in 1993, the share of taxes ceded to the regions has gradually increased (as have their legislative and administrative powers over these taxes) (see also Chapter 7). This has led to a proportional reduction in the share of revenue transfers to the regions derived from non-ceded tax revenues. By 2009, under the reform of that year, the share of IRPF ceded to the regions had increased to 50% (Blöchlinger and Vammalle 2012: 115). Other ‘partially ceded’ taxes under that reform include VAT (50%) and excise taxes (58%), though as indirect taxes the regions do not have any legislative autonomy over these shares but rather are subject to Spanish legislation. The fully ceded taxes are generally relatively more minor taxes, including taxes on wealth, inheritance and donations, capital transfers and documented legal acts, gambling, certain modes of transport, electricity, and the retail sale of certain hydrocarbons. Importantly, only the fully ceded taxes are collected by the regions themselves, while the central government remains responsible for collecting the partially ceded taxes in

their entirety (as well as non-ceded taxes), with the requisite revenues then being transferred to the regions as part of the transfers from the central government.<sup>80</sup> The regions are thus heavily dependent on the revenue transfers.

A key feature of the model is an equalisation mechanism to redistribute wealth to ensure each region has more or less the same financing per unit of need. Prior to 2009, this was achieved via the so-called Sufficiency Fund (*Fondo de suficiencia*) (Bosch 2010: 5). The Sufficiency Fund provided resources to each region to the value of its estimated expenditure needs to cover three areas of basic services (common, healthcare and social), minus the volume of resources collected in the regions themselves from the fully ceded taxes. Under the 2001 reform, the base year used to calculate the Sufficiency Fund transfers required for each region was 1999, and the growth rate of the non-ceded tax revenues was defined as the adjustment rate for subsequent years. The 2009 reform of the LOFCA then sought to improve the equalisation mechanism via the creation of three new Funds in addition to a revised Sufficiency Fund (see Bosch 2010: 13-16; Blöchlinger and Vammalle 2012: 115), the details of which are given in Table 7. Since 2009, the majority of the resources within the system have been pooled instead into what is known as the Fund for the Guarantee of Fundamental Public Services (*Fondo de Garantía de Servicios Públicos Fundamentales*), which has replaced the previous Sufficiency Fund as the main vehicle of redistribution and solidarity in the common system.

**Table 7 – The funds to distribute resources under the common system (2009 reform)**

Fund for the Guarantee of Fundamental Public Services ( <i>Fondo de Garantía de Servicios Públicos Fundamentales</i> )	The largest Fund, which distributes approximately 80% of the revenues due to the regions (75% of ceded tax revenues plus 5% from central government transfers derived from non-ceded taxes). This Fund divides the resources among the regions to ensure that they each have the same level of resources per ‘unit of need’ to provide essential public services (education, health and social services) to their citizens. These ‘needs’ are
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<sup>80</sup> This point was raised by several interviewees in Catalonia of different political affiliations (CDC, PSC, ERC) as a source of considerable grievance.

	determined according to each region's 'adjusted population', calculated via a formula to take into account various demographic and geographical weightings (such as population size, proportion of over 65s, surface area, dispersion and insularity).
Global Sufficiency Fund ( <i>Fondo de Suficiencia Global</i> )	Designed to ensure the regions have sufficient resources for the remainder of their devolved competences (i.e. beyond the essential services) and are net winners with the change of model in 2009.
Two regional convergence funds: Competitiveness Fund ( <i>Fondo de Competitividad</i> ) and Cooperation Fund ( <i>Fondo de Cooperación</i> )	The smallest Funds, together distributing less than 5% of resources in the system. The Competitiveness Fund compensates the usually richer regions with typically higher population growth (e.g. Catalonia and Madrid) if the outturn figures go against them, in an attempt to reduce the anomaly whereby their financing had often ended up below average under the previous model. The Cooperation Fund is aimed at increasing resources in the poorer regions with lower per capita incomes and/or negative population dynamics (ageing or declining populations).

Despite the frequency with which the system has been reformed, it has long been criticised by economists for its technical flaws that successive reforms have failed to resolve (e.g. Bosch 2010, León 2010, De la Fuente 2013a, Paluzie 2010), as well as by politicians in the regions which have been disadvantaged by the system. The main complaint comes from the relatively richer regions who contribute most to the system, and yet often end up with below-average per capita resource levels post-equalisation, due to over-redistribution: the three regions most affected in this way are usually Madrid, the Balearics and Catalonia (see, for example De la Fuente 2012b and 2013a). In the case of Catalonia, it is usually the third largest contributor to the system in terms of tax revenues per capita (after Madrid and the Balearics), but ends up approximately ninth in the final list of resources per capita post-equalisation (see, for example, Castells 2014: 285). Each reform has always been fraught with



political tension since all the regions have always fought to ensure their respective status quo would improve with each reform, making it politically very difficult to correct the arbitrary effects of the equalisation mechanism (Bosch and Durán 2008; Borraz and Cantalapiedra 2010; Blöchlinger and Vammalle 2012: 113-121).

While the common financing system is an inter-regional system which is negotiated at the inter-regional Fiscal and Financial Policy Council (*Consejo de Política Fiscal y Financiera*, CPFF), there is also a bilateral dimension to it between the central government and each region, since the central government has usually also negotiated individually with each region to ensure it will accept the relevant reform. This is because each reform of the LOFCA must be approved in each regional parliament for it to be applied in that region. Notably, Spanish-Catalan bilateral negotiations have in particular played a leading role in shaping each reform of the LOFCA and each reform has been approved by the Catalan government and parliament, and yet each has proved a stopgap rather than a long-term solution, due to the conflict between the nature of some Catalan demands and wider inter-regional considerations that have needed to be taken into account by the central government.<sup>81</sup> The main complaints regarding the system from both Catalonia and other regions disadvantaged by the existing system have centred on (1) the arbitrary outcomes of the fiscal equalisation mechanism, which proves overly redistributive in some cases; and (2) the fact that the system affords only very limited fiscal powers to the regional governments, which reduces their autonomy and their control over the taxes raised in their territory. This also reduces incentives for good fiscal management, thus running the risk that poorer regions become too reliant on generous hand-outs funded by relatively richer regions. The following paragraphs address these complaints in more detail.

The common financing model was given a very complex design under the 2009 reform in order to straddle the demands of different regions, and the central government promised an increase in its own contribution to help achieve consensus (Blöchlinger and Vammalle 2012: 120-121). Nevertheless, progress towards solving the longstanding problem of the arbitrary effects of the equalisation mechanism has proved limited (e.g. De la Fuente 2012b, 2012c and 2013a). The equalisation mechanism seeks to provide equal resources per unit of need (i.e. based on adjusted

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<sup>81</sup> Personal interviews with current and former PSC and CDC Catalan government representatives, 2015 and 2016.

population rather than actual population), but the way in which ‘need’ is measured tends to respond more to political rather than economic factors (e.g. Zubiri 2015: 216). Moreover, the mechanism should ideally bring each region as close as possible to the mean in terms of level of financing per adjusted capita, but it still proves either overly or insufficiently redistributive in some cases. This flaw has persisted over the years largely because all the regions have always fought to ensure their respective status quo would be maintained or improve with each reform, and the central government has repeatedly obliged since it would be politically costly for it to do otherwise (León 2009, 1010; De La Fuente 2012b; López Laborda 2006: 10). Political considerations have thus taken precedence over technical optimality. Blame for the failure of the 2009 reform to address the longstanding problems with the equalisation mechanism, for example, has been attributed in part to the fact that the design of the Guarantee Fund was then complicated by other smaller funds designed to appease individual regions and ensure they would not end up prejudiced relative to their status quo – a problem which was then exacerbated further by other unexpected factors such as the extent of the economic crisis, as well as the central government’s delays in making payments from the Competitiveness Fund (see Chapter 7). The new system was implemented in 2009 with some one-off effects specific to that year only which gave the impression of a significantly improved equalisation mechanism, but much of that apparent progress was reversed from the first year of full implementation in 2010 onwards (De la Fuente 2012b, chapter 4). Central government transfers of the funds due to the regions (known as *entregas a cuenta*) are made throughout the relevant year based on initial revenue estimates, before being revised when the outturn revenue figures are confirmed and the regional financing system is finally settled (*liquidado*) 18 months after year-end. Thus it was not until mid 2012 that the full impact of the new model applied in 2010 came to light.<sup>82</sup> The results show that the regions of Madrid and Catalonia, for example, remained among the top three contributors to the common financing model in terms of per capita tax revenues, and yet both ended up ranked below average for the 15

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<sup>82</sup> The annual final settlement (*liquidación*) statements for the common financing regime are published by the Spanish Ministry of the Treasury and Public Administration. Available here: <http://www.minhap.gob.es/es-ES/Areas%20Tematicas/Financiacion%20Autonomica/Paginas/Informes%20financiacion%20comunidades%20autonomas2.aspx>

regions in 2010 in terms of total financing per adjusted capita post-equalization.<sup>83</sup> In contrast, some of the regions that benefitted disproportionately from the 2001 model continued to do so. Extremadura, for example, one of the lowest tax revenue contributors per capita, maintained its third position out of the 15 regions post-equalisation in 2010. Meanwhile, since the system is inconsistent and not overly redistributive in all cases, some of the relatively richer regions in per capita tax revenues remained relatively richer post-equalisation (e.g. Cantabria and La Rioja) and some of the relatively poorer ones ended up equally poor or poorer still (e.g. Valencia, Murcia, Andalusia and Castilla-La Mancha). Similarly disparate outcomes emerged again in the final settlement of the 2011 regional financing system published in July 2013 and others thereafter.<sup>84</sup> These longstanding shortcomings of the equalisation mechanism, and the exemption of the Basque Country and Navarre from contributing to it, have created ample fuel for political divisions between the regional and central governments over the years, with Catalonia voicing the most grievances.

Complaints about the flaws of the equalisation mechanism are combined with criticism from the relatively richer regions such as Catalonia of the lack of regional tax autonomy within the system (e.g. Bosch 2010: 4). Although the share of the partially ceded taxes granted to the regions over the years has gradually increased, and in some cases so too have their legislative powers over those taxes, the fact remains that the central government still collects all of the partially ceded taxes. Rather than giving their respective shares to each of the regions, it pools most of these (around 80%) into the Guarantee Fund and the other smaller funds within the system, in order then to redistribute the resources throughout Spain, primarily according to unit of need. The apparent increase in regional fiscal powers due to their increase in their share of the partially ceded taxes is thus somewhat deceptive to a degree, since the regions receive only a small part of the benefit from their increased fiscal effort or their tax decisions.

Other problems include the fact that the revenue transfers from the central government to the regions are based on revenue estimates made by the central

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<sup>83</sup> For a detailed analysis of the outcomes of the new regional financing system for each autonomous community in 2009 and 2010, see De la Fuente 2012b and 2013a.

<sup>84</sup> For example, 'Cataluña es la tercera comunidad que más recauda pero la décima en recibir', *El País*, 10.07.13.

government, which are not revised until the outturn revenue figures are confirmed 18 months after the end of the year in question, which also makes it difficult for the regions to balance their finances if there is a sharp discrepancy between the initial estimates and the final outturn figures. This occurred, for example, in 2008 and especially 2009. In those years, the initial revenue projections on which the central government transfers to the regions were based were much greater than the final outturn revenue figures, since the government had not anticipated the extent of the effect of the crisis. Overall the regional governments were due to repay the central government in 2010 and 2011 for total windfall gains of EUR 5.514bn received in 2008 and a particularly substantial EUR 18.736bn in 2009 (in contrast, the liquidations of the 2010 and 2011 financing systems went in the regions' favour, showing the central government owed them EUR 5.102bn and EUR 4.358bn, respectively). Ultimately, due to the regions' inability to repay these windfall gains in full in 2010 and 2011, a repayment schedule was set up over a ten-year period.

In addition to the very different levels of fiscal and financial autonomy at regional level, another significant difference between the foral and common systems concerns local financing: how funds are allocated to the provincial authorities (*diputaciones*) and town halls (*ayuntamientos*). In contrast to the *Concierto*, where the Basque provincial authorities raise their own taxes and thus are responsible for providing funds to provincial and local authorities as well as the regional authorities, the common financing system governs the provision of resources to the regional governments only. Financing to the local authorities within the common regime regions is a completely separate system, the control of which is centralised in the hands of the Spanish government. In other words, the central government provides funds directly to the provincial level, bypassing the regional governments.

### **The *Concierto* versus the common financing system: The debate over whether the Basques contribute enough revenues to Spain**

Under the general principles governing both taxation and financial relations, the *Concierto* law states explicitly that the model must respect the principle of solidarity in the terms envisioned in the Spanish Constitution and the Basque autonomy statute. Article 2 of the Spanish Constitution guarantees the right to solidarity among the nationalities and regions that constitute the Spanish nation, a

principle then expounded in Articles 138 and 156. Article 138 prescribes the implementation of such solidarity in practice – the Spanish state must oversee the establishment of an appropriate and fair economic balance between the different parts of the Spanish territory and ensure that different regional statutes by no means imply economic or social privileges. Article 156 – the first of three (156-158) prescribing the main principles of the regional financing system – stipulates that the financial autonomy enjoyed by the regions to develop and implement their competences must comply with the principle of solidarity among all Spaniards. In turn, Article 41.2f of the Basque autonomy statute states that the Concierto will be applied in accordance with the principle of solidarity referred to in Articles 138 and 156 of the Spanish Constitution.

Whether or not the Concierto contributes sufficiently to solidarity with the rest of Spain has nevertheless become subject to fierce debate since the model provides the Basques with significantly greater resources than other regions receive. The Concierto affords the Basques a level of per capita financing in the region of 60%-75% higher than the average received by the fifteen regions under the common financing regime, according to figures for 2007 (De la Fuente 2012a: 5; Zubiri 2015: 217). The difference increased further following the financial crisis, reaching up to 100% in 2011, since Basque tax revenues fell less than revenues in Spain as a whole (Zubiri 2015: 217). When measured as a percentage of GDP instead of per capita, the difference is smaller but still substantial, with the Basque resources reaching 45% more than the average of the regions under the common financing system in 2011 (equivalent to 5.6% of GDP) (Zubiri 2015: 217). This is primarily because the Concierto is a system based on the region's own fiscal capacity, which has proven very beneficial to it, since it has been one of the relatively richer regions in Spain since the late 1990s, and the richest since 2008 (Zubiri 2015: 211). The Concierto involves a lower contribution to inter-regional solidarity than that made by other comparatively wealthy regions in Spain under the common financing system, which is redistributive in nature and provides resource levels based on each region's estimated needs rather than fiscal capacity. It has also been suggested in a number of economic studies that some aspects of the Concierto are calculated in a way that is favourable to the Basque region, such as the valuation of assumed competences and the calculation of the VAT adjustment (e.g. De la Fuente 2012a: 4-5; Monasterio Escudero 2010) (see further details below). Such problems have generally been

attributed to the frequent influence of politics over economics in bilateral negotiations over the *Concierto*, which has at times enabled Basque governments to secure beneficial financing deals in return for lending support to Spanish governments in other areas.

Ultimately, it is certainly clear that the Basque region obtains more resources than it would were it under the common financing system. Nevertheless, Basque officials vigorously dismiss accusations that the *Concierto* is a ‘privilege’ or entails a lack of solidarity, arguing that the question of solidarity is one of degree and that there is another side to the coin in that fiscal autonomy encourages greater fiscal responsibility.<sup>85</sup> Thus they argue that the healthier position of Basque finances and higher resources per capita enjoyed by Basque residents is in large part attributable to the better financial management encouraged by the responsibilities that a model of fiscal autonomy entails. The unilateral risk which the fiscal model involves for the Basque region and the lack of any guaranteed minimum revenue from the central government encourages accountability and responsibility. The size of the quota does not depend on what the Basque provincial treasuries collect but rather on the size of the Spanish state budget for non-assumed competences, which encourages efficiency since the Basque region loses out if its own tax collection increases more slowly (or decreases more quickly) than that of the Spanish state (Zubiri 2015: 70-71). This contrasts with the convoluted revenue-sharing arrangements under the common regime, in which the regions have greater spending than revenue-raising competences – a form of fiscal decentralisation which creates an accountability gap and can encourage substate governments to seek further funds from the central government if they over spend.<sup>86</sup>

In the context of the recent financial crisis, clashes between these interpretations of the *Concierto* and the resources it provides reached new heights. The Basque region’s comparative advantage in terms of resource levels relative to other regions in Spain actually increased further during the financial crisis and its aftermath, since tax collection in Spain as a whole dropped more rapidly than in the Basque region. Whereas the Basques had previously spent around 10%-12% of their revenues on the quota payment to Spain prior to the crisis, this fell to around 7%-8%

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<sup>85</sup> Personal interviews with senior officials in the provincial treasury departments and PNV representatives, 2014.

<sup>86</sup> On this theory, see Rodden 2006.

in the wake of the crisis (Zubiri 2015: 218). The Basque region weathered the crisis far better than most other regions in Spain due to a number of factors, including the fact that it had prioritised developing an industry-based economy centred on exports in recent decades and avoided the domestic-focused construction boom that prevailed elsewhere in Spain before collapsing. The accountability the model fosters also discouraged overspending in the boom years, unlike in many regions under the common regime where spending increased drastically, current income was insufficient to cover current expenditure, and the regional authorities would look to the central government for extra funds and the regional savings banks (*cajas de ahorros*) for loans to cover the gap – until the crisis hit, the central government was no longer so forthcoming with funds, and many of the savings banks collapsed. While the central government had to set up various mechanisms from 2012 onwards to lend money under strict budgetary compliance conditions to numerous cash-strapped regions under the common regime unable to cover their needs or access any other financing sources, the Basque region remained self-sufficient.

There is little common ground between those who attribute this relatively healthier financial position of the Basque region fundamentally to better economic decisions and financial management by the Basque institutions under the *Concierto* in comparison with the behaviour of some of the regions under the common regime, and those who suggest the Basques unfairly receive surplus financing through the *Concierto* in comparison to other comparable regions under the common regime.<sup>87</sup> The reality would in fact seem a complex combination of both sides of the argument: the fiscal accountability that fiscal autonomy entails does encourage good financial management, but at the same time the Basques contribute very little to inter-regional solidarity compared to other comparatively wealthy regions in Spain under the common financing system. As stated, accusations of surplus financing in the Basque case not only relate to the lack of contribution to the equalisation mechanism for financing public services included in the common financing system, but also to other features such as the valuation of non-assumed competences and the VAT adjustment rate, both of which are interpreted by critics as overly favourable to the Basque region. The following sections analyse the most problematic areas of the *Concierto* in this regard, before the final section addresses the different political perspectives

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<sup>87</sup> Perspectives gained through a range of personal interviews with Basque and Catalan politicians of different political affiliations, 2014-2015.

that make it very difficult to reach any sort of Spanish-Basque consensus or resolution over the matter.

### ***Problematic areas of the Concierto system and quota payment***

#### **(a) Inter-regional redistribution mechanisms**

One of the main criticisms of the Basque Concierto is that it involves a lower contribution to inter-regional income redistribution in Spain than that made by comparatively wealthy regions under the common system. This is first and foremost because the Basque model does not incorporate a contribution to the equalisation mechanism for financing public services included in the common regime (primarily via the Fund for the Guarantee of Fundamental Public Services under the 2009 reform), which reduces the Basque contribution to inter-regional redistribution. The resources the Basque region receives are based on its regional fiscal capacity since, broadly speaking, it keeps all its tax revenues except for those used to pay the quota to the central government to cover the Basque share of the few competences which the region has not assumed. The quota only uses a very small share of Basque tax revenues (around 7%-12% in recent years), with the rest staying in the region itself. Since the Basque Country and Navarre are relatively rich regions whose GDP per capita is among the highest in Spain, a system in which their resources are based on their own fiscal capacity rather than estimated needs (as in the common regime) gives them greater resources (Zubiri 2010: 112). One of the required harmonisation rules with Spanish tax legislation stipulates that overall Basque fiscal pressure (tax to GDP ratio) must be equivalent to that in the rest of Spain (in the 15 regions under the common financing system). And yet since the Basque Country is a relatively rich region, it can maintain an equivalent or even slightly higher fiscal pressure and raise significantly more resources than the regions under the common system, even when the rates of the main taxes it raises (e.g. personal income tax, corporation tax) are usually lower than in the latter regions (Zubiri 2015: 207).

The main reason why this problem has arisen is due to the shift in the primary means by which inter-regional solidarity has been achieved in Spain since the Transition, from the Inter-Territorial Compensation Fund (to which the Basques do contribute) to the fiscal equalisation mechanisms in the common financing regime (to which the Basques do not contribute). The quota includes a 6.24% contribution to



the Inter-Territorial Compensation Fund (a non-assumed competence), which is designed ultimately to achieve inter-regional income redistribution by promoting development in less prosperous regions. This was originally envisaged during the transition to democracy as the main means of inter-regional solidarity, as explicitly indicated in Article 158 of the Spanish Constitution: ‘In order to correct inter-territorial economic imbalances and put into practice the principle of solidarity, a Compensation Fund will be created, intended for investment expenditure, the resources of which will be distributed by the Spanish parliament among the autonomous communities and provinces, where appropriate.’ Nevertheless, the purpose of the Inter-Territorial Compensation Fund was largely taken over by European structural and cohesion funds to Spain particularly in the late 1990s and early 2000s (Álvarez et al. 2004). The Fund also ended up acquiring a much more secondary role in terms of inter-regional redistribution compared to the financial flows involved in the equalisation mechanism for financing public services (via the redistribution of tax revenues) included in the common regime, to which the Basques do not contribute. Thus, while the Basques would continue to pay into the ever diminishing Inter-Territorial Compensation Fund for inter-regional solidarity via investment expenditure designed to promote income redistribution, they would not contribute to the much more sizeable inter-regional redistribution mechanism included in the common regime for financing public services. De la Fuente (2012a: 4) suggests this reduces the Basque contribution to the state coffers by approximately EUR 1.79bn per year, according to figures for 2007. Representatives of the Basque institutions argue that such calculations are hypothetical and therefore unreliable,<sup>88</sup> but regardless of the exact figure, it can be safely concluded that it would be a substantial one. Matters became more complicated still following the reform of the common financing regime in 2009, which included the creation of a small Cooperation Fund which fulfils a similar purpose to the Inter-Territorial Compensation Fund (Fernández Llera and Delgado Rivero 2010).

All in all, what is clear is that most of the mechanisms to achieve inter-regional solidarity, a concept which is now generally understood to apply to public service provision as well as to income redistribution, have come to be included in the

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<sup>88</sup> Personal interviews with Basque officials in the Vizcayan treasury department, 2014.

common financing regime, rather than being articulated via the Inter-Territorial Compensation Fund, as initially envisaged during the Transition.

(b) Imputation index in the quota

The quota, although it only accounts for a small proportion of Basque tax revenues (7%-12% of Basque revenues in recent years), is often interpreted as fulfilling a redistributive purpose since the imputation index which determines the Basque contribution towards non-assumed competences is broadly in line with its share of Spain's GDP (6%-7%) rather than population (4%-5%). This is a standard line of defence used by Basque politicians to justify that the *Concierto* does show solidarity beyond the 6.24% contribution specifically to the Inter-Territorial Compensation Fund, particularly whenever the *Concierto* comes under political attack.<sup>89</sup> This nevertheless risks simplifying a more complex reality that requires clarification and nuance.

The *Concierto* agreement itself stipulated that the imputation index should reflect the Basque region's relative income. One of the many discrepancies between Basque and Spanish delegations in the years that immediately followed the choice of the 6.24% figure in 1980 was the Spanish desire to raise the imputation index (closer to the relative GDP figure), before a political pact between the Spanish and Basque governments in 1987 resulted in the PNV winning the argument to keep the index stable (see Chapter 4). Over the decade from 1981 to 1991 Basque relative GDP declined from approximately 7.50% to 6.25%, and ever since then has stayed in the region of 6.1%-6.3%. This means that the 6.24% figure – which has never been changed since it was first established in 1981 – has by chance become a closer representation of Basque relative GDP, even exceeding it slightly in recent years. Nevertheless, the Basque relative population has shown a more consistent, gradual decline since 1981, from around 5.7% of Spanish population in that year to around 4.6% in 2015. The consistent decline of relative population combined with a more constant level of relative income since the early 1990s has in turn led to an increase in Basque relative GDP per capita in that period, since relative population has

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<sup>89</sup> As seen, for example, in lehendakari Iñigo Urkullu's response defending the *Concierto* against accusations of 'privilege' in his interview with *El País* on 2 October 2014, [http://politica.elpais.com/politica/2014/10/02/actualidad/1412266786\\_167452.html](http://politica.elpais.com/politica/2014/10/02/actualidad/1412266786_167452.html)

declined more quickly than relative GDP (Zubiri 2010: 66; 2015: 211). This, in turn, has increased the Basque region's comparative advantage relative to the regions under the common regime in terms of resources per capita.

As competences have gradually been transferred to the Basque region over the decades, the Basques have ceased to pay the 6.24% share of each of those competences to Madrid, which is why the quota payment now only accounts for a very small share of Basque revenues. For the Basques, this inevitably means they keep more of their revenues for themselves, since when competences were still centralised, Madrid often did not invest the full 6.24% paid by the Basques back in the Basque region. In some cases, however, the Basques do still pay 6.24% towards a centralised competence where they secure little direct benefit themselves, for example they have paid 6.24% towards the costs of building Spain's high speed rail lines (the AVE) over the years, even though no line to the Basque Country has been built yet. In areas such as infrastructure spending, Madrid has often spent a much smaller sum in the Basque region than the 6.24% the Basques have paid to Madrid. Thus, in seeking to justify the claim that the Basques contribute more than an ample amount to Spain, it is often argued that the Basques pay much more via the quota to Spain than what is actually spent by the Spanish state in the Basque region (Uriarte 2015: Pt VIII, 123, 128, 216). While this is certainly true in the case of some competences, such calculations are nevertheless problematic to a degree, since they do not take into account Spanish government expenditure designed to benefit all Spaniards including the Basques, which is not necessarily spent in Basque territory itself (the same problem that occurs with fiscal balances calculated under the monetary flow method). Most of the competences that remain centralised to which the Basques contribute a 6.24% share are matters such as foreign affairs, defence, the monarchy, etc. In such cases, Spanish government expenditure may not be spent directly in the Basque region, but it is nevertheless designed to benefit all Spaniards including the Basques: for example, any Basque citizen in difficulties abroad would be able to use the Spanish network of embassies and consulates.

Furthermore, it is often overlooked that the imputation index applies to financial flows in both directions (from the Basque Country to the Spanish state but also vice versa), thus sometimes the fact that it is designed to reflect relative GDP

rather than relative population benefits the Basque Country.<sup>90</sup> For example, the 6.24% figure applies not only to the Basque share of non-assumed competences when calculating the quota, but also to the Basque share of central government tax revenues and deficit that is subtracted from that value. Moreover, it also usually applies to the valuation of the assumed competences used in the quota calculation – in other words, Basque expenditure on its own competences is usually valued at 6.24% of what Spain spends elsewhere in the country on the same competences (or in some cases even more – see section (c) below) (Zubiri 2015: 212). PNV-led Basque governments have consistently maintained since the 1980s that the 6.24% should apply to financial flows in both directions under the ‘quota system’ – not only to the Basque contribution to the competences fulfilled by the Spanish state, but also to both the valuation of Basque assumed competences (incorporated in the quota calculation) and to the Basque share of any additional funds from the Spanish state to fulfil specific competences (often deducted from the quota).<sup>91</sup> This problematises suggestions that the 6.24% incorporates a solidarity contribution to Spain on the grounds that it reflects relative income rather than population. Representatives of the PNV and senior officials in the Basque provincial treasury departments justify their stance by arguing that it is ‘logical’ that if the Basques contribute a 6.24% to competences carried out centrally, they should also receive a 6.24% share for competences carried out by the region.<sup>92</sup> In this regard, they also argue that the imputation index first agreed in 1981 was never explicitly designed to incorporate a solidarity component and that solidarity is achieved via the Inter-Territorial Compensation Fund instead.

A number of Concierto-related debates between Spanish and Basque governments since the 1980s have reflected discrepancies over this matter in cases where the Basques have sought a 6.24% of funds, while the Spanish government has argued they should instead receive a share in line with their population size. This occurred in the 1980s, for example, when the PNV secured a 6.24% share of Spanish social security funds for health and social services at a time when these were still funded by centralised social security contributions rather than taxes (Larrea Jiménez

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<sup>90</sup> Personal interview with Carlos Aguirre (PSE), 13 October 2014.

<sup>91</sup> Personal interviews with Pedro Azpiazu (PNV) and with senior officials in Basque provincial treasury departments, September-October 2014.

<sup>92</sup> Personal interviews with Pedro Azpiazu (PNV) and with senior officials in Basque provincial treasury departments, September-October 2014.

1989). More recently, a similar situation occurred under the PSOE minority governments from 2004 to 2011 when a dispute emerged as to how much the Basque government should receive of the funds provided by the Spanish government to other regions for (1) extraordinary financing for the health system; (2) a new law governing education for children aged under three; and (3) a new dependency law. Again, the PNV won its argument for a 6.24% share of the funds in agreements reached in 2005 and 2007,<sup>93</sup> though dispute over the matter continued thereafter.

### (c) Valuation of the non-assumed competences in the quota calculation

Aside from the imputation index, another of the most criticised aspects of the quota methodology is the valuation of the non-assumed competences to which the Basques contribute a 6.24% share. As stated earlier, the valuation of the non-assumed competences is not calculated directly, but rather it is determined by subtracting state expenditure on competences already assumed by the Basque region (the ‘assumed charges’) from total state expenditure on those competences in other regions in the Spanish annual budget. All regions in Spain have extensive spending competences but the Basque (and Navarran) regions have yet more than most. The ‘assumed charges’ are essentially competences which have been devolved to the Basque region but not other regions in Spain (or at least not to the same extent), thus expenditure on those competences elsewhere in Spain still features in the Spanish budget. Critics suggest that the Basque share of the assumed competences is significantly over-valued, and thus the non-assumed competences are significantly under-estimated in the figures used to calculate the Basque quota (e.g. De la Fuente 2009: 11-19; Zubiri 2015: 212; Sevilla 2001: 149; JCyL 2008: 8-10; Monasterio Escudero 2010: 71-75). For example, according to the value of the non-assumed competences given in the quota laws for the base year quotas for 2002 and 2007, only approximately a quarter of the central government’s non-financial expenditure corresponds to competences not assumed by the Basque region and thus to which it must contribute a 6.24% share. De la Fuente (2009: 11-19) argues the figure should be much higher than a quarter since fundamental competences (such as health and education) had been assumed by all of the regions in Spain at least by 2007, and thus

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<sup>93</sup> For the agreements reached, see *Informe Anual Integrado de la Hacienda Vasca 2011*, [http://www.ogasun.ejgv.euskadi.net/contenidos/informe\\_estudio/iai/es\\_iai\\_2011/adjuntos/2011%20IAI.pdf](http://www.ogasun.ejgv.euskadi.net/contenidos/informe_estudio/iai/es_iai_2011/adjuntos/2011%20IAI.pdf), pp. 204-205.

expenditure on those competences no longer features in the Spanish budget (with the small exception of any additional state contributions) but rather in the respective regional budgets. This, he argues, leaves the central government primarily in charge of providing and budgeting for nationwide services, most of which the Basques should contribute to.

The lack of transparency regarding the calculation of the value of the non-assumed competences is a fundamental problem here, therefore any estimates of what the figure should be are provisional at best and can only be used to give a general idea, as De la Fuente himself acknowledges (2009: 13-14). Neither the five-yearly quota laws nor any other publicly available legislation or documentation provide details as to exactly which of the chapters (part or whole) in the Spanish budget are considered assumed or non-assumed by the Basque region. Neither is the valuation of each assumed competence available publicly (De la Fuente 2009: 6; JCyL 2008: 8). Only the final value of the total non-assumed competences to which the Basques contribute a 6.24% share is given in an Appendix to the quota law, without any breakdown in figures to show how this is reached (with the exception of the calculation for the financing of the Basque regional police, an assumed competence which is described in more detail). The Spanish budget does not provide a functional or geographical breakdown for each item either. Thus there are a lot of grey areas, for example in the case of some competences which have been assumed by the Basque region to a greater degree than in other regions, or indeed fully assumed by almost all and yet the Spanish state still provides some level of funding to all regions to maintain programmes of general statewide interest. To what extent does the Basque region benefit from state spending in such areas or not?

To err on the side of caution, when in doubt De la Fuente (2009) considers a competence fully assumed by the Basque region and thus excludes any spending on this competence in the Spanish budget from the non-assumed competences to which the Basques should contribute. Even so, he still estimates that the Basque region should have contributed to 60% of the state's non financial expenditure in 2002 and 67% in 2007 rather than the actual 24% and 26% figures respectively under the quota laws (De la Fuente 2009: 16). One sizeable debatable inclusion here in the non-assumed competences as calculated by De la Fuente is the regional equalisation funds (he includes the value of the equalisation mechanism in the common financing regime as a non-assumed competence, since the Basque region does not contribute to

this equalisation mechanism via the Concierto). If these are excluded, the amount of the state's financial expenditure the Basques should have contributed to comes to 41% and 46%, still more than the amount included in the quota laws, resulting in an estimated shortfall not paid by the Basque Country of EUR 1.065bn and EUR 1.756bn respectively (De la Fuente 2009: 17).

Basque officials dispute Angel de la Fuente's figures, arguing that his calculations are based on approximations only and thus unreliable, since the breakdown of figures is not publicly available. And they suspect a degree of political intent in his calculations.<sup>94</sup> A fundamental problem, however, lies in the fact that neither Spanish nor Basque officials provide alternative official figures either to clarify matters. Uriarte (2015), who addresses De la Fuente's criticisms, refutes the latter's calculations as based on estimated figures, but does not provide any alternatives, stating instead that 'the determination of the base of the calculation of the gross quota, due to its complexity, is only known to the negotiators of the Spanish state and the Basque autonomous community who prepare the Annex that accompanies the five-yearly quota laws' (Uriarte 2015: Pt VIII, 539). This fundamental lack of transparency as to the figures used to calculate the quota only serves to fuel speculation that Spanish-Basque political deals behind-the-scenes have influenced many of the valuations of competences reached over those years, rather than technical arguments. Every time a competence has been transferred to the Basque region over the decades, bilateral Spanish-Basque negotiations have taken place to determine the valuation of that competence, with political factors often influencing the final agreements reached, beyond merely technical and economic considerations.

#### (d) The VAT adjustment

Critics also suggest the VAT adjustment has become overly favourable to the Basque region. While the logic of the adjustment is in itself correct, it has been argued that the failure to update the main coefficients prescribed in successive quota laws to calculate it has led to significant inaccuracies. None of the main indices used

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<sup>94</sup> Personal interviews with Pedro Luis Uriarte and with Basque provincial treasury representatives, 2014. Carlos de la Fuente has been the most vocal and published the most on this subject, however, several other authors share his view that the non-assumed competences are under-valued in the quota calculations (e.g. Monasterio Escudero 2010: 71-75).

to calculate certain variables in the Concierto have ever been changed since they were first established (in most cases in the 1980s) since the dominance of politics over technicalities has impeded proper negotiation and led to a mutual atmosphere of distrust of the other side's motives for suggesting particular changes. Thus the imputation index and the main coefficients used in the VAT adjustment rate have never been changed since they were first agreed in 1980 and 1986 respectively. By chance, the Basque relative income has remained broadly stable at just above or below 6.24% since the 1990s, which has avoided any pressing need to change the imputation index, but it is argued that the VAT adjustment rate is now favourable to the Basque Country (e.g. Zubiri 2014a: 156; Monasterio Escudero 2010: 84). The main error is attributed to the coefficients used to calculate the adjustment for the internal market (see above), which adjusts for the difference between (a) Basque consumption relative to that of all Spain and (b) Basque VAT collection capacity relative to that of all Spain. Both (a) and (b) have remained unchanged since they were first set in the mid 1980s: 6.875% and 5.765% respectively. It has been suggested that the quota laws now significantly underestimate (a) and partially underestimate (b). Again, there is however no consensus on the matter.

### *An eternal stalemate?*

Overall, combining both the under-estimation of the quota (which comprises both the under-estimation of the non-assumed competences and the insubstantial contribution to regional equalisation) and the over-estimation of the VAT adjustment, De la Fuente estimates, using the years 2002 and 2007 as examples, that the Basque region has frequently paid less than it should have to the Spanish state by an amount equivalent to around 6% of its GDP. The Basque and Navarran regions are the only regions in Spain with relatively high per capita incomes that have a positive fiscal balance with the Spanish state while the other regions with similar GDP per capita levels (Catalonia, the Balearics and Madrid) have a negative fiscal balance, contributing between 5% and 12% of their GDP to the Spanish state (De la Fuente 2009: 21-22). As stated, such figures are refuted by senior Basque officials as unreliable since they are based on estimations. And yet the lack of transparency inherent in the fact that a number of figures used in calculating the quota are not made publicly available is itself problematic, making estimations the only option available. Uriarte (2015) seeks to counter De la Fuente and other critics by



calculating how much the Basques have contributed to the Spanish state via the quota over the decades and comparing this with the amount spent by the Spanish state in the Basque region in the same period, showing that the Basques have paid more than they have received. As stated above, however, this too is problematic to some extent, since much of the Spanish state spending to which the Basques have contributed may not have been spent directly in the Basque region, but has nevertheless been designed to benefit all Spaniards including the Basques. Ultimately, while it is unanimously recognised that per capita financing levels are far higher in the Basque region than in all the regions under the common financing system, there is a seemingly irreconcilable discrepancy in perspectives as to the reasons for the discrepancy, and therefore whether the Basques pay enough to Spain.

In the wake of the financial crisis, given the increased pressure on resources, the issue has become increasingly politicised. At the political level, attacks against the Concierto's perceived lack of sufficient contribution to Spain have at times been voiced by PP and PSOE politicians in other regions (especially Catalonia). Among relatively newer parties, the centralist party Union Progress and Democracy (*Unión Progreso y Democracia*, UPyD) founded in 2007 became the first statewide party actively to oppose the Concierto even in the Basque Country.<sup>95</sup> Its influence in Spanish politics declined rapidly, but a similar stance was also taken up by the centre-right Citizens' party (*Ciudadanos*), founded in Catalonia in 2006, which subsequently became a statewide party and gained traction in particular in 2015 ahead of the Spanish general election that year, at which it came fourth. Criticisms of the model from politicians elsewhere in Spain are sometimes directed at the very existence of the Concierto system itself, as in the case of UPyD and Ciudadanos. This is first and foremost because the model is not easily generalisable to other parts of Spain, and thus it is perceived as a 'privilege' in comparison with the common financing system. Often, however, it is not so much the Concierto itself which is criticised, but rather its design and application in practice, with suggestions that the annual quota payment ought to be increased in order to bring final per capita financing in the Basque region more into line with the resources of comparable

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<sup>95</sup> Mikel Buesa, Economics professor at the Complutense University of Madrid and founding member of UPyD in 2007-2009, coined the term '*el pufo vasco*' ('the Basque swindle') in a study by the same name he published in 2007 criticising the methodology used to calculate the Basque contribution to the Spanish state via the quota (see Buesa 2007).

regions under the common financing system. The PP and the PSOE, for example, uphold the model of the Concierto itself, but some party representatives have indicated they support a review of the size of the quota.

In theory, if the Basque contribution to Spain were universally considered insufficient, part of the problem could be dealt with by adapting the Concierto accordingly, without any need to call into question the essence of the Concierto itself and the fiscal autonomy it affords the Basque region. Economists suggest one way could be to adapt the Concierto (and Convenio) legislation to incorporate a contribution to the equalisation mechanism for financing services in the common system; or indeed to remove the equalisation mechanism from the common financing system (where it is currently included primarily in the Fund for the Guarantee of Fundamental Public Services and also to a lesser extent in the Sufficiency Fund, since the 2009 reform) and either make it an entirely separate fund or incorporate it into the Interterritorial Compensation Fund (e.g. Bosch 2010: 17; Zubiri 2015: 221; López Labora 2006: 18-19). The Basques would then contribute 6.24% of the resources, as they do for other non-assumed competences. In theory, the Spanish authorities could do so, since it is within their remit to establish the solidarity funds they deem appropriate (since this is a non-assumed competence). In practice, however, this would almost certainly prove politically very difficult, since it would require the Basques to accept a reduction in their resource levels. Any suggestions from Madrid that the quota should be revised upwards are generally rejected by Basque officials as an imposition and a unilateral attack on the Concierto system, exacerbating Spanish-Basque tensions, since the Basque nationalist authorities do not agree that the Basque region should pay more to the Spanish state.<sup>96</sup> Both sides (Spanish and Basque) are mutually suspicious of each other's intentions when it comes to any revisions to the quota payments and neither readily accepts the other's figures, even for matters such as calculations of GDP levels.<sup>97</sup> Rather than reducing the Basque level of resources, current and former Basque officials tend to suggest the focus should instead be on increasing accountability in the common financing system to encourage better financial management by other regions, and also increasing the level of resources provided to the regions under the common financing

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<sup>96</sup> For example, 'El Parlamento advierte contra cualquier intento de revisión "unilateral" del Cupo', *Deia*, 11.04.14.

<sup>97</sup> Personal interviews with Basque provincial treasury representatives, 2014.

system, many of which are under-financed (e.g. Uriarte 2015: Pt VIII 504). Basque officials also reject direct comparisons of the economic results of the Concierto and the common financing system in any case, arguing that the two systems are different and thus cannot be expected to produce the same economic outcomes.<sup>98</sup> Other regions with comparable GDP levels to the Basque Country will, however, almost inevitably continue to desire a system that gives them similar resource levels to the Basque Country, and Spain is clearly unable to afford to provide a similar amount of per capita financing to comparably wealthy regions under the common financing system as that enjoyed by the Basque region. The stalemate thus looks set to continue. For the PNV, the increased attacks on the perceived lack of solidarity of the Concierto by politicians elsewhere in Spain, in particular in the wake of the financial crisis of 2007-2008, have put the party on the defensive. The situation has led party representatives to vigorously reassert their claims of a right to a separate financing system and to argue that such a bilateral system should not only be protected, but also extended to wider Spanish-Basque political relations.

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<sup>98</sup> Personal interviews with Basque provincial treasury representatives, 2014.

## **Chapter 4**

### **Shaping the PNV's conception of sovereignty (1): Bilateral Spanish-Basque relations over the Concierto**

The fact that the Concierto has given the Basque region greater control over its finances and has proved comparatively favourable to it in terms of resources per capita, as well as being based on strictly bilateral relations with Madrid without inter-regional negotiations, explains why regional financing in the Basque case has not become a strong point of contention as in Catalonia. The bilateral nature of the Concierto has nevertheless still influenced the PNV's territorial agenda in other ways, for example by shaping the conception of sovereignty that it seeks for the Basque region. The aim of this chapter is therefore to investigate what the implications of the bilateral nature of the Concierto have been for the PNV's territorial agenda. The predominant focus in both the media and academia on the politicised debate over whether or not the Concierto is a 'privilege' in comparison with the common financing system has neglected a fuller analysis of how bilateral relations between Madrid and the Basque region over the Concierto have played out in recent decades, which this chapter investigates.

The bilateral dimension of the Concierto, which gives both Spanish and Basque delegations equal veto power, makes it the closest current equivalent to the form of 'bilateral relationship between equals' that the PNV seeks in wider Spanish-Basque political relations, under the party's latest iteration of its longstanding desire to seek a new political relationship with Madrid based on a more confederal model involving self-determination and co-sovereignty. However, while the bilateral nature of the Concierto is much valued by the PNV since it prevents the Spanish authorities from taking unilateral decisions, this does not mean that the Concierto has produced consensus over fiscal and financial matters between Spanish and Basque governments. Notwithstanding the PNV's underlying satisfaction with the Concierto framework, the model has often resulted in clashes with Madrid over the detailed workings of the arrangement. And yet bilateral relations over the Concierto have offered scope for deals and pay offs to resolve such disagreements, as well as for frustration and conflict. Hence, the main questions posed in this chapter are: Why

have bilateral fiscal and financial relations over the Concierto often been characterised by more discord than harmony since the 1980s? How have the differences been resolved? And what have been the implications for the PNV's territorial agenda?

The chapter will start with an analysis of the bilateral mechanisms concerning the Concierto, examining why this underlying bilateral framework is satisfactory to the PNV. The subsequent sections will then investigate different key bilateral negotiations relative to the Concierto from the 1980s to the present, in order to identify the discrepancies that there have been over both (1) the finances of the Concierto (in terms of calculations of the numbers) and (2) how to develop the model (in terms of its scope and framework, to give the Basques greater fiscal authority). The chapter then considers the implications of the growing difficulties in reaching bilateral agreements over the Concierto for Spanish-Basque fiscal, financial and wider territorial relations.

### **The bilateral nature of the Concierto**

The Concierto law and other legislation deriving from it (fundamentally the five-yearly quota laws governing the Basque contribution to the Spanish state) require mutual agreement between Basque and Spanish government delegations. The bilaterally agreed legislation is then always presented to the Spanish parliament as a single act, thus it can only be accepted or rejected following parliamentary debate (in practice it has always been accepted), without being subject to the potential amendment of individual articles. The main body which exists to ensure the bilateral nature of the Concierto is the Mixed Commission (*Comisión Mixta*), which involves a six-strong Spanish delegation and a six-strong Basque delegation.<sup>99</sup> The Spanish delegation usually includes the Minister of the Treasury and Public Administration, the State Secretary of the Treasury and the General Secretary of Public Administration plus three others. The Basque delegation comprises three representatives of the Basque government (again, usually including the highest representatives of the treasury and the public administration) and one from each of

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<sup>99</sup> The understanding of bilateral relations over the Concierto expressed in this chapter is informed first and foremost by personal interviews in 2014 with Basque provincial treasury officials (representing the three provincial treasuries) and current and former political representatives (PNV and PSE) with direct experience of bilateral negotiations.

the three provinces (usually the head of the provincial government, the *diputado general*). The Mixed Commission is responsible for agreeing any changes to the Concierto law, commitments in terms of collaboration and coordination over budgetary stability, and the methodology for each five-yearly quota law. The latter includes agreeing the calculation of the base year quota, the updating index and all relevant indices (such as the imputation index and the indices involved in the adjustment rates for the indirect taxes), as well as determining the relevant compensations from the Spanish state to the Basque region to be deducted from the quota.<sup>100</sup>

All of the areas subject to agreement by the Mixed Commission require the unanimous approval of all twelve members, with each holding veto power. Many of the preliminary negotiations prior to meetings of the Mixed Commission nevertheless take place between the Basque and Spanish governments without necessarily involving the representatives of the Basque provinces.<sup>101</sup> Thus the Mixed Commission meets infrequently, usually only when the main lines of an agreement have already been sketched out through preliminary negotiations. Relatively more mundane matters such as the settlement of the annual quotas once the final budget figures are known are also dealt with directly between Basque and Spanish governments.

The bilateral nature of the Concierto was consolidated in the 2002 law, building on the steps taken by the Basque delegation in the 1980 negotiations for the 1981 law to ensure that the Concierto would thereafter continue to be negotiated and thus prevent the Spanish government from unilaterally imposing new taxes or changes in the Basque region in the future. For example, while the 1981 Agreement established (under the Second Additional Disposition) that future changes to Spanish tax legislation that affected any of the taxes already devolved to the Basque region would necessitate bilateral negotiations to adapt these taxes as required, this provision was expanded under the 2002 agreement to make bilateral negotiations obligatory if the Spanish government introduced any new taxes too. Henceforth, if the Spanish government introduced any new taxes, it would be obliged to negotiate

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<sup>100</sup> See Chapter 3 pp.96-102 for definitions of the imputation index, VAT adjustment, compensations, etc.

<sup>101</sup> Personal interviews with senior officials in the Guipúzcoan provincial treasury department, 2014.

the delegation of the relevant tax-raising authority to the Basque provinces. Aside from the Mixed Commission, the Concierto legislation of 2002 also provides for two further bilateral committees, a Normative Coordination and Evaluation Commission (*Comisión de Coordinación y Evaluación Normativa*) and an Arbitration Board (*Junta Arbitral*) (e.g. Rubí Cassinello 2003: 36-37). Both were designed to facilitate and encourage bilateral discussion over Basque tax measures to resolve possible discrepancies with the Spanish state before the Basque legislation is passed (in the case of the Commission) or before any disputes reach the courts (in the case of the Board), in an attempt to reduce litigation. The creation of these bodies was a significant development, since the Spanish authorities' frequent recourse to the courts to challenge Basque tax measures in the 1980s and 1990s was perceived by the Basques as an attack on Basque fiscal autonomy, putting Spanish-Basque fiscal relations under intense pressure.<sup>102</sup>

Overall, these bilateral features of the Concierto give both Spanish and Basque delegations equal veto power in key negotiations relating to the Concierto, preventing unilateral decisions taken by the central Spanish government. This makes the Concierto the closest current equivalent to the form of 'bilateral relationship between equals' that the PNV seeks in wider Spanish-Basque political relations, under the party's latest iteration of its longstanding desire to seek a new political relationship with Madrid based on a more confederal model involving self-determination and co-sovereignty. Following the PNV's frustrated attempt under former lehendakari Juan José Ibarretxe to revise the Basque regional autonomy statute to turn the region into a semi-independent associated state of Spain, this notion of co-sovereignty has since been reconceptualised under lehendakari Iñigo Urkullu to envisage an extension of the bilateral nature of the economic Concierto to wider political relations, with explicit calls made by PNV party leaders for a 'political Concierto' (Chapter 2, p.75). The bilateral nature of the Concierto has thus had a significant influence in shaping the PNV's conception of the political sovereignty that it seeks for the Basque region.

Nevertheless, bilateral negotiations over the Concierto have often been characterised by more discord than agreement. The Concierto receives cross-party support from the two main statewide parties, the PP and the PSOE, as well as the

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<sup>102</sup> On the history of litigation in relation to Basque tax measures, see Chapter 5.

PNV, but this does not mean that they all always agree on the exact finances of the model or how it should be developed. There have been frequent disagreements between Spanish and Basque authorities over technical issues concerning the exact numbers and finances of the model over the years, including matters such as what the imputation index should be, the valuations of transferred competences and their impact on the quota, and what bases to use for the annual updating index of the quota. Beyond such technicalities concerning the numbers themselves, there have also been substantial disagreements over how much fiscal autonomy the Concierto gives the Basques (with a long history of disputes over matters such as the degree of harmonisation required with Spanish tax legislation), and how to update the Concierto to continue to develop Basque fiscal autonomy.

In terms of its development, the Concierto has proved surprisingly adaptable to the times, and yet developments over time have also led to somewhat different perspectives on what the model can and should be, even within the self-proclaimed pro-Concierto camp: where some continue to see a taxation model subject to and adapted to Spanish legislation, others now envisage more fully-fledged fiscal authority, in which the Basque provinces would be sovereign in fiscal matters within Europe to more or less the same degree as the Spanish state, rather than being subordinate to it.<sup>103</sup> From the turn of the century in particular, there emerged a growing rift in perspectives as to how the Concierto should be developed in a changing regulatory context with the addition of the supranational European sphere, which had not featured when the Concierto of 1981 was negotiated. Discrepancies in the views of Spanish and Basque governments have fed into the broader clash in views over the degree of autonomy that the Basque Country should be afforded within the Spanish state.

Usually, the Basque PP and PSE share the same or similar views as the PNV regarding the finances and development of the Concierto, and thus the clashes over the model tend to be between the Spanish authorities and the Basque parties, rather than among parties within the Basque region itself.<sup>104</sup> Thus, the Basque branches of the PP and the PSOE almost always support measures pertaining to the Concierto in

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<sup>103</sup> Personal interviews with PNV politicians and senior officials in the Vizcayan provincial treasury department, 2014.

<sup>104</sup> The *izquierda abertzale*, however, has always rejected the Concierto as an insufficient basis for Basque sovereignty. See Olano 2002.



the Basque parliament, yet at times these are then rejected by their colleagues in Madrid due to wider implications for other regions in Spain, which can cause internal party contradictions between the Spanish headquarters and Basque branches of the parties. This occurred, for example, in the case of the ‘Shield Law’ (*Ley de Blindaje*) designed to upgrade Basque provincial tax regulations to afford them the same legal status as legislation passed by regional or central Spanish governments, a measure which was supported by the Basque PP but not by the party in Madrid, which voted against the law approved by the PSOE in 2009 (see Chapter 5, p.156).

However, clashes in views over how the Concierto should be developed have also taken place occasionally between the different political parties operating within the Basque region itself, not all of which share exactly the same conceptualisation and vision of the Concierto. Most notably, while the PNV presents itself as the only true defender of the Concierto, the Basque PP has argued that the PNV ‘misappropriates’ it as a nationalist instrument of fiscal sovereignty for the Basque Country.<sup>105</sup> The Basque PP and the PNV each consider themselves the strongest defenders of the Concierto,<sup>106</sup> but they conceive of it differently in some respects. The Basque PP shares the same view as the party’s headquarters in Madrid in interpreting the Concierto as a fiscal model subject to and subordinate to the Spanish tax system, since the Basque provinces cannot simply create their own taxes and are subject to harmonisation rules with Spanish tax legislation. In consequence, the Basque PP also considers it appropriate that the Spanish government alone should represent the Basques in fiscal matters at European and international level. In contrast, the PNV has come to envisage the Concierto as an instrument of fiscal sovereignty in its own right, which gives the Basques almost the same fiscal powers as Spain or any other EU member state. Ironically, the *izquierda abertzale* shares to some extent the view of the PP, in the sense that it also considers Basque tax legislation strongly subordinate to Spanish legislation, but precisely for this reason it is vehemently against the Concierto, considering the model – and the PNV’s allegiance to it – a hindrance to the fullest development of sovereignty that it seeks for the Basque Country (see Olano 2002; also Chapter 6).

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<sup>105</sup> Personal interviews with Antón Damborenea, head of the Basque PP in Vizcaya, 9 July 2014; and Aitor Uribesalgo, PP treasury minister of the provincial government of Álava, 10 October 2014.

<sup>106</sup> In the case of the Basque PP, this is due to the historical association between the Spanish right and the Concierto.

The roots of these discrepancies in views can be seen to date back to the origins of the *Concierto* itself. While the PP generally takes the starting point of the *Concierto* as the first such agreement of 1878 with the Basque provinces spearheaded by their predecessors among the liberal elites and in Álava in particular (a historical stronghold of the Spanish right), the PNV tends to look further back, remembering the first *Concierto* arrangement as the last vestige of what had originally been a wider set of political rights based on mutual equality governing the relationship between Spain (or previously Castile) and the Basque provinces. While the first economic agreement of 1878 did not imply a bilateral pact between equals, the notion of a ‘pact’ would start to be associated with the *Concierto* from 1886 onwards and would evolve gradually thereafter, echoing the spirit of the original Basque *fueros*.<sup>107</sup> In opposition to the PNV’s conception of the *Concierto* as an instrument of fiscal sovereignty for the Basque region as a whole (albeit respecting the role of the provinces as home to the treasuries), the PP issues a reminder that the three Basque provinces have only shared a *Concierto* agreement involving one joint quota payment since 1981, which in itself was facilitated by the fact that the *Concierto* had never been abolished in Álava. Even among the parties who consider themselves supporters of the *Concierto*, conceptions of the model and its ultimate aim and purpose thus differ somewhat.

In this context, the rest of this chapter analyses examples of different key negotiations relative to the *Concierto* from the 1980s to the present, in order to identify the different political and contextual factors that have either facilitated or impeded Basque-Spanish agreements over both (1) the finances of the *Concierto* (in terms of calculations of the numbers) and (2) how to develop the model (in terms of its scope and framework, to give the Basques greater fiscal and financial autonomy). It then considers the implications of the growing difficulties in reaching bilateral agreements over the *Concierto* for Spanish-Basque fiscal, financial and wider territorial relations. Instances where substantial differences of opinion over the finances and/or development of the *Concierto* have been resolved using technical arguments first and foremost, without one side ceding ground to the other in light of other contextual or political factors, have been relatively rare in the decades since the *Concierto* of 1981 was approved. Such agreements have only tended to be reached

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<sup>107</sup> On the origins of the *Concierto* and the concept of a ‘pact’, see Alonso Olea 1995.

on relatively minor issues, or on the few more substantial issues where both sides have held a very similar position from the outset of negotiations, as in the case of the decision taken by the Aznar-led Spanish government and the PNV-led Basque government to make the *Concierto* a permanent rather than time-limited agreement for the first time under the 2002 law. Differences in views between the Basque and Spanish delegations have often (though not always) made it difficult to find a common middle ground and thus prevented agreements until if and when other contextual factors (usually political support or alliance arrangements) have led the Spanish government to accept the Basque government's proposals, as seen in several of the following examples.

## **Key negotiations over the *Concierto***

### ***(1) Debating the *Concierto's* figures and finances***

After the *Concierto* law had been approved in 1981, significant Basque-Spanish differences over the finances of the model set in almost immediately. The *Concierto* legislation had set a provisional quota for the first year of its application (1981) and the rules for its final settlement (*liquidación*) at year end, but stipulated that the Joint Commission should agree a five-yearly quota law thereafter to prescribe the methodology for calculating the quota. This would involve specifying both a base year quota (the result of multiplying the imputation index by the total non-assumed charges, plus some adjustments) and a rate to update this (*índice de actualización*) over the subsequent four years. A draft law for the first five-year period (1982-1986) was meant to be presented by July 1981, but no agreement was reached then or in the following years due to Spanish-Basque discrepancies over both the imputation index (6.24%) and the valuation of the competences the region was due to assume (such as health and social services), among other issues (Larrea Jiménez 1989). This latter dimension was inflated by decisions taken in Madrid during the climate of nervousness and instability following the attempted coup of 23<sup>rd</sup> February 1981, following which new Spanish prime minister Leopoldo Calvo-Sotelo and PSOE leader Felipe González agreed the Autonomy Pacts (*Pactos Autonómicos*) and subsequently approved the Organic Law on the Harmonisation of the Autonomy Process (*Ley Orgánica de Armonización del Proceso Autonómico*,

LOAPA) in 1982 to re-orientate and slow down the process of regional devolution. In this context, the Spanish government decided to try to retain control over the cost of regional competences by not devolving responsibility to the regions for the following budgetary chapters: Current Transfers (Chapter IV), New Investment (part of Chapter VI) and Capital Transfers (Chapter VII). This would directly affect the valuation of competences the Basques were due to assume, but was rejected by the Basque government since it went against what had already been agreed in the Concierto law (Larrea Jiménez 1989). As disputes over these matters prevailed, provisional rules kicked in (as per Transitional Provision Five) to set provisional quotas for the years 1982 to 1986 which were broadly based on the 1981 quota, but none of these were finally settled (*liquidados*) due to Spanish-Basque disagreements over the amount due.

By late 1986, amidst broader political uncertainty following the split within the PNV and its setback at the 1986 regional elections, none of the provisional quotas from 1981 onwards had been finalised, and the transfer of competences was frozen due to disputes over their valuation. No quota law had ever been approved for the period 1982-1986, and no new quota law agreement was on the table for the next five-year period 1987-1991. And yet all of these issues would be resolved in 1987 when the PSE formed a coalition government with the PNV in February that year. As part of the arrangement, the government in Madrid conceded to the PNV's wishes in relation to the Concierto then and in subsequent months, accepting the valuations and methods of calculation proposed by the PNV. The deals were largely political and struck directly by Ardanza with prime minister Felipe González, effectively bypassing his treasury minister Carlos Solchaga. By compromising on the Concierto and the quota, the Socialists could ensure the stability of the PSE-PNV Basque coalition, bring the PNV into the fold of Spanish state governance and emphasise their achievement of a Basque-Spanish understanding that had not been possible under a one-party PNV government.<sup>108</sup>

The main details of the arrangement were as follows. Although the Basques already collected most taxes in their territory under the Concierto (albeit without

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<sup>108</sup> Impressions of these negotiations are based primarily on personal interviews with former lehendakari José Antonio Ardanza (PNV), 28 April 2014; Gonzalo Múgica (PSE), legal adviser to former deputy lehendakari Ramón Jáuregui, 18 July 2014; and Carlos Aguirre (PSE), then Economic Planning Director of the Basque government, 13 October 2014. On the technical specifics of the dispute, see Larrea Jiménez 1989.

legislative autonomy over a number of taxes at this stage), at the time, some key competences, most notably health and social services, were still financed by social security contributions paid into a single statewide fund (the General Social Security Treasury), rather than general taxation. Agreements over the transfer of these competences thus inevitably involved agreeing what share of the social security quotas the Basques would receive to cover the competences. The deal struck between the PNV and the Socialists enabled the pending transfer of the fundamental competences of health and social services from the Spanish to the Basque government under a financing method and terms in accordance with the Basque proposal: while the Basque population at the time was about 5.2% of the Spanish population, it was decided instead to give the Basques a 6.24% share to ensure their acceptance of the deal, matching the level of their contribution via the quota to non-assumed competences. Importantly, the afore-mentioned budgetary chapters in dispute (IV, VI and VII) were included in the transfer and valuation of the competences. A few months later, after the summer break, lehendakari José Antonio Ardanza tackled the pending issue of how to reconcile the outstanding quotas since 1981, given the substantial discrepancy in figures between the Spanish and Basque authorities. He proposed that the final quotas for that period should simply more or less match the provisional quotas paid, and struck the broad lines of an agreement to this effect with Felipe González. This was then entrusted to their respective technical teams under treasury ministers Carlos Solchaga (Spanish) and Fernando Spagnolo (Basque) to draw up and implement (Ardanza 2011: 236-237). At the Joint Commission meeting on 4 December 1987, a Quota Law for 1982-1986 was finally approved retrospectively and the quotas from 1981 to 1986 were settled in accordance with Spagnolo's criteria, resulting in the Basque government paying a final sum (to settle the difference between provisional and final quotas) much lower than the Spanish side had initially expected (Ardanza 2011: 237; Larrea Jiménez 1989).

In recent years, similar debates over the finances of the *Concierto* – in terms of disputes over the valuation of competences, the imputation index, the final settlement (*liquidación*) of quota payments, among other matters – have once again beset Spanish-Basque fiscal and financial relations. As of late 2015, none of the provisional quotas since 2007 had been settled due to continuing Basque-Spanish government discrepancies over the amount due to be paid by the Basque region, and

no agreement had been reached on a new quota law for the period from 2012 onwards (the 2007-2011 quota law was simply rolled over). Even in 2009-2011, a period when the Basque Socialists were in power in the Basque government at the same time as their PSOE colleagues were in power in Madrid (and reliant there upon the parliamentary support of the PNV to give them a working majority), an agreement could not be reached to settle differences over the quota law. By the time the PNV returned to power in the Basque region in 2012, the PP had returned to power in Madrid with an absolute majority. Ahead of the Spanish elections of December 2015, Basque officials were hoping for an outcome that might increase the PNV's bargaining power in Madrid again to reach an agreement.<sup>109</sup>

One major source of discrepancy which has contributed to the longstanding stalemate over the settlement of quotas since 2007 and the lack of a new quota law for the period 2012-2016 has concerned Basque calls to revise the methodology to calculate the rate to update the quota (*índice de actualización*).<sup>110</sup> Each five-yearly quota law establishes a base year quota and a rate to update it thereafter based on the increase (or decrease) in the state collection of taxes covered by the Concerto agreement elsewhere in Spain. The 2007-2011 quota law stipulated that the rate would be subject to revision following the reform of the common financing regime in 2009 since this could affect it, but the Spanish government was reluctant to respond to Basque requests for negotiation in this regard, due to its reluctance to undertake negotiations that might result in a reduction of the quota. Other matters which have caused discrepancies over the quota law and quota payments in recent years include discrepancies over the VAT adjustment rate and also valuations of certain competences. For example, as mentioned in Chapter 3 (p.118-9), when the 2007-2011 quota law was designed, a dispute emerged as to how much the Basque government should receive of the funding provided by the Spanish government to regions under the common financing system for (1) extraordinary financing (i.e. beyond the original budget allocation) for the health system; (2) extraordinary financing to develop the Education Law (in this case, in relation to children aged under three); and (3) a new dependency law (governing the provisions for persons incapacitated to some degree by age or disability). The debate was further complicated by opposition from some sectors, most notably the PP (including the

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<sup>109</sup> Personal interviews with PNV representatives, 2014.

<sup>110</sup> Personal interviews with senior officials in the provincial treasury departments, 2014.

Basque PP), to giving the Basques any share of the extraordinary financing for competences already transferred since they usually pay for such competences with their own taxes. Echoing the debates in the 1980s over the valuation of the Basque share of health and social services, the PSOE government argued the Basque region should receive an amount of funding in proportion to its population size rather than the 6.24% share (matching the imputation index in the quota) proposed by the Basque delegation, but the PNV won the argument since the PSOE needed their support in the Spanish parliament at the time. The PSOE nevertheless backtracked on the 6.24% agreement afterwards, and debate on this subject dragged on thereafter, continuing under the subsequent PP government that came into power in 2011.

## ***(2) Debating the Concierto's scope and framework***

Aside from questions concerning the calculation of the finances involved in the Concierto, there have also been considerable debates regarding how to develop it as a model of fiscal autonomy. The negotiations to devolve the competence to collect VAT in 1985 were one of the first tests of the new Concierto's adaptability to a changing regulatory context through bilateral negotiations: the Spanish treasury was initially opposed to the Basque request to transfer the responsibility for VAT collection to the Basque provinces citing technical difficulties, but it came to accept the Basque proposal including their suggested adjustment rate.<sup>111</sup> From then onwards, VAT (and later excise duties too) in the Basque region would be collected by the Basque provincial treasuries and then undergo an adjustment to compensate for the difference between how much they actually collect (i.e. the VAT on the value added of firms in the Basque region) and how much they should collect (i.e. the VAT on the consumption of individuals in the Basque region), since VAT is a tax on consumption but collected through a tax on production.

The most significant developments to the Concierto law of 1981 took place in the 1990s under the reform of 1997 (Atxabal and Muguruza 2006: 28-30; Zubiri 1997). Following the years of Socialist government in Madrid, the PNV made rapid progress in developing the Concierto once the PP had won power for the first time in 1996 but lacked an absolute majority. Under an agreement in May 1997, the

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<sup>111</sup> Personal interview with Pedro Larrea, former Basque government deputy treasury minister in the mid 1980s responsible on the Basque side for the VAT negotiations, 20 June 2014. See also Atxabal and Muguruza 2006: 26.

authority to collect excise duties and non-resident taxes was devolved to the Basque provinces for the first time and they were also granted significant regulatory autonomy over some other taxes – most notably income tax (*impuesto sobre la renta de las personas físicas*, IRPF), as well as the wealth tax (*impuesto sobre el patrimonio*) – which they had previously only collected. These agreements substantially increased the fiscal autonomy afforded to the Basques under the Concierto. These developments formed a crucial part of the package of measures that the PNV agreed with the PP, in return for which the PNV supported the investiture of José María Aznar and promised to provide legislative support for his minority government in the Spanish parliament thereafter. The provisional lines of an agreement over the Concierto were reached in 1996 before the final deal was signed and sealed in May 1997. This, combined with agreements to enhance the Basque level of self-government in other spheres governed by the Basque autonomy statute, gave rise to the oft-cited comment by the then Basque president Xabier Arzalluz that the PP had done more for Basque autonomy in 14 days than the PSOE in 13 years.<sup>112</sup>

The PP's support for these changes has been attributed first and foremost to the fact that it needed PNV legislative support in the Spanish parliament. In this vein, for example, it has been argued that the need for legislative support facilitated such an extensive agreement despite the fact that the only technical reason which required the Basque and Spanish sides to negotiate a small modification to the Concierto at the time was the need to agree the new tax on insurance premiums introduced in the 1996 Spanish tax measures law (Atzabal and Muguruza 2006: 28). Similarly, it has been argued that the need for legislative support enabled potential obstacles to be overcome where otherwise there might not have been the political will to do so: thus the possible legal hurdles involved in granting the Basque treasuries levying capacity for the special tax on alcohol when the 1981 agreement had expressly prohibited this were overcome by justifying the move as a 'second assignment' (*segunda concertación*) of taxes in the 1997 law (Ley 38/1997) (Atzabal and Muguruza 2006: 29-30).

Certainly, reasons of political expediency (Aznar's desire to secure the PNV's support) played a very significant role in facilitating the agreement. PP members nevertheless argue that the decision to give the Basques a significant degree of

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<sup>112</sup> For example, 'Arzalluz: "Logré más de Aznar que del PSOE"', *El País*, 19.10.10.



regulatory autonomy over IRPF in particular also reflected the PP's support at the time for the hypothesis that fiscal co-responsibility encourages fiscal discipline.<sup>113</sup> Under the previous Socialist government, a white paper on fiscal co-responsibility had been commissioned and presented by a technical delegation in 1995, in response to calls from some regions (most fundamentally Catalonia) with a view to reforming the common financing regime. In response, the new PP government proposed to start by sharing IRPF with the regions first. In 1996 it granted some regulatory autonomy over IRPF to the regions under a reform of the common financing regime, while the agreement with the Basques over the *Concierto* followed in 1997. Only the PSOE genuinely did not agree with the move and attempted to block it, arguing that different income tax rates in different regions of Spain threatened equality and efficiency.

The assignment of the excise duties to the Basque treasuries under the 1997 reform was also considered advisable for technical reasons in order to stop the annual Basque quota paid to the Spanish state from becoming negative. The quota paid is 6.24% of the total amount remaining when the amount the state collects in non-assumed taxes is subtracted from the amount of taxes it spends on non-assumed competences (i.e. not including the part of the non-assumed competences financed by deficit). The increase in the transfer of resource-intensive competences to the Basque region (and thus the decrease in non-assumed competences) over the years following the Transition, combined with strong tax collection by the Spanish state in the non-assumed taxes (which included, most notably, the excise duties), had resulted in a rapid reduction in the size of the quota, to the extent that by 1996 it had almost reached zero and would have ended up becoming negative in subsequent years, which risked being conceptually misleading.

By the time the Basque and Spanish delegations were due to negotiate a new *Concierto* law in 2001 (with the 1981 agreement set to expire at year end), the PP under Aznar had an absolute majority in the Spanish parliament. The law eventually passed in 2002 to renew and update the *Concierto* was welcomed by the PNV regional government and perceived by both it and the Basque provincial authorities

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<sup>113</sup> Personal interviews with Basque PP representatives, 2014.

as a very good outcome overall in terms of both technicalities and competences.<sup>114</sup> Most notably, it made the Concierto a permanent rather than time-limited agreement for the first time. As explained above (p.128), it also consolidated the bilateral nature of the Concierto: thereafter, if the Spanish government introduced any new taxes, it would be obliged to negotiate with the Basque delegation how to delegate the relevant tax-raising authority to the Basque provinces (previously it had only been obliged to negotiate bilaterally over changes to taxes already devolved to the Basques). As also explained above (p.129), the Concierto of 2002 also provided for the creation of two new bilateral committees, a Normative Coordination and Evaluation Commission and an Arbitration Board. This was to provide specific bilateral forums for addressing Spanish-Basque discrepancies over Basque tax measures, in an attempt to resolve potential disputes via political channels and thereby reduce Spain's recourse to the courts. In another important development, the Concierto of 2002 incorporated new provisions in terms of coordination and collaboration on budgetary matters between the Spanish and Basque authorities (Rubí Cassinello 2003: 35). One of the longstanding Basque complaints at the time had been that the Concierto was focused almost exclusively on fiscal matters (i.e. taxation), while the financial dimension was under-developed in comparison (see Larrazábal Basáñez 2002). Apart from regulating the quota payment, the Concierto of 1981 contained no provisions for Spanish-Basque coordination over other financial matters, such as budgets and indebtedness, which meant the Basque treasuries were subject to Spanish legislation where relevant in these spheres. Under the Concierto of 2002, the first steps were taken towards changing this situation, for example by authorising the Mixed Commission to draw up bilateral agreements concerning collaboration and coordination over relevant budgetary matters (Rubí Cassinello 2003: 35). At a time of absolute majority PP government, reaching such substantial agreements to update the Concierto was no mean feat.

Nevertheless, the Spanish PP government's reluctance to develop the Concierto in line with the wishes of the PNV in some areas was also clear. Discrepancies in the vision of the two parties as to how the Concierto should evolve began to become evident, particularly in terms of how to adapt the model to the

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<sup>114</sup> Personal interviews with representatives of Basque regional and provincial administrations, 2014. For a review of the negotiations and outcome from the Basque perspective, see Rubí Cassinello 2003.

regulatory context of Europe.<sup>115</sup> In this regard, the main source of discrepancy between the Basque and Spanish delegations at the 2001 negotiations was the Basque desire to ensure the participation of the Basque treasuries in the Spanish delegation in international (especially European) decision-making bodies addressing fiscal matters that impact the Concierto (Atxabal and Muguruza 2006: 31; Lucas Murillo 2005: 97-131; see also Chapter 5). The lack of agreement between the two sides on this issue led the Spanish government to extend the existing Concierto (approaching its expiry date) on 27 December 2001 while negotiations continued. This sparked criticism from the Basque negotiators on account of the unilateral nature of the decision, while the PP itself defended the measure as a means to save the Concierto, since otherwise it would technically have ceased to exist on its expiry date in the absence of a new agreement. Ultimately it was the Basque side that conceded temporary defeat on the issue of representation in Europe. The Basques nevertheless still requested that the Joint Commission on the Concierto should reach a bilateral agreement within six months to establish the effective participation of the Basque institutions in all spheres which impact the Concierto. This would nevertheless not be achieved until almost nine years later, as part of a package of transfers from the central to the Basque governments agreed in mid 2010 as a quid pro quo when the minority Socialist government of Zapatero needed the PNV to support its 2011 budget. From 2011, Basque representatives would start to participate alongside their Spanish state counterparts in the key Ecofin working groups addressing questions that impact the Concierto (Martínez Bárbara 2014a: 214-215; see also Chapter 5).

This has been interpreted by some Basque officials as an indication that the Basque government only gains proper negotiating power at times when the party in power in Madrid has a minority and needs legislative support from the PNV in the Spanish parliament – which, for the PNV, suggests that the Spanish governments do not always fully respect the bilateral nature of the fiscal relationship. While clearly important, the degree of leverage the PNV has in the Spanish parliament is, however, not the only issue at stake. As stated, an equally important and interrelated issue that has affected the development of the Concierto since the turn of the century has been the discrepancy in the views of the PP and the PNV as to what the model should be:

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<sup>115</sup> Personal interviews with PNV representatives in the regional government and senior officials in the Vizcayan provincial treasury department, 2014.

a Basque taxation system subject to and adapted to Spanish legislation, as it has been traditionally, or an instrument of more fully-fledged fiscal sovereignty, as the PNV now envisages it.

Under the PP's subsequent term in government from 2011-2015, the Mixed Commission reached an agreement over the *Concierto* in January 2014: collection powers (and in some cases, legislative autonomy) over a series of minor taxes were transferred to the Basques (including the taxes on gaming activities, on deposits in credit entities, on the value of electrical energy production, on nuclear waste, and on greenhouse gases).<sup>116</sup> Under the terms of the *Concierto* of 2002, bilateral negotiations are required to agree the transfer of tax-raising powers to the Basque authorities every time the Spanish authorities introduce a tax, thus the agreement reached in January 2014 was necessitated by the provisions of the *Concierto* itself. The PNV welcomed the agreement, and it clearly showed the benefits of the bilateral nature of the *Concierto*: even if the central Spanish government has an absolute majority and does not need PNV support, there are instances where it is obliged to sit down and negotiate developments to the *Concierto* law. Despite the overall satisfaction that an agreement was reached, however, some officials on the technical side complain behind the scenes that it has been impossible to get the PP to negotiate anything beyond the absolutely essential developments during its 2011-2015 term, and suggest that the Spanish authorities had the upper hand in the 2014 agreement, only granting the Basques collection powers but not legislative autonomy over some of the taxes under question.<sup>117</sup>

### **An evolution in bilateral relations?**

Support arrangements between statewide parties and the PNV have proven the primary facilitator of agreements over the *Concierto* since the 1980s, enabling the PNV to secure their proposed figures and develop the model as desired in return for supporting other statewide party policies or goals. In particular, as seen above, major agreements were reached with the PSOE majority Spanish government in 1987 as part of a deal to enable the PSE to form a Basque coalition government with the PNV, and subsequently with the PP minority Spanish government in 1996 and the

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<sup>116</sup> Nota de prensa (Press release), Comisión Mixta del *Concierto Económico*, 'La Comisión Mixta del *Concierto* Acuerda la Concertación de Nuevos Impuestos', 16 January 2014.

<sup>117</sup> Personal interviews with provincial treasury officials, 2014.

PSOE minority Spanish government in 2010, when the statewide parties needed the PNV's support in the Spanish parliament. In contrast, the occurrence of two absolute majority PP governments since 2000 has reduced the PNV's bargaining power over the Concierto relative to previous decades – crucial deals have still been reached in relation to the Concierto in those periods, including the new Concierto agreement of 2002, but there have also been more stalemates on certain issues. Nevertheless, the failure to resolve differences over the 2007-2011 quota law under the PSOE-led minority government before the PP returned to power in 2011 would suggest that resolving differences over the Concierto is not always feasible even under minority Spanish governments seeking PNV support in parliament. Of course, the contrast between majority and minority governments is not a straightforward one, for at times, minority governments have had other potential sources of support in the Madrid parliament, while at others they have relied more heavily on the PNV and therefore had less room for manoeuvre.<sup>118</sup> Beyond the question of parliamentary alliances, however, agreeing the finances and development of the Concierto has arguably become more problematic in recent years due to the emergence of other exacerbating factors too.

The PNV and Basque technical experts involved in Concierto-related negotiations argue that they face essentially the same levels of opposition from both PP- and PSOE-led Spanish governments towards proposals to update the Concierto to give the Basques growing fiscal autonomy and sovereignty within Europe, unless the PNV has political bargaining power.<sup>119</sup> From this perspective, both statewide parties are accused of sharing the same politically centralist ideology regarding the role of the Spanish state in international affairs, an issue which has become an increasing source of Spanish-Basque conflict as the EU context has developed. In terms of economic ideology, however, differences between the PSOE and PP have historically impacted the development of the Concierto. As stated, the aforementioned agreement in 1997 to give the Basques a significant degree of regulatory autonomy over IRPF was not only for politically expedient reasons but also reflected the PP's support at the time for the hypothesis that fiscal co-responsibility

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<sup>118</sup> For an in-depth analysis of the alliance behaviour of minority governments in Spain, see Field 2016.

<sup>119</sup> Personal interviews with Basque officials that have been involved in negotiations with their Spanish counterparts, 2014.

encourages fiscal discipline. And yet the PP has since taken a u-turn to become more centralist in economic affairs (as well as other policy areas such as education), advocating recentralisation as a form of rationalisation (Bosch and Solé-Ollé 2013). This has been largely in response to the poor fiscal discipline of many regions under the common financing regime that became apparent during the financial crisis, and given the need to comply with EU budgetary targets (see Chapter 7). At the same time, the PNV has sought ever increasing fiscal autonomy verging on sovereignty. Comparisons between the decisions taken by the PNV and the PP before and after the turn of the century reveal how both have increasingly moved towards opposite ends of the centralist-autonomist spectrum in their attitudes towards fiscal matters, which in turn reduces the possibilities for agreement over the Concierto's development. While the PNV originally sought the ability to collect (rather than also to regulate) the main indirect taxes (as seen in the VAT negotiations of the 1980s), it now aspires to the greatest regulatory autonomy possible in both direct and indirect taxes. Meanwhile, the PP has moved from advocating the sharing of taxation powers with the regions back in the 1990s to looking to recentralise fiscal control in some respects under a new drive for 'rationalisation', for example by proposing to take away the power of regional governments to create their own taxes (a power already limited in practice by legal challenges presented by the Spanish state towards any such taxes created).

This ideological shift on the part of the PP has coincided with the growing criticism from other regional governments in Spain and from newer Spanish parties (first UPyD and then Ciudadanos) towards the Concierto. Although the Concierto is bilateral in nature, it is far from immune to wider inter-regional pressures and tensions. For most of the 1980s and 1990s the Concierto was the subject of relatively little attention and even less envy from other regions given the level of responsibility that tax collection entails, which helped to create the conditions for purely Basque-Spanish bilateral agreements. For example, at the brief parliamentary debate in 1981 prior to the approval of the Concierto law drafted by the Spanish and Basque delegations, some parliamentarians raised concerns about whether the Basque model would be equitable and whether calculations of the cost of assumed competences and the imputation index were appropriate, but these concerns at the time did not prove a serious source of resistance (Eduardo Alonso Olea 2012). This situation would however start to change from the late 1990s onwards, as reports on the fiscal

balances of the regions with the Spanish state emerged suggesting many regions under the common regime were getting a poor deal, and as Catalonia began to raise demands for a bilateral financing arrangement. During the economic boom years when the central government had sufficient funds to do so, it could partly keep tensions at bay by reforming the common financing regime in ways which consistently promised to increase each region's resources beyond the status quo (León 2009). The last such reform in 2009, however, proved immediately insufficient as the financial crisis fully set in (see Chapter 7). The severe strain the common financing regime came under only served to increase long-standing criticism from other regions towards the 'exceptionalism' of the Basque and Navarran economic agreements, which give them far higher resources per capita than other regions (see Chapter 3). This climate has compounded the reluctance of Spanish governments regardless of their political colour to develop the Concierto any further and to allow for any change that might result in a reduction of the quota.

## **Conclusion**

Overall, the bilateral relationship governing Spanish-Basque fiscal relations is much valued by the PNV since it prevents any decisions taken unilaterally by Madrid, even at times when the PP has had an absolute majority in the Spanish parliament. The bilateral relationship has been characterised by significant disagreements over the years, and yet it has also offered considerable scope for deals and payoffs to resolve such disagreements. This, in turn, has helped to encourage the PNV's moderation and pragmatism in its relationship with Madrid and allowed accommodationist attitudes within the PNV to persist for longer than in the case of CDC in Catalonia (see Chapter 7). As recently as 2015, ahead of the Spanish elections of December that year, the PNV was still hopeful of an outcome that would give it some bargaining power to negotiate a deal to resolve the discrepancies over the quota law that have been ongoing since 2007.

Nevertheless, Spanish-Basque conflict in relation to the Concierto has increased over the decades. During much of the 1980s and 1990s the Concierto was developed extensively and disagreements with Spanish governments over the model's evolution and annual quota payments tended eventually to be resolved in a way which aligned with the PNV's proposals. Since then, however, the behaviour of

both the PP and the PSOE has gradually come to suggest that they consider the development of the Concierto to have gone far enough, albeit still with some occasional concessions to the Basques (e.g. under the Zapatero minority governments). This is in contrast to the PNV which sees the growth and consolidation of the EU regulatory context as a prime opportunity to develop the Concierto further as a tool of fiscal sovereignty within Europe. This scenario has fed into a growing clash between the PNV's strategic territorial agenda and the vision of successive central governments of the Basque relationship with Spain.

Political pacts and alliance arrangements between the PNV and the Spanish statewide parties became the main facilitator of agreements over the Concierto from the 1980s onwards, but they have become increasingly difficult to secure in the face of other exacerbating factors such as the PP's ideological shift towards recentralisation, inter-regional competition for resources and the financial crisis. The mere fact of a bilateral relationship, while understandably preferable from the Basque perspective to the alternative of a relationship determined unilaterally by Madrid or subject to inter-regional agreement, has not in itself always been able to reconcile disputes over how much the Basques owe Madrid or over the level of fiscal autonomy or sovereignty the Concierto affords the Basque region – a problem exacerbated by the absence of any consensus over the wider question of the degree of autonomy or even sovereignty to afford the Basque region in a political sense. These different conceptions cannot easily co-exist in a loose relationship of mutual tolerance between Spanish and Basque governments. The development of the Concierto necessarily involves phases of renegotiation or changes de facto as a result of extraneous developments, which has inevitably brought different conceptions of it into conflict. In this light, the next chapter looks in more detail at the opportunities and obstacles the EU framework has posed to the development of substate fiscal authority in the Basque case and the discrepancies in Spanish-Basque political perspectives in this regard.



## **Chapter 5**

### **Shaping the PNV's conception of sovereignty (2):**

#### **The EU and the development of Basque fiscal autonomy**

Through a study of the development of the *Concierto* in the EU context, this chapter investigates the opportunities and obstacles that the EU framework has posed to the development of fiscal autonomy verging on sovereignty in the Basque region and the implications for the PNV's territorial agenda. The trajectory taken by the PNV since the 1990s to encourage understanding of the *Concierto* at EU level and to address how to adapt it to the evolving EU context has been marked by difficulties in both Spain and Europe. Within Spain, relatively different perspectives held by statewide Spanish parties and the PNV respectively on the degree of fiscal autonomy or even sovereignty that the *Concierto* affords the Basques have, in turn, influenced views as to how the model should be developed within the EU context. In the 1990s, such Basque-Spanish disputes centred on discrepancies over the extent to which the Basque treasuries could set different corporation tax rates, deductions and other incentives from the Spanish treasury – disputes which spilled over into the EU sphere and resulted in legal challenges against Basque tax measures at EU level. Since the turn of the century, attention has turned towards the representation of the Basque authorities in EU decision-making bodies concerning fiscal matters. As Basque governments and provincial treasuries have aspired to develop the model to give the region almost the same fiscal powers as Spain itself, they have sought representation within the Spanish delegation in relevant working groups and meetings of the Economic and Financial Affairs Council (Ecofin) in recognition of Basque fiscal competences. And yet successive Spanish governments have seen the *Concierto* as remaining clearly subordinate to Spanish legislation and representation, at least until recently considering Basque representation in Europe unnecessary given that Basque tax regulations are subject to wider harmonisation rules with Spain.

In Chapter 4, I outlined the relatively different political conceptions of the *Concierto* in Spain – a model of near fiscal sovereignty versus one of fiscal decentralisation subordinate to Spanish legislation – and their impact on Spanish-Basque bilateral fiscal relations. The aim here is to extend this analysis to focus in more detail on the discrepancies over the *Concierto*'s fit within the EU context,

going beyond the purely domestic Spanish context to consider also the opportunities or obstacles at EU level that impact the development of the Concierto. Nevertheless, the line between the domestic and the European is not clear cut, since conceptions of the Concierto within Spain inevitably influence how the model is adapted to the EU context. Current and former Basque government representatives, and also technical experts within the Basque treasuries involved in negotiations with their Spanish counterparts over the development of the Concierto, are clear in their view that the difficulty of achieving proper understanding of the Basque Concierto at EU level has been hindered by continual challenges from Spanish authorities to Basque fiscal autonomy.<sup>120</sup> They suggest that repeated opposition from Spanish governments to Basque corporation tax measures, and later to the participation of Basque representatives in Ecofin, responded to primarily political motives – namely, a centralist attitude to the role of the Spanish government both within the Spanish state and in European affairs, as well as its reluctance to accept the asymmetry which the Concierto and the Convenio entail for the Spanish state. At the same time, they recognise that there have been a number of instances where collaboration at a technical level between Basque and Spanish authorities over the defence of Basque fiscal autonomy at EU level (for example, over the defence of Basque corporation tax measures in the EU courts against EU challenges) has worked well despite adverse politicisation and judicialisation pitting the Spanish against the Basque authorities over the same issues back at home.

These circumstances raise a number of questions which this chapter seeks to address: What have been the legal and technical obstacles within both Spain and the EU that have problematised Basque attempts to seek representation in fiscal matters at EU level alongside their Spanish counterparts? Or have the problems been more political in nature? To what extent have Basque-Spanish relations at home impacted the development of the Concierto in the European sphere, or is the EU framework itself the main determinant? And what have been the implications of these debates for the PNV's attitudes towards the place of the Basque Country in Europe?

In terms of party attitudes towards the EU in general, despite the fact that notions of a 'Europe of the regions' have disappointed and the EU has remained heavily member state centric, the PNV remains resolutely pro-European. It has a

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<sup>120</sup> Personal interviews with PNV representatives and Vizcayan provincial treasury representatives, 2014.

long tradition of involvement in the European project and continues to advocate the idea of a federal Europe involving the co-existence of different sovereignties based first and foremost on Europe's constituent nations, echoing the still influential vision of the historical leader of the PNV Manuel Irujo, minister under the Second Republic (Gillespie 2015b). At key moments of direct debate on the design of Europe, such as the draft Constitutional Treaty, the PNV has contributed actively with clear proposals for the empowerment of nations over the state level (Gillespie 2015b). The debates concerning the place of the Concierto in the EU context analysed in this chapter are usually much more technical in nature and tend to take place between the elite of the party and members of the Basque administration in technical positions in the Basque regional and provincial treasuries, rather than being used as a more general issue by the PNV to galvanise public support for the party. Indeed, at times, it is the senior technical officers within the administrations pushing the party for a better deal, rather than vice versa. Possibly in consequence, the detailed ins and outs of Spanish-Basque disputes over issues such as whether the Basques require representation in EU Council working groups on fiscal matters have not featured in other studies which address the question of the PNV and its attitudes towards Europe more generally (e.g. Gillespie 2015b, Pérez-Nievas 2006, Keating and Bray 2006). Nevertheless, these technical discussions are important, for the gradualist steps taken by the PNV since the late 1990s to obtain some degree of representation in EU fiscal decision-making bodies (mainly Ecofin) provide a key insight into the incrementalist approach used by the party towards its goal for the Basque Country to be treated as an equal to Spain in Europe in fiscal matters and beyond, and importantly, the discrepancies with Spanish authorities in this regard.

The rest of the chapter is structured to consider the two main problematic areas regarding the application of the Concierto in the EU context since the 1990s: (1) disputes over the use of corporation tax by a region with fiscal autonomy within a member state; and (2) how such a region should participate in EU harmonisation processes concerning taxation. The first of these areas received much attention in the 1990s when the Basque region was accused of implementing regionally selective 'state aids' through a series of 'tax holidays' for new firms in the Basque provinces, but the Azores ruling of 2006 helped significantly to resolve the debate by clarifying that a region fulfilling specific requirements of procedural, institutional and economic autonomy could set different tax rates from the central state. However, the

second area has been the subject of less attention and is still very much a work in progress, both for the EU itself as well as for the researcher. The Spanish government is the only valid interlocutor for the whole of Spain before the EU, and yet the Basque provinces have almost exclusive competence over certain fiscal matters in their territory. In these circumstances, in what ways is it appropriate for the Basque provincial treasury departments to participate in the negotiation and subsequent implementation of EU harmonisation measures concerning both indirect and direct taxation?

### **Basque corporation tax: conflicts with Spain and the EU**

In 1985, the *Concierto* of 1981 needed to be adapted to take account of Spain's imminent joining of the European Community on 1 January 1986. At this stage, however, only the most urgent change to fit the *Concierto* to the European context was dealt with: namely, the agreement that the Basques would collect VAT in their territory but be subject to the relevant tax legislation set by the Spanish treasury, following the replacement in Spain of a range of indirect taxes with the new Value-Added Tax (VAT) (also Chapter 4, p.137). Other potential problems regarding the *Concierto*'s fit within the European Community – which were perhaps inevitable, given that there was no prior precedent of such a fiscal model at substate level in any other European member state – would begin to be dealt with in subsequent years as they emerged (Alonso Arce 2010: 31). It would soon become clear that by far the most significant issues would relate to the Basque treasuries' use of their legislative powers over corporation tax. One of the main areas of controversy within Spain itself over the *Concierto* would become the fine line between harmonisation and uniformity in relation to corporation tax, with the Spanish authorities (and entities in regions bordering the Basque Country) interpreting harmonisation more restrictively than their Basque counterparts. The internal debate within Spain would soon become enmeshed and intertwined with debates at EU level as the Commission started to raise questions about the compatibility of aspects of Basque provincial corporation tax regulations with the rules of the common market. During the 1990s and early 2000s, then, the Basque authorities would face technical as well as political challenges both within Spain and at EU level. And the two dimensions would feed into each other in a series of striking dynamics.

Legal challenges from the Attorney General for Spain against Basque tax decisions, alleging that these infringed the internal rules for harmonisation with Spanish tax legislation, became a regular occurrence as soon as the Basque provincial treasuries started to make full use of their regulatory powers over corporation tax to introduce a series of tax exemptions, deductions and other incentives for businesses in 1988, 1993 and 1995. These were also followed by a comprehensive reform of Basque corporation tax in 1996, which involved a 2.5% cut in the corporation tax rate compared to elsewhere in Spain – to 32.5% instead of 35% – as well as other incentives (Carrera Poncela 2000: 5). This created more favourable tax conditions for businesses in the Basque provinces than elsewhere in Spain. Basque corporation tax measures were not only challenged in court by the Spanish state, but also by entities (such as business associations, trade unions) in other Spanish regions bordering the Basque one. Under the Spanish Constitution, legislative measures passed by provincial parliaments or assemblies have the force of regulations (*reglamentos*) while regional parliaments and the Spanish parliament pass laws (*leyes*). While regulations can be challenged in administrative courts by any natural or legal person whose interests the regulation affects, laws can only be challenged in Spain's Constitutional Court by the limited number of institutions and officials listed in Article 162 of the Spanish Constitution. In large part due to this situation, fiscal and tax rules passed by the Basque provincial parliaments, which at the time only had the status of 'reglamentos', became subject to continuous litigation in the administrative courts on the grounds of unfair competition. And yet the tax legislation passed by neighbouring Navarre was free from such litigation since the province coincides with the region of the same name and thus its legislation has the force of law. This context of constant litigation in the 1980s, 1990s and early 2000s became known as the 'judicialisation of the Concierto', and the Basque authorities were heavily critical of the Spanish authorities for having recourse to the courts so extensively rather seeking to resolve disputes via political channels.

Meanwhile, the first hurdle to surmount at EU level would also be almost immediate once the Basques had started to make use of their regulatory autonomy over corporation tax. A challenge from the European Commission was lodged against the 1988 Basque tax incentives, at a time when the Commission was starting to contact member states to request changes to their tax regulations which did not comply with the fundamental freedoms enshrined in the Treaty (see Alonso Arce

2010: 71-80; Zubiri 2000: 191-192). In 1993, the Commission alerted Spain to the fact that tax payers non resident in Spain, but resident in other EU member states, who operated in the Basque provinces could not apply the Basque provincial corporation tax rates in the same way as tax payers resident in Spain, warning that this constituted a restriction on the freedom of establishment enshrined in the Treaty under Article 43 (Alonso Arce 2010: 72; Zubiri 2000: 191-192). Under the Concierto agreement in force at the time, the Spanish state had the exclusive competence to regulate the taxes paid by non residents. Thus it was not the tax incentive itself that was against EU legislation, but rather the fact that Basque provincial tax rules could not be applied to non residents, due to the way the 'points of connection' regarding residents and non residents had been drawn up under the Concierto. A solution needed to be found relatively quickly to fulfil EU requirements. Following bilateral Spanish-Basque negotiations, the Law on Fiscal, Administrative and Social Order Measures of December 1994, which was passed as an 'accompanying law' to the 1995 Spanish budget, included an additional disposition stipulating that the Spanish government would provide the requisite financial compensation to EU-based entities non resident in Spain but resident in other member states, who were thus unable to apply the Basque corporation tax regulations (Alonso Arce 2010: 75). The Spanish state administration would reimburse the non resident entity for the difference between the Basque and Spanish corporation tax legislation, a solution which satisfied the European Commission. Later, under the 1997 reform of the Concierto (the first major reform of the 1981 legislation), the problem would be resolved more comprehensively by changing the relevant points of connection so that non residents would become eligible to apply the Basque tax legislation directly (Zubiri 2000: 192).

The first fundamental technical hurdle concerning the fit of the Basque Concierto agreement with the EU Treaty could thus be resolved relatively easily, but the outcome ended up further complicating Spanish-Basque internal political debates over the Concierto's fit within Spain. The neighbouring region of La Rioja lodged a constitutional challenge before the Spanish Constitutional Court against the relevant additional disposition of the afore-mentioned Accompanying Law approved in 1994, arguing that it did not respect the constitutional principles (Alonso Arce 2010: 76). Eight years later, in April 2002, the Constitutional Court, in sentence 96/2002 of 26 April, sided with the complainant and declared the compensation for non residents

incompatible with the Spanish Constitution, on the grounds that the additional disposition generated a new discrimination against tax payers resident in the rest of Spain who could not apply the Basque legislation either (Alonso Arce 2010: 77). In practice, the sentence of the Constitutional Court did not ultimately take effect, since by then the *Concierto* had already been reformed in 1997 to update the points of connection to equate residents and non residents. The sentence of the Constitutional Court nevertheless did have ongoing ramifications in that it instilled the idea in certain sectors that the same parameters for analysing restrictions of freedoms in the EU could also be applied to the analysis of freedom of movement in Spain under Article 3 of the *Concierto* – a conflation of EU and Spanish law strongly disputed by the Basque authorities (Alonso Arce 2010: 79-80).

Spanish legal challenges against Basque tax legislation acquired a new dimension when for the first time the Spanish Attorney General challenged the Basque tax incentives of 1993 (including the ‘tax holidays’, which offered total exemption from corporation tax to new companies in the Basque provinces for the first ten years) on the grounds not only that they infringed internal Spanish harmonisation requirements, but also Articles 52 (on the freedom of people and companies) and 92 (on the freedom of competition) of the EU Treaty. Faced with this challenge, the Supreme Court of Justice of the Basque Country referred the matter to the European Court of Justice for a preliminary ruling (see Chacón 1999; Rubí Cassinello 1999; Zubiri 2000: 192-193). It sought clarification on whether the 1993 Basque tax incentives were compatible with the EU Treaty in two respects: (1) whether the Basque rules on corporation tax were compatible with article 52 of the European Treaty on free movement within the Union (given that non residents operating in the Basque region were subject to Spanish rather than Basque tax legislation); and (2) whether the Basque rules on corporation tax were compatible with article 92.1 of the Treaty (on the prohibition of state aids that could falsify competition by favouring certain companies) given that companies operating elsewhere in Spain were not eligible to be subject to Basque tax regulations. The first of these matters was quickly resolved: the Commission, in its observations, maintained coherence with its previous decision on the 1988 state aids, declaring the question resolved with the 8<sup>th</sup> Additional Disposition of Law 42/94 on the State General Budget for 1995 (Rubí Cassinello 1999). However, the shock for the Basque authorities would come in relation to the second dimension, when Advocate General

Saggio concluded in 1999 that such measures could be considered a territorially selective state aid since they only applied to one region (the Basque Country) within a wider state (Spain). This threatened the capacity of the Basque provinces to set any corporation tax rates or incentives even minimally different from those of the Spanish state.<sup>121</sup>

A distinct irony emerged throughout this process as it was the Spanish Attorney General that had taken the Basque provincial authorities to court in Spain accusing them of infringing the EU Treaty, and yet at EU level it ended up defending the Basque fiscal measures against the idea that they infringed the Treaty, since the Spanish government is the sole interlocutor at EU level for the whole Spanish state and thus it was required to represent Basque interests in this instance (Chacón 1999: 8; Rubí Cassinello 1999). According to technical teams in the Basque treasuries, collaboration between the Basque and Spanish authorities over the Basque defence at EU level worked well and the Spanish Attorney General defended Basque interests appropriately, despite the ongoing judicialisation back at home in Spain.<sup>122</sup> Given the threat that Saggio's preliminary ruling posed to the Concierto as well as the unsustainable level of permanent judicialisation back at home in Spain, in January 2000 the Spanish and Basque delegations reached a 'fiscal peace' agreement (*paz fiscal*) under which the Spanish authorities agreed to withdraw all ongoing challenges against Basque tax legislation and the Basques would, in return, participate in a new a mechanism for prior exchange of information on proposed tax measures.<sup>123</sup> The agreement meant the Spanish Attorney General would cease his challenge against the 1993 tax incentives within Spain and the question referred to the European Court of Justice for a preliminary ruling would be archived.

While the agreement helped to reduce litigation by the Spanish Attorney General against Basque tax measures, entities in other regions in Spain continued to challenge Basque fiscal rules. And the surrounding Spanish regions and the Spanish Supreme and Constitutional courts had now acquired a new weapon in their armoury in the form of Saggio's preliminary ruling of 1999. In 1996, the business federation

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<sup>121</sup> Personal interviews with senior officials in the Vizcayan treasury department, 2014.

<sup>122</sup> Personal interviews with senior officials in the Vizcayan treasury department, 2014.

<sup>123</sup> For example, 'La "paz fiscal" sellada entre los Gobiernos central y vasco caduca dentro de dos años', *El País*, 19.01.00. This temporary agreement was however than replaced in the new Concierto agreement of 2002 with a committee designed resolved to resolve Spanish-Basque disputes before they reached the courts (see Chapter 4 p.140). See also Alonso Arce 2010: 82-83 and Martínez Bárbara 2012b: 67-69.



of La Rioja had presented a challenge to the Supreme Court of Justice of the Basque Country against the Basque 1996 corporation tax reform, accusing the Basque authorities of (1) infringing the harmonisation rules in Spain and (2) infringing EU rules on state aids (Alonso Arce 2010). In 1999, the Supreme Court of Justice of the Basque Country responded by only abolishing one provision of the 1996 reform, the mini tax holidays (since by then the European Commission had declared these unacceptable state aids) (Alonso Arce 2010: 96). The Basque court dismissed the rest of the challenge as inadmissible, arguing that there was no question of selectivity. Nevertheless, when the business federation of La Rioja lodged an appeal to Spain's Supreme Court against the Basque court's decision, the tables would turn. The Supreme Court sentence of 9 December 2004, by which time Advocate General Saggio's preliminary ruling of 1999 was also known, overruled 13 provisions of the Basque regulations on corporation tax, considering that many of these constituted state aids. For the Basque authorities, this was the biggest blow the *Concierto* had ever received, since it challenged the right of the Basque provincial treasuries to set any corporation tax rates or incentives even minimally different to those of the Spanish state (Alonso Arce 2010: 107-150).

The tables would eventually turn with the Azores tax ruling of 2006, which had clear implications for the Basque provinces in that it asserted the right of a region within a wider member state in Europe to set different tax rates from said member state if the region fulfilled specific requirements of procedural, institutional and economic autonomy, thus contradicting Saggio's previous preliminary ruling about regional selectivity (see, for example, Bengoetxea Caballero 2010). Essentially, the Azores ruling decreed that legislative autonomy over corporation tax could only be devolved in the case of regions which bore the full risk of their own revenue-raising and were not in receipt of any fiscal equalisation payments that could be construed as a compensation from the state in the event of a shortfall in regional tax collection – criteria with which the Basque region was considered compliant. After years of uncertainty, the Azores ruling thus finally clarified that Basque treasuries could set different corporation tax rates and incentives from the Spanish treasury without these being considered regionally selective. The EU rulings against the Basque tax holidays of the 1990s nevertheless still stood, but because the incentives were deemed incompatible with fair competition in the common market for reasons other than regional selectivity.

The Azores ruling also drastically reduced litigation from the surrounding regions in Spain, since many of their challenges against Basque corporation tax measures would become less admissible thereafter, once they could no longer use Saggio's preliminary conclusion about regional selectivity in their defence. Basque provincial tax legislation was also bolstered shortly afterwards in Spain by the *Ley de Blindaje* ('Shield Law'), which upgraded Basque provincial tax legislation to the same legal status as regional laws for the first time, thus making it harder for said legislation to be challenged (Erkoreka 2009; Martínez Etxeberría 2014). The PNV-led Basque government had presented a draft bill to the Spanish parliament, following unanimous cross-party approval in the Basque parliament in June 2007, aiming to secure legal status and protection for the tax rules adopted by the Basque provincial assemblies. This is what became known as the *Ley de Blindaje* ('Shield Law') (see also Chapter 4, p.131). The idea was to consolidate the legislative autonomy of the Basque provinces in fiscal matters. It was originally the Basque PP that had been in favour of seeking legal status for Basque provincial tax and fiscal rules during the Transition, whereas the PNV at the time had been seeking to build the new regional level of government and only wanted the Basque government to be granted the ability to pass laws, as was thus included under Article 6 of Law 27/1983 of 25 November on the Historical Territories. By the time the PNV came later to seek protection for Basque tax rules, however, the PP in Madrid was faced with conflicting stances within its own party, since the PP-led government of La Rioja was opposed to the measure while the Basque PP supported it. Both the PP and the PSOE in Madrid opposed PNV approaches on the subject from 2005 onwards due to the implications for other regions in Spain, despite the full support of their respective Basque delegations for such a measure. It was only when the minority PSOE government needed PNV support for its 2010 budget that it finally changed its stance and supported the proposed *Ley de Blindaje* in return. The Law was swiftly pushed through and passed on 19 February 2010, with the PP (along with UPyD) still voting against it, while their Basque colleagues in both the Spanish Parliament and Senate left when the respective votes took place so as not to have to vote against a measure they themselves had supported in the Basque parliament.

Overall, the afore-described trajectory towards EU recognition of Basque fiscal autonomy over corporation tax thus involved some strictly technical hurdles that could be overcome with relatively simple changes in legislation – most notably,

the need to equate residents and non residents. Slower to overcome, however, were the political hurdles at both Spanish and European levels. The Azores ruling did much to clarify and stabilise the position of the Concierto in Europe, but in reality the political differences over the Concierto within Spain itself which fuelled conflicts over Basque corporation tax measures still persist to a large degree today, and shape new debates that have since become dominant over the Concierto's development in the EU context. There remains a lack of consensus not only between the PNV and Spanish authorities in Madrid, but also between different parties in the Basque region itself, as to the exact attribution of blame for the political disputes over Basque corporation tax from the late 1980s onwards.<sup>124</sup> PNV interpretations of what happened tend to regard the corporation tax decisions that were made in the particularly conflictive decade of the 1990s as fair and appropriate given the Basques provincial authorities' regulatory competence over corporation tax in the region. They suggest that they were the victims of adverse politicisation from both Spanish governments and EU authorities, both of which were reluctant, albeit each for different reasons, to allow for significant differences in corporation tax between state and regional level. According to this viewpoint, the views and conclusions detrimental to recognition of the extent of Basque fiscal autonomy that were voiced from Europe in the years prior to the Azores ruling – most notably, Saggio's 1999 preliminary ruling – were often politically motivated in the sense that they reflected the Commission's determination at the time to avoid any risk that member states might start to abuse fiscal decentralisation as a means to give state aids (Alonso Arce 2009: 104). And this was exacerbated by opposition within Spain to the Basques making extensive use of their fiscal autonomy. Although the Basque authorities were represented at EU level by the Spanish authorities and acknowledge that the collaboration at a technical level in this regard worked well, there is still a strong feeling within the PNV and indeed among more technical officials in Basque treasury departments that the lack of strictly Basque representation ran the risk of an inadequate defence of their interests (e.g. Martínez Bárbara 2014a: 216).

On the other hand, however, political opponents of the PNV argue that the Basque institutions themselves are first and foremost to blame, suggesting that they exacerbated tensions by being too aggressive in their use of corporation tax. The

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<sup>124</sup> Personal interviews with PNV, PSE, PP and Bildu representatives in the Basque Country, 2014.

Basque provinces repeatedly introduced rates, deductions and incentives that created more favourable conditions for businesses in the Basque region than elsewhere in Spain – often seeming to wait until Spain had introduced its own legislation only then to introduce a better deal in the Basque provinces. These discrepancies in views over the level of fiscal autonomy or sovereignty that the Basque Concierto provides, and thus the degree of subordination Basque tax decisions should or should not have to Spanish legislation, continue to impact the adaptation of the Concierto to the EU context today – especially in terms of the question of whether the Basque authorities should have direct representation in Europe within the Spanish delegation given their fiscal competences over direct taxation.

### **The quest for Basque representation at EU level in fiscal negotiations**

Since the turn of the century, one of the biggest debates in Spain over the development of the Concierto has become whether the Basques should have a role in EU decision-making bodies debating fiscal matters, particularly those debating tax harmonisation between EU member states. The requirement in the Concierto of 1981 (as updated in 1997) that the Basque treasury departments adhere to any international treaties or other agreements signed by Spain was elaborated upon further in Article 2.1.5 of the Concierto of 2002 to state expressly that they must adhere to the relevant provisions to avoid double taxation and the rules for fiscal harmonisation in the EU (Martínez Bárbara 2012a: 72). Where discrepancies in views occur is over the extent to which the Basque authorities should remain subordinate to Spanish legislation in the implementation of EU directives and guidance for fiscal harmonisation, or whether they should have a more direct voice and participation in EU fiscal decision-making bodies, becoming active players and negotiators in EU tax harmonisation processes.<sup>125</sup> What have been the main obstacles to securing Basque participation at EU level? To what extent have the obstacles been practical and technical in nature? Or have they been heavily influenced by political agendas?

Taxation is one of the areas where EU member states still retain a large degree of sovereignty, since fiscal harmonisation in itself is not one of the objectives

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<sup>125</sup> My perceptions of these discrepancies are informed first and foremost by interviews with PNV, PSE and PP representatives, as well as senior officials in the Vizcayan treasury department, 2014.

of the European Union (Martínez Bárbara 2012a: 70). Relevant steps have nevertheless been taken to prevent discrepancies in tax systems where these might hinder the functioning of the single market. Thus EU member states transferred sovereignty over customs duties to the EU authorities and also over some significant aspects of indirect taxation, to ensure harmonisation in these spheres (Trench 2015). Regarding VAT, the most important indirect tax, the EU sets a standardised tax base, though beyond this member states still have a degree of freedom to choose between a range of tax rates. EU legislation includes specific directives for the harmonisation of indirect taxes under the provisions of Article 113 of the EU Treaty (Martínez Bárbara 2012a: 71). In the case of direct taxes (which include corporation tax), any harmonisation measures are taken instead under the provisions of Article 115 (Martínez Bárbara 2012a: 71). Nevertheless, since member state tax legislation over direct taxes does not generally affect the EU's own competences in relation to fundamental freedoms or the single market and member states are very reluctant to lose sovereignty over direct taxation, steps towards harmonisation in this regard have been far more limited than over indirect taxation. A very small number of directives have been approved in relation to corporate taxation, for example, regarding relations between company headquarters and their branches in different member states, or business restructuring operations, mergers, takeovers within the EU. More often, however, harmonisation measures over direct taxes – particularly in the sphere of corporate taxation – have taken the form of recommendations or soft law (Martínez Bárbara 2012a: 71-72). Such 'soft law' measures have become known in the literature as 'negative harmonisation', in contrast to 'positive harmonisation' in the form of more concrete and legally-binding directives.

Under the *Concierto*, the Basque provincial treasuries do not have regulatory autonomy over the main indirect taxes (VAT, the excise duties, and the tax on company operations) but rather they must apply the relevant Spanish legislation regarding tax bases and rates. The PNV and some officials working in the Basque treasuries argue that that they ought to have the right to regulatory autonomy over indirect as well as direct taxes,<sup>126</sup> but in the absence of such autonomy they approve provincial laws (*normas forales*) to adapt the Basque tax systems to EU directives where necessary under identical terms to the way in which Spain has done

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<sup>126</sup> Personal interviews with Pedro Azpiazu (PNV) and with certain provincial treasury representatives, 2014.

so. EU rules allow for the devolution of authority over direct taxes to the substate level but they seriously limit it in the case of indirect taxes (Trench 2015). Most notably, each state can only apply one VAT rate system, which can be collected but not varied at the regional government level (as occurs in the Basque case).

In the case of direct taxation where the Basques have regulatory autonomy, on the very few occasions where EU directives are approved with a view to harmonisation in this sphere, there is some discrepancy (particularly between rulings of the Supreme Court of Justice of the Basque Country on the one hand, and the Spanish Supreme Court on the other) as to whether the Basque provinces can approve their own provincial laws to apply the relevant directive rather than copying verbatim the Spanish legislation, provided that they respect the framework of the *Concierto* in terms of the rules regarding harmonisation and fiscal coordination between the Basque region and the Spanish government (Martínez Bárbara 2012a: 73-74). Since EU directives regarding direct taxation are rare, however, the main disputes between Spanish and Basque delegations have instead occurred over the potential for Basque participation in EU decision-making bodies aimed at negotiating ‘soft law’ measures to encourage a degree of fiscal harmonisation, especially regarding corporation tax.<sup>127</sup>

Steps taken by the Basque delegation towards securing Basque representation at EU level over fiscal matters date back to the late 1990s. The Basque provincial treasuries are required to respect all international agreements signed by Spain and the beginnings of steps towards collaboration between Spanish and Basque authorities over Basque participation in such international agreements began with the 1997 reform of the *Concierto* of 1981, when a clause (Article 5.3) was introduced specifically establishing that the Spanish state would arrange mechanisms to enable the institutions of the Basque Country to ‘collaborate’ in the international agreements that may have an impact on the application of the *Concierto* (Martínez Bárbara 2012b: 58). However, no such mechanisms were arranged, leading the Basque delegation to request their explicit creation and inclusion at the 2001 negotiations for a new *Concierto* agreement (to replace the 1981 legislation set to expire that year) (Martínez Bárbara 2012b: 58; Rubí Cassinello 2003: 38). This

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<sup>127</sup> Personal interviews with senior officials in the provincial treasury departments, 2014.

became one of the most controversial topics of the reform process (Rubí Cassinello 2003: 37; Lucas Murillo 2005: 97).<sup>128</sup>

The Basque delegation had proposed that the Basque institutions should participate in Spain's preparatory meetings for Ecofin and the Spanish delegation to the Ecofin working groups and meetings.<sup>129</sup> The Spanish negotiating team under the then Spanish treasury minister Cristóbal Montoro, however, wanted instead to include the Basque participation within the general framework for the participation of the regions in EU matters, through the Sectoral Conference designated for that purpose (established in Law 2/1997 of 15 March), which gives the regions a weaker legal status and no direct representation in Europe (Lucas Murillo 2005: 110). Ultimately it was the Basque side that had to back down temporarily to enable the new *Concierto* to be approved belatedly in May 2002 under Law 12/2002. On 30 December, the same relevant section of the text (Article 5.3) from the 1981 *Concierto* law, as modified in 1997, was approved under Article 4.2 of the new *Concierto* in May 2002 under Law 12/2002.

At the Basque delegation's request, it was nevertheless still requested that the Joint Commission on the *Concierto* should reach a bilateral agreement within six months to establish the effective participation of the Basque institutions in all spheres which impact the *Concierto*. This would not start to be achieved, however, until almost nine years later, as part of a package of transfers from the central to the Basque governments agreed in mid 2010 as a *quid pro quo* when the minority Socialist government of Zapatero needed the PNV to support its 2011 budget (Martínez Bárbara 2012b: 58; Martínez Bárbara 2014a: 219). From April 2011, Basque provincial treasury representatives would start to participate alongside their Spanish state counterparts in three key Ecofin working parties addressing fiscal questions relevant to the competences afforded to the Basque provinces by the *Concierto*: D4 on Tax Issues; D5 on the Code of Conduct; and D8 on the Fight Against Fraud (Martínez Bárbara 2012b: 58; Martínez Bárbara 2014a: 219). In each of these groups, the Spanish state representative would still be the one to express the Spanish position, but a Basque representative would be allowed to attend as part of

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<sup>128</sup> Personal interviews with senior officials in the Vizcayan provincial treasury department, 2014.

<sup>129</sup> For a full account of the Basque proposals for participation in Ecofin at the negotiations for the 2002 reform of the *Concierto*, see Lucas Murillo 2005: 97-132.

the Spanish delegation. Within the Basque internal tax coordination committee, it was agreed that a representative from each of the three provincial treasuries would participate in one each of the three working parties, but in practice the provincial governments of Álava and Guipúzcoa delegated their respective representation to Vizcaya, thus it represents the Basque perspective in all three (Martínez Bárbara 2012b: 59).<sup>130</sup>

The measures taken in these working groups primarily affect corporate taxes. For example, the Code of Conduct group (on corporate taxation) dates back to 1 December 1997, when an Ecofin resolution approved to create such a group to evaluate corporate tax measures that provoke harmful competition between member states, as one of various measures to reduce such practices. The resolution was not legally binding (since sovereignty for direct taxation over companies lies with the member states), but nevertheless it was a formal political commitment entered into by member state governments. In late 1999, the group's first final report about potentially harmful measures (with 66 identified in the EU in total) included reference to one Basque tax measure (Martínez Bárbara 2014a: 223). The working party has remained in operation since then, with Basque representatives joining the Spanish delegation for the first time in April 2011. One of the most significant efforts underway within the EU towards some degree of harmonisation or at least consolidation over corporate taxes, in which the Basque treasury representatives now participate via working party D4 (on Tax Issues), is the work towards a Common Consolidated Corporate Tax Base (CCCTB), which would create a new tax code for the EU (in addition to the already existing 27 national tax codes) (Martínez Bárbara 2014a: 226-229). EU member states would retain their national competence over setting corporation tax rates, but they would develop a set of common rules to determine the tax base of companies with operations in several member states.

The Basque provincial treasury representatives who participate in these Ecofin working groups as part of the Spanish delegation see this as a significant step forward in securing proper recognition at EU level of the fact that the Basques have their own treasuries and design their own legislation on direct taxes, almost to the same extent as any EU member state. They regard it as an opportunity to ensure that such fiscal autonomy at regional level as well as state level should be properly

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<sup>130</sup> Personal interviews with senior officials in the Vizcayan provincial treasury department, 2014.



reflected in relevant tax harmonisation processes (Martínez Bárbara 2014a: 228). Basque provincial treasury representatives suggest that the Spanish authorities – in contrast to their German, Belgian and Austrian counterparts – have not taken advantage of changes to the EU treaties and legislation that have gradually been made over the years to make it easier for regions to be represented within the member state delegation within formations of the Council of the European Union, where relevant to their competences (Martínez Bárbara 2014b: 99-100; Lucas Murillo 2005: 109-116). Since Maastricht, national community rules rather than EU law govern the choice of ministerial representation in the Council (Burrows 2007: 218). Article 146 of the Maastricht Treaty of 1992 introduced the principle of subsidiarity (that actions should be taken at the most effective level – be it Union, national, regional or local) and opened the door to the possibility of member state representatives not necessarily belonging to the central government taking part in the state’s ministerial representation within formations of the Council, provided the chosen representative be ‘authorized to commit the government of that Member State’. This was, however, the mere start of a long trajectory, and it was not until the Treaty of Lisbon in 2009 that major steps were taken towards recognising the importance of local and regional government in the Union and enshrining means for their participation in formations of the Council under the subsidiarity principle.

Throughout those years from Maastricht to Lisbon, three federal states in Europe – Germany, Belgium and Austria – took steps in the 1990s to modify their constitutions where necessary to introduce mechanisms to ensure that the common position of substate levels of government with relevant legislative competences be taken into account by the state delegation (Martínez Bárbara 2014b: 99-100). All three federal states also signed a declaration on subsidiarity as part of the Treaty of Amsterdam of 1997 to explicitly acknowledge their support for the possibility of regional and local involvement in key decisions at EU level where the national constitutional structure provides for a division of competences. Germany made the relevant changes to its Constitution in 1992 and Austria just prior to joining the EU in 1995, while in Belgium the 1994 Cooperation Agreement between the federal government and the regions would govern the determination and representation of the Belgian position (including representation of substate level interests) in the Council. In some cases, these provisions also allow for regional representatives to participate in the state delegation (rather than the central government representation

simply being obliged to reflect the common position reached previously by the regions): the Austrian constitution provides for the possibility that the Länder take part in the Council as co-participants with the federal state representative, while the Belgian Cooperation Agreement foresees regional representatives acting as ‘assessors’ to the federal spokesperson in Council formations on subjects where they have some competence, or even a regional spokesperson advised by a federal assessor in the case of mainly regional competences (Martínez Bárbara 2014b: 99-100). In non federal but decentralised states too, such provisions have proved possible: Scottish ministers have on occasion attended Council meetings as part of the UK ministerial team when devolved matters have been under discussion, especially the Fisheries Council or the Justice and Home Affairs Council.

From 2004, Spain would make provisions to allow the participation of regional representatives in EU Council meetings under some of its formations, thus starting to follow the example of Germany, Belgium, Austria and the UK (Ramon i Sumoy 2005). At the Conference on Matters Related with the European Communities (*Conferencia de Asuntos Relacionados con las Comunidades Europeas*, CARCE), which brought together the ministers responsible for European affairs of each of the 17 regions with the Spanish minister of Public Administration, it was agreed that regional government representatives would start to participate in the Spanish delegation at meetings of four out of the nine EU Council formations. These would be ‘Agriculture and Fisheries’, ‘Environment’, ‘Employment and Social Policy, Health and Consumer Affairs’ and ‘Education, Youth and Culture’. The decision as to which region the representative would come from would be taken on an ad hoc basis in the case of Agriculture and Fisheries (depending on the issue being discussed, since some are more relevant to some regions than others), but on a predetermined rotational basis in the case of the other three – in line with the procedures used by the afore-mentioned federal states (Ramon i Sumoy 2005).

No agreement, however, was reached at the same time in 2004 on the potential for Basque and Navarran participation in the Ecofin Council. Basque treasury representatives attribute the Spanish authorities’ reluctance to allow regional representatives to participate in the Spanish delegation in Ecofin in part to their reluctance to accept the asymmetry which the *Concierto* and the *Convenio* entail for the Spanish state. The four EU Council formations to which the Spanish government did agree to regional participation from 2004 are relevant to the competences of all

the regions, whereas only the Basque and Navarran regions have sufficient fiscal competences to seek representation in Ecofin. Only when a minority Spanish government needed the support of the PNV did it finally agree to Basque participation in certain Ecofin working groups relevant to Basque competences, though at the time of writing agreement has not yet been reached to officially reflect this in the *Concierto* legislation. Legal and technical experts in the provincial treasuries ultimately aspire to go further and achieve co-representation with the Spanish state representative within the Spanish delegation at Ecofin meetings, rather than solely the working groups. They nevertheless recognise that the markedly political character of the Council meetings makes it highly unlikely that the Spanish authorities would agree to such a proposal in the foreseeable future (Martínez Bárbara 2014a: 231).

Meanwhile, political opponents of the PNV still suggest that the desire of nationalist-led Basque institutions to participate in Ecofin meetings is motivated to a significant extent by political considerations – the desire for a degree of Basque protagonism in Europe – rather than strict technical necessity.<sup>131</sup> They also argue that the majority of the matters that the Ecofin Council meetings deal with concern policy areas beyond the Basque regional and provincial governments' remit. Taxation issues, where the Basques do have significant competences, are the only one of the many matters that Ecofin addresses; others include economic policy coordination, oversight of member states' budgetary policies and public finances, financial services and markets, the single currency, and the coordination of EU positions for international meetings (e.g. IMF). These matters do not correspond to the Basque region since the *Concierto* agreement governs the raising of taxes and the payment of the Basque annual quota to Madrid only. When it comes to other financial matters such as budgetary stability and debt issuances and deficit targets, the Basque region must conform to the same rules set by Spain for the rest of the country's autonomous communities, though the *Concierto* of 2002 did make preliminary steps to start to introduce provisions for bilateral Spanish-Basque coordination over some such matters (see Chapter 4, p.140).

This stalemate makes it difficult to reconcile perspectives on the potential for Basque participation in Ecofin. Beyond the question of political will and consensus

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<sup>131</sup> Personal interviews with representatives of the Basque PP and PSE, 2014.

within Spain itself, however, the primarily state-centric nature of the EU framework still poses considerable obstacles to the fullest development of substate fiscal autonomy such as that sought by Basque nationalist authorities. As already discussed, for example, the EU framework limits the possibilities for legislative autonomy over indirect taxation at substate level. With regard to regional participation in Council formations, if the regional minister does attend the Council, he/she must represent the view of the state as a whole and not a regional interest. Agreement between regional and state ministers over national positions must thus be reached prior to Council meetings, as the Council is not the appropriate forum to reflect internal territorial interests or differences within member states. The heavily politicised nature of many of the disputes between Spanish and Basque authorities internally within Spain over Basque fiscal decisions could risk having a negative impact on their ability to reach agreements over the national position to be reflected in Council formations. Moreover, it is not clear whether such a system in which regional interests may be taken into account when the state delegation forms its position, but nevertheless must ultimately be subordinate to the position of the state as a whole, can suffice to satisfy the PNV's view of the Basque treasuries as almost equally sovereign in matters of direct taxation as the Spanish treasury. At the moment, only the Basque and Navarran treasuries have fiscal autonomy in Spain, thus they alone have sufficient grounds to request representation in Ecofin. But if other autonomous communities in Spain were to acquire more extensive fiscal powers in future, the Basques would in that case likely need to accept that any representation they might achieve in Ecofin working groups or meetings might become on a strictly rotational basis with other regions – as occurs in other matters and in the above-mentioned federal states such as Austria and Germany, who have regulated the participation of their regions under the subsidiarity principle. Would this suffice to satisfy the PNV when it sees the Concierto as a form of fiscal sovereignty in Europe which grants its treasuries almost the same level of fiscal powers as member state treasuries?

## **Conclusion**

Throughout the 1990s and first few years of the 2000s, after the Basque provincial treasuries had started to make full use of their legislative powers over

corporation tax from 1988 onwards, they faced various technical hurdles to secure recognition of the Concierto at EU level and its fit within the EU context. The EU required one fairly straightforward change to be made to the Concierto legislation – to ensure that residents elsewhere in Spain and residents elsewhere in the EU, but operating in the Basque provinces, would both be equally eligible to apply Basque corporation tax legislation. More complex, however, was the task of securing EU understanding of the Basque treasuries’ right to set different corporation tax rates and incentives from the Spanish state without these being considered regionally selective state aids. In this regard, political factors both at EU level and at home in Spain did not help matters: EU officials seeking greater tax centralisation were inevitably influenced to some degree by their concerns that member states might use tax decentralisation as a means to give state aids, while internal disputes reigned within Spain between Spanish and Basque authorities over the extent to which Basque provincial corporation tax legislation could differ from Spanish legislation given the requirement for ‘harmonisation’ with the latter. At this stage, then, the EU posed both technical and political obstacles to the Basque Concierto, which were further exacerbated by political differences back home in Spain over the model.

Since the Azores tax ruling of 2006 confirmed the right of the Basque treasuries to set different corporation tax legislation from Spain without this being considered regionally selective, the Concierto’s position within the EU has been safeguarded and strengthened. This, combined with gradual changes to the EU Treaty over the years to allow for the participation of regional representatives within state delegations under the principle of subsidiarity where relevant to their competences, has led members of the PNV and some senior officials in the provincial treasury departments to argue that the EU itself no longer poses an obstacle to the development of the Concierto in the EU context. Rather, they suggest the main obstacle to representation of the Basque perspective on fiscal matters in EU decision-making bodies is now resolutely political opposition from the Spanish authorities, rather than technical or legal obstacles at the EU or Spanish levels. Certainly, Spanish-Basque discrepancies in political perspectives on the Concierto, especially on the degree of fiscal autonomy or even sovereignty that it affords, limit the ability of the Basque authorities to secure representation in the Spanish delegation in relevant decision-making bodies and develop the Concierto as a model of fiscal sovereignty in Europe to the extent that they would wish. At the same time,

however, obstacles to such development – even if the Spanish state were to agree to it without reservation – still persist at EU level. The principle of subsidiarity in force encourages state delegations to take into account regional interests where relevant when forming their position, but nevertheless the Council is not the place for reflecting internal territorial discrepancies within a member state. This would not be possible for practical reasons, thus individual regional interests ultimately remain subordinate to the position of the state in its entirety. If the PNV seeks to use the bilateral nature of the *Concierto* to create a partnership of ‘equals’ (and indeed extend this to other areas of Basque-Spanish relations beyond the *Concierto*), it is not clear how exactly this could be accommodated in the current EU framework.

The EU thus offers some opportunities but also continues to pose a number of obstacles to the development of substate fiscal autonomy verging on sovereignty in EU member states. Importantly, however, the fact that the PNV focuses on the Spanish state as the main obstacle to a greater Basque participation at EU level in fiscal and other matters, rather than the EU framework itself, serves to intensify the clash between the PNV’s pro-sovereignty territorial agenda and the more centralist vision of most Spanish parties. In their analysis of the rise and fall of the Ibarretxe Plan, Keating and Bray (2006: 362) suggested that ‘Europe, instead of providing a forum where new ideas such as sovereignty can be discussed, is being utilized as a conveniently malleable concept for backing quite different political visions and ambition’. Several years later, analysis of the Basque trajectory suggests that this continues to be the case. The clash in political perspectives as to what the EU could mean for the future of the *Concierto* has become increasingly apparent of late in the response of PNV representatives to the challenges made by the centre-right party *Ciudadanos*, the Spanish party which most opposes the *Concierto*. The views of the PNV and *Ciudadanos* on what the prospect of a European fiscal union would mean for the Basque *Concierto* are polar opposites. PNV spokesperson Josu Erkoreka, for example, has argued that ‘a fiscal union should be no obstacle to allowing the fiscal and financial powers of the Basques institutions, by virtue of the *Concierto*, to keep reaching the same level as those afforded by the EU to member states in a new context of increasingly limited fiscal sovereignty’ (Erkoreka 2012)<sup>132</sup> – a statement which is emblematic of the vision of the PNV that the process of increasing fiscal

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<sup>132</sup> See also ‘PNV reclama que los poderes fiscales tributarios vascos sigan equiparados a los de estados si se llega a una unión fiscal europea’, *Europa Press*, 05.08.12.

harmonisation within the EU will ultimately put the Basque and Spanish treasuries on an equal footing in Europe. In stark contrast, Ciudadanos has argued that the fiscal harmonisation process in Europe will eventually result in the Basque and Navarran financing systems being replaced by the common system. In other words, in a climate of ever increasing fiscal harmonisation among member states within the EU, it suggests that specific tax systems at substate level are likely to be rendered 'obsolete'.<sup>133</sup> These different perspectives have been the source of much controversy.<sup>134</sup> At present, the issue of developing the Concierto further within the EU context is not an immediately pressing one for the PNV, and debates over questions such as the Basque participation in Ecofin remain primarily at a technical level. The polarisation in perceptions as to what opportunities or obstacles the EU creates for the development of shared sovereignty within a state in fiscal matters and beyond nevertheless points to the challenges that could lie ahead for Spanish-Basque relations.

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<sup>133</sup> For example, 'Ciudadanos vuelve a cargar contra el Concierto vasco', *Noticias de Guipúzcoa*, 05.04.16

<sup>134</sup> For example, 'El Gobierno vasco denuncia la ignorancia supina de Ciudadanos sobre el Concierto Económico', *Deia*, 05.04.16; 'Ciudadanos y el PNV se enzarzan por el Concierto', *El Diario Vasco*, 04.04.16

## Chapter 6

### **The intra-regional dynamics of the Concierto: Fiscal and political relations within the Basque region**

The Concierto is a bilateral agreement which governs fiscal relations between the Basque and Spanish authorities, but one which is also affected by complex intra-regional dynamics within the Basque region, since the model affords tax-raising powers to each of the three provincial governments for historical reasons, rather than to the regional government. Both the Concierto legislation and the Basque Statute of Autonomy grant tax-raising powers to the Basque provinces, in accordance with the First Additional Disposition of the Spanish Constitution. Each province raises the revenues in its territory, which are then distributed among three levels of public administration responsible for different areas of spending within the region (the regional government, the provincial governments, and the municipal or local authorities), after payment of the annual quota to the central Spanish government. This chapter is designed to investigate the intra-regional dynamics in relation to the Concierto and their implications for the territorial strategies and behaviour of the PNV. What are the consequences of the complex nature of the intra-regional dimension of the Concierto for fiscal and political relations between different provinces and political forces within the region itself? And how has this contributed to shaping the PNV's behaviour regarding not only the balance of powers between provincial and regional authorities, but also the relationship of the Basque region as a whole to Spain?

The main argument of the chapter is twofold. First, it is argued that the intra-regional and inter-provincial nature of the Concierto has had a significant impact on the PNV's own coherence, or rather its lack thereof. The heterogeneity of the PNV (partly across territories) and the changing political map at provincial level make strategic consistency difficult for the party, thereby reducing the possibilities for shifts from one position to another. Notwithstanding the diversity of the PNV, the conservative wing most closely connected with business is strongest in Vizcaya. While pro-independence leanings within the party are generally considered strongest in Guipúzcoa, more moderate, pro-autonomy tendencies are associated first and foremost with Vizcaya. Conservatism and moderation have traditionally dominated



in Álava too, though it has experienced a more mixed picture with an occasional shift in the balance of forces (Gillespie 2015c).<sup>135</sup> Vizcaya is both the PNV's stronghold in the Basque region (the party has governed the province consistently since the first provincial elections of the democratic period in 1979), and also the one that raises the most revenues, accounting for around 50% of the Basque region's GDP (see Table 8). It is argued here that this revenue-raising power of Vizcaya has given the Vizcayan provincial government a strong weight and negotiating power within the region as a whole, thereby contributing to the dominance of the PNV in the region, as well as increasing the influence of the Vizcayan wing of the PNV within the party.

**Table 8: Basic statistics for the Basque provinces and region**

	Alava	Guipuzcoa	Vizcaya	Basque region
Area (sq km)	3037 (42.0%)	1980 (27.4%)	2217 (30.6%)	7234 (100%)
Population	324036 (14.8%)	717755 (32.8%)	1147302 (52.4%)	2189093 (100%)
GDP (€bn)	10.9 (16.3%)	22.1 (33.0%)	33.9 (50.7%)	66.9 (100%)

Sources: area data from Anuario Estadístico de España, 2000, INE; population data (provisional) from the Padron 1 January 2016, INE; GDP from the Basque Region Statistics Agency (Eustat), 2014 advance data

Second, it is argued that the intraregional dimension of the *Concierto* has reduced the possibilities for nationalist alignment between the PNV and parties of the *Basque izquierda abertzale* to advance a pro-sovereignty agenda for the Basque Country. This is because their discrepancies over left-right politics, which have emerged through their respective uses of the fiscal powers afforded by the *Concierto*, have highlighted the competitive dynamic between them, reducing the possibilities for their collaboration on territorial issues. Aside from their vision of an independent *Euskal Herria*, most of the parties of the *izquierda abertzale* are also known for their radical anti-capitalist ideology. After ETA ceased its violence, the *izquierda abertzale* re-entered formal politics from 2011 onwards (after bans on previous parties, most notably *Batasuna*), winning power in the province of Guipúzcoa that year. The open question would become whether a form of pro-sovereignty alliance between the PNV and *Bildu* to advance territorial agendas concerning the relationship of the Basque Country to Spain would become possible. In this regard,

<sup>135</sup> On the PNV in Álava, see De Pablo 2008. This is one of the very few studies of the party at provincial or local level.

there would be a long list of obstacles, including most notably the still recent history of violence, the lack of experience of the *izquierda abertzale* in democratic government, and competition between both the PNV and the *izquierda abertzale* to lead a pro-sovereignty process, as well as differences between them in the degree of sovereignty sought and which parts of the Basque homeland this would embrace. This chapter argues that the experience of the *izquierda abertzale* entering seriously into formal politics for the first time and with a significant political presence, governing at provincial level in Guipúzcoa, also drew attention to the gulf between the PNV and the *izquierda abertzale* on issues of fiscal and social policy, particularly the use of the fiscal powers afforded by the *Concierto*, which therefore reduced the potential for a nationalist alignment more widely too.

The sections that follow start by introducing the debate over the balance of powers between the regional and provincial levels of government that has shaped the legislation on the intra-regional dimension of the *Concierto*. Next, the chapter analyses the two main areas of how the *Concierto* works within the Basque region – (1) intra-regional revenue-raising and resource distribution and (2) inter-provincial tax harmonisation – and the main unresolved areas of controversy in these spheres between different provinces and different political forces in the Basque Country. These analyses will be used as a foundation to understand the implications for the PNV's behaviour towards the Basque region's territorial problematics regarding both the balance of powers within the region and the relationship of the region as a whole to Spain.

### **Legislative background: The regional-provincial debate**

The *Concierto* law of 1981, subsequently replaced with a new, updated version in 2002, focuses primarily on bilateral fiscal and financial relations between the Basque region as a whole and the Spanish central government. It is instead the Basque Law of Historical Territories (*Ley de Territorios Históricos*, LTH) of 1983 that sets the basis for how the *Concierto* functions within the Basque region, in terms of fiscal and financial relations between regional and provincial administrations and among the provinces themselves (Reta 2002: 184-185). Article 42 of the Statute of Autonomy stipulated that the Basque parliament would approve a law to establish the provinces' contribution to the regional government, which materialised as the

LTH. The Law in its entirety governs both the distribution of competences between different levels of Basque administration (regional, provincial, municipal), as well as the principles for how these should be financed. The latter financial dimension is what concerns us here and is regulated under Part II of the Law, providing the procedural basis for the intra-regional and inter-provincial dimension of the Concierto.

The drafting of the LTH at the start of the 1980s brought to the fore the clash between different political parties in the Basque region, and indeed within the PNV itself, over what the balance of powers between the traditional provinces and the new regional level of government should be going forward (De Pablo and Mees 2005: 412-421). The First Additional Disposition of the Constitution, which pledged to ‘respect the historical rights of the foral territories’, was fundamentally taken as a reference to the historical tradition of the Basque (and Navarran) provinces in raising their own taxes – the last vestige of the original ‘*fueros*’ or legal charters between Castile and each province to have survived. And yet since the Constitution also created a regional level of government which united the three Basque provinces of Álava, Vizcaya and Guipúzcoa for the first time, a clash in perspectives would ensue regarding to what extent the regional level of government should take precedence over the provinces going forward. Should the provinces be reduced to simply administrative bodies (much like the provinces elsewhere in Spain) or should they retain greater autonomy and competences? The Basque provinces, unlike all other provinces in Spain, retained elected governments (*diputaciones*) and parliaments (*juntas generales*) under the Basque Statute of Autonomy. The Concierto of 1981 itself had provided a form of halfway house between regional and provincial administrations: it respected tradition in the sense that the three Basque provinces would retain their responsibility for tax collection, and yet bilateral relations under the Concierto would take place for the first time between Madrid and the Basque autonomous community as a whole following its creation during the Transition, under which system the Basque provinces would for the first time combine to pay one single Basque quota to Madrid. Navarre, where the province coincided with the newly created autonomous community of the same name, largely avoided this complexity.

Carlos Garaikoetxeta, then PNV head of the Basque government, favoured centralising powers at regional government level, putting arguments concerning

efficiency and rationalisation ahead of tradition. The first draft of the LTH and the Basque government's first budget, both presented in May 1981, reflected this vision, but he faced a backlash from certain sectors of his own party and other political forces which sought to retain a greater role for the provinces and envisaged a more confederal rather than centralised Basque Country (De Pablo and Mees 2005: 412-421). Opposition from within the PNV was led first and foremost by Emilio Guevara, head of the provincial government of Álava and PNV spokesperson (Castells and Cajal 2009: 359-361; De Pablo 2008: 355-360). The Concierto agreement of 1981 with the Basque region as a whole was largely made possible by the fact that the Concierto had never been abolished in Álava, which explains why the defence of the provincial level during the LTH debate would be particularly strong from that province. Emilio Guevara was supported in his stance by the Álava section of the PNV (ABB) and indeed by all parties in the provincial government at that time (PNV, UCD, PSOE and two independents). With regard to the Concierto in particular, Guevara rejected, for example, Garaikoetxea's proposal (as reflected in the draft budget) that the Basque government should decide unilaterally the financial contributions (*Aportaciones*) that each provincial treasury should make to the regional government to cover its spending competences, proposing instead a bilaterally pacted flow of funds as part of a more confederal vision of the relationship between the provinces and the regional government. In his opposition to Garaikoetxea's centralising vision, Guevara was also joined by influential PNV members in other Basque provinces – most notably José María Makua, head of the Vizcayan provincial government (Castells and Cajal 2009: 359-361; De Pablo 2008: 355-360).

Ultimately, given the extent of the backlash within the PNV itself, the final version of the LTH approved in 1983 was a much watered-down version of the original draft, offering a more confederal rather than centralised vision of the Basque region. In many respects the final text was somewhat ambiguous rather than rigidly prescriptive regarding the balance of powers between the regional and provincial levels, but it left the door open to a greater role for the provinces than the initial draft had done. The frictions within the PNV that the issue had caused would prove insurmountable. Garaikoetxea would resign from his role as lehendakari in December 1984 (to be replaced by José Antonio Ardanza from January 1985), leave the PNV and subsequently found his own new party, Eusko Alkartasuna (EA) in

1986. The split was a traumatic one for the PNV which weakened the party significantly. The PNV immediately lost 11 deputies in regional parliament, and at the regional elections of November 1986 (the first under Ardanza) it still won but with only 17 seats, down from 32 at the previous elections in February 1984, when the party was still united under Garaikeotxeta's leadership (De Pablo and Mees 2005: 422). The situation made it necessary for the PNV to enter into a coalition with the Basque Socialists (PSE) to form a government, an arrangement which would be repeated following subsequent elections and thus become a longstanding one (1987-1996).

Given the traumatic events that the debate over the provincial and regional balance of powers had caused, the PNV would thereafter seek to avoid revisiting the issue, with the result that the ambiguous parameters of the final draft of the LTH of 1983 still stand today. The PNV has sought to maintain a compromise solution balancing provincial and regional powers, by respecting the role of the provinces as home to the Basque treasuries and seeking to negotiate agreements between the provinces and the regional government on fiscal and financial matters, rather than imposing decisions on the provinces taken unilaterally by the regional government. The fact that Vizcaya has proved the PNV's most reliable stronghold in the region (it has won every provincial election there in the democratic period – see Table 9, p.176) has inevitably contributed to the continued respect for the autonomy of the provincial level within the PNV. For the Basque PP too, defending the provincial level has remained of fundamental importance, due to the party's weight in Álava in particular – a historical stronghold of the Spanish right which it reclaimed when the PP won the provincial elections in Álava for the first time in the democratic period in 1999, since when it has usually alternated with the PNV in the provincial government, winning every other election (see Table 9, p.176). The Basque PP is arguably even more defensive of the provincial level than the PNV, in the sense that it rejects the PNV's attempts to develop the *Concierto* as an instrument of fiscal sovereignty for the Basque region as a whole as the basis for ever greater autonomy from Spain, arguing that this distorts the conception of the original *Concierto* based on the individual provinces. In contrast, there has emerged a broad consensus among left-wing parties in the Basque region – both the PSE (the Basque federation of the Spanish Socialist Party) as well as EA and the radical left-wing secessionists under the *izquierda abertzale* – that one central treasury for the Basque region would be

preferable to separate treasuries at provincial level, privileging reasons of efficiency and equality over tradition.

**Table 9: Basque provincial election results, 2007-2015**

Álava						
2015	PNV (13)	PP (12)	Bildu (11)	Podemos (8)	PSE-EE (5)	Other (2)
2011	PP (16)	PNV (13)	Bildu (11)	PSE-EE (9)	Other (2)	-
2007	PP (15)	PNV (14)	PSE-EE (14)	EA (2)	PCE / EB* (2)	Other (4)
Vizcaya						
2015	PNV (23)	Bildu (11)	PSE-EE (7)	Podemos (6)	PP (4)	-
2011	PNV (22)	Bildu (12)	PSE-EE (9)	PP (8)	-	-
2007	PNV (23)	PSE-EE (14)	PP (8)	PCE / EB* (4)	EA (1)	Other (1)
Guipúzcoa						
2015	PNV (18)	Bildu (17)	PSE-EE (9)	Podemos (6)	PP (1)	-
2011	Bildu (22)	PNV (14)	PSE-EE (10)	PP (4)	Other (1)	-
2007	PSE-EE (16)	PNV (16)	EA (7)	PP (6)	PCE / EB* (6)	-

\*PCE / EB = *Partido Comunista de Euskadi* (Basque Communist Party, federation of the Spanish Communist Party) and *Ezker Batua* (United Left, then Basque federation of the Spanish United Left party)

In all cases, however, some nuances are required to these overall party visions, since much also depends on political circumstances. Party representatives at provincial level inevitably end up defending their own province's interests first and foremost, over and above the party's wider interests or views in the region as a whole.<sup>136</sup> The *izquierda abertzale* has always been fiercely critical of the *Concierto* as insufficient since it seeks secession for *Euskal Herria* and considers the *Concierto* a form of out-dated subordination to Spain.<sup>137</sup> It also accuses the Spanish government of using the *Concierto* and the *Convenio* during the Transition to seek to separate

<sup>136</sup> Personal interviews with senior officials in the provincial treasury departments of Vizcaya and Guipúzcoa, 2014-2015.

<sup>137</sup> See, for example, the tirade against the *Concierto* Xabier Olano (Director of the Treasury of Guipúzcoa in 2011-2015) delivered in a speech in 2002 (Olano 2002).

Navarre from the rest of the Basque Country, since the three Basque provinces started to make one joint quota payment.<sup>138</sup> Nevertheless, it would need to clarify its views on how it would actually use the Concierto once it won power to govern in Guipúzcoa for the first time in 2011-2015 and thus took control of the Guipúzcoan treasury. Key representatives of Bildu clearly joined other left-wing parties in criticising the existence of three separate treasuries in such a small territory as inefficient, especially given the extent of mobility of capital in the 21<sup>st</sup> century. And yet since Bildu had power in Guipúzcoa and had a more left-wing social and fiscal agenda from the PNV and the PP in power at the time in Vizcaya and Álava respectively, it would at the same time come to resent attempts by the overall majority within the region to force Guipúzcoa into line with the other two provinces' fiscal decisions, seeking to assert the province's autonomy. Meanwhile, the Basque PP strongly defends the provincial level of government, yet this has not prevented it from favouring tax harmonisation almost to the extent of uniformity throughout the Basque region as a whole (to the detriment of provincial autonomy), criticising the afore-mentioned Guipúzcoan government for attempting to step out of line with the reigning centre-right ethos in Vizcaya and Álava at the time.

The fact that the main precepts of the LTH of 1983 have remained unchanged, and that the balance of powers between regional and provincial governments remains politically controversial, has had significant implications for the Concierto. Much of the legislation relevant to the intra-regional functioning of the Concierto has barely been updated, if at all, since the 1980s, given the different political views on the matter. The fact that the three provinces are responsible for collecting taxes and set their own legislation for direct taxes raises a number of complex questions within the region. These include how the revenues should be distributed between regional and provincial levels of government; what tax harmonisation measures should be in place to avoid the risk of significant tax distortions between the Basque provinces; and what means of coordination and collaboration between provincial and regional governments over fiscal matters are required. Indeed, many of the controversial issues between the Basque region and the rest of Spain over the Concierto discussed in earlier chapters – for example, to what extent the Basques should contribute to revenue redistribution within Spain, or how rigidly to interpret the harmonisation

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<sup>138</sup> Personal interviews with Laura Mintegi (Bildu) and with senior treasury officials in the Guipúzcoan provincial government, 2014.

criteria between Basque and Spanish tax legislation – bear parallels with some of the sources of contention within the Basque region itself between regional and provincial administrations and between the different provinces. And in both cases (Spanish-Basque bilateral relations and intra-regional Basque relations), different political interests at different levels of government heavily influence the outcome of such sources of contention in fiscal and financial relations.

### **How the Concierto works within the Basque region (1): Revenue-raising and resource distribution**

Article 22 of Part II Chapter II of the LTH stipulates the basic principles and procedure that must be followed to decide how the tax revenues raised by the three Basque provinces should then be distributed between the regional government and the provinces to finance their respective competences (the provinces, in turn, then also make a smaller payment to their respective local authorities or municipalities). The exact methodology for the distribution of resources and contribution of each province to the regional government are decided in meetings of the Basque Council of Public Finances (*Consejo Vasco de Finanzas Públicas*), in accordance with the criteria stipulated in Article 22 of the LTH, and then set in a contribution law (*Ley de Aportaciones*), to be approved by the Basque parliament.<sup>139</sup> The contribution law must comprise a single article, thus it is not subject to partial amendment. The contribution law determines how much each province must transfer to the Basque regional government (their *aportación* or contribution), as well as how much of the Basque quota to the central government each must pay. It also recommends a minimum share of revenues each should give to the local authorities in their territory. Since the Basque regional government has by far the most spending competences within the region and yet raises almost no revenues of its own (since revenue-raising powers are almost entirely concentrated in the hands of the Basque provinces), it is actually the regional government with the least revenue-raising powers in Spain, even though the Basque region as a whole has far greater revenue-raising powers than any other region. Under the LTH, each contribution law originally had to be valid for at least 3 tax years (Article 22.8). Since 1992, however, the contribution

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<sup>139</sup> On the technicalities of how the Concierto works internally in the Basque region, see Zubiri 2010: 71-78.



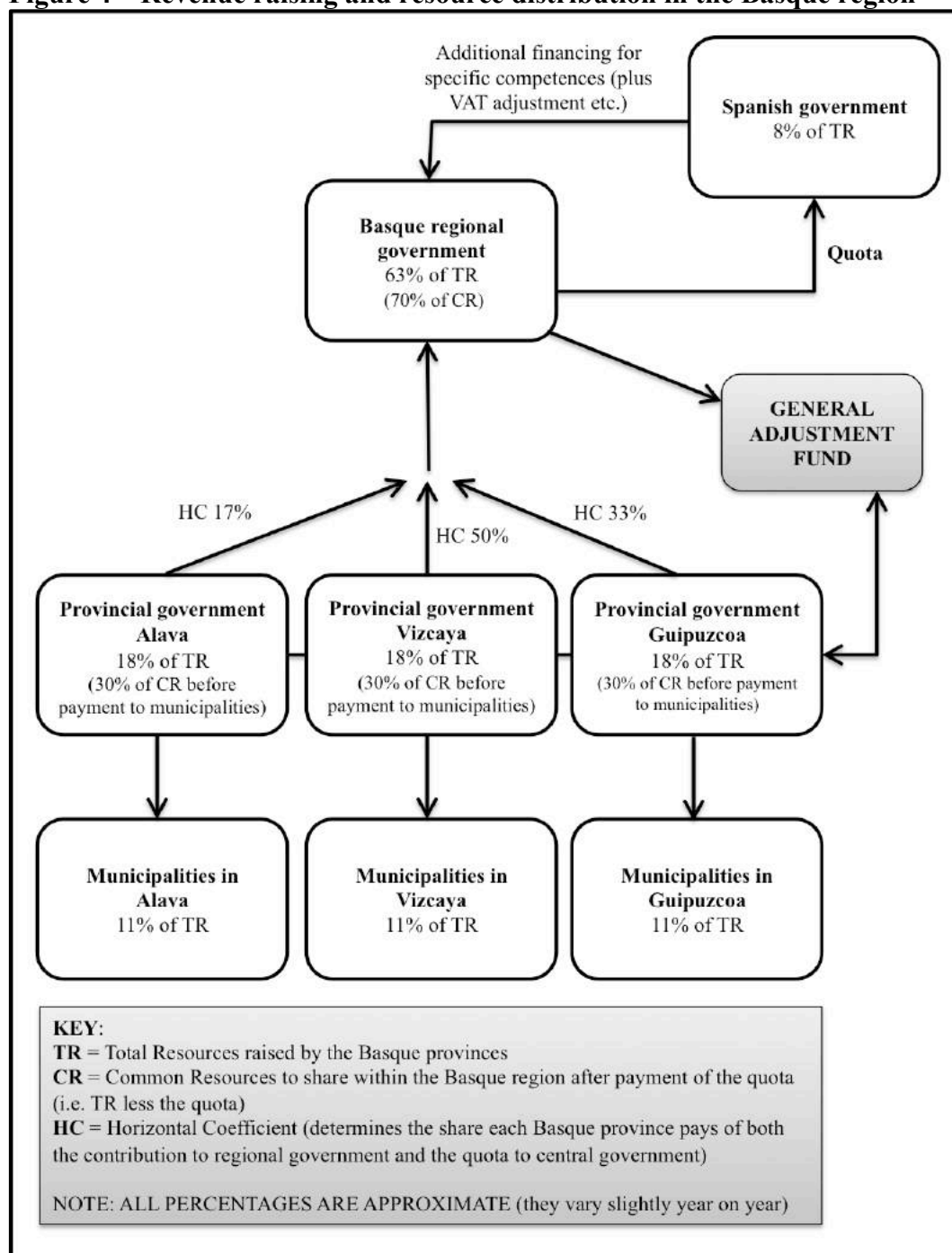
laws have been five-yearly so that they run more or less in tandem with the five-yearly quota laws governing the payment of the Basque region to the Spanish central government (Zurutuza 2014: 6). The contribution law is usually negotiated and approved shortly after the quota law. In practice, all the contribution laws approved so far have tended to be very similar, since conflicting political interests make it very difficult to push through any changes to the calculation of the contributions (mirroring the problem with the quota laws).<sup>140</sup> The Basque Council of Public Finances usually meets twice per year, once in February to settle the final revenues for the previous year and thus the final contributions, and once in October to draw up the Basque budget (the regional government needs to collaborate with the provinces over this since the latter raise the revenues to be spent primarily by the regional government).

The total resources of the Basque region comprise the tax revenues raised by the provinces and, in much smaller measure, some additional financing for certain specific competences provided directly to the Basque regional government by the central Spanish government. These include funds to contribute to the additional costs of the Basque regional police, the Ertzaintza (for historical reasons, due to the history of terrorism); and special financing for specific expenditure policies to cover the cost of policies to promote economic development and ensure the political and economic stability of the Basque region. Once the annual quota has been paid to the central government (a joint payment to which all three provinces contribute a share of their revenues), the remaining bulk of the revenues raised by the Basque provinces provide the common resources to be shared between different levels of government in the Basque region to cover general competences. These are distributed according to a *vertical coefficient* (which determines the total amount the provincial governments must pay to the Basque regional government) and *horizontal coefficients* (which determine how the amount to be paid to the regional government should be split between the three provinces), with some final adjustments (Zubiri 2010: 74-78; Zurutuza 2014). Lastly, of the common resources that remain in the hands of the provinces after they have paid the contribution to the regional government, a proportion also goes to the municipalities or local authorities. Figure 4 and the following subsections explain this split in resources in more detail.

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<sup>140</sup> Personal interviews with senior officials in the provincial treasury departments, 2014.

**Figure 4 – Revenue raising and resource distribution in the Basque region**



Source: Own elaboration based on Zubiri 2010: 78 and Article 22 of Part II Chapter II of the Ley de Territorios Históricos (LTH)

### *Vertical coefficient*

The vertical coefficient determines how much the Basque government receives of the common resources (i.e. the remaining resources to be used within the Basque region after the quota has been paid to Madrid) to fulfil its general spending competences. This was last set at 70.04% under the 2007-2011 contribution law, which was subsequently also rolled over from 2012. In other words, the Basque government is due 70.04% of the common resources for general spending competences in the Basque region, while the remaining 29.96% remains in the hands of the provincial authorities. The trend to date has been a gradual increase in the share of the Basque government in the common resources, rising from 64.25% under the first contribution law in force in 1986-1988 to the current level of approximately 70% (Zubiri 2010: 74).

### *Horizontal coefficients*

Horizontal distribution coefficients then determine what proportion of the contribution to the Basque government is covered by each of the three provinces, as well as what proportion of the quota payment to the central government they each pay. 70% of the horizontal coefficient of each province is based on its income (average provincial GDP relative to that of the region over the prior four years) while 30% is based on its tax capacity relative to that of the other provinces. Indicators of tax capacity are used instead of the figures for actual tax collection, in order to incentivise efficient tax management. The horizontal coefficients are calculated each year under the methodology approved in the contribution laws, with Vizcaya (as the largest province) always accounting for the largest share (typically in the region of 50-52%), followed by Guipúzcoa (around 32%-34%) and then Álava (around 14%-16%) (Zubiri 2010: 76).

### *Final adjustments*

Two final adjustments are made to the horizontal distribution in an attempt to ensure the model produces fair outcomes, the first of which aims to share out indirect tax revenues appropriately using the horizontal coefficients (Zubiri 2010: 75). For the second adjustment, a General Adjustment Fund (*Fondo General de Ajuste*) aims to make sure that the final share each province receives of total tax collection (after payment of the contribution and the adjustment for indirect taxes) is equal to at least

99% of its horizontal coefficient (Zubiri 2010: 75; Zurutuza 2014: 8-9). The Fund is endowed with contributions from the Basque government (which provides a proportion in line with its vertical coefficient) and from any province whose final share of total tax collection is above 99% of its horizontal coefficient. The Fund is relatively small since it is designed for final adjustment purposes only, with its maximum size capped at 1% of the total common resources to be shared.

#### *Final distribution of resources*

The contribution law recommends a minimum transfer to the local authorities of 54.6% of the share of the common resources left in the hands of the provinces, after both the 70.04% paid to the regional government and some further deductions specified in the Fourth Additional Disposition of the contribution law. Ultimately, following the transfers to the central government (via the quota), the Basque regional government (via the contribution) and the local authorities, the provincial governments are left with around only 18% for themselves of the total revenues they actually collect. The distribution of total revenues among different governmental levels has remained broadly consistent since 1997 (when the *Concierto* was developed to give the Basque region significant new tax-raising powers), with at least 60% going to the Basque government, around 18% to the provinces, around 11% to the local authorities and approximately the same to the central government for the quota, though the relative proportion paid to the central government declined rapidly during the financial crisis to around 8%, since state tax collection decreased more rapidly than Basque tax collection) (Zubiri 2010: 77-78). It might be expected that this would give few incentives to the Basque provinces to raise taxes effectively, since they keep so few of the proceeds for themselves, but the reality of tax collection outcomes suggests otherwise, since the provincial governments accept their duty to provide the necessary resources for the Basque public sector in its entirety to benefit both the individual provinces and the region as a whole (Zubiri 2010: 77-78).

#### ***Intra-regional distribution of resources: The controversies***

Virtually all the controversies concerning the intra-regional distribution of resources relate to different aspects of the way in which the horizontal coefficients

and distribution model work.<sup>141</sup> In this regard, the main controversy – on which we shall focus here – is the extent of the imbalance in the final distribution of resources between provinces. The idea behind the design of the horizontal coefficients, which determine how much each province contributes to the Basque regional government (via the contributions) and also to the Spanish central government (via the quota), was to incentivise competition in tax collection among the three provinces and thus promote efficient tax management. Nevertheless, there have been criticisms from Guipúzcoa and Álava since the coefficients have ended up favouring Vizcaya in the past decade. The figures for the final revenues left in the hands of each province after payment of the contribution and quota reveal that the model results in significant differences in levels of resources, both in per capita terms and as a percentage of GDP. Despite being the province with the lowest relative GDP per capita, Vizcaya has ended up with the greatest resources both as a percentage of GDP and per capita (Zubiri 2010: 76). This has not always been the case – prior to 1997, the province of Vizcaya had been disadvantaged, which was the main factor behind the decision reached that year to create the General Adjustment Fund (originally called the Solidarity Fund) and also to share out the revenues from excise duties using the horizontal coefficients (a decision which would eventually be applied to VAT too), in an attempt to alleviate the imbalances negatively affecting Vizcaya.<sup>142</sup> For nearly the past decade, however, Vizcaya has consistently come out on top even after contributing to the General Adjustment Fund.

A study by Sebastian Zurutuza Mujika (2014), of the Guipúzcoan provincial treasury department, analyses the results of the horizontal distribution model over the period 2007-2013, calculating average annual figures for that seven year period, to highlight the imbalances in the model.<sup>143</sup> In that period, the proportion of revenues raised in each province relative to the horizontal coefficient of each (after the adjustment for indirect revenues but prior to application of the General Adjustment Fund) was higher than the horizontal coefficient in Vizcaya but lower in Álava and Guipúzcoa (see Table 10, p.184). Since the horizontal coefficients are used to determine how much each province contributes to the Basque regional government

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<sup>141</sup> Personal interviews with senior officials in the provincial treasury departments, 2014.

<sup>142</sup> Personal interview with senior officials in the treasury department of Vizcaya, 7 September 2015.

<sup>143</sup> Sebastián Zurutuza and José Luis Hernández Goicoechea, officials in the treasury department of Gipuzkoa, were also interviewed by the author on 7 October 2014.

(as well as to the central government via the quota), this means that Vizcaya gets to keep greater resources for its province than Álava and Guipúzcoa. Furthermore, the General Adjustment Fund has proven insufficient in size to achieve its aim to ensure that each province would keep resources for use within its territory (after payment of the quota and the contribution) equivalent to at least 99% of its horizontal coefficient (see Table 11). If the average results are calculated in per capita terms, instead of by province as a whole, then this reduces to some degree Vizcaya's advantage and Álava's disadvantage, though Guipúzcoa remains significantly disadvantaged (see Table 12).

**Table 10 – Provincial revenues raised relative to horizontal coefficient**

Province	Total revenues raised in province relative to horizontal coefficient
Álava	96.81%
Vizcaya	104.01%
Guipúzcoa	97.43%

Source: Based on Zurutuza 2014: 12

**Table 11 – Final provincial revenues relative to horizontal coefficient**

Province	Yearly average 2007-2013 (after application of the General Adjustment Fund)
Álava	88.13%
Vizcaya	114.81%
Guipúzcoa	90.51%
Total provinces	102.33% (above 100% due to the contribution from the Basque regional government to the General Adjustment Fund)

Source: Based on Zurutuza 2014: 14

**Table 12 – Final provincial revenues per capita**

Province	Yearly average 2007-2013 (in euros)
Álava	1,516
Vizcaya	1,621
Guipúzcoa	1,369
Total provinces	1,524

Source: Based on Zurutuza 2014: 14

Another study, by Ignacio Zubiri (2010: 76), shows the imbalances in final resources taking the year 2008 as an example, providing both the final resources per capita and as a percentage of GDP in each province. What is particularly interesting to note is the fact that Vizcaya, the region with the lowest GDP per capita, ends up with the highest resources both per capita and as a % of GDP. This suggests that the model is overly redistributive of income, going beyond the recommendations of Article 22.4 of the LTH. The latter stipulates that the criteria and methods used to distribute resources between regional and provincial administrations in the Basque region should, taking as a basis the principle of budgetary sufficiency, provide an overall average expenditure policy per capita that is equitable and shows solidarity.

A number of potential reasons could explain why the distribution model results in inequitable outcomes for the three provinces (Zurutuza 2014: 15). Since the horizontal coefficients incorporate indicators of tax capacity (i.e. what a province *should* be able to collect) rather than actual tax collection figures in order to incentivise good tax management, the first factor to investigate would be whether, or to what extent, different tax legislation or deficits in tax management in some provinces explain the imbalances in outcomes. There are also several other possible explanations or contributing factors. Does the methodology used to calculate the horizontal coefficients (based on 70% income and 30% tax capacity – see p.181) actually properly reflect the relative tax-raising power of each province? Is the General Adjustment Fund, the total size of which is capped at 1% of the total common resources for the region, large enough to correct distortions in the system? The Basque regional government, for example, almost consistently contributes the maximum permitted to the Fund under the current rules (approximately 0.7% of the common resources, since it receives around 70% of these and the Fund constitutes a maximum 1% of them in total), and yet this has not proven sufficient to help ensure that each province's share in total Basque tax collection, after payment of the quota and contribution and following the final adjustments, reaches at least 99% of its horizontal coefficient. Does the Basque regional government receive too large a share of the common resources under its vertical coefficient? Beyond the question of coefficients, there are some other potentially problematic areas too. The Concierto establishes 'points of connection' for each tax that determine whether Spanish or Basque legislation applies in each case (be it to an individual or a company, depending on the tax). If Basque legislation applies, however, it does not then

specify further rules to determine which province's legislation is applicable, which must be decided internally within the Basque region (Reta 2002: 180-1). With the taxes at risk of most geographical distortion such as Non Residents Tax and Corporation Tax (given the complications of deciding where companies are domiciled for tax purposes), do the current rules determine appropriately which revenues should belong to which province?

Addressing these questions properly would require a willingness of all government levels involved (the Basque regional government and the three Basque provincial governments) to undertake proper analysis and reform of the contribution law. There have been seven contribution laws in total, in force respectively in 1985, 1986-1988, 1989-1991, 1992-1996, 1997-2001, 2002-2006, 2007-2011, the last of which was also rolled over from 2012 due to the lack of ability to reach a new agreement (mirroring the lack of a new quota law agreement). Most have remained very similar under each new version, since conflicting interests between the provinces usually prevent meaningful changes, since it is essentially a zero-sum game. In 2012 a working group was initiated to address the need for a proper overhaul of the law but its progress would prove very slow. Representatives of the provincial administration of Guipúzcoa would blame political opposition from the Vizcayan provincial government.<sup>144</sup> At the time, under the 2011-2015 provincial parliamentary term, the three provinces were each governed simultaneously by different parties for the first time: the PP in Álava, the PNV in Vizcaya and Bildu in Guipúzcoa. As the largest province, home to the region's largest companies (mainly energy companies) and thus the financial powerhouse of the Basque region in terms of total resources collected, Vizcaya can hold significant weight in intra-regional negotiations over finances and, at times, considerable sway over the Basque regional government.<sup>145</sup> The fact that Vizcaya has been a PNV stronghold throughout the democratic period (the party has governed the province consistently since the first provincial elections of the democratic period in 1979) has also increased its influence over PNV-led regional governments and within the PNV in general on matters pertaining to the Concierto. There have been complaints at times from Álava and Guipúzcoa (particularly when these have been governed by political parties other

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<sup>144</sup> Personal interview with Helena Franco and Itziar Miner, 5 September 2014.

<sup>145</sup> Personal interviews with senior officials in the treasury departments of Álava and Guipúzcoa, 2014.



than the PNV) of relations being centralised around the Basque regional government and Vizcaya to the detriment of the other two smaller provinces. Or even of Vizcaya seeking to dominate over the regional government too and dictate policy, since the regional government is dependent first and foremost on Vizcaya for financing, giving the latter significant bargaining power.

Senior officials in charge of the technical functioning of the Concierto within the Vizcayan provincial government acknowledge the need for an overhaul of the contribution law, since Álava and Guipúzcoa have ended up at a consistent disadvantage for nearly a decade, but they suggest that negotiations at the political level are more challenging.<sup>146</sup> The return of the PNV to govern in all three provinces, in alliance with the PSE in each, following the 2015 provincial elections, did not however look set to promise an easier resolution to the matter either. Since each province represents its own interests first and foremost, experience has shown that achieving agreements over matters concerning the intra-regional workings of the Concierto between provincial governments when all three are controlled by the PNV can be even harder than with governments of different political colours, since in such circumstances each PNV representative then becomes more defensive of its province's interest relative to the overall party interest. Moreover, the PNV and the PSE, in alliance together in all three provinces, hold very different party views on the question of the balance of powers between regions and provinces, with the PSE in favour of a revision of the LTH to centralise powers more at regional level.

These dynamics have had relevant implications for the PNV's attitude to the internal territorial problematic of the balance of powers between regional and provincial institutions in the Basque region. Over the decades since the LTH of 1983 was approved, the PNV has maintained its reluctance to reopen the question and risk any revision of the LTH that might threaten the powers of the provinces. The weight of the party in Vizcaya, the importance of the provincial level for the party and the different party interests in different provinces are fundamental factors that would certainly make any such revision fundamentally difficult, even if some sectors of the party would prefer greater centralisation at regional level. To some extent, the fact that the Vizcayan provincial government holds significant weight in financial matters compensates for its relative lack of weight (compared to its population size) in the

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<sup>146</sup> Personal interviews with senior officials in the Vizcayan treasury department, 2014.

Basque parliament. The Basque regional parliament has 75 members, with each province electing 25, despite their very different population sizes (Vizcaya, the largest, has a population more than three times the size of Álava, the smallest). This equal distribution of seats was decided upon by Basque forces during the Spanish transition to democracy as a means of ensuring support for Basque regional autonomy from Álava, the most reluctant province, and to leave open the possibility of enticing Navarre to join one day too, with the incentive that it would have substantial seats relative to its small population (a further 25, to make 100 seats in total). Where Vizcaya is thus relatively underrepresented in Basque regional parliament (relative to its population size), the fact that it raises by far the most revenues in the region nevertheless gives it weight and negotiating power of a different kind both within the region and within the PNV itself. This has contributed to the PNV's dominance in the region as a whole, Vizcaya's dominance within the PNV, and in consequence, the PNV's continued strong support for the weight afforded to the provincial level of government. Since the party's conservatism and pragmatism is strongest in Vizcaya, in part due to the party's particularly strong links to big business there, this also reduces the scope for radical shifts in agenda.

### **How the Concierto works within the Basque region (2): Inter-provincial tax harmonisation, coordination and collaboration**

Another fundamental and equally controversial question is that of inter-governmental tax harmonisation, coordination and collaboration within the Basque region, since each of the three provinces has its own revenue-raising authority and therefore could in theory establish a separate tax system to a degree. From the 1980s, one of the key questions regarding the balance of powers in relation to the Concierto became: To what extent should the Basque parliament exercise a harmonising role over taxation, thereby reducing provincial autonomy over fiscal decisions, in order to reduce potentially harmful inter-provincial disparities in legislation? The lack of consensus over what is meant by harmonisation has added to the complexity of the debate. It is generally accepted that tax harmonisation within the Basque region itself between the provinces needs to be even stronger than between the Basque region and Spanish tax legislation, given the concept of shared risk which characterises the intra-regional dimension of the Concierto, whereby all three provinces collect

revenues to provide the common resources of the region as a whole (Martínez Bárbara 2013: 74-75). But views differ on whether strong harmonisation should necessarily require exactly the same tax rates in each province.

The Concierto law stipulates the harmonisation rules with Spanish tax legislation to which Basque tax legislation is subject and provides the framework to create the necessary bilateral bodies or committees to ensure bilateral Spanish-Basque coordination over the Concierto. Beyond that, however, the Concierto does not address what harmonisation or coordination between tax systems is required within the Basque region itself between the three provinces. The Basque Statute of Autonomy (Article 41.2.a), followed also by the Concierto (Article 3.1.4) and the LTH (Article 14.3), put the role of designing the framework for intra-regional tax coordination and harmonisation firmly in the hands of the Basque parliament (Reta 2002: 183-184). The LTH, under Article 14.3, was the first piece of legislation to give an indication of the level of tax harmonisation to be required in the Basque region. It stipulated that the Basque provincial assemblies, in exercising their legislative power over taxation, would ‘regulate uniformly the main elements of the different taxes’ (Article 14.3). This gave a clear mandate for inter-provincial uniformity in at least the main aspects of each tax, which would reduce provincial autonomy over taxation. Nevertheless, the LTH did not have the final word on the matter, stating in its Third Transitory Disposition that the stipulations of its Article 14.3 would only be applicable once expressly provided for in the law on coordination, tax harmonisation and collaboration between the Basque provinces to be drawn up and approved by the Basque parliament (Martínez Bárbara 2013: 75-76).

The Basque law on tax harmonisation eventually materialised as Law 3/1989, of 30 May, on Fiscal Harmonisation, Coordination and Collaboration (hereafter Basque Tax Harmonisation Law) – which was later reformed in 1998 under Law 4/1998 of 6 March, following the significant increase in tax legislative capacity afforded to the Basque provinces after the reform of the Concierto in 1997 (Martínez Bárbara 2013: 76-77; Reta 2002: 184). The provisions of the Law were deliberately vague, given the difficult task of reconciling the tax-raising autonomy of the provinces with the harmonising role of the regional parliament. The preamble of the 1989 Basque Tax Harmonisation Law is devoted to discussing the dilemma of striking the right balance. It refers to the difficulties of defining tax harmonisation

without going as far as uniformity, and to ‘the need to address the issue delicately and be respectful of the competences of the different institutions’ as well as to provide a flexible mechanism, ‘adaptable to the very dynamic of tax legislation’. In light of this, it explains the decision taken that the Law would not be comprehensive or prescriptive, but rather serve as ‘a framework law’ to lay the bases for the ‘later development of more concrete and specific aspects’.<sup>147</sup> The Law shies away from prescribing what exactly must be coordinated or what extent of tax harmonisation is required (given the fine line between harmonisation and uniformity), instead providing a basic framework subject to future specification and development. In Article 2, the Law echoes the stipulations in Article 14.3 of the LTH, stating that the provisions issued by the competent authorities of the historical territories ‘will regulate uniformly the substantial elements of the different taxes’. And yet the same Article also stresses that the level of harmonisation reached will still allow different legislative provisions in each of the historical territories, ‘provided that these guarantee a global equivalent fiscal pressure in the whole autonomous community’ – without defining what it means by the ambiguous term ‘global equivalent fiscal pressure’.

The ambiguity of the Law in terms of its definition of harmonisation, and also regarding the relative weight it affords to the provinces on the one hand and the Basque parliament on the other, is also reflected in the conflicting interpretations of it that have ensued among Basque politicians, lawyers and academics. For most taxes, the Law lists what specific aspects of the tax should be harmonised going forward, ‘when appropriate’ (*cuando proceda*). This has lent itself first and foremost to the interpretation that the harmonisation of such aspects should be prescribed *ex ante* in further laws approved by the Basque parliament, prior to the provinces approving their relevant tax legislation in compliance. The Additional Disposition of 1989 specified that the Basque parliament should approve within one year of the framework law a series of draft laws to harmonise the aspects of the taxes listed in Articles 3, 4 and 5. Others, however, have instead suggested the term ‘cuando proceda’ implies that the Basque parliament’s role can be *ex post* rather than *ex ante*. Under this interpretation, the Basque parliament only needs to intervene in specific

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<sup>147</sup> These are my approximate translations. The full text of the law is available in Spanish here: [http://noticias.juridicas.com/base\\_datos/CCAA/pv-13-1989.html#i](http://noticias.juridicas.com/base_datos/CCAA/pv-13-1989.html#i)

cases where any provincial tax measures result in a lack of harmonisation requiring correction (Martínez Bárbara 2013: 77-78, 80; 2014b: 196).

In any case, the debate has been a theoretical one only, since in practice the Basque parliament has never debated or approved any harmonisation laws as foreseen in the framework law of 1989 and the updated version of 1998 (Martínez Bárbara 2013: 80). Thus it did not fulfil the mandate given in the additional disposition of the framework law of 1989 to approve a series of harmonisation laws in the following year, nor has it approved any other harmonisation law since. This inevitably reflects to a large degree the PNV's desire to avoid the risk of stirring up unresolved political differences over the relative weight of the provinces and the Basque regional parliament in the region's political setup. Nevertheless, representatives of the three provinces and Basque regional government have usually managed instead to reach agreements within the Basque Tax Coordination Body (*Órgano de Coordinación Tributaria de Euskadi*), also created under the provisions of the Basque Tax Harmonisation Law, to ensure sufficient harmonisation ex ante generally to avoid major controversies – thus also reducing the need for the Basque parliament to intervene with legislation (Martínez Bárbara 2013: 81).

The Basque Tax Coordination Body, which comprises six representatives (three from Basque government and one from each of the three provinces), was envisaged in the Tax Harmonisation Law as a means of ensuring that the provinces complied with the framework Tax Harmonisation Law and any future laws on specific aspects of tax harmonisation issued by the Basque parliament. The framework law stipulated that the provincial governments would each inform the Tax Coordination Body of any changes they intend to implement to their tax legislation, which would then issue a report within a month to determine whether the measure complied with the legislation on tax harmonisation issued by the Basque parliament. In practice, since no harmonisation laws to develop the original framework law have ever been drafted, the framework law – which lists the main aspects of the different taxes that should be harmonised, but does not provide rules for harmonising them – is the only benchmark the Tax Coordination Body has to use. The reports issued are non binding, but the provincial authorities have tended to adhere to them on most occasions. Almost all reforms undertaken by the Basque provinces of the direct taxes, for which they have legislative competence, have been agreed within the Tax Coordination Body to seek sufficient harmonisation between

provinces. The work of the Tax Coordination Body seeks to ensure that any new tax measures introduced by provincial government are very similar in each of the three provinces and as a result, this has usually (but not always) avoided the introduction of tax measures that could cause a serious lack of harmonisation between provinces.

The Tax Coordination Body undoubtedly gives a greater voice and veto power to each provincial authority than they would have in a parliamentary vote on a tax harmonisation law. For those keen to retain and respect the traditional fiscal competences of the provincial authorities, the work of the Tax Coordination Body to achieve agreement between provinces over fiscal decisions, without the imperative need for intervention by the Basque regional parliament, has been very positive.<sup>148</sup> Inevitably, the fact that there has usually been a similar constellation of political forces in each of the three provinces and at regional government level has helped to facilitate agreements. Frequently, the PNV has been in power at regional government level as well as in all three provinces at once, albeit usually with a minority, and it has usually been able to ally with the PP and the PSE on fiscal matters to reach a consensus among the provinces. Nevertheless, the issue of inter-provincial tax harmonisation and coordination has still been a source of significant controversy. Both the lack of legal relevance of the agreements reached by the Tax Coordination Body and the lack of definitive laws guiding it have inevitably contributed to: (1) a lack of legal security for taxpayers on occasion, in cases when conflicts of competence between provinces have emerged over the collection of certain taxes (Reta 2002: 180-1); and (2) a risk of inter-provincial tax disharmonisation in the event of serious disagreements between provinces over tax measures. This has inevitably resulted in criticisms of the lack of a fully developed legal framework for the inter-provincial dimension of the *Concierto*, leading to calls to set aside the politically conflictive dimension of the question of the balance of competences between the provincial and regional levels in order to ensure first and foremost that the *Concierto* functions a fully developed legal instrument (e.g. Reta 2002: 189). Recently, Pedro Luis Uriarte, who headed the Basque delegation that negotiated the *Concierto* agreement of 1981 under the government of Carlos Garaikoetxea, expressed the view that the Basque Tax Harmonisation Law of 1989 not only took too long to be introduced in the 1980s, but that its content remains poor and

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<sup>148</sup> Personal interviews with senior officials in the Vizcayan treasury department, 2014.

undeveloped to this day, requiring a full revision (Uriarte 2015: Pt VIII, 48). This in itself reveals the continued differences in perspective within the PNV over the question of the balance of powers between the provincial and regional authorities in taxation matters.

***Tax (dis)harmonisation: The controversies***

Some provincial tax measures in the past decade, in particular since 2007, have put the existing, non legally-binding procedures for tax harmonisation via the Tax Coordination Body to the test to a greater extent than previously (Martínez Bárbara 2013: 82). This has been fundamentally due to opposition from Guipúzcoa to certain tax measures which have nevertheless secured the approval of both Vizcaya and Álava, in large part owing to the longstanding relatively greater weight of left-wing political forces in Guipúzcoa – not just the Basque Socialists but also more radical left-wing political forces under EA and the *izquierda abertzale* (see Table 9, p.176). The *izquierda abertzale* is characterised not only by its support for the independence of Euskal Herria but also by its fundamentally anti-capitalist ideology.

Understanding why desires for different fiscal policies have emerged from Guipúzcoa in particular in recent years first requires an understanding of the different political landscape in each province (see also Table 9, p.176). Throughout the democratic period, Vizcaya has been the PNV's stronghold: it has won every provincial election, consolidating its majority at 22 or 23 seats (out of 51) in each of the four provincial elections since 2003 (2003, 2007, 2011 and 2015). In Álava, the dominant political forces have been the PNV and the PP, the two of which have alternated in government in the past decade: in 2003 the PP won, followed by the PNV in 2007, the PP again in 2011, and the PNV again in 2015. Meanwhile, in Guipúzcoa, the predominant force has usually tended to be the PNV but it has also faced far greater competition (relative to Álava and Vizcaya) from both the Basque Socialists (PSE), EA (the party which formed following the split within the PNV in 1986), as well as other more radical left-wing, secessionist political parties grouped under the *izquierda abertzale*, an umbrella group which EA would also join from 2009 onwards. Between 1999 and 2007, the PNV and EA had formed a stable alliance and presented a joint coalition candidature at elections at regional and provincial level to strengthen the nationalist camp and fend off the threat to

nationalist dominance from the Basque Socialists, but increasing differences between the parties – not least on fiscal and social matters – led the coalition alliance to split from 2007 when EA decided to go it alone at the provincial and municipal elections that year. From then onwards it emphasised its left-wing credentials more as it moved closer to the secessionist *izquierda abertzale*, which it allied with from 2009 onwards as ETA moved closer to a definitive ceasefire. At the 2011 provincial elections, the *izquierda abertzale* would triumph for the first time in Guipúzcoa under the new coalition Bildu, which included EA. Bildu was a formation bringing together parties of the *izquierda abertzale* spearheaded by Sortu, the new lead political party of the *izquierda abertzale* formed in 2011, following the outlawing of the previous lead party Batasuna in 2003 by the Spanish authorities on account of its links to ETA (see Terminology section, Chapter 1, pp.22-3).

This stronger left-wing presence in Guipúzcoa has had a significant impact on political alliances in the province and the behaviour of the PNV there. Throughout the Basque region, at both regional and provincial levels of government, the winning party has never usually won an outright majority of seats, raising the constant need for formal coalitions or more informal alliance arrangements to push policies through parliament. In general terms, the PNV and the PP in the Basque region as a whole are usually quite closely aligned on fiscal policy, since the PNV is fundamentally a centre-right party in its fiscal policies. Nevertheless, the PNV often appears almost centre-left in its social policies, since the fact that the *Concierto* gives the region higher per capita resource levels (relative to the rest of Spain) means that the party has often been able to combine essentially right-wing fiscal policies with more generous social policies than might normally be expected of a centre-right party. Since the Basque Socialists, the PSE, are left-of-centre rather than a radical left party, collaboration between the PNV and the PSE on fiscal and social policy has also often been possible in the Basque region, especially given the PNV's afore-described mix of centre-right and centre-left dimensions. However, specifically in the province of Guipúzcoa, the relative strength of more extreme left-wing parties under the *izquierda abertzale* has had several consequences for party alliances and behaviour. Left-wing alliances against the PNV and the PP have emerged on occasion in Guipúzcoa, more so than in Álava or Vizcaya. Since the PSE in Guipúzcoa is more accustomed to the political presence of the *izquierda abertzale* than the Socialists elsewhere in the Basque region, it initially proved more inclined



to work with them on social issues when the izquierda abertzale won power in the province in 2011 under its coalition Bildu to govern for the first time. Indeed, some former leading members of the PSE from Guipúzcoa, most notably Jesús Eguiguren, have envisioned a nationalist, left-wing alliance incorporating the PSE as the way forward for the Basque Country (Eguiguren 2014: 114-115). This, in turn, has also meant that the PNV in Guipúzcoa has had to be more careful than the PNV elsewhere not to alienate the PSE, EA and the izquierda abertzale, since there is an increased risk they could ally together against the PNV. PNV leaders in Guipúzcoa tend to be more inclined to want to work towards a relationship with the izquierda abertzale than their colleagues in Vizcaya and Álava.<sup>149</sup>

*Experiences of tax disharmonisation (1): 2007 corporation tax reform*

The different political dynamics in Guipúzcoa compared to Álava and Vizcaya became clear in 2007 when difficulties emerged in securing Guipúzcoa's approval for the corporation tax reform of 2007 (Martínez Bárbara 2013: 82-84).<sup>150</sup> This was the first significant overhaul of corporation tax in the Basque region since 1996. Tough negotiations within the Tax Coordination Body resulted in each provincial representative agreeing the same new corporation tax regulation (reflecting the minimum parameters that all could agree on), which was given the green light by the Tax Coordination Committee at a session on 1 February 2007. Among other changes, this set the general rate of Corporation Tax at 28%. The reform was one spearheaded by the PNV, which at the time led the Basque regional government, the Vizcayan provincial government, and the Guipúzcoan provincial government (in all cases the PNV was at the time the lead partner in a stable coalition with EA, since the two parties had presented a joint candidature at the previous regional and provincial elections). It also had the backing of the PP governing in Álava. In the following weeks, the three provincial governments

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<sup>149</sup> This was evident in the contrasting opinions expressed by Joseba Egibar (Guipúzcoa) on the one hand and Andoni Ortuzar (Vizcaya) on the other, in interviews held on 8 April 2014 and 10 April 2014, respectively.

<sup>150</sup> To my knowledge, Martínez Bárbara (2013: 82-84) is the only author to have addressed this controversy in any detail. Her primarily technical account of the discrepancies in proposed corporation tax rates is complemented here by further analysis of the political dynamics of the debate gathered from extensive reading of mainly Basque newspaper reports from the time, especially in *El Correo*, *El Diario Vasco*, *Noticias de Guipúzcoa*, *Gara*, as well as Spanish newspapers such as *El País*.

approved their respective new draft corporation tax regulations and submitted them to the provincial assemblies for debate, amendment and approval. Álava and Vizcaya both approved their respective regulations in March, but in Guipúzcoa, with a different correlation of political forces in the provincial assembly, various groups opposed what they considered too low a general corporation tax rate, thus preventing approval of the regulation. It was therefore withdrawn in March and, given the proximity of the provincial elections, the reform of corporation tax remained pending until the new provincial government and assembly were formed.

The 2007 provincial elections followed, which resulted in the PNV forming a coalition government in Guipúzcoa with EA for the provincial government term 2011-2015. This had certainly not been a foregone conclusion: the PNV and EA had presented separate candidatures at the 2007 elections after the breakup of their longstanding alliance, and following the elections, which the PNV won with a relative majority, EA had debated whether it would form a coalition government with the PNV to enable the latter to govern or whether it would ally instead with the PSE against the PNV. A coalition with the PNV was agreed, but as part of the deal, the crucial role of Guipúzcoan treasury minister was assigned to EA (a position assumed by Peio González) and fiscal policy would become one of the main sources of contention between the coalition partners throughout the government term.<sup>151</sup> As the financial crisis set in, the desire for more left-wing tax policies in Guipúzcoa would make tax harmonisation between the three provinces increasingly difficult over major taxes such as corporation tax, personal income tax and wealth tax.

With the question of corporation tax reform still pending in Guipúzcoa, the new PNV-EA coalition government proceeded to propose a new corporation tax reform in September 2007 putting the general corporation tax rate at 30%, though the Guipúzcoan treasury argued that in practice the gap between this and the agreed 28% rate was offset by differences in corporation tax incentives and deductions being offered to businesses in relation to innovation and the environment. This was designed first and foremost to satisfy coalition partner EA (not the PNV, which was more supportive of harmonisation with the other provinces) and was also expected to count on the support of the PSE in the provincial assembly. Meanwhile, the provincial governments of Álava and Vizcaya continued to maintain that Guipúzcoa

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<sup>151</sup> See, for example, 'Pello González calienta las elecciones y arremete contra la gestión foral de su socio, el PNV', *diariovasco.com*, 18.04.11.

should respect the agreement reached within and approved by the Tax Coordination Committee. The 30% proposal nevertheless still failed to get passed in the Guipúzcoan assembly, and eventually, a year later, in December 2008, the provincial assembly of Guipúzcoa approved a corporation tax reform with a general corporation tax rate of 28% (*Norma Foral 8/2008 de 23 de diciembre*), i.e. the rate previously agreed and approved by all parties to the Tax Coordination Committee back on 1 February 2007. EA, the coalition partner which in 2007 had been reluctant to agree to the 28% rate, had changed its stance in 2008 given that the 30% proposal it supported had been rejected by the Guipúzcoan assembly and the existing 32.6% was widely accepted as too high, leaving the only possibility to negotiate the 28% with the PNV and seek the support or abstention of the PP in the Guipúzcoan assembly, though it still maintained some of its own specific incentives to encourage innovation and employment creation and maintenance, in an attempt to increase the societal benefit of business.

#### *Experiences of tax disharmonisation (2): 2008 wealth tax reform*

A similar situation occurred with the reform of wealth tax (*impuesto sobre patrimonio*), though in this case the extent of disharmonisation was more substantial (Martínez Bárbara 2013: 84-85).<sup>152</sup> In December 2008, both the provincial assemblies of Vizcaya and Álava passed regulations to abolish the wealth tax. Both provincial governments had previously submitted their draft proposals to the Tax Coordination Body in October that year, which had issued a favourable report. At the same meeting, the representative of Guipúzcoa had indicated that the province had not yet taken a decision on the matter. The province would come under significant pressure at this and subsequent meetings of the Tax Coordination Body to eliminate the wealth tax in order to harmonise with the other two provinces.<sup>153</sup> Eventually Guipúzcoa abolished the tax a year later, via a provincial regulation approved in December 2009. Nevertheless, in early 2010, when the time came to settle the final

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<sup>152</sup> As per the above, to my knowledge, Martínez Bárbara (2013: 84-85) is the only author to have addressed this controversy in any detail. Her primarily technical account of the discrepancies in proposed wealth tax reforms is complemented here by further analysis of the political dynamics of the debate gathered from extensive reading of Basque newspaper reports from the time, especially in *El Correo*, *El Diario Vasco*, *Noticias de Guipúzcoa*, *Gara*, as well as Spanish newspaper *El País*.

<sup>153</sup> For example, ‘Álava aprueba el Impuesto de Patrimonio y le pide a Guipúzcoa que “renuncie a sus propuestas”’, *elEconomista.es*, 23.11.2011.

contributions made by the provinces to the regional government for 2009 (once the revenue collection figures for the year were known), an inter-provincial dispute emerged due to the impact of this tax disharmonisation throughout 2009 on the amount each province was due to contribute to the regional government.

Given the way that provincial contributions to the regional government are calculated, if one province raises a tax that the other two provinces do not raise, this increases the total revenues raised and thereby increases the share that each of the three provinces must pay to the regional government.<sup>154</sup> This is because the provinces contribute to the 70% of revenues that go to the regional government according to their respective horizontal coefficients. In this instance, since Guipúzcoa had raised 45 million euros in wealth tax in 2009, this disadvantaged Vizcaya in particular, increasing its total contribution payment due by around 15.8 million (50% of the 70% contribution for that tax). Given that neither Vizcaya nor Álava had collected any wealth tax, this situation had arisen due to the lack of harmonisation over the tax and the lack of flexibility of the contributions' model to adapt to tax disharmonisation between provinces. In the absence of an agreement between Vizcaya and Guipúzcoa (both PNV-led) over how to resolve the matter, the then Socialist-led Basque regional government mediated at the meeting of the Basque Council of Public Finances in February 2010, where the final contribution payment of each province to the regional government for 2009 was to be agreed. The solution reached was a final adjustment to the contribution payments whereby instead of Vizcaya's theoretical 15.8 million contribution would be covered instead by a one-off special contribution of 8.1 million euros from the Basque regional government itself, 7.4 million euros from the provincial government of Guipúzcoa and 300,000 euros from the provincial government of Álava (which still ended up making a contribution to cover Vizcaya while also paying its own share, for other reasons).<sup>155</sup>

The heads of the provincial governments of Vizcaya and Guipúzcoa, José Luis Bilbao and Markel Olano respectively, both of the PNV, publically celebrated

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<sup>154</sup> Personal interviews with senior officials in the Vizcayan provincial treasury department, 2014.

<sup>155</sup> For example, 'El Gobierno vasco y Guipúzcoa ceden ante Vizcaya y le perdonan 16 millones', *elcorreo.com*, 13.02.10; 'El gobierno vasco salva un enfrentamiento entre Vizcaya y Guipúzcoa por Patrimonio', 12.02.10; 'La ronda la paga el Gobierno', *elpais.com* (Basque edition), 22.02.2014.

the agreement as one showing the ability of the representatives of the provinces and the regional government to reach an ‘intelligent’ and ‘sensible’ agreement within the Basque Council of Public Finances, citing this an example of how well the Council works.<sup>156</sup> Nevertheless, it was clear that Vizcaya had won the battle. It had become clear that given the way the contribution law works, it essentially imposes tax uniformity or very strong harmonisation since Guipúzcoa could not fully reap the financial benefits if it decided to have additional taxes or higher tax rates, as it would have to compensate the other provinces. Olano made declarations acknowledging that it had become clear one province could not have a different tax from the other two, yet he also added that he had specifically requested that this additional financial contribution from Guipúzcoa in lieu of Vizcaya to the regional government be taken into account when the Basque regional government applied its anti-crisis plan to the province.<sup>157</sup> In other words, rather than Guipúzcoa simply paying extra to the regional pot on account of the fact that it was the only province to have raised a wealth tax, it was hoped that some of that extra payment would be re-invested back into the province.

Despite Olano’s attempts to put a positive gloss on the matter, significant dissatisfaction voiced from other parties represented in Guipúzcoa drew attention to the contentious nature of the outcome and the ongoing controversies over the contributions’ model, the inter-provincial tax harmonisation requirements, and the ambiguous balance of competences between provinces and the regional level. While members of the PNV praised the agreement as a good solution, the PP focused on criticism of Guipúzcoa’s lack of tax harmonisation in the first place, criticising the PNV-EA coalition for creating problems to detract from their poor tax collection in general. The reaction of left-wing EA and various radical left-wing parties under the *izquierda abertzale* (Aralar, Alternatiba, etc.), however, was very different. They condemned Guipúzcoa’s ‘loss’ of 7.4 million euros on account of the fact that Vizcaya had not collected the wealth tax, criticising the discrepancy between the

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<sup>156</sup> For example, ‘Vizcaya recibirá 15,8 millones para compensar su aportación al Impuesto de Patrimonio’, *elcorreo.com*, 12.02.10.

<sup>157</sup> For example, ‘Vizcaya recibirá 15,8 millones para compensar su aportación al Impuesto de Patrimonio’, *elcorreo.com*, 12.02.10; ‘Olano se felicita del acuerdo del CVF para compensar a Vizcaya por la recaudación del Impuesto de Patrimonio en Guipúzcoa’, *Europa Press*, 16.02.10.

supposed fiscal autonomy of each province and the imposition of fiscal harmonisation.<sup>158</sup>

The question of the 7.4 million payment would become one of the many thorns in the relationship between the PNV and EA coalition partners in Guipúzcoa over fiscal and social policy, since EA treasury minister Peio González was very critical of the lack of guarantee from the regional government that the extra money paid by Guipúzcoa to it would be reinvested in the province.<sup>159</sup> Thus he echoed the stance of radical left-wing parties in the region, which maintained that Guipúzcoa should reap the benefits if it chose to implement higher or additional taxes in comparison with other provinces. Debates emerged as to whether the agreement reached to settle the contribution payments within the Basque Council of Public Finances was even legal, with calls for an urgent revision of the LTH to clarify contradictions as to the respective role of the provinces and regions and also of the contribution law to rectify its shortcomings.

### *Experiences of tax disharmonisation (3): Bildu provincial government 2011-2015*

Such debates between provinces over tax harmonisation became stronger still following the triumph of the Bildu coalition in the 2011 provincial elections in Guipúzcoa. This marked the first time the *izquierda abertzale* – with which EA had by then joined forces, breaking ties with the PNV – would win power at provincial level in the Basque Country. After Bildu had formed a minority government in Guipúzcoa, it would seek an ally in the PSE and Aralar (the latter of which would later join the Bildu coalition) to push through its fiscal reform in Guipúzcoa in December 2011, to take effect from 2012, which fundamentally affected three taxes: personal income tax (IRPF), inheritance tax (*Sucesiones y Donaciones*) and wealth tax (*Patrimonio*).<sup>160</sup> The main changes to these included, for example, introducing higher IRPF rates for the highest earners (applying to incomes from 90,000 euros upwards); eliminating the existing exemption to inheritance tax when the recipient of the inheritance is a direct descendent; and reinstating a wealth tax. In all cases,

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<sup>158</sup> ‘Olano se felicita del acuerdo del CVF para compensar a Vizcaya por la recaudación del Impuesto de Patrimonio en Guipúzcoa’, *Europa Press*, 16.02.10.

<sup>159</sup> For example, ‘Pello González calienta las elecciones y arremete contra la gestión foral de su socio, el PNV’, *diariovasco.com*, 18.04.11.

<sup>160</sup> For example, ‘Bildu y PSE sacan adelante la reforma fiscal para Guipúzcoa’, *diariovasco.com*, 23.12.11.

taxation would be higher in Guipúzcoa than in neighbouring Vizcaya and Álava under the fiscal reforms both introduced at the same time. For example, Vizcaya and Álava also reintroduced wealth tax, but they would both set the same, higher minimum tax-exempt amounts (800,000 euros, plus 400,000 per main residence) than Guipúzcoa (600,000 euros, plus 300,000 per main residence).<sup>161</sup> Guipúzcoa would once again come under attack from PP and PNV representatives in Álava and Vizcaya, which accused it of taking unilateral decisions with regard to some taxes, without proper discussion in the Basque Tax Coordination Body beforehand and without its backing. In the Guipúzcoan assembly, the PP voted against the changes to all three taxes while the PNV voted against the changes to IRPF and other taxes apart from Inheritance tax, where it abstained. A definitive left-wing alliance between both secessionist (*izquierda abertzale*) and anti-secessionist (PSE) forces thus seemed underway, with the left-right dimension of political competition (fiscal and social policy) taking precedence in terms of alliance-building over the territorial question of the Basque Country's relationship to Spain.

The fiscal reforms implemented by all three provinces at the end of 2011, to take effect from 2012, were intended to be urgent reforms to respond to the crisis but temporary in nature, until a more coordinated and comprehensive reform could be agreed and approved between the three provinces. Given the different direction that Bildu had taken with the support of the PSE in Guipúzcoa, there were concerns among the PNV and the PP that a coordinated and harmonised fiscal reform between the three provinces would be extremely difficult. In 2012, Bildu would continue to make proposals showing its more left-wing agenda. For example, the Guipúzcoan treasury minister Helena Franco and other members of Bildu in key treasury positions would take a heavily critical stance in 2012 towards the PNV's longstanding 'neoliberal' use of corporation tax rates and panoply of exemptions, deductions and other incentives. They would accuse the PNV of a long tradition of 'fiscal dumping' by providing a consistently lower tax environment for businesses in the Basque Country relative to the situation in the rest of Spain.<sup>162</sup> They made it clear that they wished to overhaul corporation tax by simplifying it, first and foremost by

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<sup>161</sup> 'Euskadi hace su reforma fiscal de urgencia, en que los guipuzcoanos pagarán más', *elEconomista.es*, 23.11.11.

<sup>162</sup> Personal interviews with Helena Franco and Itziar Miner, 5 September 2014; and with Xabier Olano, 29 May 2014. See also Olano 2002.

eliminating most of the deductions and incentives except where they would be linked to the creation and maintenance of employment in Guipúzcoa, to ensure business benefitted society. For such measures, Bildu hoped in 2012 that it would continue to be able to count on the PSE in Guipúzcoa for support, following the precedent set at the end of 2011.

Nevertheless, a fundamental change in political alliances in Guipúzcoa would soon occur as a result of developments at regional government level. In 2012, the Basque regional elections returned the PNV to office after three years in opposition to a PSE-PP coalition government. As a minority government, the PNV initially struggled to govern alone without a stable alliance arrangement with any other party. The tables then turned in 2013 when it finally struck a deal with the PSE, agreeing a full fiscal reform package with the latter (a reform which would also ultimately receive the support of the PP too), in return for which a deal was struck between the PNV and PSE to form alliances in the regional parliament and three provincial governments thereafter. After an unusual period of PSE-PP coalition to keep the PNV out of office in 2009-2012, 2013 thus saw a return to a more traditional PNV-PSE collaboration. Throughout the Basque region, the PSE was thereafter subject to the fiscal pact agreed with the PNV for the following three years. In other words, the PSE in Guipúzcoa, which had until then been allying with Bildu on matters of fiscal policy, now had to change tack and ally with the PNV (and also the PP) to ensure the fiscal reform agreed at Basque government level was also approved in the Guipúzcoan assembly, since it is the provinces that are responsible for changing and implementing fiscal legislation.<sup>163</sup> The potential risk of further inter-provincial tax disharmonisation problems, stemming from the desire for more left-wing policies from the Guipúzcoan provincial government, was thus cut short and the main parties in opposition in the province (PNV, PSE and PP) pushed through the fiscal reform agreed at regional level in the provincial assembly too, against the interests of the minority Bildu provincial government. After the episodes of disharmonisation experienced since 2007, a return to a period of relatively more harmonised and harmonious fiscal relations between the three provinces then looked set to ensue from 2015, when the provincial elections put the PNV back in government in all

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<sup>163</sup> For example, 'La oposición impone a Bildu la reforma fiscal en Guipúzcoa', *Expansión*, 15.01.2014.



three provinces and resulted in stable PNV-PSE coalition or support arrangements throughout the whole region.

### **The implications for political relations and territorial agendas**

Decision-making and coordination relative to the *Concierto* between regional and provincial levels has worked reasonably well in general since the 1980s, despite the absence of a more concrete legal framework and the ambiguities and shortcomings of the existing legislation, fundamentally the contribution laws and the Tax Harmonisation Law. Recent years have nevertheless pointed to the pressure that the system is under, particularly at times when different political forces with different agendas are dominant in different provinces. Disputes over both the intra-regional distribution of tax revenues and the level of tax harmonisation required between the three provinces have put the spotlight on the longstanding, unresolved debate regarding the balance of powers between the regional and provincial levels and also among the provinces themselves – one of the most politically complicated and controversial areas of Basque politics, particularly for the PNV.

For the PNV, longstanding internal discrepancies within the party over the balance between provincial and regional levels of government, combined with the heterogeneity of the party in different provinces, have contributed to the party's moderation since such complexity makes it difficult for it to make strategic shifts in position. This situation has contributed to the party's continued strong defence of the weight of the provincial level within the region and as the fundamental basis of the *Concierto*. The different territorial interests within the PNV have also resulted in internal debates over the relationship to the *izquierda abertzale*, given the varying strength of the *izquierda abertzale* in different provinces (its strongest presence is in Guipúzcoa), and therefore the need for different alliance arrangements and competition tactics in different provinces. Overall, however, what emerges strongly is a sense of incompatibility between the PNV and Bildu on fiscal and social matters. The discrepancies between the PNV and the *izquierda abertzale* over fiscal policy and the *Concierto* which emerged during 2011-2015 suggest wider implications for possible alliances (or a lack thereof) between them going forward. As the nationalist or secessionist parties in the region, they both share a desire for sovereignty for the Basque region but with considerable differences in their territorial goals and

proposals and also very different fiscal and social agendas. The experience of the *izquierda abertzale* entering seriously into formal politics for the first time and with significant political presence, governing at provincial level in Guipúzcoa in 2011-2015, drew attention to the differences between the PNV and the *izquierda abertzale* on issues of fiscal and social policy, particularly the use of the fiscal powers afforded by the *Concierto*, with Bildu accusing the PNV of a neoliberal use of the latter. In attempting to seek allies within the PSE to make changes to personal income tax and wealth tax in 2012 and subsequently corporation tax too in 2013, Bildu sought to distance itself from the PNV and to carve out a different fiscal vision for the Basque Country starting in Guipúzcoa, preferring to ally with the Basque federation of a leftwing statewide party (the PSOE) rather than a centre-right nationalist party.

Ultimately, Bildu's efforts were thwarted on that occasion by the regional alliance arrangement sealed between the PNV and the PSE in 2013, which put an end to Bildu-PSE collaboration on fiscal issues in Guipúzcoa. The alliance deal saw the PNV and PSE agree a pact on fiscal reform to address the crisis, which has been described as arguably the first ever proper fiscal reform in the Basque region, in that it was designed specifically for the region and preceded its Spanish counterpart, rather than providing a close version of a fiscal reform previously introduced in Spain but with lower rates for the Basque region (Zubiri 2014b: 89). Bildu treasury representatives argue that the work they did with the PSE from Guipúzcoa helped to pave the way for a proper fiscal reform in the Basque region, albeit not exactly the one that Bildu would have wanted. Bildu treasury representatives at the time suggested that their PSE counterparts seemed noticeably uncomfortable with the change in alliances and fiscal policy agreements, withdrawing from debates in the provincial assembly on fiscal policy rather than actively participating in them, since their hands were tied.<sup>164</sup> In these circumstances, Bildu did not rule out the possibility of reestablishing a left-wing collaboration with the PSE against the PNV and the PP again in the future, seeing the PSE as its more natural ally on fiscal and social policy, albeit still a left-of-centre party rather than a radically left-wing one like Bildu.<sup>165</sup> Bildu subsequently lost power in the province at the 2015 provincial elections, but a precedent of Bildu-PSE collaboration in Guipúzcoa had nevertheless been set. The rise of Podemos in the Basque region in 2015, particularly at the Spanish elections in

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<sup>164</sup> Personal interview with Helena Franco and Itziar Miner, 5 September 2014.

<sup>165</sup> Personal interview with Helena Franco and Itziar Miner, 5 September 2014.

December, provides another potential left-wing ally for Bildu and one which is further to the left than the PSE.

In addition to the discrepancies over left-right politics that emerged through the PNV's and Bildu's contrasting use of the fiscal powers afforded by the *Concierto*, their attitudes towards the *Concierto* also manifested the differences in their territorial goals regarding the Basque Country and its relationship to Spain. Bildu's criticism of the *Concierto* as an insufficient basis for proper self-government clearly differed from the PNV's praise of the *Concierto* as the closest current equivalent to the form of 'bilateral relationship between equals' that the PNV seeks in wider Spanish-Basque political relations. Certainly, the PNV shares with Bildu many of its frustrations over the *Concierto* and its 'limitations': both political forces consider it very positive that they have almost full legislative autonomy over direct taxes but criticise the lack of Basque autonomy over indirect taxes and the fight against tax fraud, as well as the lack of Basque authority over other areas of competence crucial to the economy and financial sector such as financial system regulation, society security and labour relations.<sup>166</sup> In all these cases, the Basques remain subject to Spanish legislation. Nevertheless, while the PNV and Bildu agree on the fact that these are serious shortcomings, the PNV under Urkullu has not shared Bildu's sense of urgency to progress these matters.

In the view of Helena Franco, Gipuzkoan treasury minister for Bildu in 2011-2015, in a personal interview with the author in 2014, 'At a theoretical level, we in Bildu and the PNV might be in agreement on what still needs to be done to develop the *Concierto*, but the practice is another matter. [...] Ultimately, a part of Basque nationalism represented by the PNV seems quite comfortable with the *Concierto* despite its limitations, while for another, more sovereignty-orientated part of Basque nationalism it seems clearly insufficient to us to guarantee the future of this country.' Franco cited the example of the attempts by Bildu in Guipúzcoa to make a push in 2014 at the Basque Council for Public Finances for a new body to work on establishing a common position between the three provincial governments and the Basque regional government vis-à-vis negotiations with the Spanish state on questions of 'economic sovereignty', with two particularly urgent topics on the

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<sup>166</sup> The perceived shortcomings of the *Concierto* listed by Juan José Ibarretxe in an interview on 28 October 2014 closely matched those listed by Helena Franco and Xabier Olano, interviewed on 5 September 2014 and 29 May 2014 respectively.

agenda: (1) discrepancies with the Spanish state over the quota (which, as of late 2015, had prevented the settlement of any annual quota payments since 2007 and prevented the agreement of a new five-yearly quota law for the period from 2012 onwards, resulting in the rolling over of the 2007-2011 law; see also Chapter 4 pp.135-6); and (2) discrepancies over the VAT adjustment between Spain and the Basque Country. Bildu proposed the creation of this new body at the February 2014 meeting of the Basque Council of Public Finances, but according to Franco, despite the theoretical agreement between all representatives present (of the provinces and the regional government), subsequently the PNV-led regional government that presides over the Council showed ‘little interest’ in putting the body into practice and holding meetings, unless forced to in response to press releases or parliamentary questions from Bildu.<sup>167</sup>

Although the PNV was dissatisfied with the ongoing lack of agreement over the quota payments and quota law, it tended to adopt more of a ‘wait and see’ approach. When interviewed by this author in 2014, one PNV representative seemed noticeably unconcerned about the matter, suggesting that it would likely be resolved following the 2015 Spanish general election. At the time, it was anticipated that one of the two main statewide parties (the PSOE or the PP, but most probably the latter) would win again but without an outright majority, and the PNV representative in question thus anticipated a reopening of the possibility for the PNV to strike deals over unresolved issues such as the quota in return for giving its support to the ruling Spanish party in the Spanish parliament on other matters. Such an attitude reflects the ongoing view among a significant proportion of the PNV that since the *Concierto* is safeguarded from unilateral Spanish action by its bilateral nature, the most feasible way forward regarding any stalemates continues to be to strike deals when Madrid needs the PNV’s support on other matters – as has happened on numerous occasions since the first minority Spanish government of the democratic period was formed in 1996 (see Chapter 4). In this way, the *Concierto* continues to encourage accommodationist behaviour on the part of the PNV today.

Bildu’s period of government in Guipúzcoa in 2011-2015 thus put the spotlight on differences between the PNV and the *izquierda abertzale* over the *Concierto*, in terms of their views on both the desired fiscal and socioeconomic

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<sup>167</sup> Personal interview with Helena Franco and Itziar Miner, 5 September 2014.

model for the Basque Country, and whether or not the Concierto itself provides a suitable starting point to develop Basque self-government. Bildu sought on many an occasion to stress these differences publically, aiming to differentiate itself clearly from the PNV as they compete with one another to lead a pro-sovereignty process in the Basque Country. PNV representatives, on the other hand, downplayed these differences. For example, they suggested that Bildu over-emphasised and even exaggerated its discrepancies with the PNV on fiscal policy as a short-term competition tactic only, but that ultimately it was highly unlikely the *izquierda abertzale* would seek a longer-term social pact with the Socialists, a statewide party, given their incompatibility on the national and territorial question.<sup>168</sup> They also suggested that practical experience of being in government in Guipúzcoa had served to soften the strength of Bildu's anti-capitalist ideology, making it increasingly difficult for the *izquierda abertzale* to claim genuinely that it was carving out a radically different fiscal and social path for the Basque region to that of the PNV.

Whether or not there was a degree of short-termism in Bildu's behaviour, however, it still revealed the extent to which the *izquierda abertzale* is in strong competition with the PNV, with both seeking to be the dominant nationalist force in the region. For now at least, this has contributed to reducing the possibilities for collaboration between the two to advance a sovereignty agenda together for the Basque Country.

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<sup>168</sup> For example, personal interview with Joseba Egibar, 8 April 2014.

## Chapter 7

### **From the common system to the quest for a fiscal pact and beyond: How regional financing has influenced CDC's territorial agenda**

Given the longstanding dissatisfaction in Catalonia with the region's treatment under the common financing system, Catalan politicians of different political affiliations have made repeated calls for a form of bilateral fiscal pact akin to the Basque *Concierto* in recent decades, in particular since the late 1990s. The impasse over regional financing has become one of the key factors contributing to the deterioration in Spanish-Catalan relations in recent years, particularly in the wake of the financial crisis, which has given rise to a context of unprecedented pressure on resources. In this context, the aim of this chapter is to examine how and when the issue of regional financing has contributed to shaping shifts in the territorial agenda of CDC. While some consideration will be given to the period from the Transition onwards, the main focus will be on the period from the late 1990s onwards, starting with the then Catalan president Jordi Pujol's first explicit shift towards support for a form of fiscal pact in 1998. What explains this turning point? Why have repeated reforms of the regional financing system, both before and since then, failed to satisfy CDC despite the leading role CDC/CiU<sup>169</sup> played in negotiating each reform? What role did dissatisfaction with regional financing play in the quest for a new regional statute for Catalonia and the statute reform negotiations? Why did the 2006 statute reform fail to resolve the issue of regional financing? And what role has the dissatisfaction with regional financing played in the rapid rise in citizen support for independence in recent years and CDC's shift towards a pro-independence agenda?

The debate over the regional financing system in Catalonia has been a symptom of, and indeed overtaken by, a broader clash between the Spanish and Catalan governments that is not primarily economic in nature, for the Catalan pro-independence movement is concerned more widely with securing sovereignty for

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<sup>169</sup> No differentiation is made in this chapter between the attitudes of CDC and UDC towards regional financing over the years since this issue is one on which they generally held the same views while together as a party federation until their split in 2015, as confirmed by party representatives when interviewed in 2015 and 2016.

Catalonia, and thereby also equality in Catalonia's relations with Spain. In this regard, identity factors related to culture and language, which have traditionally characterised the Catalan nationalist movement since its nineteenth century origins or even earlier (see Smith 2014), remain a fundamental driver. Nevertheless, demands for the reform of regional financing have been a major theme of Catalan political debate for more than a decade, thus preceding the recent context of major economic recession. In a context of longstanding calls from different parties in Catalonia for a better financing deal for Catalonia, this chapter investigates the evolving attitudes of CDC/CiU towards regional financing and the factors that have shaped this, as well as how central the issue has been to its articulation of sovereignty ideas. It is argued that problems with the regional financing system (in conjunction with the relative lack of Spanish state investment in Catalonia)<sup>170</sup> have played a significant role in shaping and accelerating the rise of pro-sovereignty sentiment in general in Catalonia, including CDC's shift away from accommodationism and towards a pro-independence agenda. And yet CDC's demand for a fiscal pact has not always been entirely clear or committed, thus raising the question of what has driven the party to make more coherent proposals for a fiscal pact at certain times rather than others. The chapter is structured in order to analyse four key processes that have influenced CDC/CiU's evolving attitudes towards regional financing, namely the design of regional financing during the Transition, the politics of accommodationism, the Catalan statute reform, and the financial crisis of 2007-2008 and its aftermath.

### **The debate over regional financing during the Transition**

The question of whether or not CDC actually wanted a *Concierto*-style arrangement for Catalonia during the Transition – in other words, a system based on the region raising most of its own taxes – has been subject to considerable dispute and mythologising. Catalonia did not benefit from any special recognition in the Spanish Constitution akin to the 'historical rights' of the foral territories recognised

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<sup>170</sup> The main focus in this chapter is on the regional financing system per se rather than state spending on infrastructure, but some references will be made to the latter since the two issues go hand in hand from the Catalan perspective and are usually raised in tandem as grievances, given that Catalonia is perceived to be unfairly treated in both regards. For the Catalanist view on Spain's overly centralised infrastructure network and its use as a nationbuilding tool, see Bel 2012 and 2015: 112-139.

in the First Additional Disposition for the Basque Country and Navarre, which made it much more difficult for the region to seek different treatment. Nevertheless, some members of the PNV have long argued, based on the recollections of their negotiations with their Catalan counterparts at the time, that CDC was averse to seeking a Concierto-style arrangement in any case, suggesting that Miquel Roca and other representatives of the party were wary of the risk of collecting their own taxes (as well as the fact that such a task could make them unpopular with their citizens), and that they also thought the Concierto was outdated.<sup>171</sup> Pedro Luis Uriarte, for example, recalls a meeting in mid- to late-1980 between himself (then Basque economy minister), Jaime García Añoveros (then Spanish treasury minister) and Ramón Trias Fargas (then CDC economy minister for Catalonia), after CiU had won the first Catalan elections earlier that year. At said meeting, according to Uriarte, García Añoveros offered Trias Fargas the opportunity of a Concierto-type arrangement shortly before the first regional financing law (LOFCA) was due to be approved, taking advantage of the fact that this was to include additional dispositions for the Basque Concierto and Navarran Convenio, but Trias Fargas turned down the offer (Uriarte 2015: Pt V 101-103).

Pujol and many others within CDC have nevertheless rejected suggestions that CDC turned down the possibility of a Concierto during the Transition, arguing that it was not given the opportunity. Pujol himself says he was called in the late 1970s by then Spanish prime minister Adolfo Suárez, deputy primer minister Manuel Gutiérrez Mellado and minister Joaquin Garrigues (the latter also a good friend of Pujol) to assure him that the Basque and Catalan regions would both be granted autonomy statutes with distinctive features. He recalls being told that while the distinctive feature of Basque autonomy would be the Concierto, that of Catalan autonomy would be the Catalan language, and a Concierto-style arrangement for Catalonia would not be possible.<sup>172</sup> It is well documented and acknowledged that CDC and UDC did still make an attempt to secure a Concierto-style arrangement during the regional statute negotiations of the late 1970s, but they failed not only due to opposition from the UCD Spanish government but also, importantly, since they were constrained by the parliamentary predominance of the primarily left-wing

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<sup>171</sup> Personal interviews with current and former PNV representatives, 2014.

<sup>172</sup> Personal interview with Jordi Pujol, 24 February 2016.



statewide parties in Catalonia at the time.<sup>173</sup> Both the Socialists (PSC) and the Communists (PSUC) opposed any separate financing deal for Catalonia, since they thought this risked lacking in solidarity with Spain and they also deemed the *Concierto* to be out-of-date, given its origins in the Carlist era. The PSC had won the most seats in the Catalan provinces at the 1977 and 1979 Spanish elections, followed by the PSUC. UCD too had won more seats than CDC. The proposals made by CDC and UDC for a *Concierto*-style arrangement at the negotiations for the 1979 Catalan autonomy statute were rejected outright by the PSC, PSUC, UCD and Alianza Popular. ERC, which was in favour of a *Concierto*, only had a weak presence in Catalonia at the time.

There nevertheless seems to have been some degree of disagreement within CDC over whether to push more for a *Concierto*-style arrangement or not, with attention focusing on possible discrepancies between Pujol and his economy minister Ramón Trias Fargas. Trias Fargas himself is known to have been particularly supportive of the idea of a *Concierto*-style arrangement in which Catalonia would raise its own taxes, as clearly evidenced by his writings (e.g. Trias Fargas 2011 [1985]) and widely acknowledged within Catalonia itself by representatives of different parties.<sup>174</sup> While Pujol himself argues that he and Trias Fargas were on the same page in this regard,<sup>175</sup> it has been suggested that there was some discrepancy within CDC at the time between party leaders who thought they should accept the regional statute proposed in 1979 as the best possible in the circumstances, and others (most notably Trias Fargas) who thought they should be more wary of accepting it given its suboptimal financing arrangements, among other issues (e.g.

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<sup>173</sup> Pujol recounts this opposition of the left in Catalonia to a *Concierto*-style arrangement in his memoirs (Pujol 2012: Pt 4 Chap 9 loc 4027), but it is also reflected in documentation from the time (as seen, for example, in the documentation on the drawing up of the regional autonomy statute published by the historians Sobrequés and Riera: 1982) and widely acknowledged among Catalan politicians of different political affiliations in Catalonia today. Several interviewees of different political affiliations drew attention to the importance of the predominance of left-wing forces in Catalonia in the time opposed to a *Concierto* for Catalonia, including Josep Huguet (ERC), Antoni Castells (PSC), Germà Bel (formerly PSC, now Junts Pel Sí) and Andreu Mas-Colell (CDC), among others.

<sup>174</sup> For example, in personal interviews held in 2015-2016 with Germà Bel (formerly PSC, now Junts pel Sí), Josep Huguet (ERC) and Andreu Mas-Colell (CDC).

<sup>175</sup> Personal interview with Jordi Pujol, 24 February 2016.

Paluzie 2011: 11).<sup>176</sup> The generally held view within CDC is that by accepting the proposed statute, the party behaved in a pragmatic way with a view to what was possible in the circumstances, and also with the optimism that there would be scope within the common financing system gradually to reach a suitable arrangement for Catalonia, if not immediately then within time, through negotiations with the central government.<sup>177</sup> Nevertheless, this did not stop CiU from lamenting the statewide parties' opposition to a Concierto-style arrangement for Catalonia in its 1980 regional election campaign, vowing to seek new negotiations for a Catalan treasury after a transitional period of a few years.<sup>178</sup>

Uriarte's aforementioned account of the subsequent offer made by García Añoveros to Trias Fargas in late 1980 and the latter's alleged rejection of it might suggest that CiU, following the regional elections and its unexpected win, had by then warmed to – or at least 'accommodated' to – the idea of the common financing system and wanted to use the potential scope for development it offered via negotiations with the central government to its advantage. But given the lack of detail known as to what exactly García Añoveros offered Trias Fargas in that meeting and in what circumstances, it is impossible to draw any firm conclusions.<sup>179</sup> Arguably, however, even more important than the exact facts of what stance CDC took towards a Concierto-style arrangement at different stages in the late 1970s and 1980 is how those years are generally perceived and recalled in Catalonia today. There are different views among Catalan politicians themselves as to whether CDC, and in particular Pujol, did enough to try and secure a Concierto-style arrangement for Catalonia during the Transition: most back the view of Pujol himself that it was simply impossible in the circumstances with the predominance of anti-Concierto left-wing forces in Catalonia at the time and the Spanish government's opposition to a different financing arrangement for Catalonia, but some do argue that CDC in

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<sup>176</sup> In a personal interview with Josep Huguet (ERC), he also recalled that Trias Fargas' support for a Concierto-style arrangement was much stronger than that of his party at the time.

<sup>177</sup> Personal interviews with Germà Bel, 27 April 2015 and Andreu Mas-Colell, 25 January 2016.

<sup>178</sup> Xabier Barrena, 'Y los catalanes, ¿Por qué no?', post published on the blog of Iñaki Anasagasti, 01.11.11 [http://ianasagasti.blogs.com/mi\\_blog/2011/01/y-los-catalanes-por-qué-no.html](http://ianasagasti.blogs.com/mi_blog/2011/01/y-los-catalanes-por-qué-no.html)

<sup>179</sup> Neither of the other two participants in that meeting remain alive and, to my knowledge, there are no other published accounts of the meeting or references to it aside from that of Uriarte (2015: Pt V 101-103).

general lacked the foresight to anticipate properly the benefits of fiscal autonomy and fight sufficiently for this.

### **Regional financing during the politics of accommodationism**

Following the Transition, a pragmatic, accommodationist approach towards regional financing and the common financing system certainly came to dominate within CiU throughout the 1980s and 1990s under successive Pujol-led governments, as part of the party's wider accommodationist approach at the time (see Chapter 2). CiU collaborated with Spanish governments and participated fully in reforms of the LOFCA via both bilateral and inter-regional negotiations, seeking to secure gains in regional financing when possible. The period from 1980 through to the mid 1990s was one in which CiU consolidated its dominance in Catalonia and the region remained the main financial powerhouse of Spain despite the common financing system,<sup>180</sup> thus encouraging an accommodationist attitude towards regional financing rather than radical proposals for a new system. CiU ceased during this time to request a Catalan treasury under a Concierto-style arrangement, focusing its proposals instead on what was possible within the scope of the Spanish Constitution, the regional autonomy statute and the LOFCA. Thus in the 1990s it fought increasingly for shares of taxes to be 'ceded' to the regions, as the best means of gaining some fiscal powers within the framework of the common financing system, as well as for the amount granted to the Catalans under the transfers to increase, so as to reduce the Catalan deficit with the Spanish state that was by then becoming apparent. In 1993, when the PSOE won the general elections again but only with a simply majority this time, CiU secured its agreement to cede 15% of personal income tax to the regions for the first time, albeit without legislative autonomy over the tax at this stage.<sup>181</sup> In its programme for the 1995 regional elections, CiU included its aim to secure an increase in the share of personal income tax ceded to it

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<sup>180</sup> In 1980, Catalonia was the richest region in Spain in absolute terms, accounting for approximately 19% of Spain's GDP, compared to approximately 14% in the case of the Madrid region, the second most prosperous in absolute terms, according to the official figures published by Spain's national statistics institute (INE). Since then, Catalonia's relative share of Spain's GDP has remained broadly stable at about 19%, but Madrid's share has gradually increased, eventually catching up with and even overtaking Catalonia for the first time in 2015. For an analysis of the evolution of the Catalan economy relative to that of Madrid in the 1980s and 1990s, the period under consideration here, see De la Fuente 2007.

<sup>181</sup> On the history of the taxes ceded to the regions, see, for example, Sánchez Galina et al. 1997: 94-96 and 'El polémico camino del reparto del dinero', *El País*, 02.05.05.

at the next reform of the LOFCA, as well as a share of VAT and excise duties for the first time.

The fact that CiU was still committed in the early and mid 1990s to attempting to reform the common financing system to increase fiscal co-responsibility, rather than seeking a Concierto-style arrangement instead, became evident when ERC proposed a parliamentary commission to study the possibility of a Concierto for Catalonia in early 1996. Josep Huguet i Biosca, who led the proposal for ERC, recalls that CiU was not at all in favour of seeking a Concierto arrangement at the time,<sup>182</sup> and transcripts of relevant parliamentary sessions from the time support this view. CiU did somewhat reluctantly back ERC's proposition, and thus the proposal to create a Committee to Study the Concierto Económico as a Means for the Appropriate Financing of Catalan Autonomy was presented jointly by ERC and CiU in the Catalan parliament on 7 February 1996.<sup>183</sup> However, Pujol had been sceptical from the start. In response to ERC's original proposal for a commission, he had argued during the investiture debate on 14 December 1995 that 'we all know already' the conclusion to the question of whether a generalised Concierto for Catalonia too within Spain is feasible – in other words, that it would not be permitted – but that 'if [ERC] insists on such a study committee simply to study the idea, we'll do it'.<sup>184</sup> On 7 February 1996, when Ramón Camp i Batalla spoke on behalf of CiU to propose the creation of the commission, his speech was markedly different from that of Josep Huguet on behalf of ERC, who had preceded him.<sup>185</sup> While Huguet spoke unequivocally of the need for a Concierto to resolve Catalonia's funding problems under the common system, Camp was more reticent, insisting that despite the title of the committee, CiU intended to use the opportunity to explore different financing possibilities for Catalonia, rather than focusing exclusively on one system. The main aim, he stated, should be to design a new system under which all the autonomous communities would receive similar levels of resources per capita for the

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<sup>182</sup> Personal interview with Josep Huguet, 9 June 2015.

<sup>183</sup> The transcript of the parliamentary debate surrounding the proposal to create the committee is available here: *Diari de Sessions del Parlament de Catalunya*, V legislatura, Segon període, Sèrie P – Núm. 7, 7 de febrer de 1996, pp. 154-162.

<sup>184</sup> As recalled by Josep Curto, Catalan PP party deputy, in his criticism of CiU for backing the creation of a committee 'to give the impression of doing something only then to do nothing'. *Diari de Sessions del Parlament de Catalunya*, V legislatura, Segon període, Sèrie P – Núm. 7, 7 de febrer de 1996, p. 159.

<sup>185</sup> *Diari de Sessions del Parlament de Catalunya*, V legislatura, Segon període, Sèrie P – Núm. 7, 7 de febrer de 1996, pp. 155-157.

same level of competences, to correct the imbalance whereby Catalonia had been receiving below average levels of resources in the final distribution. And he argued that from CiU's perspective, it should be 'perfectly possible' to achieve this by improving the existing common financing system to increase fiscal co-responsibility – in other words, by ceding a greater share of taxes to the regions and increasing their legislative autonomy over these. For CiU, at this stage, the aim was thus still first and foremost to improve the common financing system, rather than to seek a Concierto-type arrangement, and it still believed there was scope to do so.

The following year, when the PP won the Spanish elections without an absolute majority of seats and thus needed the nationalists' support in the Spanish parliament, this gave CiU the opportunity to strike a deal in this regard: Aznar agreed to increase the share of IRPF ceded to the regions to 30%, as well as providing some additional powers to the regions over the fully ceded taxes, under the reform of the LOFCA agreed with the PP in 1996 for the period 1997-2001.<sup>186</sup> Most notably, legislative autonomy over the share of personal income tax ceded to the regions was devolved for the first time, marking the first genuine step towards fiscal co-responsibility. Previously, under the agreement with the PSOE, part of IRPF had been ceded to the regions but without legislative autonomy, in other words, still subject entirely to the rates set by Spanish legislation (Montalvo Barragán 1997: 148). The new cession agreed between the PP and CiU in 1996 required an update to the 1983 Tax Cession Law (Law 30/1983), which was limited in scope in terms of what taxes could be ceded and under what terms, for example it had not allowed for the partial cession of legislative autonomy over IRPF under its provisions. It was therefore replaced by Law 14/1996, the scope of which allowed for more taxes to be partially or fully ceded to the regions (Mora Lorente 2004: 109-110).

Thus, from the first LOFCA of 1980 up until 1996, CiU under Pujol remained committed to seeking improvements in fiscal co-responsibility under the common financing system in order to provide a suitable financing model for Catalonia. The aim was to rectify the main problem that had emerged whereby Catalonia consistently ended up receiving resources below the average level for the regions in the final distribution, despite being one of the main contributors to the system in terms of revenues per capita. The financing system had always been designed to be

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<sup>186</sup> For example, 'Aznar logra el apoyo de Pujol para formar Gobierno', *El País*, 27 April 1996. See also Sánchez Galina et al. 1997: 94-96.

redistributive to a degree in order to ensure sufficient resources in each region for an equal provision of basic services, but an unintended outcome of the system was that it proved overly redistributive in some cases (see Chapter 3). CiU's main reasons for seeking improvements to the common financing system at the time, rather than a completely new *Concierto*-style system based on more substantial fiscal autonomy, were twofold: (1) the knowledge that achieving a *Concierto*-style arrangement was very unlikely to be possible within the parameters of the 1978 Spanish Constitution and the 1979 regional autonomy statute; and (2) the conviction that the common financing system did still offer genuine scope for improvement, in order to resolve the shortcomings of the existing system and provide suitable funding for Catalonia. It was envisaged that this would be achieved primarily by increasing the regions' fiscal powers within the system and thus increasing fiscal co-responsibility between the central and regional governments. Pacts made by CiU with minority central governments, first the PSOE in 1993 and then in particular the PP in 1996, which allowed for the cession of shares of some of the most important taxes to the regions, had seemed to lend support to the idea that the desired improvements to the common system were feasible.

Despite this, however, Pujol made a *volte-face* in 1997 to start to request publicly for the first time a 'fiscal pact' for Catalonia akin to the *Concierto*, based on Catalonia raising its own taxes and bilateral fiscal relations between Catalonia and the Spanish state. He announced that CiU would launch a campaign in 1998 to seek a 'radical change' in regional financing at the next reform of the common system due in 2001, in order to achieve a similar system for Catalonia to the Basque and Navarran models.<sup>187</sup> The so-called 'fiscal pact' would be based fundamentally on bilateral relations between Madrid and Catalonia, under which the Catalans would raise their own taxes and then pay a quota to Madrid – in other words, the main principles governing the *Concierto*. This change in stance came less than a year after CiU had praised as a great success the deal to increase fiscal co-responsibility within the common financing system struck with the PP in 1996. What explains the sudden turning point at this stage?

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<sup>187</sup> This *volte-face* was widely reflected in newspaper reports at the time, for example 'Pujol reclama un "cambio radical" del sistema de financiación autonómica a partir del año 2001', *El País*, 16.10.97. See also Alonso Olea 2014: 84.

By the late 1990s, regional financing – and the related problem of the relative lack of sufficient Spanish state investment in Catalan infrastructure compared to spending elsewhere in Spain – had become the main source of contention in Spanish-Catalan relations.<sup>188</sup> While CiU had managed to secure pacts in 1993 and 1996 with PSOE and PP governments respectively to start to cede shares of important taxes to the regions, such developments – often described by Catalan politicians as ‘*parches*’ (temporary fixes) – were not happening fast enough to rectify the fact that Catalonia, year after year, was receiving below average resources per capita and thus accumulating a growing fiscal deficit with the Spanish state.<sup>189</sup> It was also widely felt that the developments were not substantial enough to give Catalonia the increased fiscal powers and financial resources sought by politicians across the political spectrum to tackle the challenges the region faced in the mid to late 1990s, most notably growing levels of immigration into the region, following other challenges such as the economic crisis of 1992-1993.<sup>190</sup> With the influx of migrants, Catalonia sought more resources from the centre to reflect its increased commitments in health and education.

CiU’s attempts to negotiate reforms of the common financing system via bilateral bargaining arrangements with central governments, in conflict with the otherwise inter-regional nature of the system, had also come under intense criticism from the PSOE opposition in Madrid and a number of PSOE-led regional governments in the wake of the 1996 agreement between Pujol and Aznar.<sup>191</sup> This contributed to the increasing frustration within CiU regarding the inter-regional nature of the common financing system and drew attention to the PSOE’s growing opposition both to bilateral pacts between CiU and the central government as well as to the concept of fiscal co-responsibility, which many PSOE politicians perceived as a threat to equality among Spaniards in terms of ensuring similar resources per capita for the same competences. While the PSOE had struck a deal with CiU to cede a

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<sup>188</sup> Personal interviews with current and former representatives of PSC, ERC and CDC, 2015-2016.

<sup>189</sup> Personal interviews with current and former representatives of PSC, ERC and CDC, 2015-2016.

<sup>190</sup> On the rapid growth in immigration in the 1990s and early 2000s, see, for example, Cabré and Domingo 2007.

<sup>191</sup> For example ‘Los congresistas instan a la nueva dirección a reabrir la negociación autonómica con el PP’, *El País*, 22.06.97 and ‘El PSOE ofrece al Gobierno de Aznar un pacto de Estado sobre la financiación autonómica’ *El País*, 27.06.97.

share of IRPF to it in 1993, it was heavily critical of the further advances in this direction taken by the subsequent PP government, including the modification of the 1983 Tax Cession Law that the PP-CiU deal necessitated. The PSC persuaded the PSOE in Madrid to abstain rather than vote against the PP's cession of 30% of IRPF, since the PSC itself was in favour of the cession and wanted to avoid criticism from CiU. But other regional branches of the PSOE were not in favour, and three did not approve the new LOFCA reform following the PP-CiU deal.<sup>192</sup> The strongest opposition came from the PSOE government in Extremadura, the region which has traditionally benefitted most from the redistribution of resources under the common financing system. PSOE headquarters in Madrid was under increasing pressure from its regional representatives in Extremadura, as well as some other PSOE regional governments, to reduce the possibilities for Catalan nationalists to agree deals bilaterally over regional financing with the central government. Such political constraints risked reducing CiU's ability to negotiate the financing arrangements it wanted for Catalonia going forward.

More importantly still, while CiU under Pujol was for a long time keen to try and resolve Catalonia's financing problems by improving the common system, by the late 1990s it was also coming under pressure from increased party competition within Catalonia itself over the issue. Regional financing is one of the few issues on which there was at the time, and has been since, a cross-party consensus within the region that the existing provisions of the common financing system and its outcomes for Catalonia were unsatisfactory, notwithstanding different political views on how the matter should be resolved. Although ERC was at the time the only party strongly in favour of a *Concierto* (which was consistently rejected by other left-wing parties in Catalonia due to its perceived lack of solidarity and lack of generalisability to the rest of Spain), there was a general consensus among the other main parties operating in the region on both the left (PSC, ICV) and right (PP) that the common financing system needed to be improved so as to reduce Catalonia's financial disadvantage under the system. The main demand made not only by CiU, but also by PSC, ICV and the PP, was for fiscal co-responsibility, as a means to resolve Catalonia's disadvantage while at the same time maintaining a solidarity contribution to other

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<sup>192</sup> For example, 'El PSOE ofrece al Gobierno de Aznar un pacto de Estado sobre la financiación autonómica' *El País*, 27.06.97. On the opposition of Andalusia to the new reform, for example, see Montalvo Barragán 1997: 150.



regions in Spain. The fact that all the main parties in Catalonia were in agreement that the system needed to be improved put increasing pressure on CiU, as it came under fire for not rectifying the situation and faced competition from competing proposals from different parties as to how to proceed, ranging from ERC's proposal for a *Concierto* to the PSC's proposal for a more federal system in which the regions would have greater fiscal co-responsibility while still guaranteeing sufficiency and solidarity. This occurred at a time when CiU was facing increased competition from other parties in general, having lost its absolute majority at the 1995 regional elections to secure a relative majority of seats only (see Chapter 2, p.79). The 1999 regional election became the most competitive since 1980, with the PSC coming a close second to CiU (Barrio and Rodríguez-Teruel 2014). At the time, under Pasqual Maragall (PSC candidate for regional president at the 1999 elections), the PSC was shifting towards a more 'Catalanist' agenda while the pro-independence ERC was moving more into the mainstream to adopt federalist agendas and thus also become a more genuine contender in Catalan party politics. As a result CiU came to face competition from 'nationalist' or 'Catalanist' parties offering a left-wing alternative to CiU (Dowling 2009; Wilson 2012: 135), all of which also offered competing alternatives to how to improve Catalonia's financing situation.

It was in this climate that Pujol made a volte-face from 1997 to request a fiscal pact similar to the *Concierto* from the next regional financing reform in 2001 onwards. The conclusions delivered in 1999 of the aforementioned parliamentary committee to study the *Concierto*, which were backed not only by CiU but all the main parties operating in Catalonia, went considerably beyond CiU's initial proposals outlined by Ramón Camp when the committee was launched in February 1996.<sup>193</sup> Under pressure from other parties and from the challenges that Catalan society faced, it had become increasingly difficult in the second half of the 1990s for CiU to argue convincingly that piecemeal reforms of the LOFCA could ever achieve the radical overhaul in regional financing that Catalan politicians across the spectrum now felt necessary. Although the term 'Concierto' was never explicitly used in the conclusions, these set out the parameters for a desired 'fiscal pact' which resembled the *Concierto* in almost all but name, with the important caveat that Catalonia would still make a meaningful solidarity contribution to the rest of Spain. The idea, as

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<sup>193</sup> The conclusions delivered in 1999 can be found here: *Butlletí Oficial de Catalunya*, IX legislatura, Tercer període, Número 175, 3 de novembre de 2011, pp. 3-5.

expressed in the conclusions, was to seek a new model that would be based strictly on bilateral relations between Catalonia and the Spanish state, thus superseding the limitations of the inter-regional LOFCA and CPFF<sup>194</sup>. Under the proposed model, per capita resources would progressively reach the same levels as those received by the Basque and Navarran regions under the foral system for the same competences; the Catalan regional government would have legislative autonomy over all the ceded taxes, with the increase in legislative autonomy allowing for a model of shared fiscal sovereignty with the Spanish state and the EU; and a Catalan treasury would be created to collect all taxes in Catalonia.

This notwithstanding, doubt has been cast on the sincerity of Pujol's stated commitment from 1997 onwards to securing a radically new financing system for Catalonia. Opposition parties accused Pujol of raising the issue for electioneering purposes only ahead of the 1999 regional elections.<sup>195</sup> In a similar vein, Pujol was accused of electioneering in his creation of a new parliamentary committee to study possibilities for improving Catalonia's self-government (*Comisión de Estudio sobre la Mejora del Autogobierno*) in March 1999, just a few months before the regional elections that year. Despite calling for a radically different fiscal model akin to the Concierto from 1997 onwards, Pujol's 1999 election manifesto did not demand a Concierto-type fiscal pact, but rather centred on improving the LOFCA via the usual methods used by CiU up until then: (1) seeking to increase the share of taxes ceded to the regions; and (2) increasing the revenue shares afforded to Catalonia to reduce the Catalan fiscal deficit – in this case, the stated aim was 400 bn pesetas (approximately 2.4 bn euros) (Homs 2008: 39).

Within CDC too, the general opinion is that Pujol remained reluctant in his final years at the helm of CiU to go beyond his accommodationist tradition of securing pacts with central Spanish governments in return for gains in autonomy, within the boundaries of the existing Catalan regional autonomy statute and the Spanish Constitution.<sup>196</sup> Given the ongoing prevalence of such pacts, Pujol was also inevitably constrained by the circumstances, since CiU in the Catalan parliament was dependent upon parliamentary support from the PP following both the 1995 and the

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<sup>194</sup> Defined on p.107.

<sup>195</sup> For example, personal interview with Josep Huguet, 9 June 2015. Such accusations were also widely reflected in the press at the time.

<sup>196</sup> For example, personal interviews with Lluís Corominas, 27 January 2016 and with Francesc Homs, 28 January 2016.

1999 regional elections.<sup>197</sup> Despite the 1999 conclusions of the parliamentary committee to study the *Concierto*, these then had relatively little impact on the 2001 reform of the LOFCA, which did not entail a radical change in financing for Catalonia. The more moderate changes secured were instead in line with the more moderate goals CiU had outlined in its 1999 election campaign and in the same vein as the changes made at the previous reform of the LOFCA in 1996, focusing primarily on gradual increases in the taxes ceded to the autonomous communities in order to gradually increase fiscal co-responsibility, as well as ensuring sufficient resources. CiU praised the 2001 reform as satisfactory: some progress had still been made. CiU's bargaining power to secure a better deal was in any case very limited given the parliamentary arithmetic at the time, with CiU still dependent on the PP to support it in the Catalan parliament while the PP in 2000 unexpectedly secured an absolute majority of seats in the Spanish parliament and thus no longer needed CiU's support there. Pushing actively for a *Concierto*-style fiscal pact for Catalonia in the late 1990s or early 2000s would have required a sea change in parliamentary alliances in Catalonia which was not seriously contemplated at the time by CDC under Pujol, nor indeed by the other main nationalist party ERC. The left-right axis of competition still dominated Catalan politics at this time over and above the nationalist-statewide axis, with CiU allying with the PP while ERC had begun to glimpse opportunities to 'nationalise' the left in Catalonia (PSC and ICV) by creating a more left-wing nationalist alliance in opposition to CiU.<sup>198</sup>

Overall, towards the end of the 1990s, the steps CiU started to take under Pujol towards requesting a radically new financing deal for Catalonia in the form of a bilateral fiscal pact were thus still only tentative at this stage, given the difficulties in securing any radical changes to Catalan financing within the context of the Catalan autonomy statute at the time, the Spanish Constitution and Pujol's accommodationist tactics. Importantly, however, dissatisfaction with Catalonia's treatment under the regional financing system, combined with the perceived lack of sufficient Spanish state investment in Catalonia, had clearly emerged as the main source of discontent in Spanish-Catalan relations, shared by all the main nationalist and statewide parties in the region (CiU, ERC, PSC, PP, ICV). Not only was there a cross-party consensus that the existing financing arrangements were inadequate for

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<sup>197</sup> For example, personal interview with Andreu Mas-Colell, 25 January 2016.

<sup>198</sup> For example, personal interview with Andreu Mas-Colell, 25 January 2016.

Catalonia, but for most parties this was also to end up becoming one of, if not the main reason for seeking a new statute for Catalonia. ERC, for example, moderated its pro-independence agenda to focus on what it was possible to achieve at the time, considering a Concierto-type model a suitable medium-term goal, and it would find sufficient common ground (notwithstanding significant differences in their proposals) with the PSC and ICV in terms of their goals for financing.<sup>199</sup> These three parties (ERC, PSC and ICV), would embrace statute reform as convincingly as CiU in the lead up to the 2003 regional elections. In addition to the beginnings of a decline in scope for accommodationism, CiU was thus also being pushed along by a wider Catalanist evolution. Even the Catalan PP, the only party in Catalonia that did not support moves for a new Catalan statute at the turn of the century and did not include this as a goal in its 2003 regional election manifesto, had been supportive of the need for a serious overhaul of financing for Catalonia since the topic had emerged seriously in the late 1990s.

### **Regional financing and the Catalan statute reform**

Regional financing became one of the key issues featuring in cross-party negotiations in Catalonia for a regional statute reform from 2003 onwards, along with questions of identity (especially the quest to seek recognition of Catalonia as a nation) and institutional autonomy (designed to shield Catalan competences and the institutions which implement them from the risk of central government interference). After CiU, under the new leadership of Artur Mas, had unexpectedly ended up pushed into opposition by the left-wing tripartite coalition comprising the PSC, ERC and ICV following the 2003 regional elections, it found itself initially on the backseat as the coalition government took the lead in taking forward statute reform proposals. The leadership succession, which had seen Pujol replaced by Mas ahead of the elections, did not initially seem to mark a fundamental turning point in CDC/CiU's agenda: Mas, more economically liberal than Pujol but not as conservative as Duran i Lleida (leader of UDC and an alternative candidate), was seen as a good compromise in terms of being a leader that could reflect the traditional moderate centre of the party as well as the beginnings of a *soberanista* current, so as not to alienate the one nor the other (Gillespie 2015c, following

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<sup>199</sup> Personal interviews with Josep Huguet, 9 June 2015, and Jaume Bosch, 19 March 2015.

Barberà 2011: 267). Mas did defend proposals for a new regional autonomy statute, including a new financing framework for Catalonia, in the run up to the 2003 elections, but no more so than his left-wing competitors who would end up forming the tripartite coalition. It was only once CiU was pushed into opposition that CiU would then become more aggressive in its defence of a Concierto-style arrangement for Catalonia, among other matters. Since CiU's support would also be needed to push through any statute reform in the Catalan parliament (since such reforms require approval by two thirds of deputies), from early on the head of the Catalan government Pasqual Maragall formed a parliamentary committee, which integrated CiU, to hold cross-party discussions to agree a statute reform proposal. Members of the tripartite coalition nevertheless argue that the dynamic became a negative one, with CiU repeatedly making proposals that were more radical than what ERC was able to achieve as part of the tripartite government (due to the compromises that needed to be reached with PSC and ICV), in an attempt to put ERC in a difficult position and portray itself as the most pro-Catalan party.<sup>200</sup>

Academics applying 'outbidding' theories to the Catalan case have argued that the party behaviour seen during the Statute reform negotiations, including CiU's attempts to outbid the tripartite coalition (which in itself involved parties such as PSC and ICV whose agendas had become increasingly Catalanist), can be interpreted as an elite-led process of radicalisation in response to a climate of increasing party competition (e.g. Barrio and Rodríguez-Teruel 2014). To some degree, this certainly seems to hold true, as CiU needed strategically to outbid ERC with its proposals, in an attempt to win popularity for CiU as the most pro-Catalan party and seek its return to power in subsequent elections. CiU's outbidding strategy was clear in the area of financing, where it fiercely defended a Concierto-type model, taking advantage of the fact that ERC had had to water down its proposals in this regard to reach an agreement with PSC and ICV to form a coalition government (the Tinell Pact). CiU's opponents in the left-wing tripartite coalition accused CiU of tactical behaviour in this regard, particularly since Artur Mas eventually reduced his financing demands considerably as part of the final Zapatero-Mas agreement to gain the Spanish parliament's acceptance of the statute in 2006, suggesting his

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<sup>200</sup> Personal interviews with Antoni Castells (PSC), Josep Hugué (ERC) and Jaume Bosch (ICV), 2015.

commitment to a Concierto-type model was not absolute after all.<sup>201</sup> Nevertheless, while some degree of instrumentalism was inevitably involved, CiU's behaviour was not purely tactical. The transition from Pujol to Mas and the generational change within CDC around that same time, which brought younger, more pro-sovereignty figures into the party, meant that CDC was starting to evolve beyond the accommodationist tactics of Pujol's era.<sup>202</sup> In conjunction with this generational shift, there also came a stronger conviction and determination that if CDC had not done more to demand a Concierto during the Transition, it had to take the opportunity to do so now and table a concrete proposal.<sup>203</sup>

Moreover, the presentation of different financing proposals was not just a question of outbidding for the sake of it, but rather in response to the genuine conviction now shared by all parties in Catalonia that regional financing needed to be seriously improved for Catalonia if the region were to be able to face its economic and social challenges. While this conviction had become widespread in the late 1990s, it was also gradually compounded by the shortcomings of the 2001 reform of the LOFCA that soon became apparent, for it did not make headway towards resolving the problem whereby Catalonia fell in the regional ranking of resources per capita after the equalisation of revenues. Importantly, the 2001 reform did not include mechanisms to adapt to asymmetric changes across the regions, most notably uneven population increases, nor did it account for the fact that population increases would not necessarily automatically result in tax increases (Blöchlinger and Vammalle 2012: 114). As immigration soared during the first half of the 2000s, the regions receiving the most migrants – including Catalonia – were penalised by the system.

What a new financing system for Catalonia should look like was one of the most difficult areas for the three left-wing parties to agree on when drawing up a joint agenda to form a tripartite coalition government in 2003 (the Tinell Pact).<sup>204</sup> ERC, on the one hand, was in favour of a Concierto for Catalonia. The PSC, on the other hand, was against a Concierto and wanted instead a federal model that would

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<sup>201</sup> Personal interviews with Antoni Castells (PSC), Josep Huguet (ERC) and Jaume Bosch (ICV), 2015.

<sup>202</sup> Personal interview with Agustí Colomines, 23 March 2015. On the question of generational change within CDC, see also Gillespie 2015c.

<sup>203</sup> Personal interview with Francesc Homs, 28 January 2016.

<sup>204</sup> Personal interviews with Antoni Castells (PSC), Josep Huguet (ERC) and Jaume Bosch (ICV), 2015.

be generalisable to other regions of Spain too should they so want it, inspired by the German model of fiscal federalism. ICV, meanwhile, was in favour of a so-called ‘Concierto solidario’ (‘solidarity Concerto’), which incorporated elements of both ERC’s and the PSC’s proposals. The federal model envisioned by leading members of the PSC, including the then Catalan economy minister Antoni Castells, would be based on two main principles: (1) a strong degree of authority in tax-raising decision-making (the Catalan government must be able to raise income that corresponds first and foremost to its own tax decisions) and (2) fiscal equalisation mechanisms, to share wealth between the regions, but without over-redistribution. If these two principles were respected, no region should fall in the ranking of per capita resources post equalisation of revenues (i.e. if a region is the third largest contributor of revenues per capita to the system, it should also come third in the final distribution of resources per capita for homogenous competences).<sup>205</sup> The main differences between ERC’s vision of a Concierto and the fiscal federal model envisioned by the PSC were as follows: under the Concierto, the Catalan tax agency would raise and collect all taxes paid in Catalonia, while under the federal model, tax-raising powers would be shared between Spanish and Catalan governments (in contrast to the existing common system, where fiscal sovereignty lies heavily with the Spanish state). A Catalan treasury would be created which would have more tax-raising powers of its own, most notably, the shares of taxes ceded to Catalonia would increase and the Catalan treasury would collect the partially ceded taxes (as well as those fully ceded and its own taxes), in contrast to the existing common system, where the shares of taxes partially ceded to the regions were still collected by the central government. While it would be very difficult to generalise the Basque Concierto widely to other regions of Spain (for several reasons including, for example, the fact that the Spanish treasury would no longer collect any taxes of its own were that the case), the federal model was designed to create a system for Catalonia that would be generalisable to other regions too.

The fact that ERC had to water down its demands for a Concierto and accept a federal proposal with Concierto-like elements, in order to reach an agreement with the PSC, created an obvious opportunity for CiU to make demands specifically for a Concierto in the first half of 2005, when negotiations took place for

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<sup>205</sup> For further explanation of Castells’s vision of fiscal federalism, see, for example, Castells 2014: 287.

a cross-party agreement between the tripartite coalition and CiU on a draft statute. This created tensions within the tripartite coalition, as ERC was uncomfortable being outbid by CiU on the financing question. CiU focused on the differences between its proposal for a fiscal pact specifically for Catalonia and what it described as the tripartite coalition government's aim to use the Catalan statute reform to federalise Spain (e.g. Homs 2008: 72-73, 158-159). It also differentiated its financing proposal by focusing on certain specific areas where the tripartite coalition's proposal had been more vague or non-committal, due to the PSC's reluctance in some areas: for example, CiU was clear in its proposal that the Generalitat should have exclusive competence over local financing (i.e. the financing of the provincial authorities and town halls), in contrast to the status quo whereby this was almost exclusively the competence of the central Spanish government, which provided funding directly to the municipalities (Tremosa 2007: 16; Homs 2008: 77).

Despite CiU's intentional focus on the differences between its proposal and that of the tripartite coalition government, however, analysis of both proposals reveals that they overlapped in many respects. They both shared fundamental principles, including most notably the aim to supersede the inter-regional nature of the LOFCA to establish a bilateral relationship with Spain in fiscal matters; the aim to increase significantly Catalan decision-making authority over fiscal powers, establishing a Catalan treasury endowed with significant tax-raising powers and thus a strong degree of fiscal sovereignty; a proposed annual Catalan contribution to the Spanish state to finance the Catalan share of state competences; a commitment to solidarity (within certain limits) with the rest of Spain via an annual solidarity quota payment; and an increase in Spanish state investment in Catalonia. These commonalities inevitably helped in the end to facilitate an agreement between the tripartite coalition government and CiU on a financing proposal in September 2005, which was included in the statute reform proposal approved by all four parties in the Catalan parliament at the end of the month. While Antoni Castells describes the final financing proposal included in the September 2005 statute as 'not a Concierto', Josep Huguet, the main negotiator for ERC on financing matters at the time, describes it as 'a Concierto in almost all but name'.<sup>206</sup> This difference in description is eloquent, pointing to the extent to which the different proposals (for a Concierto-

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<sup>206</sup> Personal interviews with Antoni Castells and Josep Huguet, 2015.



type model or a fiscal federal model) had come to share much in common. CiU was also satisfied with the outcome included in the September 2005 version of the statute since it achieved a substantial Catalan consensus around a proposed ‘unique financing model for Catalonia’ (Homs 2008: 165) which superseded the inter-regional LOFCA.

The financing model envisaged in the September 2005 version of the Catalan statute undoubtedly shared much in common with the Basque Concierto in its conception.<sup>207</sup> Crucially, the statute approved by the Catalan parliament in September 2005 removed the reference to the LOFCA as the framework for Catalan financing, which had been included in the 7<sup>th</sup> Additional Disposition of the 1979 autonomy statute. It made provisions for the creation of a Catalan tax agency, which would collect all taxes originating in Catalonia (*impuestos soportados*) and have legislative capacity over these, except for local taxes. The Catalan government would use some of the revenues collected to pay a contribution to the Spanish government to cover two concepts: (1) services provided by the state; and (2) solidarity with the rest of Spain. In this way, the Catalan model was designed to entail a Concierto-style ‘quota’ payment, but with an explicit additional quota payment towards solidarity with Spain too. The model would be governed by bilateral relations between the Catalan and Spanish governments, with a Mixed Commission to be created for this purpose. Any Spanish-Catalan conflicts over fiscal matters (e.g. the determination of the annual contribution to the Spanish state) should be resolved bilaterally by the Commission, with existing legislation to be rolled over in the event of disputes until agreement were reached. Importantly, however, the Catalan statute would take precedence over Spanish state legislation in the case of conflicts between the provisions of each. On the subject of Spanish state investment in Catalonia, it was stipulated that this should be proportional to the weight of Catalonia in Spain’s GDP and also provide compensation for the existing deficit accumulated.

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<sup>207</sup> See Chapter VI (‘On the Financing of the Generalitat’) of the version Catalan statute approved by the Catalan parliament in September 2005, provided in the dossier for session no. 66.3 (30<sup>th</sup> September 2005) of the Catalan parliament plenary (*Ple del Parlament. Dossier per a la sessió núm. 66.3*). A summary of the key features of the financing model included in the statute approved on 30<sup>th</sup> September 2005, compared to both the 1979 statute and the final statute approved by the Spanish parliament and in a referendum in Catalonia in 2006, is also available in Tremosa 2007: 56.

While the Catalan statute of September 2005 thus prepared the ground for a fundamentally new financing model, this then became one of the most conflictive issues that made it difficult to reach an agreement with the PSOE Spanish government at the time in order for the statute to be approved in the Spanish parliament. The final agreement on the wording of the statute struck between Zapatero and Mas in January 2006 significantly cut back the provisions of the statute that had been approved by the Catalan parliament in 2005. The reference to the LOFCA as the framework for fiscal and financial relations between Catalonia and the Spanish state was reintroduced (Article 201.1) and references to bilateralism were reduced: for example, the clause ‘in agreement with the principle of bilateralism’ was removed in Article 201.3 (Article 202.3 in the original September 2005 statute) when describing the functioning of the Spanish-Catalan Mixed Commission. The greater importance of the Spanish state in decision-making was reinstated in various places, for example, the provision stating that the Catalan statute would take precedence over Spanish legislation in case of disputes was removed, to be replaced instead by a more vague commitment to the fact that the financing of the Generalitat should not be discriminatory to Catalonia relative to the rest of the autonomous communities (Article 201.4). The notion in the September 2005 statute whereby the Catalan tax agency would pay a contribution to the Spanish state based on the valuation of Spanish state services (i.e. centralised competences) and a solidarity contribution, keeping the remainder of the revenues for itself, was also watered down considerably. Instead, under the 2006 statute, the revenues Catalonia would keep would be determined in accordance with its ‘needs’ (thus reinstating the needs-based principle governing the LOFCA) and its ‘fiscal capacity’ (thus this principle was introduced, but in an ambiguous fashion) (Article 206.1). Adjustments would be made to its revenues as a result of its participation in fiscal equalisation and solidarity mechanisms, to be determined solely by the Spanish state (Article 206.3), entirely in-keeping with the existing LOFCA. Instead of collecting all taxes in Catalonia and having legislative autonomy over these (as stipulated in the September 2005 version of the Statute), the new Catalan tax agency would only collect and have legislative autonomy over its own taxes and the fully ceded taxes (the latter in cases where the Spanish state has delegated the authority) (Article 204.1). The partially ceded taxes, which account for the main bulk of the taxes under the LOFCA, would continue to be collected by the Spanish treasury, unless it

delegated such functions to the Generalitat (Article 204.2). In this regard, Article 204.2 of the final statute included the provision that within the space of two years, a ‘Consortium or other equivalent body’ would be set up, in which the Spanish tax administration and the Catalan tax agency would participate ‘in equal measure’ – and which ‘could become the [sole] Catalan tax administration’. This was to allow for Spanish-Catalan collaboration over the ‘state taxes collected in Catalonia’ (i.e. bulk of the taxes, including the partially ceded taxes), but exactly how such collaboration would work under the ‘Consortium’ was left ambiguous in the statute.

While the version of the statute approved by the Catalan parliament was very similar in many respects to a *Concierto*-style arrangement, the final version of the statute – approved by the Spanish parliament and in a referendum in Catalonia – undid many of the key advances and situated Catalan financing back very clearly in the realm of the LOFCA (Tremosa 2007: 13). Both the PSC and CiU, in their praise and defence of the final agreement, nevertheless focused on its possibilities: most notably, the door was in theory open to the creation of a Spanish-Catalan joint Consortium which could potentially allow for a genuine sharing of tax-raising powers between Spanish and Catalan authorities. In this regard, the percentages of the partially ceded taxes (50% of IRPF, 50% of VAT and 58% of Excise duties) to be granted to the Catalans under the new statute were designed specifically in order to ensure that the revenues raised would be split equally. To achieve a genuine sharing of these tax-raising powers under a Consortium arrangement, however, the Spanish government would need to delegate both collection powers and legislative autonomy to the Catalans over their shares of the partially ceded taxes – an opportunity which, in the end, would not be exploited due to Spanish opposition to it at the next reform of the LOFCA in 2009.

Whether the statute reform could suffice to satisfy Catalanist demands for financing was put to the test with the 2009 reform of the LOFCA (see also Chapter 3, pp.107-8). This reform was primarily motivated and necessitated by the fact that Catalonia’s new regional autonomy statute required a revision of the regional financing system. The Catalan statute had stipulated that a reform of the LOFCA would be agreed by 9 August 2008 to implement the provisions of Chapter VI on the financing of the Generalitat. The eventual reform agreed in July 2009, after tough bilateral negotiations between Spanish and Catalan governments over the period of a year, was inevitably subject to different political perspectives in Catalonia, with the

PSC-led Catalan government praising it as a good agreement that at least achieved the minimum progress deemed necessary, while CiU, given its position in opposition, took the opportunity to criticise the reform from the outset as insufficient. The reform as initially agreed and first implemented in 2009 was generally perceived from the Catalanist perspective as a good one, and thus CiU's immediate criticism of it in 2009 seems to have been first and foremost tactical and electorally-motivated. Within a year, however, the reform would end up disappointing the PSC too since it did not achieve the intended outcomes due to unforeseen factors (most notably the extent of the economic crisis, as well as lack of central government compliance with some provisions of the reform). Criticism of the reform therefore became more widespread. What problems characterised the negotiations for the 2009 reform of the financing system and why did the reform quickly prove inadequate to satisfy not only CiU but also the tripartite coalition government that had agreed it?

Throughout the prolonged reform negotiations in 2008 and 2009, the PSC (as lead negotiator for the Catalan government) sought to achieve the model based on two pillars which had characterised its vision of a fiscal federal model during the statute reform negotiations: (1) an increase in fiscal co-responsibility, to give the Catalan government greater fiscal authority and responsibility for its own decisions; and (2) solidarity with the rest of Spain, but within clearly established limits (in other words, the Catalan fiscal deficit was to be reduced). Although the LOFCA remained an inter-regional law, negotiations for its reform took place bilaterally between the Spanish and Catalan governments in 2008 and 2009, which in itself would become a source of political dispute when the reform was agreed in July 2009, since other regions rejected the privileged role that Catalonia had had in negotiations for a reform that the Spanish government would then seek approval for in all regions. The reform finally agreed between the Spanish and Catalan governments in July 2009 was praised by the then Catalan economy minister Antoni Castells as a excellent agreement which met the minimum requirements the PSC had sought. The main positive aspects of the agreement from the PSC's perspective were as follows.<sup>208</sup> Firstly, the final amount of resources the Catalans received annually was to increase by EUR 3.8bn over a three year period, a significant amount (much more than the

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<sup>208</sup> Personal interview with Antoni Castells, 25 March 2015.

EUR 2bn proposal Zapatero had made in December 2008). Secondly, for the first time, the equalisation of resources between regions was to be partial rather than complete, since 75% of revenues (rather than 100%) were to be pooled into the Fund for the Guarantee of Fundamental Public Services (the new main vehicle for equalisation, which replaced the Sufficiency Fund under the 2001 reform). This meant that the Catalans (and other regions) would reap some of the benefit of their own fiscal efforts if they raised greater revenues per capita compared to other regions. And, in relation to this final point, fiscal co-responsibility was also increased by raising the shares of taxes ceded to the regions, as envisaged in the new Catalan statute: the share of IRPF ceded to the regions reached 50%, VAT reached 50% and excise duties 58%. As a result of these and other developments, in the first year of implementation of the model (2009), Catalonia's financing position appeared to improve significantly: whereas the region's per capita resource levels were ranked at 94 in the year 2007 (where the average of the common regime regions is 100), in 2009 they reached 102.3 (Castells 2014: 285). In those same years (2007 and 2009), the tax capacity of Catalonia was 121.1 and 119.2 respectively (Castells 2014: 285).

This notwithstanding, the agreement fell short from the Catalanist perspective relative to what it had been hoped could be achieved within the scope of the new statute. CiU, taking advantage of its position in opposition, therefore criticised it from the outset. Most notably, due to Spanish opposition, the reform did not achieve the Spanish-Catalan bilateral 'consortium' on fiscal matters that had been envisaged in the Catalan statute, since the power to collect the partially ceded taxes was not transferred to the Catalan authorities. They remained only able to collect the fully ceded taxes and their own taxes, which account for a very small share of total tax revenues. A consortium could in theory still have been set up in these circumstances, but it would have been a bilateral consortium in name only, with tax-raising powers still very heavily weighted towards the Spanish authorities. Moreover, the improvement in resource levels which Catalonia experienced in 2009 did not endure thereafter, due to ongoing problems with the nature of the equalisation mechanism included in the system; the extent of the impact of Spain's shift to austerity measures from 2010 onwards; and the Spanish government's lack of compliance with some of the provisions of the Catalan statute and new LOFCA relative to financing. As a result, by 2010, the PSC's initial satisfaction with the reform had also waned.

The fact that the new LOFCA very quickly ended up disappointing Catalan officials in terms of the resource levels provided to Catalonia was in part a result of the complex way in which the way the equalisation mechanism was designed, in order to satisfy different regions' interests (see Chapter 3). Thus this pointed to the continued difficulties in trying to achieve a bilateral Spanish-Catalan deal over financing within an inter-regional financing system applicable to 15 of Spain's 17 regions. The problems with the equalisation mechanism were exacerbated further by other unexpected factors such as the full extent of the impact of Spain's debt reduction strategies on resource levels from 2010 onwards, which also contributed to the central government's decision to delay making payments from the Competitiveness Fund. By the autumn of 2009 Spain was under intense pressure from the EU and the financial markets to reduce its debt burden and cut public spending, which meant a sharp reduction in public spending from 2010 onwards. This effect on resource levels had not been properly anticipated during the reform negotiations between mid 2008 and mid 2009, when the PSOE government was implementing fiscal stimulus measures.<sup>209</sup> While a reduction in resource levels was widespread across the regions, the main Catalan complaint in 2010 was that Catalonia was affected relatively more than most, due to the Spanish government's lack of compliance with with some of the provisions of the new reform and the Catalan statute, in part due to the financial difficulties it was facing in the context of an unprecedented crisis in resources. Under the common financing system, each year, the regions receive provisional transfers of funds from the central government (known as *entregas a cuenta*) based on provisional revenue estimates for that year, which are later revised when the regional financing system is finally settled (*liquidado*) 18 months after the end of the year in question. In 2009 and 2010, payments from the Competitiveness Fund were made as part of these *entregas a cuenta* in the relevant year. However, for 2011, the central government decided instead that it would make the payments from the Competitiveness Fund when the system was settled (i.e. 18 months after the end of the year in question) rather than during the relevant year itself. Aside from the financing system itself, the Spanish government also planned changes to investment spending in 2010 which meant that Catalonia, as a result, would not receive a share of investment spending proportional

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<sup>209</sup> On the shift from economic stimulus measures in 2008-2009 to austerity measures and debt reduction strategies from late 2009 onwards in Spain, see Salmon 2010a and 2010b.

to its share of Spain's GDP, as had been stipulated in the Third Additional Disposition of the new regional statute.<sup>210</sup>

2010 was also the year of the Constitutional Court ruling on the Catalan statute. The scope for a new regional financing system for Catalonia had already been significantly reduced under the changes agreed in 2006 by Zapatero and Mas to secure the Spanish parliament's approval for the Catalan statute, but some additional changes were then made in 2010 by the Constitutional Court. These served to reduce further the fiscal authority afforded to the Generalitat and to emphasize the principality of Spanish state decision-making.<sup>211</sup> For example, under the statute of 2006, Article 206.3 of Chapter VI had stated that the financial resources of the Generalitat could be adjusted for reasons of equalisation and solidarity, to ensure that all regional governments can provide similar levels of provision for essential state services such as health and education, 'provided that they [the regional governments] also make a similar fiscal effort'. This was designed to ensure the LOFCA would encourage fiscal accountability and responsibility on the part of regional governments, so that those which raised lower revenues due to poorer fiscal efforts (rather than, simply, to having a poorer population) would not automatically be bailed out by additional resources contributed by regions which made a greater fiscal effort. The Constitutional Court, however, ruled that this clause ('provided that...') was inadmissible, arguing that it is the prerogative of the Spanish state only to decide what fiscal effort each region must make. The other part of the statute related to financing which the Constitutional Court omitted was the part of Article 218.2 which had established that the Generalitat would have legislative competence to establish and regulate the taxes of local governments. In so doing, the Constitutional Court made it clear that the state would continue to have sole and exclusive power over local financing. The other changes made by the Constitutional Court to the financing provisions in the statute were clarifications of meaning, providing a more strict interpretation where the statute had left open a wider scope for interpretation. For example, it clarified that the functioning of the bilateral Mixed Commission on

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<sup>210</sup> Complaints about these matters (the Competitiveness Fund and changes to investment spending) were made by Catalan economy minister Antoni Castells to Spanish economy minister Elena Salgado in a letter dated 23<sup>rd</sup> September 2010, a copy of which was provided by Castells to this author.

<sup>211</sup> The changes to the statute required by the Constitutional Court are indicated in the consolidated text of the statute published by the Catalan parliament in February 2013. Available here: <http://www.parlament.cat/document/cataleg/48146.pdf>

Economic and Fiscal Matters between the Spanish state and the Generalitat would be subordinate to the inter-regional mechanisms and committees governing financing (in other words, the traditional CPFF).

Thus, by the time CiU returned to power in Catalonia following the regional elections in late 2010, it had become clear that the statute reform and the subsequent reform of the LOFCA had not served to create a financing system that would provide the increased resources or fiscal authority sought by parties across the spectrum in Catalonia. This situation would then continue to worsen from 2010 onwards as Catalonia's financial predicament deteriorated as a result of the financial crisis. Concerns over the fiscal indiscipline of many of Spain's regions throughout the crisis amplified tensions over the regional financing system. The following section looks in detail at the impact of the financial crisis on regional resources and funding mechanisms, focusing in particular on the impact on Catalonia, before a final section looks more specifically at the implications for CDC's agenda.

### **Regional financing and the financial crisis**

Catalonia's financial situation – along with that of the central and other regional administrations in Spain – deteriorated in particular from 2010 onwards once the markets had lost confidence in Spain, which found itself under intense pressure from the EU to reduce its debt and deficit. As one of the largest regions and therefore one with particularly high financing needs, the Catalan government became increasingly reliant upon centralised funding mechanisms created by the Spanish government when it lost access to the markets to raise funding to supplement its revenues from taxes. These centralised funding mechanisms, in turn, required Catalan adherence to strict deficit targets set by the Spanish government for regional governments in Spain, in order to meet the overall targets set by the EU authorities. And yet Catalonia became one of the most frequent underperformers in terms of meeting these fiscal targets. This scenario served to exacerbate already existing tensions between Spanish and Catalan authorities over regional financing, creating extensive debate over a number of questions, such as: To what extent has the regional financing system been to blame for Catalonia's financial woes, relative to discretionary spending decisions taken by the Catalan government? Has the Spanish government's recentralisation of funding mechanisms and control over regional



spending corresponded purely to the economic motive of meeting the fiscal targets set by the EU for Spain, or has it also taken advantage of the opportunity to impose recentralisation to further its ideologically centralist motives? And, in this regard, has the split of deficit targets between the different levels of administration in Spain, as decided by the Spanish government in order to meet the EU's overall target for Spain, been fair? The aim here is not to provide any definitive answers to these questions, which is not the focus here, but rather to explain the nature of these debates in order to consider how this has contributed to the pro-sovereignty movement in Catalonia and the evolution of CDC's territorial agenda.

At the start of the crisis in 2007, Spain's total public sector debt as a percentage of GDP was among the lowest levels in Europe but it rapidly grew: total government debt (which comprises that of the central government, the regional governments, the local authorities and the social security system) rose from 35.5% of GDP at the end of 2007 to almost double that (69.5%) by the end of 2011, before reaching nearly 100% (99.3%) at the end of 2014, measured according to the EU's Excessive Deficit Procedure.<sup>212</sup> Borrowing by the regional governments in particular ballooned at an unsustainable rate and thus regional government debt came to be seen as one of the main obstacles to Spain's deficit reduction targets (Bosch and Solé-Ollé 2013: 7). Prior to the crisis, the total debt held by the 17 regions as a percentage of GDP had hovered consistently around the 6% mark between 2000 and 2006 before declining slightly to 5.7% in 2007. These figures were not surprisingly very low, given that Spain's regional governments had only been in existence since the early 1980s. Low interest rates following Spain's entry to the euro, combined with the availability of European structural funding and the cyclically elastic nature of regional tax revenues, had encouraged a rapid growth in real expenditure during the years of the construction boom, for which windfall revenues compensated (Von Hagen and Foremny 2013: 24). When the crisis hit, however, regional debt doubled both as a percentage of GDP and in absolute terms in only three years between end 2007 and end 2010, increasing from 5.7% (EUR 61.1bn) to 11.4% (EUR 123.4bn) in

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<sup>212</sup> Spain's public sector debt figures calculated according to the Excessive Deficit Procedure are published by the Bank of Spain here: <http://www.bde.es/webbde/es/estadis/infoest/htmls/cdp.html> (figures cited as accessed on 12 March 2016).

**Table 13: Evolution of public debt in Spain (as % of GDP, according to Excessive Deficit Procedure), 2007-2015**

	Total	Central government	Regional governments	Local authorities	Social security system
2007	35.5	29.5	5.7	2.7	1.6
2008	39.4	33.0	6.6	2.8	1.5
2009	52.7	45.2	8.6	3.2	1.6
2010	60.1	51.0	11.4	3.3	1.6
2011	69.5	58.3	13.6	3.4	1.6
2012	85.4	73.1	18.1	4.2	1.6
2013	93.7	81.3	20.3	4.1	1.7
2014	99.3	86.0	22.7	3.7	1.7
2015	99.2	87.0	24.2	3.2	1.6

Source: Bank of Spain

**Table 14: Public debt by region (as % of GDP, according to Excessive Deficit Procedure), 2007 and 2015**

	2007	2015
Andalusia	4.8	21.6
Aragon	3.4	20.5
Asturias	3.2	18.0
Balearic Islands	6.9	30.2
Canary Islands	3.7	15.8
Cantabria	3.4	22.0
Castile-La Mancha	4.7	35.6
Castile and León	3.4	19.5
Catalonia	7.8	35.3
Extremadura	4.5	20.3
Galicia	6.6	18.6
La Rioja	3.5	18.0
Madrid	5.2	13.6
Murcia	2.3	27.4
Navarre	3.6	18.2
Basque Country	1.0	14.4
Valencia	11.3	41.3

Source: Bank of Spain

that period (see Table 13). These debt figures were exclusive of billions of euros accumulated by the most cash-strapped regions throughout the crisis in unpaid bills to suppliers, particularly in the most indebted regions. By the end of 2011, before the central government intervened to provide loans for repayment, these were estimated to have reached as much as EUR 30bn. By the end of 2015, regional debt had reached 24.2% of GDP (EUR 261.5bn). Catalonia stands out as the third most

indebted region in terms of debt as a percentage of GDP, reaching 35.3% at the end of 2015, behind Valencia (41.3%) and Castilla La Mancha (35.6%) (see Table 14, p.236). Catalonia is also by far the most indebted in absolute terms (EUR 72.3bn at the end of 2015). At the opposite end of the spectrum, the Madrid region had the lowest level of debt as a percentage of GDP at 13.6% (at the end of 2015), followed by the Basque region with 14.4%.

Concerns grew over regional finances in particular from 2010 since the spirit of austerity was late in filtering through to the regions once Spain had come under pressure from late 2009 to drastically cut its spending (e.g. FUNCAS 2012: 46). The combination of extensive devolved spending powers and a primarily centralised revenue-raising system is a well known risk for weakening fiscal discipline (Rodden 2006). The regions had started to suffer the fall in tax revenues in 2008 but the reaction to adjust expenditure accordingly did not begin until 2010 (Leal Marcos and López Laborda 2013: 34). While this matched the trajectory taken by the central government, the difference was that many regional governments then remained reluctant to reduce spending once the Spanish government had made the shift to austerity measures. The regions faced a tougher task than the central government to trim their budgets: they manage around one third of state expenditure<sup>213</sup> but around two thirds of this amount goes towards the fundamental policy areas of health, education and social services. These were far harder to control demand for and cut than areas being slashed at the time by the central government, such as public investment in infrastructure, civil servants' salaries and the foreign office budget. At the same time, however, many regions showed reluctance to make cuts in more feasible areas too, and there were concerns this would persist ahead of the regional elections of May 2011. Moreover, regional tax revenues from the ceded taxes, which had been increased under the 2009 financing system, suffered a greater fall as a result of the crisis than the transfers derived from non-ceded taxes, which had decreased (Leal Marcos and López Laborda: 30). In this climate, by mid 2010, the EU authorities were starting to focus their attention on the threat that regional finances in Spain posed to the country's overall financial health and debt

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<sup>213</sup> See Castells 2014: 281 for the breakdown of expenditure in Spain per level of government from 1978 to 2010.

sustainability, as the rapid growth in regional debt made it the main obstacle to Spain's deficit-reduction targets.<sup>214</sup>

In this context, the Spanish Socialist government at the time first began to attempt a crackdown on regional government spending and borrowing in the second half of 2010, beginning to exercise its right to ban regions failing to comply with new deficit targets from issuing new debt. Since Article 156 of the Constitution gave the regions the authority to design their own budgetary policies, the central government was not authorised to impose a budgetary ceiling on them and the stamp of approval for debt issuances was therefore the only significant lever it had on the finances of the fifteen regions under the common regime at the time. A few months later, under pressure from the EU to ensure the sustainability of Spain's public finances, the then prime minister Zapatero promised to come up with Spain's own equivalent of a German debt brake. He committed to introducing a budgetary ceiling limiting spending by the central government to nominal GDP growth to avoid a growing structural deficit. He nevertheless shied away from pressures from both European officials and the opposition PP to make this rule binding for the regional governments too, preferring instead to seek a consensus within the intergovernmental CPFF on the matter in order to respect the regions' competences in the budgetary sphere. In August 2011, however, once Spanish bond yields were reaching unsustainable highs due to investors' distrust of the country's finances, Zapatero did reluctantly agree to a very unpopular pact with the PP to reform Article 135 of the Spanish Constitution to oblige all tiers of government in Spain (autonomous communities included) to adhere to the budgetary stability principle. Henceforth (with effect from 27 September 2011) neither the central nor the regional governments would be allowed to incur a structural deficit exceeding the margins set by the EU without incurring a penalty (Hernández de Cos 2011). Crucially, while the overall annual deficit target for Spain was to be set by the EU authorities, the split of the target between the different levels of administration in Spain (central, regional,

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<sup>214</sup> Note that although the debt issued by Spain's regional governments had not been explicitly guaranteed by the Spanish government, the widespread view was the central government could not let a region default. Concerns about regional finances therefore negatively impacted Spanish bond yields throughout the crisis. In this regard, Spain fits the model propounded by Rodden (2006) whereby expectations that central governments will assume responsibility for bailing out their subnational governments are strongest in the countries where the latter rely on revenue sharing and transfers rather than independent regional and local taxation.

local) was to be decided thereafter by the Spanish government. In early 2012, the new PP government presented a new Budgetary Stability and Financial Sustainability Law (approved on 27 April 2012) to implement the constitutional reform of Article 135 agreed with the PSOE in September 2011, but with significantly tougher regulations than those the PSOE had conceded to then. For example, the new Law established a stricter deficit ceiling than had been envisaged (no structural deficit would be allowed after a transition period) and set out the Spanish government's right to take control over the finances of any region that failed to comply with the fiscal targets it set, among other measures (Hernández de Cos and Pérez 2013).

The fact that most of the regions – including Catalonia – could still access some forms of financing for much of the period of Socialist central government gave them a crucial degree of autonomy, even if they needed the central government's permission to issue debt. Nevertheless, securing financing rapidly became harder from the second half of 2010 onwards, especially for the largest and most indebted regions with the greatest financing needs. Prior to the crisis, Spain's regional governments had met their financing needs primarily via bank loans (most often extended by the *cajas de ahorros*) and, in the case of the largest regions with the greatest needs (e.g. Andalusia, Valencia, Catalonia, Madrid), bonds issued on the public debt markets. These were subscribed by both Spanish and international institutional investors such as pension and insurance funds, as well as banks for their own portfolios. That was when regional bonds were considered solid investment grade by ratings agencies, in line with the rating of Spanish government debt at the time. However, the situation rapidly changed over 2010 and 2011 as investors became increasingly aware of the perilous state of Spain's regional finances and ratings agencies drastically downgraded many of the regions from strong investment grade to junk or near junk status. Only the relatively healthier regions like Madrid and the Basque Country managed to cling onto the lower rungs of investment grade status, broadly in line with Spanish government debt at the time. Short-term retail bonds at expensive rates, credit lines from domestic banks and private placement notes tailored to specific investors became the new norm for many of the regions when the majority were almost completely shut out of the wholesale public debt

markets from mid 2010.<sup>215</sup> For many of these instruments the regions ended up paying at least double (often triple) the rates the Spanish Treasury was paying for central government debt of the same duration, even as Spanish bond yields rose dramatically too. More than 75% of the roughly EUR 30bn financing secured by Spain's 17 regions throughout 2011 was short-term financing due to mature in under three years as they struggled to access longer-term financing. Moreover, approximately 37% of the financing secured that year was in the form of retail bonds (dubbed 'patriotic bonds') issued to largely unsuspecting individual investors, with the remainder split between short-term loans (c.36%), private placement notes (c.17%), new public bond issues for institutional investors (c.5%) and taps on existing bonds (c.5%).<sup>216</sup> Struggling to issue debt to institutional investors, Catalonia had been the first region to launch retail bonds to individual domestic investors – usually Catalan citizens, thus the name 'patriotic bonds' – in October/November 2010. Yet the rate the Catalan government had to pay for such issuances was very high – a return of 4.75% plus bank commission of 3%, amounting to 7.75% (around triple the rate paid by the Spanish government for Treasury bills of the same duration at the time). Other struggling regions – the Balearics, Valencia, Andalusia and Murcia – would follow suit. These regional governments had little other option, but selling these retail bonds to the unsuspecting general public unaware of the full extent of the regions' debt problems was akin to the scandal of the regional *cajas de ahorros* (savings banks) selling preference shares to customers as though they were as safe as deposits (on this, see for example Domínguez Martínez 2012).

By the time the PP government came into power following the general elections held on 20 November 2011, many of the regions' access to funding had by then almost completely dried up as they were struggling to continue to find demand for 'patriotic bonds' and could not afford to keep issuing such expensive instruments, with the final such issuance taking place in May 2012. The 17 regions' total gross financing needs in 2012 totalled around EUR 40bn, with Catalonia accounting for over a quarter of this amount. Moreover, the regions had by now also

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<sup>215</sup> On the difficulties experienced by regional governments in securing financing from 2010 onwards, see Goikoetxea and Cantalapiedra 2011.

<sup>216</sup> My thanks to Madrid-based consulting firm Analistas Financieros Internacionales (AFI), especially director César Cantalapiedra, for providing figures on the financing methods used by the regions. For more information on the evolution of regional debt and financing options during the crisis, see Goikoetxea and Cantalapiedra 2011.

accumulated billions of euros in unpaid bills to suppliers, to the extent that the National Association of the Pharmaceutical Industry in Spain (*Farmaindustria*) warned some pharmaceutical companies were starting to shy away from supplying medicines in certain Spanish regions. Faced with this situation, Spain's new central government thus took action from January 2012 to avoid a potential regional government default. Since it had relatively greater access to financing than the regions (and at lower rates), it secured funds to make loans guaranteed by the Spanish Treasury to the regions. In this context, the situation changed substantially throughout 2012 as the new PP central government became the holder of the purse strings for several regional governments that became reliant upon loans from it.

This was a key turning point as all but the healthiest regions would sooner or later become reliant upon the centralised funding mechanisms created by the central government. These funding mechanisms were as follows: in January 2012 the government set up a EUR 10bn credit line (extendible to EUR 15bn) from the Official Credit Institute (ICO) to help the regions cover debt maturity needs and repay outstanding bills to suppliers. This was then superseded by two funds: (1) a EUR 30bn (extendible to EUR 35bn) Fund for Financing Payments to Suppliers (*Fondo para la Financiación de los Pagos a Proveedores*, FFPP) set up in March 2012, to lend money to the regions in need to pay outstanding invoices to suppliers that year; and (2) an EUR 18bn Regional Liquidity Fund (*Fondo de Liquidez Autonómica*, FLA) set up in July 2012 to lend money to the regions primarily to cover debt maturities, with some limited funds to cover new financing needs and payments to suppliers too. Via the ICO, the FFPP and the FLA, Catalonia borrowed the second largest combined total (following Valencia) of nearly EUR 9bn out of over EUR 35bn used by the regions in 2012.<sup>217</sup> While the amounts originally allocated to these funds were designed for 2012 only, both the FLA and the FFPP would be replenished and extended in 2013 and 2014. In return, the regions borrowing from the Funds would have to adhere to a strict adjustment programme to meet the regional deficit targets set by the central government, among other conditions. Similar funding mechanisms providing loans with strict conditions for adjustment were also provided to the local authorities.

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<sup>217</sup> A full breakdown of the loans provided by the central government to each region in 2012 is given in De la Fuente 2013b: 18.

While the Funds were initially meant to be temporary, until the regions could regain market access and return to borrowing of their own accord, the central government took steps to make these more semi-permanent in nature under Royal Decree Law 17/2014, of 26 December. This established a new and unified Fund for the Financing of the Autonomous Communities (*Fondo de Financiación a Comunidades Autónomas*, FFCA) – as well as an equivalent Fund for the local authorities – which was designed to centralise the different funds providing liquidity support from the central government to the regions under one main umbrella Fund from 2015 onwards.<sup>218</sup> The Fund comprises four tranches: the Liquidity Fund, which is a continuation of the previous FLA, lends money to the regions that breach deficit reduction targets, and thus comes with the most stringent conditions; the Financial Facility Fund (*Fondo de facilidad financiera*) lends money to the regions which comply with the stability targets; the Social Fund (*Fondo social*) provides funds to the regions that have accumulated payables owed to the municipalities as part of social expenditure agreements; and the Fund in Liquidation for Paying Suppliers to the Regions (*Fondo en liquidación para la financiación de los pagos a proveedores de las comunidades autónomas*) continues the role of the original FFPP.

Through these Funds, regional governments are offered loans from the central government at very low interest rates: usually 0% in the initial years, and less than 1% thereafter (Martín 2015: 10). In 2012, 2013 and 2014, the relatively healthier regions, which still had some market access to raise funds of their own, had sought to avoid at all costs tapping the FLA, which was perceived as a form of undesirable central government bailout for regions unable to finance themselves. From 2014, the PP central government nevertheless encouraged even those regions still accessing funds of their own accord to apply instead for the centralised funding mechanisms, seeking to entice them by offering interest rates far lower than market rates (Martín 2015a and 2015b; Jiménez and Cantalapiedra 2016). The distinction between the FLA for non-compliant regions, and the Financial Facility for compliant regions, was designed in part to encourage compliant regions to tap the centralised mechanisms, by providing a system which differentiated them from the regions with greater financial problems. By the 20 January 2015 deadline to apply for funds for 2015, all of the regions had chosen to apply apart from the Madrid region, the

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<sup>218</sup> Martín (2015) gives a full account of the setting up of the new funding mechanism and its different tranches.



Basque region and the Navarran region (Martín 2015a: 8). The change in government in Madrid following the 2015 regional elections gave the PP central government a new opportunity to apply political pressure, with the result that the Madrid regional government too finally agreed to use the centralised funding mechanisms. Thus, by then, the only regions still accessing funding of their own accord were the two regions under the foral financing system, and almost half of regional debt was in the hands of the Spanish central government (see Table 15). The discrepancy in level of financial autonomy of the regions under the common system and those under the foral financing system thus reached new heights.

**Table 15: Regional debt lent by the Spanish government (as of the first quarter of 2015)**

Region	Total debt (EUR mn)	Of which, debt lent by the Spanish government (via the different funds set up since 2012) (EUR mn)
Andalusia	29,822	18,286
Aragon	6,626	809
Asturias	3,789	1,282
Balearic Islands	8,260	4,642
Canary Islands	6,483	3,339
Cantabria	2,547	1,369
Castile-La Mancha	13,138	7,754
Castile and León	10,386	1,718
Catalonia	66,813	40,119
Extremadura	3,391	580
Galicia	10,210	1,599
La Rioja	1,390	143
Madrid	26,341	945
Murcia	7,467	4,551
Navarre	3,586	321
Basque Country	9,903	0
Valencia	40,085	25,455
<b>TOTAL</b>	<b>250,237</b>	<b>112,913</b>

Source: Martín 2015b: 38 and Bank of Spain

This centralisation of funding mechanisms from 2012 onwards, and the opportunity it gave the central Spanish government to tighten its control over Catalonia's finances, intensified Spanish-Catalan government tensions over regional financing. The Catalan government quickly became very heavily dependent on the central Spanish government for funding. In 2012, when the FLA was first created

(following lengthy disputes between the Spanish and Catalan governments over the conditions attached to loans from it), the Spanish state owned 16.58% of Catalan debt at the time (EUR 8.685bn of a total 52.354bn). And yet by the end of 2015, the share of Catalan debt in the hands of the central government had increased to 59.97% (EUR 43.343bn of EUR 72.274bn), according to figures published by the Bank of Spain.<sup>219</sup> This served to reignite the debate over the level of financing afforded to Catalonia under the common system, since the Catalan government has consistently argued that Catalonia would have sufficient resources without needing to depend on loans from the central government, were it to be allowed to keep more of the revenues raised in its territory. And CDC and other Catalan parties are very clear that they would rather have the resources allocated to them in the budget in the first place, rather than as loans from the central government, since the latter constitute a ‘source of dependence’ on the central government.<sup>220</sup> The pressure on resources has not only fuelled longstanding Spanish-Catalan disputes over whether Catalonia receives sufficient funding in the present under the regional financing system, but it has also served to reignite debate over the so-called ‘historical debt’ which Catalan nationalists claim is owed to Catalonia for issues such as a historical lack of sufficient state spending on infrastructure in the region, as well as the under-financing of competences such as health and education when these were first devolved. In 2014, the repayment of so-called ‘historical debt’ – the existence or extent of which is in itself subject to dispute – constituted one of CiU’s proposals to alleviate the financial predicament of the Generalitat and other regional governments.<sup>221</sup> On the other hand, however, critics taking a more centralist stance have suggested that the Catalan government has exaggerated the extent to which the regional financing system is to blame for the region’s financial predicament. For example, when the central government published the Territorialised Public Accounts (*Sistema de Cuentas Públicas Territorializadas*, SCPT) for the first time in mid July 2014 – a new methodology to show the fiscal balances of each region with the

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<sup>219</sup> As reported in ‘El Estado duplica la deuda que posee de la Generalitat en apenas dos años’, *Expansión*, 26.03.16.

<sup>220</sup> Personal interview with Andreu Mas-Colell (CDC), 25 January 2016.

<sup>221</sup> For example, ‘Las recetas de Mas-Colell para dar oxígeno a las autonomías’, *El Confidencial*, 07.10.14; and ‘CiU exige al Gobierno el pago de 3.500 millones por la deuda histórica a Cataluña en plena tensión soberanista’, *Vozpopuli*, 23.09.14. On the history of the concept of ‘historical debt’ and the political debate surrounding the matter, see, for example, Martínez López (2014).

central government, which Catalan nationalists do not readily accept (see Chapter 1, p.7-9) – this sparked a flurry of media articles in the Spanish press arguing that the results showed that Catalonia was not unduly prejudiced by the financing system.<sup>222</sup>

Those wishing to challenge suggestions that Catalonia’s financial woes could be attributed to the financing system have frequently argued that the comparison between the Madrid region and Catalonia suggests otherwise. Both the Madrid and Catalan regions are among the largest regions in Spain in terms of population size and among the richest regions in terms of GDP and fiscal capacity per capita, and both suffer from the overly redistributive nature of the common regime financing system – indeed, successive studies have shown that the Madrid region is more penalised than Catalonia (e.g. De la Fuente 2012b and 2013a). Yet Catalonia ended up far more in debt than Madrid and they became poles apart in terms of fiscal discipline and their appeal to investors in the wake of the crisis, suggesting poorer financial management by the Catalan authorities. Nevertheless, Catalan nationalists refute such comparisons, arguing that while the regions of Madrid and Catalonia are more or less comparable in terms of population size and GDP levels, in other respects the comparison falls flat, since Madrid has benefitted from factors related to the fact that it is the capital, such as increased infrastructure spending and other investments, as well as the fact that it has by far the largest number of civil servants. They also argue that transfers to the Madrid region for competences such as health and universities are also relatively more recent than to Catalonia, resulting in lower levels of accumulated debt. Another argument concerns the *diputaciones*: since the Madrid region only has one province, the region benefits more directly from the funding of the *diputación* too (which, importantly, has had more problems with indebtedness than the regional government), in contrast to Catalonia where there are four *diputaciones*.<sup>223</sup> Finally, Catalan nationalists suggest that comparisons between the Madrid and Catalan regions are a ‘distortion’ in any case, due to the allegedly ‘artificial’ way in which regions were created during the Transition: according to this argument, even though the Madrid region itself appears to be the most penalised by the common financing system (in terms of the fall in its resources per capita

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<sup>222</sup> For example, Mikel Buesa, ‘Las cuentas desmontan que Cataluña sea la perjudicada’, ABC, 27.07.14.

<sup>223</sup> These comparative factors were listed by Andreu Mas-Colell (CDC) when interviewed on 25 January 2016.

following the equalisation of revenues), other regions within the traditionally Castilian area (especially Castilla y León and La Rioja) benefit from the system, thus overall, the traditional Castile benefits from the financing system.<sup>224</sup>

Ultimately, there has thus been a stalemate in political perspectives as to what extent the regional financing system has been to blame for Catalonia's financial woes (together with related factors such as the relative lack of Spanish state investment in Catalonia), relative to discretionary spending decisions taken by Catalan governments. While there is undoubtedly a link to some extent between the treatment of Catalonia under the regional financing system (combined with other related factors such as levels of investment spending) and the region's level of indebtedness, the link is far from straightforward. Economists have shown that other factors such as regional variations in revenue and expenditure behaviour have also played a significant role in determining the indebtedness of each region (e.g. Leal Marcos and López Laborda 2013). Indeed, CiU itself recognised this in its campaign to regain control of the Catalan government at the 2010 regional elections, when it attributed Catalonia's financial woes not only to the regional financing system, but also to the spending behaviour of the left-wing tripartite coalition that had governed the region since 2003.<sup>225</sup> The complexity of the situation has created ambiguity as to what factors exactly have caused the indebtedness and fiscal indiscipline of the Catalan government. The convoluted nature of the regional financing system in itself creates an accountability gap, in particular in terms of its complicated division of revenue and expenditure responsibilities which is little understood by the general public (Bosch and Durán 2008: 15). Yet this has been intensified in the wake of the crisis by the opaqueness of the causes of the regions' varying levels of budgetary compliance and the degree to which these relate or not to the financing models – all of which have served as fuel for disputes between the central and Catalan governments, giving them scope to offer different figures and interpretations.

The debate over financing levels has also become part and parcel of the related dispute over whether, or to what extent, the Spanish central government has

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<sup>224</sup> Personal interview with Germà Bel, 27 April 2015.

<sup>225</sup> The spending policies of the Catalan tripartite coalition government in 2008-2009, the early years of the crisis, were in fact not dissimilar from the behaviour of the PSOE government in Madrid, which applied one of the largest fiscal stimulus packages in the EU in those years (Salmon 2010b: 84). This was at a time when fiscal stimulus measures were being used throughout the EU to combat the crisis, before a shift in trend to debt reduction strategies set in from late 2009 onwards.

used arguments of rationalisation for economic purposes as a guise for ideologically-motivated recentralisation due to the party's Spanish centralism (Bosch and Solé-Ollé 2013; Muro 2015). On the one hand, the Spanish central government has been under repeated pressure from the EU authorities to meet budget deficit targets, with explicit requests from the EU authorities to rein in regional government spending as one means to achieve this. On the other hand, however, several regional governments including Catalonia have accused the PP government in particular of shifting too much of the fiscal burden of adjustment onto the regions in its split of the annual deficit target between the central government, the regional governments, the local authorities and the social security system. According to CDC, the split of the deficit targets has consistently put the burden of adjustment too heavily onto the regional governments since the share of the total deficit target for Spain they have been allotted has not been proportional to their share of total government spending.<sup>226</sup> In Spain, the central government accounts for approximately 22% of total government expenditure, while the regional governments are responsible for approximately 38%, the local authorities for approximately 10%, and the social security system for approximately 30%. The deficit targets set by the central government, however, always allow the central government to incur the highest deficit: in 2012, for example, the new PP government set targets of 4% for the central government, 1.5% for the regional governments, 0.3% for the local authorities and 0% for the social security system. The Catalan government has also argued that the strict conditionality tied to the central government loans has constituted a de facto intervention since the regions using these have only been lent sufficient funds to remain compliant with the deficit targets and were banned from incurring additional debt from other sources. Representatives of the Mas government have thus accused the central government of a policy not just of 'austerity' but of 'asphyxiation' towards the regional government.<sup>227</sup> Such arguments are refuted by the central government, which argues instead that the fiscal discipline it requires of the regional governments is necessary in order to meet the targets set by EU

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<sup>226</sup> Personal interview with Andreu Mas-Colell (CDC), 25 January 2016. The controversy has been widespread. See, for example, Pau Vall Prat, '¿Culpables o víctimas del reparto del déficit?', *El Periódico*, 08.04.16.

<sup>227</sup> Personal interview with Andreu Mas-Colell (CDC), 25 January 2016.

authorities, which have put pressure on the Spanish government to control and reduce regional government spending.

The reality would seem a complex combination of both sides of the coin. The almost complete lack of central government controls over regional spending at the start of the crisis created a situation in which it was very difficult to enforce austerity cuts on regional governments, which were needed in order for Spain to meet EU deficit targets. Moreover, despite the lack of an explicit central government guarantee on regional government debt, it was widely expected that the Spanish government would be forced to bail out any regional government unable to repay its debt. In such circumstances, it was to be expected that the Spanish government would seek to recentralise control to some degree over regional government spending. On the other hand, however, there are signs that the PP government's recentralisation of control over regional government borrowing and spending has been intensified due to the party's centralist stance. For example, while the centralised liquidity mechanisms to lend money to regional governments have been necessary to keep many of the regions afloat, the fact that the central government has encouraged even those regions that were still managing to finance themselves to use them points to a degree of recentralisation for ideologically centralist motives. The centralised funding mechanisms offer the advantage of very low financing costs since the central government charges interest rates that are far lower than market rates, but nevertheless economic experts suggest that such centralised mechanisms offering loans at very reduced rates to the regions relative to market rates should only be temporary in nature and should not be seen as preferable to borrowing on the markets where possible (Martín 2015a; Jiménez and Cantalapiedra 2016). Such loans are perceived as not economically desirable in the long-term since they diminish the fiscal accountability of regions, reduce the diversity of their possible funding sources (the longer the regions are absent from international debt markets, the harder it will be for them to return), and risk encouraging them to seek a write-off of the debt owed to the central government rather than repaying it.

### **CDC/CiU's shifting stance in a context of financial crisis**

The developments during the financial crisis and its aftermath analysed above played a significant role in intensifying pro-sovereignty sentiment in Catalonia, to

the extent that it is in fact difficult to differentiate the impact of these developments and context on CDC/CiU's trajectory from the impact on the wider Catalanist movement, since by this stage CDC/CiU was caught up in a wider Catalanist evolution involving several parties and civil society groups, and dissatisfaction with the financing provisions for Catalonia during the crisis was widespread. Nevertheless, the following influences on CDC/CiU's behaviour can be identified. The shortcomings of 2009 regional financing reform finally removed one approach short of a fiscal pact. Since CiU was in opposition at the time in Catalonia, it could take advantage of this position to be the first in Catalonia to be the most critical of the reform, before the members of the tripartite coalition government, who initially praised it until it became clear within a year that this reform too could not suffice to meet Catalanist expectations. CiU then used this need for a new financing agreement for Catalonia as a key feature of its 2010 regional election campaign. Ahead of the 2010 regional elections, CiU focused its campaign on the financial crisis and the steps needed to reduce public spending, capitalising on its previous reputation for good economic management and criticising the tripartite coalition's handling of Catalonia's finances (Rico 2012: 221). At the time, survey data collected from before the referendum showed that after the protracted debacle of the statute reform, 'only 13 per cent of respondents mentioned either self-government or the related issue of regional financing as one of the region's two most important problems, while unemployment or the economy was named by 90 per cent' (Rico 2012: 221). CiU nevertheless found an obvious way to link the economic and territorial dimensions by focusing its 2010 campaign on proposals for a new Concierto-style financing system for Catalonia as a means of addressing the region's economic predicament.

Once CiU was back in power at the end of 2010, the continued deterioration of Catalonia's financial situation and the increasingly centralised controls over Catalan finances (via centralised funding mechanisms and the strict conditions attached to them) resulted in an escalation of demands for a new financing model for Catalonia from both politicians and citizens, as it became increasingly clear that the new financing model negotiated in 2009 could not suffice to satisfy Catalan demands. CiU was not only increasingly convinced itself by now of the need for a new model, but also under pressure from ERC, now back in opposition and therefore able to put pressure on CiU, thereby reversing the roles that both had played when ERC formed part of the tripartite coalition government and CiU was in opposition.

In this context, CiU backed ERC's proposal in 2011 to create a Committee to Study a New Financing Model Based on the Concierto Económico in the Catalan parliament,<sup>228</sup> the second such committee of its kind in the Catalan parliament following the previous Committee to Study the Concierto Económico as a Means for the Appropriate Financing of Catalan Autonomy fifteen years previously, in 1996 (see pp.214-215). In a similar fashion to what had happened in 1996, ERC was the main driving force behind the creation of a new committee in 2011, but in a marked difference, this time round CiU backed the proposal for a committee to study the Concierto wholeheartedly, in contrast to the reticence it had shown back then. In another significant difference, whereas the 1996 committee had been characterised by a shared cross-party consensus of the need for a new financing system notwithstanding the different proposals presented, what best characterised the 2011 committee was instead a clear division between nationalist (i.e. CiU and ERC) and non-nationalist parties from the outset, which was indicative of the new alliances now emerging in Catalonia. In the opening intervention, Joan Puigcercós (ERC) laid out his party's views that a Concierto for Catalonia would avoid the current problems experienced by the region under the 2009 regional financing reform, such as the lack of payments from the Competitiveness Fund and the insufficient state spending on infrastructure in the region. While Jordi Turull i Negre (speaking on behalf of CiU) backed Puigcercós' intervention as a 'rather good' explanation,<sup>229</sup> the spokespeople for PSC, PP and Ciudadanos declined to back the creation of the committee, criticising it as a purely nationalist-led initiative which sought to create a model purely for Catalonia rather than one that would work for both Catalonia and the rest of Spain. ICV, meanwhile, did back the creation of the committee but insisted in traditional fashion on the need for federal elements including a solidarity commitment.

By the time Artur Mas went to Madrid to make a last ditch request for a fiscal pact for Catalonia in 2012, which was promptly rejected again by Rajoy, the pro-independence wave in Catalonia was already surging. Artur Mas' journey to Madrid

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<sup>228</sup> The transcript of the parliamentary debate surrounding the proposal to create the committee is available here: *Diari de Sessions del Parlament de Catalunya*, IX legislatura, Segon període, Série P – Número 14, 4 de maig de 2014, pp. 22-28. The final report is available here: *Butlletí Oficial de Catalunya*, IX legislatura, Tercer període, Número 175, 3 de novembre de 2011.

<sup>229</sup> *Diari de Sessions del Parlament de Catalunya*, IX legislatura, Segon període, Série P – Número 14, 4 de maig de 2014, p. 27.



in 2012 to demand a fiscal pact was a crucial step in CDC's radicalisation process: the fact that securing a different financing system for Catalonia again proved to be unviable pushed CDC into joining the rising pro-sovereignty wave increasingly demanding not just the 'right to decide', but also independence. Traditional Catalan nationalists who had long fought for greater recognition for Catalonia's language and culture were by now increasingly being joined by a new wave of disaffected Catalans who were not necessarily traditional nationalist party supporters but had come to resent Catalonia's economic treatment at the hands of the Spanish state and the austerity measures being imposed during the crisis – as well as the levels of corruption not only among Spanish but also Catalan nationalist politicians. Political disputes between central and Catalan governments over regional financing during the crisis and its aftermath have thus coincided with a rise in Catalan citizens turning to support independence not just for traditional reasons of culture and identity, but also economic motives. Studies analysing public opinion data have shown that economic considerations have played a role in the increase in support for independence among Catalan citizens in recent years, in addition to more traditional explanatory factors such as identity (e.g. Boylan 2015; Muñoz and Tormos 2015). The rise in mass mobilisation in Catalonia, which was crucial to CDC's explicit shift towards a pro-sovereignty lexicon in 2012 and eventually a pro-independence stance, in fact started out in its beginnings with demonstrations and marches protesting over local infrastructure problems, such complaints over toll roads and poor local rail networks (see Chapter 2). In this regard, political agency and grassroots mobilisation have gradually fed into one another, since CDC and other parties in favour of the 'right to decide' or independence have sought to draw citizens' attention to the Catalan fiscal deficit and the relative lack of state investment in Catalonia, which has in turn contributed to higher levels of mobilisation.

## **Conclusion**

In the view of Andreu Mas-Colell, Catalan economy minister from December 2010 to January 2016, and thus probably the Catalan politician best acquainted with Catalonia's financial woes in that period, the pro-sovereignty drive in Catalonia would still have occurred even without an economic crisis, albeit not

necessarily quite so rapidly.<sup>230</sup> This would seem an appropriate reflection of the fact that economic and financial matters – including the regional financing system and its impact on Catalonia – have not been the only driver of the recent pro-sovereignty drive in Catalonia and the previous trajectory towards it, but have nevertheless significantly influenced, intensified and shaped the timing of it. Many, including Mas-Colell himself, see the origins of the current pro-sovereignty drive in the first absolute majority Spanish government of Aznar in 2000-2004, which marked the beginnings of a reassertion of the Spanish nationalist vision of ‘one nation’ and a move towards recentralisation. Nevertheless, the problems with the regional financing system and the related matter of the relative lack of Spanish state investment in Catalonia had already played an important role in starting to influence territorial agendas in Catalonia prior to that first absolute majority PP government from 2000 onwards. In the mid to late 1990s, dissatisfaction with the regional financing system was the main Catalan complaint regarding Spanish-Catalan relations, and one shared by all the main parties in Catalonia. This dissatisfaction with regional funding arrangements was in fact initially one of the most important factors at the turn of the century that propelled the move among Catalan parties towards demands for a new Catalan statute, some time before concerns would start to intensify about the implications of the PP’s recentralising drive for Catalan language and culture and other devolved areas such as education. Regional financing is one of the few issues on which there was at the time, and has been since, a cross-party consensus within the region that the existing provisions of the common financing system and its outcomes for Catalonia were unsatisfactory, notwithstanding different political views on how the matter should be resolved. The question, unresolved by the Catalan statute reform and the subsequent regional financing reform of 2009, would contribute significantly to the rise in pro-sovereignty sentiment when the impact of the economic crisis of 2007-2008 hit society in particular from 2010 onwards, once the Spanish government’s debt reduction strategies were underway. This resulted not only in a drastic decline in resources but also the centralisation of regional funding mechanisms and control over regional finances.

Specifically in the case of CDC, Jordi Pujol’s explicit but still tentative move towards requesting a fiscal pact for Catalonia from 1997 onwards, and Artur

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<sup>230</sup> Personal interview with Andreu Mas-Colell (CDC), 26 January 2016.

Mas' more avid defence later on of a Concierto-style arrangement for Catalonia during the statute reform negotiations, were indicative of a growing conviction within the party that the common financing system was reaching its expiry date for Catalonia. However, the timing of such shifts in party stance was not only influenced by the declining opportunities for accommodationist behaviour given the evolving political context in Madrid, but also in part by the need to outbid other parties in Catalonia, given the cross-party consensus that the regional financing model had become inadequate. CDC/CiU thus became caught up in a broader Catalanist evolution whereby the majority of parties in Catalonia from the late 1990s onwards came to consider the existing regional financing arrangements inadequate. This broader Catalanist process would have a significant influence on CDC/CiU, pushing it to define more clearly its vision of a fiscal pact for Catalonia, reducing the scope for its non-committal attitude that had prevailed during prior periods of accommodationism, and encouraging a new kind of tactical behaviour in response to party competition within Catalonia over proposals for new financing models. Ultimately, CiU's inability to achieve a suitable fiscal pact for Catalonia in 2012, in a climate of rising pro-sovereignty sentiment in Catalonia and a context of economic deterioration, would prove a decisive moment for the party federation, as it shifted its position clearly in favour of support for the right to decide, and eventually, in the case of CDC (but not UDC), independence for Catalonia. The issue of regional financing has thus played a significant role in influencing CDC's shift from accommodationist to pro-sovereignty politics. As well as the evolving nature of relations with Madrid, intra-regional factors such as party competition and pressures from civil society have had a significant bearing on the timing of CDC's shifts in attitude towards the financing question and beyond.

## Chapter 8

### Conclusion

The fact that regional financing concerns have played a greater role in influencing the rise in pro-sovereignty demands in Catalonia than in the Basque Country in recent years is widely acknowledged and to be expected, since the *Concierto* affords the Basque region far greater autonomy and significantly more resources than the equivalent levels afforded to Catalonia under the common system. Beyond this general observation, however, what more detailed conclusions can we draw regarding the implications of the two different regional financing systems for the evolution of the territorial strategies and behaviour of the mainstream nationalist parties in each region, in particular since the late 1990s? The first section of this conclusion outlines the main findings of this thesis. It starts by summarising how the two regional financing systems have influenced the timing of shifts in pro-sovereignty agendas, before drawing other conclusions specific to each case study based on each chapter's main findings. This, in turn, allows for comparative comments regarding, for example, the differences in intraregional patterns of competition and alliance behaviour over regional financing and fiscal matters in each case; or, alternatively, the similarities in the two parties' views and behaviour towards the EU. The second section then suggests where this thesis makes a contribution to knowledge, addressing both the individual contributions of each case study, and then the benefits of the comparative approach. A final section points to further avenues for research arising from this project.

#### **Main findings**

##### ***Regional financing has influenced the timing of shifts in territorial agendas:***

In both cases, albeit to different degrees, the regional financing systems and the different levels of fiscal autonomy and financial resources they provide have played a role in influencing the *timing* of the shifts in territorial agendas undertaken by the PNV and CDC, and the prospects of one agenda or the other being adopted, especially when a party is already under pressure to change. In the Basque case, the fiscal autonomy model and the responsibility it entails put the onus on the Basque

government to focus first and foremost on the economy in times of economic difficulty, since it cannot easily look to Madrid for additional financing or blame Madrid for the region's financial woes (in contrast to Catalonia). Thus one of the contextual factors that contributed to Ibarretxe's ability and determination to take forward a pro-sovereignty agenda in the late 1990s and early 2000s was precisely the fact that the Basque economy was by then much stronger than it had been during the years of Ardanza government in the 1980s and early 1990s and the Basque region was by then financially self-standing (as well as more fiscally autonomous after the 1997 reform of the *Concierto*), in contrast to earlier periods where Madrid had made contributions towards reindustrialisation in the region to help surmount the crisis of the 1980s. In more recent times, when the PNV first returned to govern the Basque region in 2012 after a three-year period in opposition, Urkullu put the PNV's territorial agenda temporarily on the backburner again to focus first and foremost on ensuring the Basque Country would emerge from the financial crisis of 2007-2008. Like everywhere the Basque region has suffered during the crisis, but in comparative terms, it has fared significantly better than much of the rest of Spain. This situation, which has been facilitated in part by the fiscal autonomy and greater resources enjoyed by the region, has contributed to the fact that securing a new status for the Basque Country has not been an immediate priority in recent years for many within Basque society nor indeed for many within the PNV itself.

This is in stark contrast to Catalonia, where the problems of the regional financing system as applied to Catalonia have significantly accelerated CDC's shift to a pro-sovereignty agenda in the recent context of economic deterioration (see Chapter 7). Demands for the reform of regional financing have nevertheless been a major theme of Catalan political debate for more than a decade, thus preceding the recent context of major economic recession. The economic context faced by Catalonia in the late 1990s, with the challenge of unprecedented levels of immigration, was also one of several factors that played a role in influencing the timing of shifts in agendas. By then, it was already clear that Catalonia received below-average resources under the common system despite being one of the main contributors in terms of per capita revenues, and the fact that the regional financing system at the time did not include suitable mechanisms to provide increasing revenues in regions with higher levels of immigration compounded the problem, since regions such as Catalonia did not receive additional resources to reflect their

increased commitments in matters such as health and education. Moreover, these key competences, which were now under increasing pressure, had originally been transferred to Catalonia with what was perceived from the Catalanist position as a deficient level of funding in the first place. The Catalans had not fought as hard as the Basques to secure funding to improve the existing substandard infrastructure in terms of schools and hospitals when the competences were originally transferred, believing that there would be scope for further deals in future – scope which did not eventually materialise. This context contributed to the growing cross-party dissatisfaction with the regional financing system from the late 1990s onwards, as the Catalans sought to keep more of their revenues to be able to face increased commitments in health and education, as well as other areas such as deteriorating local rail and other infrastructure networks. Importantly, regional financing thus became one of the main grievances that contributed to fuelling calls from several parties for a new autonomy statute for Catalonia from the turn of the century, in order to address a new financing model for the region, among other matters.

***Regional financing has influenced conceptions of sovereignty:***

Although regional financing in the Basque case has not become a strong point of contention as in Catalonia, the bilateral nature of the *Concierto* has nevertheless still influenced the PNV's territorial agenda in other ways, by shaping the conception of sovereignty that it seeks for the Basque region, since the *Concierto* is the closest current equivalent to the form of 'bilateral relationship between equals' that the PNV seeks in wider Spanish-Basque political relations, under the vision articulated by the Urkullu government (see Chapter 4). On the one hand, bilateral relations over the *Concierto* have facilitated and encouraged accommodationist behaviour on the part of the PNV, since they have offered considerable scope for deals and payoffs to resolve disagreements. This bilateral relationship, combined with the greater resources that the *Concierto* affords to the Basque region, has allowed such accommodationist attitudes within the PNV to persist for longer than in the case of CDC in Catalonia. It is very significant that a substantial deal such as the new *Concierto* law of 2002 was even possible under a Spanish nationalist like Aznar when he governed with an absolute majority and therefore did not need the PNV's support (see pp.139-140). On the other hand, however, Spanish-Basque conflict in relation to the *Concierto* has still increased over the decades, with the PNV seeking

to develop the Concierto as a model of fiscal sovereignty in Europe (in which the Basque treasuries would have essentially the same fiscal powers as Spain or any other member state treasury), in contrast to the Spanish authorities which continue to see the Concierto as subordinate to Spanish tax legislation (Chapters 4 and 5). At present, the issue of developing the Concierto further within the EU context is not an immediately pressing one for the PNV, and the debate over issues such as the scope for Basque participation in EU decision-making bodies over fiscal matters such as Ecofin often remains at the technical level rather than being of widespread concern for the PNV. It nevertheless points to the ongoing polarisation in perceptions between the PNV and Spanish authorities as to what opportunities or obstacles the EU creates for the development of shared sovereignty within a state in fiscal matters and beyond.

***Regional financing has influenced intraregional political dynamics and thereby parties' territorial strategies and behaviour:***

The way in which the Concierto works internally within the Basque region has also had significant implications for the PNV's territorial strategies and behaviour (see Chapter 6). The heterogeneity of the PNV (partly across territories) and the changing political map at provincial level make strategic consistency difficult for the party, thereby reducing the possibilities for party shifts from one position to another on territorial matters. The Concierto, given the weight it affords to the provincial governments as the tax-raising authorities in the region, contributes to this complexity. For example, Vizcaya is both the PNV's stronghold in the Basque region and also by far the largest province, and thus the one that raises the most revenues. While the province of Vizcaya is relatively underrepresented in the Basque regional parliament (relative to its population size), the fact that it raises by far the most revenues in the region nevertheless gives it a weight and negotiating power of a different kind both within the region and within the PNV itself. In addition, the different territorial interests within the PNV have also resulted in internal debates over the relationship to the izquierda abertzale, given the varying strength of the izquierda abertzale in different provinces (its strongest presence is in Guipúzcoa), and therefore the need for different alliance arrangements and competition tactics in different provinces.

Overall, what emerges through an analysis of the use of the powers afforded by the Concierto in different provinces is a sense of incompatibility between the PNV and Bildu on fiscal and social matters. The discrepancies between the PNV and the izquierda abertzale over fiscal policy and the Concierto which emerged during 2011-2015, the first time the izquierda abertzale gained power under Bildu in Gipuzkoa, suggest wider implications for possible alliances (or a lack thereof) between them going forward. While governing at provincial level in Guipúzcoa in 2011-2015, Bildu sought to distance itself from what it perceived as the PNV's traditionally 'neoliberal' use of the Concierto and to carve out a different fiscal vision for the Basque Country, preferring to ally with the Basque federation of a leftwing statewide party (the PSOE) in Guipúzcoa rather than the PNV. In addition to the discrepancies over left-right politics that emerged through the PNV's and Bildu's contrasting use of the fiscal powers afforded by the Concierto, their attitudes towards the Concierto also manifested the differences in their territorial goals regarding the Basque Country and its relationship to Spain. Bildu's criticism of the Concierto as an insufficient basis for proper self-government clearly differs from the PNV's praise of the Concierto as the closest current equivalent to the form of 'bilateral relationship between equals' that the PNV seeks in wider Spanish-Basque political relations.

What such attitudes and behaviour towards the Concierto reveal is a perpetuation of the historic divide in nationalism which originally came about through violence and resulted in the predominance of the PNV as the main nationalist actor in the region. Although ETA has ceased its violence, a strong divide between the PNV and the izquierda abertzale still persists and manifests itself in many areas, including questions of fiscal policy, the territorial organisation of the Basque Country and the relationship of the Basque Country to Spain, as seen in the contrasting attitudes of the PNV and the izquierda abertzale towards the Concierto. The PNV's ultimately still conservative use of the Concierto, both in terms of its respect for the weight it gives to the provinces and its privileging of essentially centre-right fiscal policies, has contrasted strongly with the aims and intentions manifested by the izquierda abertzale. This is one among several factors that has contributed to the ongoing division between nationalist forces in the region, as well as increasing the potential for the izquierda abertzale to ally with statewide left-wing forces in the region, against the PNV.



The contrast with Catalonia in terms of alliance behaviour is striking. In Catalonia, the lack of fiscal autonomy and thus the lack of need or ability to draw up concrete fiscal agendas, combined with the wider Catalanist phenomenon which has often generated consensus rather than conflict among different parties and civil society groups, helped to make possible the decision reached between the centre-right CDC and left-wing ERC in 2014-2015 to subordinate their differences over left-right politics to their common position on territorial politics. Thus they combined forces on a joint platform and in a single electoral list (Junts pel Sí) to seek independence for Catalonia at regional elections on 27<sup>th</sup> September 2015, intended by the pro-independence forces as a plebiscite on independence. Inevitably, this was not without considerable obstacles: the lack of common ground on social policy between CiU, on the one hand, and ERC and other left-wing independents, on the other, was one of a number of factors that contributed to the difficulties in securing an agreement on a single list. And once the agreement was secured, the programme presented in the run-up to the elections was inevitably very vague on issues of traditional right-left politics such as social policy, with those leading the list proving non-committal or even contradictory on the matter, trying to shift emphasis instead onto the common goal of seeking to create an independent state as a first step. Similarly, reaching an agreement with the radical left CUP to ensure a stable government once Junts pel Sí had won but without a sufficient majority to govern was a lengthy and complicated affair, finally resulting in the need for Mas to resign and be replaced by a figure of greater consensus in the form of Carles Puigdemont, previously mayor of Girona. Despite such obstacles and somewhat tenuous unity between the right- and left-wing components of the electoral list and subsequent government, however, the fact remains that an alliance of sorts between parties of traditionally radically different left-right orientation was possible. In this regard, one among various facilitating factors was the fact that Catalonia does not currently have its own proper treasury or any significant fiscal powers, thus making it more feasible for an alliance of left- and right-wing parties to present a common front postponing decisions on and arguments about such issues to the future.

The longstanding Catalanist phenomenon (p.19) has had a significant impact on the evolution in the attitude of CDC/CiU towards regional financing and ultimately its shift towards pro-sovereignty agendas. CDC's demand for a fiscal pact has not always been entirely clear or committed, thus raising the question of what

has driven the party to make more coherent proposals for a fiscal pact at certain times rather than others. A number of factors have contributed to this, including the decline in scope for accommodationist practices from the late 1990s due to the changing nature of governments in Madrid, generational change within CDC/CiU, and changes in economic context. However, the wider Catalanist phenomenon is also important, since party competition within the Catalanist sphere (most notably with ERC, but also at times from other left-wing parties) and pressures from civil society have at times reduced CDC/CiU's room for manoeuvre and thus contributed to influencing the timing of shifts in its agenda. CDC/CiU became caught up in a broader Catalanist evolution whereby a majority in Catalonia from the late 1990s onwards came to consider the existing regional financing arrangements inadequate. This broader Catalanist process pushed CDC/CiU to define more clearly its vision of a fiscal pact for Catalonia, reduced the scope for its non-committal attitude that had prevailed during prior periods of accommodationism, and encouraged a new kind of tactical behaviour in response to party competition within Catalonia over proposals for new financing models. Such tactical behaviour included, for example, taking a more determined stance in favour of a Concierto-style model during the statute reform negotiations and then a particularly critical attitude towards the 2009 reform of the LOFCA, in both cases when it was in opposition to the left-wing tripartite coalition government and could thereby put pressure on its main competitor ERC in government. Ultimately, CiU's inability to achieve a suitable fiscal pact for Catalonia in 2012, in a climate of rising pro-sovereignty sentiment in Catalonia and a context of economic deterioration, proved a decisive moment for the party federation, as it shifted its position clearly in favour of support for the right to decide, and eventually, in the case of CDC (but not UDC), independence for Catalonia. The issue of regional financing has thus played a significant role in influencing CDC's shift from accommodationist to pro-sovereignty politics. As well as the evolving nature of relations with Madrid, intra-regional factors such as party competition and pressures from civil society have had a significant bearing on the timing of CDC's shifts in attitude towards the financing question and beyond.

***Supranational dynamics have influenced regional financing and thereby parties' territorial strategies and behaviour:***

In recent years, in the aftermath of the financial crisis of 2007-2008, CDC's (amid wider Catalan) dissatisfaction with the regional financing system has also been impacted by dynamics at EU and international level, since the deficit targets set by the EU authorities for Spain have, in turn, also required adjustment by Spain's regional authorities, and the financial crisis resulted in most regions being shut out of the public debt markets, thus forcing them to become reliant upon loans from the central government. The Spanish-Catalan and inter-regional dynamics within Spain that have traditionally impacted regional financing negotiations have thus been influenced to an unprecedented extent by developments at the supranational and international level. As the financial crisis took hold in Spain, Catalonia's financial situation – along with that of the other central and regional administrations in Spain – deteriorated in particular from 2010 onwards when the full impact of Spain's austerity cuts hit and the international markets lost confidence in Spain. As one of the largest regions and therefore one with particularly high financing needs, the Catalan government became increasingly reliant upon centralised funding mechanisms created by the Spanish government when it lost access to the markets to raise funding to supplement revenues from taxes. These centralised funding mechanisms, in turn, required Catalan adherence to strict deficit targets set by the Spanish government for regional governments in Spain, in order to meet the overall targets set by the EU authorities. And yet Catalonia became one of the most frequent underperformers in terms of meeting these fiscal targets. This scenario served to exacerbate already existing tensions between Spanish and Catalan authorities over regional financing, not only reigniting the debate over the level of financing afforded to Catalonia under the common system, but also raising a dispute over the question of to what extent the Spanish central government has used arguments of rationalisation for economic purposes as a guise for ideologically-motivated recentralisation due to the party's Spanish centralism. Interestingly, however, even on occasions where clear messages have been issued by the EU authorities to the Spanish authorities to crack down on regional spending to help rein in Spain's overall deficit, these have had little or no perceptible impact on CDC's attitude towards the EU, with its blame for the need to rein in spending focused almost exclusively on the central government. This bears a parallel with the PNV's behaviour vis-à-vis its own interests in relation to the EU context, in the sense that, despite the fact that the EU continues to pose a number of obstacles to the

development of substate fiscal autonomy verging on sovereignty in EU member states, the PNV focuses on the Spanish state as the main obstacle to a greater Basque participation at EU level in fiscal matters and beyond, rather than the EU framework itself (Chapter 5). In part, this may be tactical, since it serves both CDC and the PNV's purpose to focus their criticisms on the Spanish state as too centralised, but it is not just a question of instrumentalism. In both cases, the nationalist parties remain strongly pro-European despite the obstacles.

### **Contribution to knowledge**

This thesis hopes to have contributed to a fuller understanding of how political dynamics in relation to the Basque *Concierto* have influenced the PNV's territorial strategies and behaviour. The predominant focus in both the media and academia on the politicised debate over whether or not the *Concierto* is a 'privilege' in comparison with the common financing regime has neglected a fuller analysis of political behaviour and dynamics in relation to the *Concierto* itself, which this thesis has investigated. This has involved extensive interviews to understand how bilateral relations between Madrid and the Basque region over the *Concierto* have played out in recent decades, what the main areas of dispute have been, and what this has meant for the PNV's evolving agenda (Chapter 4). The PNV is well known for being a pro-EU party resolutely in favour of European integration, but apart from a few exceptions (e.g. Gillespie 2015b), there have been few in-depth analyses of the evolution of its relationship to Europe and the party's objectives in this regard, which is perhaps a reflection of the fact that its goals for greater participation in Europe are rather vague, gradualist and open-ended in any case. This thesis hopes to have provided a new dimension to the question of the PNV in the EU context by providing an analysis (in Chapter 5) of the PNV's attempts to develop the *Concierto* increasingly as a model of fiscal sovereignty in Europe and the implications of this for its wider sovereignty agenda. The detailed ins and outs of Spanish-Basque disputes over issues such as whether the Basques require representation in EU Council working groups on fiscal matters are often very technical matters dealt with by the relevant Basque treasury administrations and the upper echelons of PNV government, rather than more general issues used by the PNV to galvanise public support for the party or indeed understood by the PNV in its entirety. Nevertheless,

the gradualist steps taken by the PNV since the late 1990s to obtain some degree of representation in EU fiscal decision-making bodies (mainly Ecofin) provide a key insight into the incremental approach used by the party towards its goal for the Basque Country to be treated as an equal to Spain in Europe in fiscal matters and beyond, and importantly, the discrepancies with Spanish authorities in this regard.

The thesis has also shed light (in Chapter 6) on the hitherto largely unexplored terrain of the intraregional and inter-provincial political dynamics concerning the *Concierto* within the Basque region itself, given the complexity of the situation whereby each of the three provinces raises its own taxes. The way the *Concierto* works internally within the Basque region is, in many ways, very opaque, in terms of relations between the Basque government and the provinces, and among the provinces themselves. Very little of what goes on in the meetings of the Basque Council of Public Finances and the Basque Tax Coordination Body emerge into the public domain. By drawing on interviews with treasury officials from the provincial administrations, this thesis hopes to have made a start at shedding light on the complexity of the internal dynamics within the region regarding the *Concierto* given the extensive fiscal and financial powers it affords to the provinces, and what the implications of this situation have been for the PNV's territorial strategies and behaviour. This certainly marks a fundamental contrast to the Catalan case, where local financing (i.e. to the provincial level and municipalities) is heavily centralised and controlled by the central Spanish government, bypassing the regional government, and the issue has therefore become a bone of contention for Catalan nationalists who want local financing to be under regional government control.

In the Catalan case, as discussed in earlier chapters, a number of studies have analysed the under-funding of the region both in terms of resources from the common system and infrastructure spending, while others have used public opinion data to show how economic considerations have played a role in the increase in support for independence among Catalan citizens in recent years. This thesis has contributed a different dimension to the question of the relationship between financing concerns and pro-sovereignty sentiment in Catalonia by focusing instead on party attitudes towards regional financing and their evolution over a long time period, since demands for reform of regional financing have been a major theme of Catalan political debate for more than a decade. It has analysed how CDC's attitudes towards regional financing have evolved since the Transition, the factors that have

shaped this, and the consequences for its evolving territorial agenda. To provide context for CDC's (and wider Catalanist) recent behaviour, this thesis has also provided a substantial analysis of the nature of the financial crisis of 2007-2008 as it impacted Spain's regions, including especially Catalonia, and the consequences for the rise in pro-sovereignty sentiment in Catalonia. Few studies have looked in any depth at the complexity of the interrelationship between international pressures on Spain during the crisis (in the form of the EU's deficit reduction requirements for Spain and the behaviour of the international markets towards Spain) and central-regional tensions within Spain itself (as a result of Spain's division of deficit targets for different levels of government and its provision of funding mechanisms for cash-strapped regional and local authorities shut out of the markets). This thesis has therefore studied this interrelationship and the implications for pro-sovereignty agendas in Catalonia.

Finally, as well as providing insights into each of the two case studies individually, the comparative approach taken in this thesis has helped to shed further light on the main research question. For example, an in-depth analysis of the bilateral dynamics of the *Concierto* within a genuinely bilateral model, in contrast to the 'bilateral' negotiations between Madrid and Catalonia within the context of an inter-regional financing model, has helped to explain why accommodationist attitudes have ultimately been able to persist for longer within the PNV than in the Catalan case. It is not just a question of the fact that the Basques receive more money than the Catalans since the *Concierto* is based on their fiscal capacity rather than estimated needs. What is also fundamentally important is the fact that there has been significantly more scope for deals and trade-offs in bilateral negotiations over the *Concierto* than in Spanish-Catalan negotiations over the inter-regional financing system, and this becomes much clearer through a comparative analysis. Moreover, the comparative analysis has brought out the importance of the differences in internal political dynamics within the two regions. Internal political dynamics within the Basque region (and indeed within the PNV itself) in relation to the *Concierto* and its inter-provincial dimension have encouraged the PNV's moderation and also reduced the scope for nationalist alignment with the *izquierda abertzale*, given their very different views on the *Concierto* and fiscal agendas. This provides a strong contrast to Catalonia, where the longstanding consensus that regional financing needs

improved has not only led to competitive and tactical behaviour by CDC to outbid others, but also more of a united front to seek a better deal for Catalonia.

It is primarily via this analysis of internal political dynamics within the Basque and Catalan regions in relation to regional financing that this thesis hopes to have contributed to the existing literature on regionalist-nationalist party behaviour outlined in Chapter 1 (pp. 24-33). As I stated there, the literature on the behaviour of regionalist-nationalist parties as they move into mainstream politics has sought to address the question of what impact engaging with everyday left-right politics has on their territorial agendas, and how their stances on socio-economic issues feed into their vision of the society they wish to create. However, the analytical frameworks which have started to emerge in this regard have so far tended to neglect an analysis of the implications of competing socioeconomic visions between different nationalist parties within individual regions, in favour of more wide-ranging cross-country comparative conclusions. For example, Masetti and Schakel (2015) carry out a cross-country comparative study which leads them to argue that ‘the relative economic position of a region is a key variable for explaining how regionalist parties acting in relatively rich regions tend to adopt a rightist ideology, while regionalist parties acting in relatively poor regions tend to adopt a leftist ideology’ (2015: 865). They carry out a large-scale quantitative study to demonstrate this, and then reassert their findings through a more in-depth qualitative study of two parties, the Lega Nord (LN) in Italy and the Scottish National Party (SNP) in Scotland, but they do not go further to consider in any detail what happens when more than one regionalist-nationalist party is competing within a region, potentially with very different socioeconomic visions. Similarly, Alonso et al. (2015), in their investigation into parties’ electoral strategies in a two-dimensional political space, carry out a large-scale multinomial logistic model to find that ‘in contrast to the niche party thesis, regionalist parties strategize simultaneously along the territorial and the economic dimension of competition’ (2015: 851). They examine ‘the repertoire of party strategies in a two-dimensional space’ and develop ‘some tentative explanations of the circumstances in which the parties use one or another strategy’ (2015: 859), but in so doing they focus on the interaction between regionalist and statewide parties and how this conditions regionalist party behaviour, rather than the implications of competition between regionalist parties within the region itself for regionalist party behaviour.

This thesis hopes to have contributed new insights to this literature by examining the internal dynamics between competing regionalist-nationalist parties within regions themselves, how this internal competition has impacted the way in which regionalist-nationalist parties subsume the left-right dimension of politics into the centre-periphery dimension, and how different levels of fiscal decentralisation can impact their strategies in this regard. It has pointed tentatively to the idea that regionalist-nationalist parties operating in regions with greater levels of substate fiscal autonomy must develop stronger fiscal and economic policy agendas than their counterparts in regions with lower fiscal authority. This, in turn, suggests that competing fiscal agendas between regionalist-nationalist parties within the same region can pose more of an obstacle to their collaboration on wider territorial goals, whereas in regions with less fiscal autonomy and therefore less of a need for strongly developed fiscal policy agendas, it is more possible for regionalist-nationalist parties to subordinate their differences on left-right politics to achieve collaboration on wider territorial matters. Similarly, this thesis has shown that even if the relative economic position of a region may often determine a regionalist-nationalist party's stance on left-right issues (as argued by Massetti and Schakel 2015), it is not an impediment to regionalist-nationalist parties developing different agendas on the left-right axis of competition, and indeed using these to compete against each other to the detriment of their possible collaboration on territorial issues, as seen clearly in the case of the PNV and Bildu in the Basque Country.

Of course, this thesis has only studied the cases of the Basque and Catalan regions, and a much larger number of cases would need to be studied in order to see if the findings in relation to these two regions have wider relevance. The vastly different levels of fiscal decentralisation in different states and the often idiosyncratic nature of sub-regional political systems would also pose problems to wider comparison (the Basque case, with three treasuries at provincial level, is certainly unique). Nevertheless, this thesis has demonstrated that internal political dynamics within individual regions and the individual characteristics of these regions themselves can have an important bearing on regionalist-nationalist party behaviour, and that one of the structural factors that can influence such internal political dynamics is the type of regional financing system in place in the region in question. Such an analysis of the implications of what happens below the regional level has tended to be neglected to date in the emerging frameworks seeking to



analyse regionalist-nationalist party behaviour, which usually take the regional level of party competition itself and its interaction with statewide competition as the main focus of analysis.

### **Further research**

While this thesis has focused on identifying ways in which regional financing has influenced shifts in the territorial strategies and behaviour of the mainstream Basque and Catalan nationalist parties, there are inevitably limitations to the role of this variable. Most notably, regional financing was not a major factor in the PNV's decision to break its longstanding alliance with the Socialists to form a nationalist alliance instead with the Basque radical left under the Lizarra Pact, nor its subsequent decision to forge ahead alone with the Ibarretxe Plan once the alliance with the radical left had been broken. This shift away from accommodationism corresponded first and foremost to other factors addressed in Chapter 2, including the PNV's attempt to find a means to address the ongoing problem of terrorist violence; its frustration with the limits to the advances in autonomy for the Basque region that could be achieved while the terrorist problem persisted; and the atmosphere of increasing confrontation and competition between Basque nationalists and the Spanish PP. In the Catalan case too, despite the clearer link between dissatisfaction with regional financing arrangements and the rise in pro-sovereignty agendas in recent years, the longstanding debate over the regional financing system in Catalonia has been a symptom of, and indeed overtaken by, a broader clash between the Spanish and Catalan governments that is not solely or primarily economic in nature. One obvious area of further research would thus be to widen the scope of analysis to refer more to other factors (cultural, social, political and economic), in addition to regional financing, that also help towards a fuller understanding of what explains the shifts in territorial agendas undertaken by these parties since the late 1990s.<sup>231</sup>

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<sup>231</sup> The research for this thesis has been linked to a wider ESRC-funded research project led by Richard Gillespie on 'The Dynamics of Nationalist Evolution in Contemporary Spain' [ES/J007854/1] which constituted an initiative in this direction, aiming to investigate the different factors that have impacted shifts in Basque and Catalan nationalist party agendas. Work in this regard gave rise to a special issue of *Nationalism and Ethnic Politics* (21:1) co-edited by Professor Gillespie and myself, also published in book format (Gillespie and Gray 2015).

Another area for future research would be to undertake a more in-depth study of the PNV at local and provincial level, and the implications for its coherence, strategies and behaviour. This thesis has made a start in investigating the heterogeneity of the PNV across territories by looking specifically at the implications of the Concierto for the PNV's behaviour in different provinces as well as for its overall coherence, but there is plenty of scope for further work on the party at local or provincial level, given the lack of studies in this area (De Pablo: 2008, on the history of the party in Álava, is a notable exception). Regarding the intraregional dimension, there is also scope for work investigating the dynamics between the PNV and civil society in the Basque region – and whether these vary across provinces. This thesis has made a contrast between the fluid relationship that has emerged between CDC and civil society organisations in Catalonia on the one hand, and the more isolated behaviour of the PNV on the other, as seen, for example, in the fact that the Ibarretxe Plan was very much a party-led initiative. However, while the relationship between parties and civil society in Catalonia is certainly more explicit, a fuller exploration of the relationship between the PNV, nationalist trade unions and social movements in the Basque region in recent decades could possibly shed further light on the PNV's behaviour. The Basque region is unusual in that it has historically had two very political trade unions – ELA (usually associated more with the PNV) and LAB (usually associated more with the *izquierda abertzale*) – which have at times sought to exercise pressure on the PNV and the *izquierda abertzale* with regard to their territorial agendas. Similarly, two social platforms – Elkarrri, created in 1992, and its successor Lokarri, created in 2006 – aimed to pursue a peaceful solution to the Basque conflict via dialogue. Have these trade unions and social movements played a role in influencing the PNV's territorial strategies and behaviour, particularly in the late 1990s?<sup>232</sup> Such dynamics within the Basque region and their potential influence on the PNV have tended to be overlooked in analyses of the party traditionally focused instead on its behaviour in elections and vis-à-vis Madrid.

A third area of research would be to investigate the impact of the wider political transformation currently taking place in Spain at central government level (which has made forming a government impossible following the December 2015

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<sup>232</sup> My interest in this question was sparked by interviews with Xabi Anza, member of the executive of ELA, on 25 April 2014; and Jonan Fernández, founder of Elkarrri, on 21 May 2014.

elections) on the evolution of the Catalan and Basque territorial problematics. This thesis has discussed how traditional Catalan nationalists who had long fought for greater recognition for Catalonia's language and culture were increasingly joined in the wake of the crisis by a new wave of disaffected Catalans who were not necessarily traditional nationalist party supporters but had come to resent Catalonia's economic treatment at the hands of the Spanish state and the austerity measures being imposed during the crisis, as well as the levels of corruption not only among Spanish but also Catalan nationalist politicians. While the traditional nationalist party CDC, seen as part of the traditional establishment and associated with corruption, consistently declined in support, the pro-independence movement overall still gained momentum due to the alliance with left-wing pro-independence parties ERC and the CUP and civil society groups. And yet left-wing Podemos, the new Spanish party that has captured much of the protest vote against the traditional Spanish parties in Spain, fared very well in Catalonia in the 2015 general elections, winning in Catalonia as part of an alliance with other left-wing parties there. It also challenged the dominance of the PNV in the Basque region by very nearly winning there, capturing the most votes, but falling one seat short of the PNV. The possibility mentioned in Chapter 6 of left-wing alliances between the *izquierda abertzale* and other progressive left-wing forces in the Basque region, against the more conservative PNV, thus did not look beyond the realm of possibility. This context calls for an in-depth analysis of the mutual interaction effects between Spain's political crisis in general and the Basque and Catalan territorial problematics, and what this means for the PNV and CDC as well as the wider Basque and Catalan nationalist movements.

## APPENDIX 1 - List of interviewees

### *In alphabetical order*

#### ***Name, date(s) of interview(s), party affiliation (where relevant) and brief biography***

**Agirre, Xabier**, 7 April 2014

PP president of the province of Álava 2007-2011. Member of the Basque parliament for Álava 2004-2007.

**Aguirre, Carlos**, 13 October 2014

PSE Basque Economy and Treasury Minister 2009-2012, under the Basque government of Patxi López. Previous positions of responsibility from 1987 onwards, during the years of PNV-PSE Basque coalition governments, included Director of Planning for the Economic and Planning Department (1987-), Director of Analysis and Studies in the area of Social Affairs (1991-), and Director of Economy and Planning for the Department of Justice, Economy, Work and Social Security (1995-).

**Anasagasti, Iñaki**, 7 March 2014

PNV spokesperson in the Spanish parliament for 18 years from 1986 to 2004. Most recently, senator for Vizcaya in the Spanish Senate (upper house of parliament), 2004-2015. Previously, deputy for Vizcaya in the Spanish parliament 1986-2004 and member of the Basque parliament for Vizcaya 1980-1986.

**Anza, Xabi**, 25 April 2014

Member of the executive committee of the Basque trade union ELA.

**Aranburu, Mikel**, 5 May 2014

Member of the technical team of the Navarran treasury department since 1980. Since 2015, Treasury and Financial Policy Minister of the Navarran regional government.

**Ardanza, José Antonio**, 10 April 2014, 28 April 2014

PNV President (lehendakari) of the Basque regional government 1985-1999. Previously, president of the provincial government of Guipúzcoa 1983-1985 and mayor of Mondragón (Guipúzcoa) 1979-1983.

**Arrieta, Sabino**, 2 April 2014

Businessman affiliated to the PNV. Deputy interior minister for the Basque government in the 1980s.

**Azpiazu, Pedro**, 15 September 2014

PNV deputy for Vizcaya in the Spanish parliament since 2000 and economic spokesperson (including on Concierto-related matters).

**Bel, Germà**, 27 April 2015

Deputy for Junts pel Sí in the Catalan parliament since October 2015 after running as head of the Junts pel Sí list for the province of Tarragona in the Catalan regional election of 27 September 2015. Previously affiliated to the PSOE/PSC, and PSC deputy for Barcelona in the Spanish parliament 2000-2004. Also Professor of

Applied Economy at the University of Barcelona, known for his work on infrastructure spending in Spain, in which he argues that Spain has used infrastructure as a 'nationbuilding' tool, creating a centralist transport network that has had a detrimental economic impact on Catalonia (see Bel 2012).

**Beloki, José Ramón**, 27 February 2014, 8 April 2014

PNV deputy for Guipúzcoa in the Spanish parliament 2004-2011.

**Bosch, Jaume**, 19 March 2015

ICV deputy for Barcelona in the Catalan parliament 2003-2015. ICV spokesperson during the Catalan statute reform negotiations.

**Castells, Antoni**, 25 March 2015

PSC Catalan Economy and Finance Minister 2003-2010, under the two left-wing tripartite coalition governments in Catalonia. Professor of Public Policy at the University of Barcelona, known for his work on fiscal federalism.

**Colomines, Agustí**, 23 March 2015

Director of the Fundació Catalanista i Demòcrata (Catdem) 2007-2013. Catdem was a foundation linked to CDC, created by Artur Mas to refound Catalanism, who appointed Colomines as its director. Previously, Colomines had been associated with left-wing and pro-independence parties, organisations and movements, for example he participated in the founding in 1979 of the party *Nacionalistes d'Esquerra* in favour of self-determination for Catalonia, which dissolved a few years later into Iniciativa per Catalunya. Professor of Contemporary History at the University of Barcelona, specialising in the history of the Catalan nationalist movement.

**Corominas, Lluís**, 27 January 2016

CDC. First vicepresident in the Catalan parliament since 26 October 2015. Second vicepresident in the Catalan parliament 2012-2015 and 2008-2010. Deputy for Barcelona in the Catalan parliament since 2003.

**Damborenea, Antón**, 9 July 2014

President of the Basque PP in Vizcaya since 2008.

**Egibar, Joseba**, 8 April 2014

PNV deputy for Guipúzcoa in the Basque parliament since 1990, and PNV spokesperson in the Basque parliament since 1998. Also president of the executive of the PNV in Guipúzcoa since 1987.

**Erkoreka, Josu**, 14 March 2014

PNV. Since 2012, Basque government spokesperson and Director of Public Administration and Justice. Previously, PNV deputy for Vizcaya in the Spanish parliament 2000-2012, and PNV spokesperson in the Spanish parliament 2004-2012.

**Fernández, Jonan**, 21 May 2014

Founder of the Basque social movement Elkarri in 1992 (dissolved in 2006), designed to help achieve a peaceful end to the Basque conflict through dialogue.

**Franco, Helena**, 5 September 2014 (interviewed together with Itziar Miner)

Bildu Treasury minister, provincial government of Guipúzcoa, 2011-2015.

**Goikoetxea, Iñaki**, 10 April 2014 (interviewed together with Andoni Ortuzar), 7 July 2014

Member of the PNV executive and in charge of the party's international relations. Substantial involvement with the PNV since the 1980s.

**Hernández Goicoechea, José Luis**, 7 October 2014 (interviewed together with Sebastián Zurutuza Mujika)

Head of the Service for Regulatory Development and Legal Advice, Treasury of Guipúzcoa (technical team).

**Homs, Francesc**, 28 January 2016

Deputy for Barcelona in the Spanish parliament since January 2016 and spokesperson for the Catalan parliamentary group of Democracia i Llibertad (CDC refounded). Previously, spokesperson for the Catalan government 2010-2015 and minister for the presidency of the Catalan government 2012-2015, among other roles. CDC deputy in the Catalan parliament 2003-2010, and CiU lead spokesperson for negotiations for the new 2006 Catalan autonomy statute in that period.

**Huguet, Josep**, 9 June 2015

Affiliated to ERC since 1989, after previously forming part of other pro-independence left-wing parties and movements in the 1970s and 1980s. Catalan Minister for Innovation, Universities and Business in 2006-2010 under the second tripartite coalition government, and Minister for Business, Tourism and Consumer Affairs in 2004-2006 under the first tripartite coalition government. Key spokesperson for ERC on the reform of regional financing during the statute reform negotiations under the first tripartite government, as well as a key referent within ERC in the 1990s pushing for a Concierto for Catalonia. Other roles have included ERC spokesperson in the Catalan parliament 1999-2004, and member of the Mixed Commission for Transfers between the Spanish state and the Catalan government 1993-1995.

**Ibarretxe, Juan José**, 8 April 2014, 28 October 2014

PNV President (lehendakari) of the Basque regional government 1999-2009.

Previously, Deputy President and Minister of the Treasury and Public Administration of the Basque government 1995-1999. Other roles have included president of the provincial parliament of Álava 1986-1991.

**Larrea, Pedro**, 20 June 2014

PNV Deputy Basque Treasury minister in the mid 1980s and previously Treasury minister for the provincial government of Vizcaya.

**Larreina, Rafael**, 7 April 2014

EA deputy for Guipúzcoa in the Spanish parliament since 2011. Member of the Basque parliament 1990-2009.

**Martínez Bárbara, Gemma**, 4 April 2014, 16 May 2014, 8 October 2014

(interviewed together with José Rubí Cassinello on all three occasions)

Head of the Fiscal Policy Service, Treasury of Vizcaya (technical team).

**Mas-Colell, Andreu**, 25 January 2016

CDC Catalan Economy Minister 2010-2016 under the two governments of Artur Mas. Previously, Minister for Universities, Research and Information Society in 2000-2003. Leading academic specialising in microeconomics.

**Mediavilla, Koldo**, 9 April 2014

Member of the PNV executive, responsible for institutional matters since 2012. First Secretary of the provincial parliament of Vizcaya since 2011. Previous roles included General Secretary of the Presidency, provincial government of Vizcaya, 2003-2011.

**Miner, Itziar**, 5 September 2014 (interviewed together with Helena Franco)

Bildu Director of Fiscal Policy in Guipúzcoa, 2011-2015

**Mintegi, Laura**, 7 April 2014

Spokesperson for EH Bildu in the Basque parliament, 2012-2014.

**Montero, Txema**, 11 March 2014

Formerly member of HB in the 1980s, expelled from HB in 1992 for his stance against ETA. Has since collaborated with the PNV, though without becoming affiliated to the party. Expert in the politics and sociology of the Basque region.

**Múgica, Gonzalo**, 18 July 2014, 28 August 2014

PSE legal adviser to former deputy lehendakari Ramón Jáuregui regarding the transfer of competences to the Basque government and social security matters in the 1980s and early 1990s.

**Olabarria, Emilio**, 11 April 2014

PNV deputy for Álava in the Spanish parliament, 2004-2015 and 1986-1996. Member of the Basque parliament for Álava, 2001-2004 and 1984-1986.

**Olano, Xabier**, 29 May 2014

Bildu Director of the Treasury of Guipúzcoa, 2011-2015. Bildu candidate for President of Guipúzcoa at the 2015 provincial and municipal elections (stood unsuccessfully). Longstanding affiliation to the izquierda abertzale.

**Ortuzar, Andoni**, 10 April 2014 (interviewed together with Iñaki Goikoetxea)

Head of the PNV executive since 2013. Previously, head of the Vizcayan executive of the party 2008-2013.

**Padrol, Heribert**, 13 July 2015

Lawyer. Has acted on occasion in an advisory capacity to Artur Mas, including on regional financing matters. CiU deputy for Barcelona in the Spanish parliament 2000-2002.

**Pujol, Jordi**, 24 February 2016

CDC/CiU President of the Catalan government 1980-2003.

**Rubí Cassinello, José**, 4 April 2014, 16 May 2014, 8 October 2014 (interviewed together with Gemma Martínez Bárbara on all three occasions)  
Technical Secretary General, Treasury of Vizcaya (technical team).

**Salinero, Manuel**, 2 September 2014  
PSE General Secretary of the Basque President 2009-2012, under the government of Patxi López. In and out of politics since the 1980s. Legal adviser on issues concerning social security and the transfer of competences to the Basque government at times in the 1980s and 1990s. Strong involvement on behalf of the PSE, for example, in the drafting of the Zubia Report (Informe Zubia) of 1993 by the then PNV-PSE Basque government, on the competences still to be transferred to the Basque government.

**Uriarte, Pedro Luis**, 11 April 2014  
PNV Basque Economy and Treasury Minister under the first Basque government of 1980-1984. Lead Basque negotiator for the Concierto agreement of 1981.

**Uribealgo, Aitor**, 10 October 2014  
PP Treasury minister, provincial government of Álava, 2011-2015.

**Urieta, Aitor**, 22 May 2014  
Bildu town councillor for Zeberio (Vizcaya).

**Zabaleta, Iñaki**, 8 April 2014  
One of the founders of Sortu. Long history of involvement with the izquierda abertzale.

**Zurutuza Mujika, Sebastián**, 7 October 2014  
Various technical roles within the provincial government of Guipúzcoa. Most recently, Head of the Service of Institutional Commitments, 1993-2015. Previously, Head of Section responsible for the Quota and Financial Contributions, 1992-1993. Also worked as an economist for the provincial government in 1987-1992.

#### Academic consultations

In addition to the above interviewees, I would also like to thank the following academics for meeting with me more informally at various stages of this project to answer questions, in particular:

Ander Gurrutxaga, University of the Basque Country (specialist in the sociology of the Basque Country)

Ignacio Zubiri, University of the Basque Country (specialist in the Concierto)

Eduardo Alonso Olea, University of the Basque Country (specialist in the Concierto)  
Fernando de la Hucha, Public University of Navarre (specialist in the Concierto and the Convenio)

Juan Cruz Allí, Public University of Navarre (specialist in the Convenio and Basque-Navarran institutional relations, also with significant previous political experience in this regard)

Roldán Jimeno, Public University of Navarre (specialist in the Convenio)

Hugo López, Public University of Navarre (specialist in the Convenio)



Ángel de la Fuente, FEDEA (specialist in regional financing)

I would also like to thank financial experts and analysts at Madrid-based economic consultancy firm Analistas Financieros Internacionales (AFI) (especially César Cantalapiedra) and also BBVA's credit research team in London (especially Agustín Martín) for providing me with relevant data and reports on Spain's regions.

## APPENDIX 2 – Participant information sheet

The following information sheet was emailed to all interviewees when they were first contacted to request an interview:



### **Los nacionalismos en España: La evolución de las propuestas territoriales en el País Vasco y Cataluña**

#### **INFORMACIÓN PARA PARTICIPANTES**

*Se le invita a usted a participar en un estudio de investigación. Le ruego que se tome el tiempo de leer la siguiente información y no dude en contactar con la investigadora (datos abajo) si desea más información.*

#### **1. El proyecto**

Caroline Gray (doctoranda de la Universidad de Liverpool) está investigando la evolución de los proyectos territoriales de los partidos políticos en el País Vasco y Cataluña desde los años ochenta hasta la actualidad. Su estudio incluye un análisis del impacto de los distintos acuerdos de financiación autonómica (el concierto económico frente al régimen común) en las propuestas territoriales de los partidos nacionalistas. Esta investigación está financiada por el Consejo de Investigación Económica y Social del Reino Unido (Economic and Social Research Council, ESRC), proveedor principal de fondos en dicho país para investigaciones académicas en el campo de las ciencias políticas, económicas y sociales. Es co-investigadora en un proyecto más amplio sobre la evolución de los nacionalismos vasco y catalán dirigido por el profesor Richard Gillespie, Catedrático de Ciencias Políticas en la Universidad de Liverpool. La información sobre dicho proyecto titulado “The Dynamics of Nationalist Evolution in Contemporary Spain”, que dura del 2013 hasta finales de 2015, se encuentra en la siguiente página web: [nationalismsinspain.com](http://nationalismsinspain.com)

Caroline Gray está residiendo e investigando durante varios meses tanto en el País Vasco como en Cataluña, sobre todo para entrevistar a miembros de partidos políticos y otros expertos con conocimientos especializados en la materia, con el fin de conocer sus opiniones sobre la evolución de los movimientos nacionalistas en España, especialmente en los últimos 30 años.

#### **2. Propósito de la investigación**

El propósito de este proyecto basado en la Universidad de Liverpool es llegar a entender mejor por qué los movimientos nacionalistas periféricos han tenido distintas relaciones con el Estado español a lo largo del tiempo, variando entre un acercamiento entre los gobiernos central y autonómico en algunos períodos y la búsqueda de un mayor nivel de autonomía o independencia en otros.

Se centra sobre todo en examinar los distintos factores políticos, económicos y sociales que han contribuido a la evolución de los proyectos territoriales de los partidos políticos en el País Vasco y Cataluña. Esto implica analizar una serie de dinámicas que incluyen el impacto de los distintos acuerdos financieros que tienen las dos comunidades autónomas con el Estado español; sus relaciones con los sucesivos gobiernos centrales en Madrid; la competición y las alianzas entre partidos políticos a nivel autonómico; y la relación entre los partidos políticos y la sociedad civil, entre otros factores.

### **3. ¿Por qué está usted invitado/a?**

Se le invita a participar debido a sus conocimientos y/o experiencia de los procesos políticos y movimientos nacionalistas en el País Vasco y/o en Cataluña o de sus respectivos sistemas de financiación.

El objetivo de Caroline Gray es entrevistar en persona a varios miembros de cada partido político (vasco, catalán, español), que se elegirán por su área de responsabilidad (actual o pasada) dentro del partido o porque se les considera representativos de una tendencia o corriente definida dentro del partido. También tiene la intención de entrevistar a miembros de la sociedad civil y académicos y técnicos especializados en la materia.

### **4. ¿Qué pasará si participo?**

Se propone el uso del castellano en las entrevistas ya que Caroline Gray lo habla con total fluidez.

Se grabará la entrevista a no ser que el participante manifieste una preferencia en contra. La grabación de las entrevistas no es imprescindible, pero debido a las ventajas prácticas de hacerlo se le agradecería su permiso. Si prefiere que no se grabe, se tomarán algunas notas durante la entrevista. Toda grabación de las entrevistas se anonimizará antes de su almacenamiento y, al igual que los apuntes que se hayan tomado, sólo se guardará hasta la publicación de los resultados de la investigación y sus traducciones.

El tiempo solicitado para una entrevista será normalmente de una hora aproximadamente. Las entrevistas normalmente tomarán lugar en las oficinas del participante.

Se le invita a participar con la esperanza de que le interese el tema de las entrevistas y considere útil el proyecto. La participación no conlleva beneficios económicos.

### **5. ¿Qué se hará con los resultados del estudio?**

Los planes de publicación de Caroline Gray incluyen:

- Una tesis doctoral
- Varios artículos de investigación sustanciales que se remitirán a revistas académicas de prestigio internacional

- La co-edición (junto con el profesor Richard Gillespie) de un volumen de artículos basado en los debates celebrados en talleres de investigación que se prevé organizar

No se citará textualmente ninguna de las respuestas de los participantes en ninguna publicación generada por el proyecto, a no ser que den su consentimiento expreso para ello. Se respetarán plenamente las solicitudes de preservar el anonimato.

Los participantes tendrán la posibilidad de solicitar copias de los artículos de investigación según se vayan publicando o detalles bibliográficos de los mismos.

## **6. Preguntas**

Si tiene cualquier pregunta sobre el proyecto o sobre cualquier aspecto de su participación en el mismo, por favor, no dude en contactar con Caroline Gray para más información:

email: xxx

teléfono: xxx

### **APPENDIX 3 – Sample interview questionnaires**

A selection of five interview questionnaires is provided in this Appendix as follows, to give an indication of the range and breadth of interviews conducted.

**pp. 280-282: Sample interview questionnaire 1 – Juan José Ibarretxe (8 April 2014, 28 October 2014)**

**pp. 283-284: Sample interview questionnaire 2 – Helena Franco and Itziar Miner (5 September 2014)**

**pp. 285-286: Sample interview questionnaire 3 – Antoni Castells (25 March 2015)**

**pp. 287-288: Sample interview questionnaire 4 – Josep Huguet (9 June 2015)**

**pp. 289-290: Sample interview questionnaire 5 – Andreu Mas-Colell (25 January 2016)**

**Sample interview questionnaire 1 – Juan José Ibarretxe (8 April 2014, 28 October 2014)**

**Initial general interview on the PNV and Basque politics on 8 April 2014:**

*La época de Ibarretxe*

1. Bajo su presidencia del partido, el PNV intentó reformar el estatuto de Gernika. ¿Cómo analizaría usted los orígenes de aquella acentuación del soberanismo dentro del partido?
2. Hay ciertos análisis que se refieren a su iniciativa como algo ‘desde arriba hacia abajo’. ¿Es cierto, o había presiones desde la sociedad vasca para cambiar el marco estatuario?
3. ¿Hay que ver el Plan como algo dirigido por su propio liderazgo o contaba con el compromiso total del partido?
4. ¿Cómo le parece el argumento que dice que ‘la radicalización que se percibió dentro del nacionalismo vasco fue, en parte, consecuencia de un resurgimiento del nacionalismo español o de una recentralización del Estado español’?
5. Durante sus presidencias, ¿era la experiencia del Tripartito en Cataluña un punto de referencia para el PNV?
6. Para explicar el auge de soberanismo durante aquellos años, ¿es relevante solamente el marco vasco-español, o hay otros factores que también ayudan a explicarlo como, por ejemplo, la evolución política de la Unión Europea o ciertas tendencias globales o internacionales?
7. Visto desde hoy, ¿le parece que se cometieron errores en la forma de buscar más autogobierno bajo sus presidencias?
8. ¿Qué influencia sigue teniendo su Plan en la actual política vasca?
9. ¿Y qué influencia cree usted que ha tenido el Plan en el actual giro soberanista en Cataluña?

*La vida interna del partido*

10. La elección de Josu Jon Imaz como presidente del partido, ¿supuso un verdadero revés para el sector más soberanista del PNV?
11. ¿Sintió usted la necesidad de suavizar el Plan siguiendo los resultados de las elecciones de 2005?
12. La posición del sector más soberanista del PNV, ¿fue debilitada por la decisión de Eusko Alkartasuna de poner fin a la alianza electoral entre los dos partidos?

13. El PNV, ¿está condenado a vivir con la tensión interna entre autonomistas y soberanistas, o se ha podido superar bajo el liderazgo de Urkullu?
14. ¿Cuál fue la naturaleza del Pacto dentro del PNV que resultó en la elección de Iñigo Urkullu como presidente del partido en el 2007?
15. Urkullu quitó de la agenda cualquier plan para un referéndum, por lo menos a corto plazo. ¿Cree usted que sigue existiendo la posibilidad de un referéndum sobre temas de soberanía en los años que vienen?
16. ¿Qué espera usted del planteamiento del ‘nuevo estatus político’ anunciado por el Lehendakari Urkullu?
17. Una pregunta sobre el contexto territorial de la política vasca. La importancia del nivel provincial, ¿en qué medida dificulta el desarrollo de cualquiera estrategia del PNV, teniendo en cuenta las diferentes estructuras de competición electoral en cada provincia?
18. ¿Siguen existiendo ciertas discrepancias dentro del PNV sobre la división de competencias (incluyendo el poder recaudatorio) entre las diputaciones y el gobierno autonómico?

*El PNV y la política vasca*

19. A la hora de decidir las prioridades políticas del PNV, ¿suele prevalecer el debate interno del partido o hay influencias por parte de asociaciones, lobbies o grupos afines?
20. ¿Por qué no ha sido posible aquí una colaboración entre nacionalistas y socialistas para intentar reformar el estatuto, como en Cataluña?
21. ¿Cómo va a influir la ausencia de ETA en el planteamiento de la cuestión nacional por parte del PNV, y en su política de alianzas?
22. ¿Ve usted posible una unificación de fuerzas independentistas en el País Vasco, es decir Bildu más fuerzas soberanistas del PNV?
23. La legalización de la izquierda abertzale, ¿ha tenido algún impacto en la posición de los sectores más soberanistas dentro del PNV, teniendo en cuenta que vuelven a ser competidores electorales?

**Follow-up interview on 28 October 2014 specifically on the Concierto and the PNV:**

*El concierto económico*

24. ¿Que implicaciones tenía para el concierto económico su propuesta sobre un nuevo Estatuto Político para Euskadi?

25. A su juicio, ¿Cómo se ha podido usar el concierto para construir Euskadi?
26. Algunos dentro del PNV sostienen que “El concierto confiere las facultades de un Estado”. ¿Qué opina usted sobre esta consideración?
27. Bajo el concierto son las diputaciones que recaudan, pero dentro del PNV históricamente ha habido momentos en los que se ha propuesto una mayor centralización en el gobierno. ¿Cuál ha sido su visión sobre el balance de poderes entre el gobierno central y las diputaciones?
28. ¿Cómo valoró usted la reforma del concierto en el 2002 durante la cual usted era lehendakari?
29. ¿Cómo funciona el encaje de las haciendas vascas dentro del contexto de la Unión Europea?
30. ¿Cómo se suelen resolver los asuntos conflictivos entre el gobierno vasco y el gobierno español en relación al concierto? ¿Cómo funciona esa relación bilateral?
31. ¿Cómo funcionan las relaciones internas entre las diputaciones en relación con el concierto? A su juicio, ¿cuáles son los aciertos y las carencias del funcionamiento interno del concierto? ¿Y cuáles son las implicaciones para las dinámicas políticas en el País Vasco?



**Sample interview questionnaire 2 – Helena Franco and Itziar Miner (5 September 2014)**

- 1) Históricamente el concierto económico ha sido algo que la izquierda abertzale ha querido superar ya que no cuadra con su visión de un Euskal Herria independiente. A mí me interesa ver cómo ha ido evolucionando la visión de Bildu sobre el concierto desde que tomó las riendas de la hacienda de Guipúzcoa. ¿Qué piensan ustedes sobre el modelo ahora que habéis tenido la experiencia de gestionarlo directamente? ¿Cuáles son los aciertos y las carencias del modelo, según Bildu?
- 2) Según la visión de Bildu, ¿cómo se podría o se debería desarrollar más el concierto?
- 3) ¿Qué opinan sobre el hecho de que el gobierno vasco puede crear impuestos pero las diputaciones no?
- 4) ¿Cómo se comparan las visiones del PNV y de Bildu sobre el concierto económico y el nivel de poder regulatorio sobre los impuestos que da a las diputaciones? ¿Los dos partidos estáis de acuerdo en lo que son las carencias del modelo y en lo que falta por desarrollar? ¿O no?
- 5) ¿Qué opinan ustedes sobre el uso del concierto por parte del PNV y cómo se compara con la visión que tiene Bildu?
- 6) El sindicato ELA ha publicado bastantes informes criticando lo que consideran como un uso neoliberal del concierto por parte del PNV. ¿Hasta qué punto está de acuerdo Bildu con estas valoraciones?
- 7) ¿Hasta qué punto es posible que Bildu propugne un model fiscal distinto desde Guipúzcoa cuando se requiere cierto nivel de coordinación y armonización entre las tres diputaciones (y dentro de España y Europa también)? ¿Cuáles son los grandes logros del gobierno de Bildu en materia fiscal en Guipúzcoa, a su juicio?
- 8) Si Bildu recauda más que las otras diputaciones vascas mediante la creación de más impuestos en Gipuzkoa, según tengo entendido el dinero extra recaudado se tiene que repartir entre las tres diputaciones debido a la manera en que funciona el modelo de aportaciones. ¿Qué opinan ustedes sobre ese aspecto del funcionamiento interno del concierto?
- 9) ¿Cómo han reaccionado los empresarios en Guipúzcoa a las medidas fiscales que ha introducido el gobierno de Bildu?
- 10) ¿Cómo reaccionan ustedes a las críticas de otros partidos que acusan a Bildu de haber exagerado los cambios que ha hecho a la política fiscal?
- 11) En el curso de verano sobre la fiscalidad organizado por la Universidad del País Vasco en San Sebastián el verano pasado, Helena, usted sugirió que el hecho de introducir nuevos impuestos en Guipúzcoa como el de grandes

fortunas no recauda mucho dinero en sí en términos relativos, sino que sirve para legitimar el sistema fiscal ante los ciudadanos y así reducir el fraude. ¿Hasta qué punto cree que se va consiguiendo este objetivo?

- 12) ¿Ustedes ven posibilidades de colaboración entre Bildu y el PSE en Guipúzcoa en cuanto a políticas de izquierdas?
- 13) ¿Hasta qué punto son importantes los temas sociales y fiscales para Bildu en comparación con la agenda territorial y nacional? Como es la primera vez que la izquierda abertzale está gobernando en una diputación, me interesa saber hasta qué punto la experiencia de gobernar ha ido influyendo en sus prioridades.
- 14) En el 2013 el PP, el PSE y el PNV en Guipúzcoa todos pactaron juntos en contra del proyecto de presupuestos para el 2014 que Bildu presentó, así que Bildu al final ha tenido que implementar los presupuestos que acordaron los otros partidos. ¿Cómo ha sido esta experiencia para Bildu?
- 15) Si Bildu hubiera tenido mayoría absoluta en Gipuzkoa en vez de necesitar el apoyo de otros partidos, ¿qué medidas fiscales habría introducido?
- 16) Desde 2012, las tres diputaciones vascas están gobernadas por tres partidos distintos: el PP en Álava, el PNV en Bizkaia y Bildu aquí. ¿Cómo afecta esta situación a la coordinación entre las tres haciendas vascas? ¿Hay discrepancias sobre temas de política fiscal y el concierto entre las diputaciones?
- 17) A su juicio, ¿cuáles son las ventajas y desventajas de tener tres haciendas vascas en vez de una? ¿Qué opinan sobre la organización territorial de Euskadi y el balance de poderes entre el gobierno autonómico y las diputaciones?
- 18) En las negociaciones bilaterales entre los gobiernos vasco y español sobre el Concierto y el cupo, en la comisión mixta, ¿hasta qué punto tienen voz las tres diputaciones?
- 19) ¿Cómo reacciona Bildu a las críticas de otras comunidades autónomas sugiriendo que el sistema del concierto no es lo suficientemente solidario con el resto de España?

### Sample interview questionnaire 3 – Antoni Castells (25 March 2015)

- 1) Durante la Transición, ¿qué modelo de financiación buscaban los socialistas para Cataluña y cómo se comparó con la visión de otros partidos en aquel entonces?
- 2) Durante su último mandato, Jordi Pujol se convirtió públicamente a la idea de una especie de concierto para Cataluña en el 1997 y luego en el 2000 se creó la Comisión de Estudio para la Mejora del Autogobierno. Así, en aquel entonces, ya se empezaba a hablar de cambios sustanciales al nivel de autonomía de Cataluña y a su sistema de financiación. ¿Cómo reaccionó el PSC entonces?
- 3) ¿Cuándo empezó el PSC a contemplar la idea de un gobierno catalanista y de izquierdas? ¿Qué conflictos causó dentro del partido entre los sectores más y menos catalanistas?
- 4) Como parte del Pacto del Tinell para formar la coalición de izquierdas en el 2003, los tres partidos constituyentes llegaron a un acuerdo sobre sus objetivos en cuanto a la financiación autonómica. ¿Cómo se logró conciliar las perspectivas distintas sobre la financiación autonómica de los tres partidos? Sobre todo, ¿cómo se acercaron posiciones el PSC y ERC?
- 5) ¿Cuándo empezó el PSC a plantear un nuevo modelo de financiación autonómica? ¿Qué quería exactamente? Según entiendo el PSC siempre ha sido muy reticente sobre la idea de un concierto catalán: ¿Cómo pensaba el partido que se podía lograr cambiar el régimen común de manera satisfactoria para Cataluña?
- 6) Durante todo el proceso de negociación sobre el Estatuto, entiendo que el Instituto de Estudios Autonómicos desempeñó un papel clave, proporcionando propuestas e informes sobre todo tipo de temas incluyendo la financiación autonómica. ¿Qué opinaba el PSC sobre las propuestas que venían del IEA en cuanto a la financiación y sobre el papel del IEA?
- 7) Se discutieron muchos temas importantes en las negociaciones del Estatuto, el reconocimiento de Cataluña como nación, el blindaje de las competencias catalanas, etc. ¿En qué momentos de las negociaciones y debates sobre el Estatuto fue tema clave la financiación autonómica?
- 8) Las negociaciones para el nuevo Estatuto causaron una batalla entre ERC y CiU para ser el partido que propusiera las propuestas más avanzadas para una Cataluña autónoma. ¿Cómo afectó esta batalla concretamente al tema de la financiación autonómica?
- 9) ¿Cuándo empezó CiU de verdad a pedir un pacto fiscal para Cataluña? Y, a su juicio, ¿por qué?
- 10) Un concierto a lo catalán: ¿en qué se diferenciaría del concierto vasco según la visión que se tiene desde Cataluña?

- 11) Uno de los últimos obstáculos en el 2005 que casi impedía el acuerdo en el parlamento catalán sobre el nuevo Estatuto fue el tema de la financiación autonómica, que luego se resolvió con un acuerdo entre Maragall y Mas. ¿Qué pasó?
- 12) Luego en el parlamento de Madrid también, el tema de la financiación seguía siendo un obstáculo a un acuerdo sobre el texto del Estatuto, y al final se resolvió el tema a último momento con un acuerdo entre Zapatero y Mas. ¿Por qué Mas aceptó rebajar tanto sus objetivos para la financiación?
- 13) Usted negoció la reforma de financiación de 2009 dentro del marco del nuevo Estatuto. ¿Cómo se desarrollaron las negociaciones para la reforma? ¿Cómo valora la reforma?
- 14) ¿Cuál fue la perspectiva del PSC en la comisión parlamentaria que hubo en 2011 para estudiar la posibilidad de un nuevo modelo de financiación basado en el Concierto?
- 15) A su juicio, ¿hasta qué punto el hartazgo con el sistema de financiación autonómica ha influido en el auge independentista en Cataluña en los últimos años?
- 16) ¿Cómo interpreta usted el viaje que hizo Artur Mas a Madrid para pedir un pacto fiscal en el 2012 tras la Diada?

#### Sample interview questionnaire 4 – Josep Huguet (9 June 2015)

- 1) Durante la Transición, ¿qué modelo de financiación buscaba Esquerra para Cataluña y cómo se comparó con la visión de otros partidos en aquel entonces?
- 2) La reforma del régimen común de 1996 fue el primer salto cualitativo ya que se amplió considerablemente el abanico de cesión de tributos, incluyendo una parte importante del IRPF. ¿Cuál fue la reacción de Esquerra a esta reforma? ¿Le pareció un avance cualitativo?
- 3) Usted había trabajado en los años anteriores, de 1993 a 1995, como representante de Esquerra en la Comisión Mixta de Transferencias entre el Estado español y la Generalitat. Además, en los años 90 entiendo que usted se especializó en temas económicos y de financiación en su trabajo para Esquerra y defendió la necesidad de un nuevo modelo de financiación para Cataluña. ¿Cuáles fueron sus experiencias en cuanto a lo que funcionaba y lo que no funcionaba con la financiación autonómica en aquel entonces? ¿Hasta qué punto la reforma de 1996 del régimen común pudo arreglar los problemas que había?
- 4) CiU pareció contento con la reforma de 1996 en un primer momento, pero no duró su satisfacción. A partir de 1997 Jordi Pujol se convirtió públicamente a la idea de la necesidad de una especie de concierto bilateral para Cataluña. ¿Cómo vivió usted desde Esquerra la evolución de la perspectiva de CiU sobre la financiación autonómica a lo largo de los años 90?
- 5) A finales de los 90 y a principios del siglo nuevo, usted y algunos otros representantes de Esquerra promovieron el acercamiento entre los grupos de izquierdas para facilitar una alternativa al gobierno de CiU. ¿Cómo se logró resolver las diferentes perspectivas sobre la financiación autonómica entre el PSC, Iniciativa y Esquerra para llegar al acuerdo entre los partidos de izquierdas?
- 6) Como parte del Pacto del Tinell para formar la coalición de izquierdas en el 2003, los tres partidos constituyentes llegaron a un acuerdo sobre sus objetivos en cuanto a la financiación autonómica. ¿Cómo se logró conciliar las perspectivas distintas sobre la financiación autonómica de los tres partidos? Sobre todo, ¿cómo se acercaron posiciones el PSC y ERC?
- 7) Después de las elecciones catalanas de 2003, como parte del acuerdo de gobierno entre los partidos de izquierdas, había que llegar a un acuerdo sobre la financiación. Me contó Antoni Castells cuando le entrevisté que él redactó junto con usted un acuerdo de diez puntos sobre la financiación un fin de semana en diciembre (6 y 7) para reconciliar perspectivas del PSC y Esquerra. La inspiración de Castells y su partido era claramente un modelo federal, no el concierto, pero hicieron algunas concesiones para que Esquerra pudiera estar de acuerdo. ¿Cómo vivió usted estas negociaciones? ¿Cuál fue su perspectiva?

- 8) Se discutieron muchos temas importantes en las negociaciones del Estatuto, el reconocimiento de Cataluña como nación, el blindaje de las competencias catalanas, etc. ¿En qué momentos de las negociaciones y debates sobre el Estatuto fue tema clave la financiación autonómica?
- 9) Las negociaciones para el nuevo Estatuto causaron una batalla entre ERC y CiU para ser el partido que presentara las propuestas más avanzadas para una Cataluña autónoma. ¿Cómo afectó esta batalla concretamente al tema de la financiación autonómica? ¿Cómo logró Esquerra reconciliar presiones distintas ya que tenía el Partido Socialista de Catalunya por un lado que no quería pedir un concierto, y CiU por otro que quería pedirlo?
- 10) Un concierto a la catalana: ¿en qué se diferenciaría del concierto vasco según la visión que se tiene desde Cataluña y según Esquerra?
- 11) Uno de los últimos obstáculos en el 2005 que casi impedía el acuerdo en el parlamento catalán fue el tema de la financiación autonómica, que luego se resolvió con un acuerdo entre Maragall y Mas. ¿Qué pasó?
- 12) Luego en el parlamento de Madrid también, la financiación seguía siendo un obstáculo a un acuerdo sobre el texto del Estatuto, y al final se resolvió a último momento con un acuerdo entre Zapatero y Mas. ¿Cómo se logró el acuerdo? ¿Estuvo Esquerra al tanto de lo que pasaba?
- 13) ¿Cómo funcionó la negociación del nuevo sistema de financiación autonómica de 2009 después del Estatuto? ¿Qué pensó Esquerra del desarrollo de las negociaciones para el acuerdo, del acuerdo en sí y de su posterior desarrollo?
- 14) ¿Cuál fue la perspectiva de Esquerra en la Comisión Parlamentaria que hubo en el 2011 para estudiar la posibilidad de un nuevo modelo de financiación basado en el concierto?
- 15) A su juicio, ¿hasta qué punto el hartazgo con el sistema de financiación autonómica ha influido en el auge independentista en Cataluña en los últimos años?
- 16) ¿Cómo interpreta usted el viaje que hizo Artur Mas a Madrid para pedir un pacto fiscal en el 2012 tras la Diada?

### Sample interview questionnaire 5 – Andreu Mas-Colell (25 January 2016)

- 1) Durante la Transición, ¿hubo discrepancias dentro de Convergència sobre el modelo de financiación que se quería buscar para Cataluña? Se ha hablado de posibles diferencias entre Jordi Pujol y Ramón Trias Fargas. ¿Cuál es su punto de vista sobre este asunto?
- 2) En 1997, Pujol empezó a hablar públicamente de la necesidad de una especie de concierto catalán. ¿Por qué entonces, justo después de la reforma de financiación de 1996? CiU pareció contento con la reforma de 1996 en un primer momento. ¿Por qué no duró su satisfacción?
- 3) Se creó la Comisión de Estudio para la Mejora del Autogobierno en el 2000. Luego llegó el gobierno tripartito de izquierdas al poder en el 2003 y empezó el proceso de la reforma estatutaria. ¿Hasta qué punto influyó la decepción con el sistema de financiación en los deseos de revisar la autonomía catalana e intentar mejorarla, en comparación con otros factores?
- 4) ¿En qué momentos y hasta qué punto fue un tema clave la financiación autonómica en los debates para un nuevo Estatuto autonómico?
- 5) Las negociaciones para el nuevo Estatuto causaron una batalla entre ERC y CiU para ser el partido que presentara las propuestas más avanzadas para una Cataluña autónoma. ¿Cómo afectó esta batalla concretamente al tema de la financiación autonómica?
- 6) Durante todo el proceso de negociación sobre el Estatuto, entiendo que el Instituto de Estudios Autonómicos desempeñó un papel clave, proporcionando propuestas e informes sobre todo tipo de temas incluida la financiación autonómica. ¿Qué opinaba Convergència sobre las propuestas que venían del IEA en cuanto a la financiación?
- 7) Cuando Convergència proponía un concierto a la catalana durante los debates sobre el Estatuto: ¿en qué se diferenciaba del concierto vasco?
- 8) Uno de los últimos obstáculos en el 2005 que casi impedía el acuerdo en el parlamento catalán fue el tema de la financiación autonómica, que luego se resolvió con un acuerdo entre Maragall y Mas. ¿Qué pasó?
- 9) Luego en el parlamento de Madrid también, la financiación seguía siendo un obstáculo para un acuerdo sobre el texto del Estatuto, y al final se resolvió en el último momento con un acuerdo entre Zapatero y Mas. ¿Cómo se logró el acuerdo? ¿Por qué Mas aceptó rebajar tanto sus objetivos para la financiación?
- 10) ¿Cómo funcionó la negociación del nuevo sistema de financiación autonómica de 2009 después del Estatuto? ¿Qué pensó CiU del desarrollo de las negociaciones para el acuerdo, del acuerdo en sí y de su posterior desarrollo?

- 11) Hubo una comisión de estudio en el parlamento hacia finales de 2011 sobre un nuevo modelo de financiación para Cataluña basado en el concierto económico. ¿Cuál fue la perspectiva de Convergència en aquellas negociaciones?
- 12) ¿Cómo interpreta usted el viaje que hizo Artur Mas a Madrid para pedir un pacto fiscal en el 2012 tras la Diada?
- 13) El Fondo de Liquidez Autonómica y los otros fondos como el de Proveedores que se crearon en el 2012 debían ser temporales, pero al final parece que se han convertido en algo más permanente. ¿Qué cree usted de la situación?
- 14) Catalunya depende totalmente de los fondos de financiación creados por el gobierno central de momento. ¿Por qué, en su opinión, ha acabado Cataluña en una posición financiera mucho peor que la de la comunidad de Madrid? ¿Hasta qué punto se debe a las injusticias del sistema autonómica? ¿O demasiado gasto en Catalunya durante los años del tripartito, etc?
- 15) Hay un debate sobre hasta qué punto la recentralización del PP en cuanto a la financiación de las CCAA corresponde a los imperativos de reducción del déficit impuestos por la UE, o hasta qué punto corresponde más bien a motivos ideológicos del PP. ¿Qué opina usted sobre el asunto?
- 16) ¿Cómo valora usted el reparto de los límites de déficit entre el gobierno central y los gobiernos autonómicos?
- 17) ¿Está pendiente una nueva reforma de la LOFCA. ¿Participará plenamente Cataluña en el proceso?
- 18) Usted ha hecho comentarios a periódicos últimamente sugiriendo que Mas ha dado demasiadas concesiones en temas económicos a la CUP. ¿Cuál es su perspectiva sobre las negociaciones que han tenido lugar últimamente para formar un gobierno en Cataluña?



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