

Hakan Kolçak

FROM UNIONISM TO SECESSIONISM: A COMPREHENSIVE ANALYSIS OF CONTEMPORARY CATALAN POLITICS

Hakan Kolçak
University of Essex
hkolca@essex.ac.uk

ABSTRACT

The political arena of the Autonomous Community of Catalonia was dominated by the unionists prone to preserve Catalonia's constitutional ties with the Spanish State until the early 2010s, when two important constitutional incidents – (a) the ruling of the Spanish Constitutional Court on the new Catalan Statute of Autonomy; and (b) the refusal of the Spanish central government to offer the Autonomous Community a new self-government arrangement – resulted in the establishment of a new Catalan political arena dominated by the secessionists willing to construct an independent Catalan state. The secessionists, taking up the reins of government after the 2012 Catalan general election, managed to secure their parliamentary majority following the 2015 Catalan parliamentary election. While ruling Catalonia with a separatist political agenda, the pro-independence camp is now aimed at convincing the Spanish Government to empower the Catalan Parliament to hold a de jure independence referendum in the Autonomous Community; and if it is not possible, to hold a unilateral independence referendum on the 1st of October 2017 without obtaining the consent of the Spanish Government. In this article, I argue that it would be better for Catalonia to hold its independence referendum after receiving the assent of the Spanish Government, because the outcome of an independence referendum held without the consent of the Spanish Government would be the same as that of the 2014 Catalan independence referendum, meaning that the independence question would still be a solution-waiting, not resolved, constitutional issue at the end of the day.

KEYWORDS

- Spain
- Catalonia
- Catalan constitutional politics
- Territorial autonomy
- Unionism
- Secessionism

1. Introduction

Catalonia, which is situated in the north-eastern corner of the Iberian Peninsula, is an autonomous region of Spain. The Catalans had indeed suffered from various coercive assimilation policies in the history of Spain, but the Spanish transition to democracy enabled the Catalan people to form and develop their own political culture in an autonomous community, established in pursuit of the Spanish Constitution of

1978 and the 1979 Catalan Statute of Autonomy.

The political arena of the Catalan Autonomous Community was dominated by the unionists willing to safeguard Catalonia's constitutional ties with the Spanish State until the early 2010s, when two significant constitutional incidents – (i) the abrogation and amendment of various articles of the new Catalan Statute of Autonomy by the Spanish Constitutional Court (*Tribunal Constitucional de España*, TC); and (ii) the rejection of the Spanish central government to offer Catalonia a new self-government arrangement bestowing almost full fiscal autonomy upon the Autonomous Community – resulted in the construction of a new Catalan political arena dominated by the separatists inclined to establish an independent Catalonia. The separatists, coming into power following the 2012 Catalan parliamentary election, managed to secure their parliamentary majority after the 2015 Catalan general election in which they had formed a pro-independence coalition involving both rightist and leftist segments of Spain's Catalan society. Whilst ruling the Autonomous Community with a secessionist political agenda, the coalition is now seeking to persuade the Spanish Government to authorise the Catalan Parliament to hold a *de jure* independence referendum in Catalonia; and if it is not possible, to hold a unilateral independence referendum on the 1st of October 2017 without receiving the assent of the Spanish Government.

In this article, I will argue that it would be better for Catalonia to hold its independence referendum after obtaining the consent of the Spanish Government, since the fate of an independence referendum that would be held without the assent of the Spanish Government may be the same as that of the 2014 Catalan independence referendum. This means that even if the Catalans voted for independence in the unilateral referendum, the result would not be recognised by Spain, other sovereign states or international organisations, rendering the referendum illegitimate. Hence, the independence issue would still be a solution-waiting, instead of resolved, constitutional problem at the end of the day.

As an interdisciplinary study employing the methods of constitutional politics and law, this article seeks to analyse contemporary Catalan politics. The article is organised in the following fashion. The first section will briefly look at the early history of Catalan politics and Catalonia's position in Francoist Spain. The Spanish transition to democracy and accordingly the establishment of the Catalan Autonomous Community will then be central to the agenda of the article. After studying all important constitutional developments of the democratic transition, the article will turn its attention to all significant constitutional incidents occurred following the construction of the Autonomous Community. Finally, the article will scrutinise the current Catalan political arena.

2. Early Catalan Politics and Catalonia in Francoist Spain

The Catalans enjoyed a good deal of territorial autonomy until the early eighteenth century. Before its gradual incorporation to the nascent Spanish State following the marriage of Fernando (King of Aragon) and Isabel (Queen of Castile) in 1469, Catalonia with its commercial character constituted a dominant part of the Crown of Aragon, which ruled a Mediterranean Empire (Scotoni: 2002). After the

merger of the Kingdoms of Aragon and Castile, Catalonia prevailed as a constitutional regime and a significant state which maintained its own jurisprudence, administration, monetary, fiscal and economic policies. The Catalan Kingdom remained until the early eighteenth century, when it lost the War of Succession (1701-1714), in which the Catalans had supported the Habsburg dynasty against the winning Bourbon claimant Philip V (Barcia: 2014).

The 1713 Treaty of Utrecht approved Philip V as King of Spain, and Catalonia found itself on the losing side. Following a massive Spanish attack that went forward with a siege of fourteen months, Barcelona – the capital of Catalonia – was overwhelmed on the 11th of September 1714. As a consequence of the Catalan defeat, King Philip signed the Decree of *Nueva Planta*, under which (1) all Catalan political bodies were dissolved, and Catalonia was incorporated into the King's centralised administration; (2) Catalan public law was abolished; and (3) the Catalan language was banned while Castilian (Spanish) was announced as the official language of the state, despite the fact that most Catalans could not understand it (Guibernau: 2014; Judd: 2014).

While Catalan politics and law remained subjugated to Madrid, the capital of Spain, over the next century, Catalonia was authorised to exercise territorial autonomy in pursuit of the Spanish Constitution of 1869, which established the First Spanish Republic (Judd: 2014). Once the Republic was restored with the Bourbon return in 1874, however, Catalonia lost its self-government rights, and it was re-incorporated into the central administration in accordance with the Spanish Constitution of 1876 (Beramendi: 1999). The Catalans were then entitled to re-establish their autonomous region – the Commonwealth of Catalonia (*Mancomunitat de Catalunya*) – in 1914, but, similar to its former counterpart, this autonomy arrangement was abrogated following the 1923 military coup (Beswick: 2007; Veiga: 2014).

Another autonomy settlement was provided to the Catalans with the adoption of the 1931 Constitution, which constructed the Second Spanish Republic (Jackson: 2004), but the fate of this settlement was akin to its previous counterparts (Conversi: 2000). The 1936 military coup not only nullified the Autonomous State of Catalonia (*Estatut d'Autonomia de Catalunya*) but also initiated a civil war that would end with General Francisco Franco's complete and unconditional victory in April 1939. Just after the victory, which collapsed the Second Spanish Republic in a complete manner, Franco consolidated his dictatorial regime reintroducing various coercive assimilationist policies towards the Catalans, such as the suppression of Catalan political entities; the proscription of all symbolic tools of Catalan identity, including the flag (*Senyera*) and the national anthem (*Els Segadors*); and the prohibition of the Catalan language (Griffiths et al: 2015; Guibernau: 2014).

During Franco's autocratic dictatorship, the Catalan intellectual elite was split between those who stood up for Francoism and those who maintained a stance against it and committed themselves to maintaining the Catalan language and culture. Whilst some of the former got involved in mainstream Spanish elite, the latter were very often persecuted by the non-democratic central regime. The elite who devoted themselves to safeguard the vernacular language and culture nevertheless succeeded in generating a mass nationalist movement aimed at restoring democracy in Spain and then recreating a Catalan autonomy which would ultimately be the most important guardian of Catalan

characteristics (Guibernau: 2000, p. 998).

The Institute of Catalan Studies, razed to the ground in 1939, was rebuilt in 1942, while *Omnium Cultural*, a semi-clandestine organisation established in 1964, gained its legal status and then saw a considerable increase in membership. The number of its members reached 11,000 in 1971 whilst it was only 639 in 1968. *Omnium Cultural* organised such activities as the teaching of Catalan and the financing of the Prize of Honour of the Catalan Letters (*Premi d'honor de Les Lletres Catalenes*). The organisation of cultural clandestine groups, e.g. *Estudi or Miramar*, and *Amics de la Poesia*, along with the publication of journals in the Catalan language and the holding of literary competitions like the St. Lucy's Evening (*Nit de Santa Llúcia*) were some of the important activities organised by the Catalan intellectual elite (Guibernau: 2000, p. 998).

In addition to the elite, the University and the Catholic Church also contributed to sustaining Catalan identities. A university organisation, the University Front of Catalonia (*Front Universitari de Catalunya*), for instance, advocated the reestablishment of the autonomous state. The National Federation of Students of Catalonia (*Federació Nacional d'Estudiants de Catalunya*) and the National Front of Catalonia (*Front Nacional de Catalunya*) were also of the same mind. The students launched three major campaigns in the early 1960s: a campaign against the gradual increasing impact of Opus Dei; the demand for the foundation of Catalan language and culture departments; and the demand of amnesty for Catalan political prisoners and those in exile (Guibernau: 2000, p. 999).

As for the position of the Church, it was indeed not homogeneous. Whilst some sectors stood up for Francoism, others were unwilling to adopt an attitude which could shake the confidence between religion and Catalan culture, maintained since the Middle Ages. Some branches of the Church preached and taught religion in Catalan and employed it as a tool of culture and communication. Under the auspices of the Church, the first religious book was legally published in Catalan in 1942 following the Civil War. The Abbey of Montserrat moreover published some religious and cultural journals (*Serra d'Or* (formerly, *Germinàbit*), *Qüestions de Vida Cristiana*), as well as a few children's publications (*L'Infantil*, *Tretzevents*). More importantly, the Abbey established the Estela Press in order to promote religious books in Catalan in 1958, and the Montserrat Abbey Publications (*Publicacions de l'Abadia de Montserrat*) gained an official status in 1971 (Guibernau: 2000, pp. 998-999).

The long period of oppression had led to a widening gap between Catalan elites and the masses, posing a perilous threat to the maintenance of Catalan cultural and linguistic features. By starting in the late 1950s, however, two key phenomena marked the transition of the elite nationalism into a mass movement, namely the New Folk Song (*Nova Cançó*) and the Assembly of Catalonia (*Assemblea de Catalunya*) (Barcia: 2014; Connolly: 2013; Cramer: 2015). The former, an artistic movement originated in the late 1950s with the goal of promoting Catalan music in Francoist Spain, played a remarkable part in regenerating the Catalan public sphere by giving people all over the Catalan-speaking regions a sense of community. The latter, a clandestine organisation founded in 1971, brought together almost three hundred people from diverse professional and social backgrounds. The Assembly was the broadest unitary Catalan

movement since the installation of Francoism. It presented a common platform constructed upon four demands: (i) the coordination of all peninsular nations in fighting for democracy; (ii) the upholding of human rights; (iii) the reconstruction of the Catalan Autonomous State; and (iv) amnesty for political prisoners and exiles. The unitary mobilising activities of the Assembly continued effectively until the first Spanish democratic general election (Guibernau: 2000, 2014).

While remaining an autocratic dictatorship that embraced a conservative ideology, the Francoist regime indeed experienced different stages since some of its policies were undoubtedly amended over time. These amendments were a response to regional and international pressures and were reinforced by technocratic influences upon Francoism during the second half of the 1950s and early 1960s (Guibernau: 2000). Despite several efforts at adapting itself to a changing national and global environment, however, Francoism “remained ill-suited to ruling a country experiencing continuous and deep transformations of far-reaching consequences, a country which had evolved from a rural into an industrial society” (Guibernau: 2013a, p. 374).

3. Catalan Autonomy with Democratic Transition

As a corollary of its changing anatomy, the Spanish transition to democracy began not long after the death of Franco on the 20th of November 1975. The dictator had officially announced Prince Juan Carlos, grandson of the former king, Alfonso XIII, as his successor in 1969. After becoming Head of State, King Juan Carlos appointed Arias Navarro as Prime Minister with the task of democratising the state. Having been sworn in as the head of government, on the 28th of January 1976, Navarro proposed a reform package to the Spanish Parliament (*Cortes Generales*) which contemplated the establishment of a two-chamber parliament, the regulation of the rights of assembly and the legalisation of political parties, except for the communists and separatists. However, the package mentioned neither a new electoral law nor potential future elections, stimulating the opposition to unite in the so-called ‘Democratic Transition’ which called on Navarro to propose a bolder democratisation package (Anaya: 2002, p. 14). In response, Navarro presented the modified version of his reform package to the Parliament on the 28th of April 1976, but the amended package was still rejecting the possibility of opening a constituent process, restricting the reforms to a bicameral system and neglecting the question of a general amnesty for political prisoners and exiles, precluding Navarro from obtaining approval for his reform package (*ibid*).

Following his failure, in July 1976, Navarro was dismissed from office by the King, who would then appoint Adolfo Suárez as the new Prime Minister. Suárez drew up a strategy using Francoist institutions to bring about democracy that eventually enabled him to open a constituent process once the Law for Political Reform, approved by the Spanish Parliament and the Spanish public in the referendum of the 15th of December 1976, dissolved the Cortes and opened the way for a general election. From February to April 1977, the state-run unions were disestablished, and many political parties, including the separatists and communists, were legalised. The first democratic election was ultimately held on the 22nd of June 1977, producing a bicameral democratic parliament, composed of the Congress of Deputies (*Congreso de*

los Diputados) and the Senate (*Senado*) (Anaya: 2002).

On the eve of his electoral victory, Prime Minister Suárez, leader of the Union of the Democratic Centre (*Unión de Centro Democrático*, UCD), had already announced his intention to draft a new constitution in alliance with all the parties represented in the Cortes. In parallel to this announcement, not long after the election recording a UCD victory, an agreement was reached between the UCD Government and the opposition parties, and accordingly a constitution-building committee was formed that consisted of seven members in total: three members from the ruling UCD; one from the socialist, centre-left Spanish Socialist Workers' Party (*Partido Socialista Obrero Español*, PSOE); one from the neo-Francoist, centre-right People's Alliance (*Alianza Popular*, AP); and one intended to represent the regional nationalists (Martínez-Herrera and Miley: 2010).

In resolving the question of the three nationalist regions – the Basque Country, Catalonia and Galicia – the Committee came up with a formula by which both these three regions and the other Spanish regions in which ethnic Spaniards formed the majority would be authorised to exercise territorial autonomy in a decentralised Spanish state. This formula was incorporated in both the preliminary draft and the ultimate one that was a hybrid formulation recognising and guaranteeing “the rights of nationalities and regions to self-government” (Martínez-Herrera and Miley: 2010, p. 10). The final version of the constitution listed two distinct paths so as to exercise the right to self-government: the fast track, and the slow track. While the first intended to apply to the historic nationalities (the Basque Country, Catalonia and Galicia) that had already held a referendum on political autonomy before the Civil War (1936-1939), the second was the way constructed for the other regional communities. The constitution was eventually approved by the Cortes on the 31st of October 1978 and just one week later, on the 6th of December, it was put to a referendum before the citizenry. The support for the constitution was extremely high: 87 per cent of voters in favour of the constitution. The results were more impressive in Catalonia, where 91 per cent voted for the ‘Yes’ option with a 67 per cent turnout (Martínez-Herrera and Miley: 2010, pp. 10-11).

According to the Constitution of 1978, Spain is, what the Constitutional Tribunal has defined, the State of the Autonomies (*Estado Autonómico*), a hybrid model of parliamentary monarchy which is a decentralised or quasi-federal state (Barcia: 2014; Moreno: 2007; Ruis-Ulldemolins and Zamorano: 2014). According to Article 137 of the Constitution, the territorial disposition of the state consists of three levels of government: municipalities, provinces and Autonomous Communities (*Comunidades Autónomas*, ACs). The ACs are governed by the Spanish Constitution and their individual statutes of autonomy that establish the basic institutional codes of these political entities. The Constitution, in Articles 148 and 149, distinguishes between exclusive, shared and concurrent powers at each level of government: while matters such as international relationships, defense, the control of exchange rates and immigration are exclusively reserved competences of the central state, other fields of action, e.g. some economic services and law enforcement, are shared by the central administration and the ACs. Finally, The ACs could develop their own public policies in those areas in which governmental responsibilities are not conferred only upon the

centre, e.g. health, tourism, culture, education and urban policies.

As we mentioned above, the Constitution provided the ACs with two distinct ways to self-governance: the three historical nationalities would follow the fast path to self-governance (art. 151) while the other ACs were bound to the slow path provisions of Article 143^[1]. To recover the Catalan autonomous government in pursuit of Article 151 of the Constitution, an assembly of Catalan parliamentarians had indeed begun to work on a draft for the Catalan Statute of Autonomy in September 1978^[2]. A genuine consensus among these parliamentarians was maintained throughout the process, and having completed all the procedures, including the negotiations with the Constitutional Commission, the new Statute was approved by Catalan public in a referendum on the 25th of October 1979 – an overwhelming 80 per cent in favour of the Statute with a 60 per cent turnout (Martinez-Herrera and Miley: 2010, p. 17).

Catalonia eventually celebrated its *Estatut d'Autonomia* in 1979. The new autonomy instituted a parliamentary system consisting of four bodies: an elected Legislative Assembly, a President, an Executive Council, and a High Court of Justice. The most powerful branch of government is the Parliament of Catalonia, which is formed by 135 members (*diputats*), who are elected by universal suffrage in lists with four Catalan constituent provinces (Barcelona, Girona, Lleida and Tarragona). The President of Catalonia, who is elected and held accountable by the Parliament of Catalonia, supervises the Executive Council in the fulfilment of its administrative and executive responsibilities. Finally, the High Court of Catalonia represents the chief judicial institution within the territory, and it must serve without prejudice to the Spanish Supreme Court. The collective body of these political organs is known in Catalonia as the *Generalitat de Catalunya* (shortly, *Generalitat*).

Following the establishment of the regional government, the first democratic elections were held on the 20th of March 1980. According to the results, the Convergence and Union (*Convergència i Unió*, CiU) was the largest party with 43 seats^[3]. The CiU formed a minority government and its leader, Jordi Pujol became the first president of the *Generalitat* (Guibernau: 2014). Having officially established their autonomous democratic institutions, the Catalans eventually succeeded in reconstructing their autonomous government in a democratic manner.

The unionist coalition CiU dominated the *Generalitat*, and it formed the government until 2003^[4], when its political hegemony ended with a coalition government of three

1 As an unusual case, Andalusia followed the fast path though it had never formerly asked for self-government rights (Muro: 2015).

2 The assembly was led by the main Catalan parties on the left, namely the Catalan Sociality Party (*Partit dels Socialistes de Catalunya*, PSC) and the Unified Socialist Party of Catalonia (*Partit Socialista Unificat de Catalunya*, PSUC).

3 The CiU was established in 1978 as a federation of two nationalist centre-right political parties, namely the Democratic Union of Catalonia (*Unió Democràtica de Catalunya*, UDC) and the Democratic Convergence of Catalonia (*Convergència Democràtica de Catalunya*, CDC). The former was formed in 1931, in response to the pronouncement of the Second Spanish Republic; it combined defence of Catholic principles with an apparent Catalanist vocation expressed through support for Catalan autonomy within a federal Spanish state. The latter was founded in 1974 by Jordi Pujol, who aimed at pursuing a social-democratic political programme on Catalanism. Following the 1977 Spanish parliamentary election, the CiU was created in order to become the chief mouthpiece for Catalan nationalism (Elias: 2015; Field: 2015; Gillespie: 2015; Lineira and Cetra: 2015).

4 The CiU formed a minority government after the general elections of 1980, 1995 and 1999; and a majority

left-wing parties, namely the Catalan Sociality Party (*Partit dels Socialistes de Catalunya*, PSC)^[5], the Republican Left of Catalonia (*Esquerra Republicana de Catalunya*, ERC)^[6], and the Initiative for Catalonia Greens-United and Alternative Left (*Iniciativa per Catalunya Verds – Esquerra Unida i Alternativa*, ICV-EUiA)^[7]. The six CiU consecutive legislatures under the leadership of Jordi Pujol (1980-2003) indeed saw the advancement of the autonomous institutionalisation and self-government formulated by the Spanish Constitution. The *Generalitat* played a crucial role in the devolution of powers from the central government to the ACs. The CiU also represented a political force capable of ensuring the stability of the central administration through parliamentary agreements in the 1990s during which neither the PSOE (1993-1996) nor the People's Party (*Partido Popular*, PP)^[8] (1996-2000) had gained an absolute majority in the Cortes (Requejo and Sanjaume: 2013). The end of CiU political domination in 2003, when the three left-wing parties (PSC-ERC-ICV/EUiA) came to power through a coalition government, however, started to record a new constitutional and political episode for Catalonia.

4. A Leftist Attempt at Strengthening Catalan Autonomy

Following the 2003 Catalan parliamentary elections, the domination of the national coalition CiU ended with the formation of the so-called 'Tinell Pact' (*Pacte del Tinell*), an agreement of the three left-wing Catalan parties (PSC, ERC and ICV-EUiA) to form a coalition government. According to the new tripartite government, the promotion of a genuine social-democratic and ecologist public policy was dependent upon a more powerful Catalan statute of autonomy granting the *Generalitat* wider powers, changing the existing financial framework, and awarding Catalonia greater political and legal status within the Spanish State. That is why, soon after its formulation, the government initiated a new reform process of the 1979 Statute of Autonomy (Requejo and Sanjaume: 2013).

Having reached a consensus on the first draft of the Statute, which had taken a long time from early 2004 to early 2005, it was sent to the Council for Statutory Guarantees (*Consell de Garanties Estatutàries*), an advisory organ of the *Generalitat* which issues legal recommendations determining whether domestic regulations comply with the Catalan Statute of Autonomy and the Spanish Constitution. The Council rejected some articles pertaining to the 'historical rights' of Catalonia, exclusive powers and finance. After taking into account the recommendations of the Council, the Catalan Parliament passed the Statute in September 2005. The Statute was backed by almost 90 per cent of Catalan *diputats* (120 out of 135 MPs); the neo-nationalist, centre-right PP was the only party against the Statute while the other four political forces in the

government upon the elections of 1984, 1988 and 1992.

5 The PSC has an organic link with the PSOE. Although the former is formally independent from the latter, the two generally sustain a federal relationship and a single vote in the Cortes (Griffiths et al: 2015).

6 The ERC is a pro-independence political party in Catalonia. Its basic principles are 1) the commitment to the leftist political agenda; 2) the commitment to the republican style of government; and 3) Catalan independentism which comprises all the Catalan territories (*Països Catalans*), including those in France (Elias: 2015).

7 The ICV/EUiA is a post-communist, ecosocialist political alliance (Gillespie: 2015).

8 The PP is the successor of the Francoist AP.

Barcelona Parliament (CiU, ERC, PSC and ICV-EUiA) managed to reach agreement, albeit their ideological differences (Blas: 2013).

The new Statute, approved by the Barcelona Parliament, was an ambitious text which recognised the distinct national character of Catalonia, and which improved its level of self-government in various ways, as well as preserving it legally against the Spanish Constitutional Court (*Tribunal Constitucional de España*, TC). The new text defined Catalonia as a nation; guaranteed Catalan autonomous powers; acknowledged the High Court of Catalonia as the court of last resort; recognised the Catalan language as the ‘preferred language’ within the jurisdiction and imposed a duty to learn the language on the citizens inhabiting within Catalonia; granted the *Generalitat* the right to conduct bilateral negotiations with the Spanish State and the right to collect all taxes raised in Catalonia; and so on (see Judd: 2014, pp. 311-312; Requejo and Sanjaume: 2013, pp. 12-14).

Having been passed by a large majority of the Barcelona Parliament, the Statute had to be approved by the Madrid Parliament. The Catalan political forces therefore entered into a negotiation process to gain the support of the socialist PSOE, which was in power with a parliamentary majority following the 2004 general election (Guibernau: 2013a). A negotiation process in which Catalan Premier Pasqual Maragall failed to play an effective role began in late 2005. In order to unblock the negotiations, Artur Mas, leader of the CiU, embarked on secret talks with the socialist Prime Minister, José Luis Rodríguez-Zapatero. The Mas-Zapatero Pact was then supported by the PSC and ICV-EUiA, but not by the secessionist ERC, which maintained that the negotiated version of the Statute lost its meaning in the original text (Cramer: 2015; Judd: 2014).

The most important aspects of the original text concerning finance, recognition and self-government were watered down by the new version of the Statute: it moved the national definition of Catalonia from the articles to the Preamble of the Statute, depriving the definition of obtaining legal status; restricted the definition of Catalonia as a nation by declaring that this definition is the feelings and desires of Catalan-origin Spanish citizens and of the Barcelona Parliament; rejected a decentralised model of the justice administration and therefore amended the provision rendering the High Court of Catalonia the court of last resort; watered down the exclusive powers of the Catalan Government in various areas (airports, businesses, education, foreign affairs, foundations, immigration, industry, local administration, research, ports, etc.); deleted the provision conferring treaty-making powers on the *Generalitat*; eliminated the exclusive fiscal responsibilities on taxes; and so on (see Requejo: 2015; Requejo and Sanjaume: 2013).

The Statute of Autonomy was ultimately passed in March 2006 in the lower house of the bicameral Cortes, the Spanish Congress. In May 2006, it was then passed by the upper house, the Senate, without any changes. As the final step, on the 18th of June 2006, a referendum was held to approve the new Statute by the citizens residing in Catalonia. The Statute received the support of nearly 74 per cent of the Catalan electorate, despite the fact that the turnout was low at almost 49 per cent (Guibernau: 2013a; Requejo: 2015). The referendum should have marked the ultimate point of the reform process; however, just after being sanctioned, the amended Statute was challenged in the Spanish Constitutional Court. The appeal of unconstitutionality

lodged mainly by the neo-nationalist PP, but also by the Spanish Ombudsman and some autonomous communities (Aragon, the Balearic Islands, La Rioja, Murcia and Valencia) engendered a new constitutional scenario for Catalonia⁹.

5. The Rise of Catalan Secessionism

After almost four years, on the 28th of June 2010, the 10 judges of the Constitutional Court eventually issued their verdict and subsequently, in July 2010, published the ruling officially. The Court's judgment in which the judges found 14 articles unconstitutional and interpreted 27 others can be divided into three areas: a) the decision on recognition; b) the decision on powers; and c) the decision on finance.

The Decision on Recognition. The judgment held that according to the Spanish Constitution (art. 2(1)), there is solely one Spanish nation within Spain; therefore, the Preamble of the Statute, defining Catalonia as a nation, has no juridical value. Accordingly, in order to avoid any contradictions with the symbols of the sole Spanish nation, the expression "national symbols" used in the Statute is to be interpreted as "symbols of a nationality"¹⁰. With respect to the Catalan language, it was acknowledged as unconstitutional to grant the language a preferential status within the Catalan public administration. The preferential status of the language in the Catalan educational system therefore meant that students have the right and duty to be fully competent speakers and writers of Catalan and Castilian (Spanish) upon completing their compulsory education. However, the duty to be fully competent in Catalan was not *constitutionally* deemed as having the same importance/legal status/meaning as the duty to be fully competent in Castilian, enshrined in the Spanish Constitution (Guibernau: 2013a, 2014; Requejo: 2015; Serrano: 2013a).

The Decision on Powers. The judgment refused the attempt of the Statute to limit the scope of base laws (those organic laws being implemented with the purpose of guaranteeing uniformity within the Spanish State, see Maiz and Losada (2011, pp. 96-97)). In addition, the following provisions of the Statute were deemed unconstitutional: the relevant articles of the Statute establishing a Catalan Council of Justice; the articles setting up the exclusivity of the Catalan Ombudsman; and the upgraded role and status of the President of the Catalan High Court of Justice. Furthermore, the notions of exclusive competences, executive competences and spheres such as civil law, culture, immigration and international relations were reinterpreted (see Guibernau: 2012, p. 167; Guibernau: 2014, pp. 16-17; Requejo and Sanjaume: 2013, p. 16; Serrano: 2013b, p. 406).

The Decision on Finance. The articles allowing the Catalan Government to set up its own local taxes were deemed unconstitutional. In addition, the provisions rendering

9 According to the PP, 51.5 per cent of the Statute's text were inconsistent with the Spanish Constitution; the Ombudsman challenged 48 per cent of the text; and finally, five autonomous governments, two of which were governed by the PSOE and three by the PP, initiated legal processes against the text on the grounds that many provisions of the Statute, including those defining a Catalan nation, establishing special rights and duties for the citizens of Catalonia, privileging the Catalan language, etc., were incompatible with the Spanish Constitution (see Requejo: 2015; Requejo and Sanjaume: 2013).

10 According to the Court's ruling, Catalonia is a nationality of the Spanish nation. The term 'nationality' means "a population with a language and a developed culture of its own" (Modeen: 1982, p. 8).

Catalonia's contribution to the "solidarity fund" conditional were acknowledged unconstitutional. Finally, the Court reinterpreted that the state's investment in Catalonia could be on a level with the percentage of Catalan Gross Domestic Product (GDP) unless the investment grants an economic privilege for Catalonia (Guibernau: 2013, p. 382; Guibernau: 2014, pp. 16-7; Requejo: 2015).

Soon after the publication of the ruling, on the 10th of July, more than one million Catalans demonstrated in Barcelona under the slogan 'We are a nation, we decide!'. The demonstration, asking for self-determination, was organised by civil society associations. Catalan Premier José Montilla Aguilera, most of the political parties in the Catalan Parliament and the main trade unions supported the demonstration (Cramer: 2015). The Barcelona demonstration and its similar counterparts, organised mainly by *Omniium Cultural* and the Catalan National Assembly (*Assemblea Nacional Catalana, ANC*)¹¹, dramatically contributed to an intense mobilisation cycle of the secessionist movement (Munoz and Tormos: 2015).

Having witnessed such massive demonstrations, Catalonia entered into a new election period during which economic matters became the most important issue since the Spanish economic recession, started in 2008, had not only put an end to the economic growth, driven primarily by low interest rates and real-estate investments, but also collapsed mass consumption, exacerbating a huge increase in the public deficit and unemployment rates (19 per cent in Catalonia), and leading to the adoption of severe austerity policies, e.g. drastic reductions in public investments and civil servants' salaries; closing health facilities; requiring co-payments for drug prescriptions; and dramatic increases in university tuition fees (Rico and Lineira: 2014). In its election campaign, the CiU maintained that Catalonia suffers a fiscal deficit with the Spanish State, because the region, which represents almost 20 per cent of Spanish GDP, "has been contributing far more than it receives after central government's transfers to satisfy the inter-territorial solidarity criteria" (Rico and Lineira: 2014, p. 262). According to the Party, Catalonia might recover its collapsing economy through a new fiscal agreement similar to the Basque model (*Concierto Económico*), which provides the Basque Country (*Euskadi*) with nearly full fiscal autonomy by granting its autonomous government the right to collect all the taxes levied in its region and transfer merely a small contribution to the Spanish central government for the services it provides (see Goikoetxea: 2013, 2014; Gray: 2015; Mees: 2015).

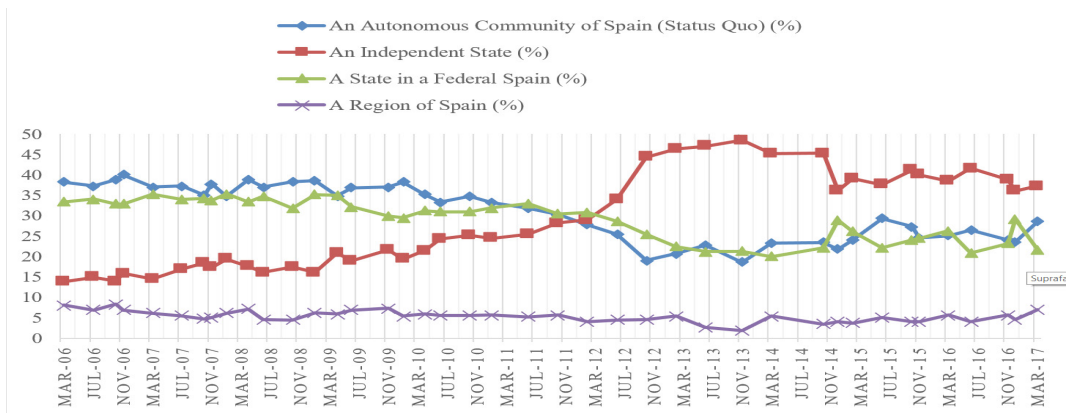
The Catalan parliamentary elections held in November 2010 witnessed the decline of the tripartite government and the formation of a CiU minority government which would gain support for its fiscal demand from the Barcelona Parliament in July 2012. Catalan Premier Arthur Mas then negotiated with the Spanish Government, led by the right-wing PP; however, Spanish Prime Minister Mariano Rajoy refused to grant Catalonia full fiscal autonomy akin to the Basque system. As a corollary of this rejection, not only were various pro-independence mass demonstrations organised in Catalonia, but also the CiU changed its unionist position with a separatist one (Orriols and Rodon: 2016). More importantly, Arthur Mas dissolved the Barcelona Parliament and called a snap election in November 2012, and if being successful, the Premier

11 The ANC, founded in March 2012, seeks to contribute to the establishment of an independent, democratic Catalan state (Cramer: 2015).

promised to hold an independence referendum (Martí: 2014).

This pro-independence CiU attitude may indeed be considered as a result of the changing Catalan society, who was gradually increasing its support for Catalan independence after the 2010 constitutional ruling. Not long before the introduction of the ruling, in March 2010, solely one-fifth of Catalans were of the belief that Catalonia should be an independent state, but the number of those backing Catalan independence dramatically increased following the two constitutional incidents – the 2010 ruling and the rejection of the central government to adopt a new fiscal arrangement: one-fourth of Catalans in favour of independence in November 2010; and 45 per cent of Catalans supporting independence in November 2012, when the snap election was called (see Figure 1).

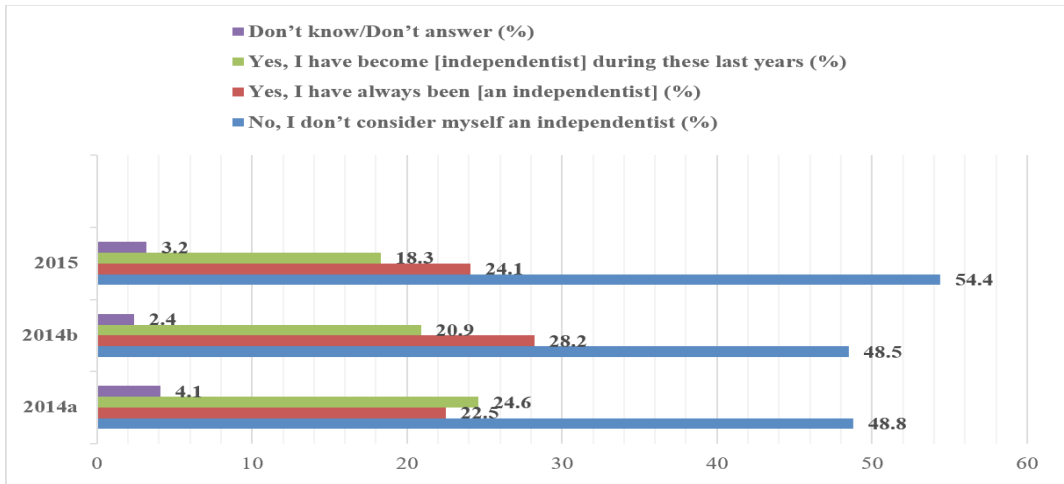
Figure 1: Do You Believe that Catalonia Should be...



Source: This chart has been prepared through the data obtained from periodic public opinion barometers, published by the Catalan Opinion Study Centre (*Centre d'Estudis d'Opinió*, CEO), an official institute for public opinion research in Catalonia. All barometers are available at: <http://ceo.gencat.cat/ceop/AppJava/pages/estudis/-/categorias/llistaCategoria.html?colId=3&lastTitle=Bar%F2metre+d%27Opini%F3+Pol%EDtica>.

Various CEO reports also indicate the impacts of the two incidents upon the rise of Catalan secessionism. According to a CEO report, published in 2014, more than half of those calling themselves independentist declared that they have become independentist during the last years (CEO: 2014a, p. 12). Another CEO report, published in the same year, found a different result, but the percentage of those becoming independentist in the recent years is still high: more than two-fifths of pro-independence Catalans declared that they have become independentist during the last years (CEO: 2014b, p. 12). A similar result was also found by the 2015 CEO Report (CEO: 2015, p. 13).

Figure 2: Do You Consider Yourself an Independentist?



Source: CEO (2014a, 2014b, 2015).

In a political arena where the secessionist movement was gradually growing, the pro-independence parties, CiU and ERC, won the 2012 parliamentary elections; they gained 71 out of 135 seats^[12], securing a majority in favour of a referendum on Catalan independence. Following the elections, the CiU formed a new minority government, and a referendum on the “political future of Catalonia” was included in the Agreement of Government signed by the CiU and ERC on the 18th of December 2012. The latter remained in opposition, but supported the CiU government on constitutional matters and those concerning governability. This agreement included aspects relating to the economic crisis in addition to three aspects connected with the “right to decide” Catalonia’s constitutional future: (i) a “Declaration of Sovereignty” in the Barcelona Parliament; (ii) the establishment of an advisory organ, called the Advisory Council for National Transition (*Consell Assessor per a la Transició Nacional*)^[13]; and (iii) the calling of a referendum on Catalonia’s constitutional future (Requejo: 2015).

On the 23rd of January 2013, the Declaration of Sovereignty and of the Right to Decide was passed by the Parliament of Catalonia by a majority of 85 *diputats*, amounting to 63 per cent of the total number (135). The Declaration was supported by the traditional Catalan nationalist parties, CiU and ERC, as well as the pro-referendum, eco-socialist ICV-EUiA and one deputy from the pro-independence, radical leftist CUP, but rejected by the C’s – a centrist party with a strong anti-Catalan nationalist profile, the conservative PP and fifteen deputies from the pro-union, socialist PSC; five PSC deputies (25 per cent of the PSC group in parliament), who explicitly backed Catalonia’s right to self-determination, rejected their party’s mandate to vote against

12 135 seats were won by the CiU (50), ERC (21), PSC (20), PP (19), ICV-EUiA (13), Citizens (*Ciutadans-Partido de la Ciudadanía*, C’s) (9), and the final 3 seats by the Popular Unity Candidacy (*Candidatura d’Unitat Popular*, CUP) (Oliva: 2014).

13 The fourteen-member Council responsible for advising the Catalan Government on the international political and legal experiences relating to secession was created in April 2013 (Requejo: 2015).

the Declaration whilst 2 CUP deputies abstained since the Declaration was, according to them, not ambitious enough and it did not include other Catalan-speaking territories (Orriols and Rodon: 2016; Requejo and Sanjaume: 2013). The Declaration recognised Catalonia as a sovereign political and legal entity representing the Catalan people and imposed a duty to hold a referendum on Catalonia's constitutional future upon the Catalan Parliament (Elias: 2015; Oliva: 2014).

Despite the fact that this political declaration lacked legal validity, the Spanish central government lodged an appeal against the declaration on the grounds that it was inconsistent with the Constitution. On the 8th of May 2013, the Declaration was then provisionally suspended by the Spanish Constitutional Court. Nevertheless, the *Generalitat* decided to continue the referendum project in defiance of the suspension decision. In December 2013, the majority of the parties in the Barcelona Parliament – CiU, ERC, ICV-EUiA and CUP – reached an agreement on an independence referendum, including the referendum question (“do you want Catalonia to become a state?” and in the affirmative, “do you want this state to be independent?”) and its date (9 November 2014) (Oliva: 2014; Orriols and Rodon: 2016).

This Catalan move was not authorised by Spanish central institutions; instead, the Spanish Government was explicit in acknowledging the Catalan referendum agreement illegal. In parallel to the Government's stance, on the 25th of March 2014, the Constitutional Court held that the principle of sovereignty articulated within the Declaration was unconstitutional and thus invalid. However, the Court added that the right to decide could be consistent with the Constitution should the relevant constitutional mechanism be employed (Martí: 2014; Oliva: 2014; Requejo: 2015).

In accordance with the Spanish Constitution, “the right to decide” could not amount to self-determination; however, an agreement on its self-determination meaning could be reached via a constitutional and legal process. In this regard, the Court recognised the importance of a healthy political dialogue between the central and Catalan institutions. Moreover, the Court emphasised that it was not antagonistic to amendments or transformations to the existing arrangement, insofar as they were compatible with the relevant rules of the Constitution. Hence, if an autonomous community initiated a constitutional reform process consonant with Articles 87(2) and 166 of the Constitution, the Spanish Parliament would be obliged to take it into consideration. In sum, the Court found no constitutional obstruction to the right to decide which would be exercised after reaching an agreement consistent with the Constitution (Oliva: 2014, 2015).

On the 8th of April 2014, however, the Madrid Parliament rejected the Barcelona Parliament's request to grant it the power to organise a self-determination referendum. The *Generalitat* nonetheless went along with its referendum plans: the Consultation Law was passed by the Barcelona Parliament on the 19th of September 2014; the Catalan Premier then issued a decree for the execution of this law on the 27th of September, authorising a “popular consultation”. Only two days later, however, the Spanish Constitutional Court provisionally suspended the vote, leading the *Generalitat* to change its right to decide consultation with a “process of participation”, which would be run by voluntary associations rather than public authorities (Oliva: 2015). Despite the suspension decision of the Constitutional Court on it, the process of

participation, which had no legal consequence, ultimately took place on the 9th of November 2014^[14]. In the non-binding two-question referendum, 80.8 per cent supported Catalan secession from Spain, but the turnout was very low: almost 35 per cent (Elias: 2015; Requejo: 2015)^[15].

On the 14th of January 2015, since the process of participation had no legal value, Catalan Premier Arthur Mas called a snap election with a plebiscitary character (a *de facto* referendum on Catalan independence) that would be held on the 27th of September 2015. The election decision was the fruit of long discussions between the Catalan Premier and the leader of the pro-independence ERC, Oriol Junquera, as well as representatives of pro-independence institutions such as *Òmnium Cultural* and the ANC. Having called the election, Mas announced that if pro-independence political parties gained a majority in the Catalan Parliament, this would be an apparent endorsement of the public support for Catalan independence (Oliva: 2015).

Just before the election campaign, On the 17th of June 2015, the CiU, a federation of two nationalist centre-right parties (UDC and CDC) was dissolved. The reason of the dissolution was the constitutional preferences of the parties for Catalonia's future: the former in support for a confederal option; the latter in favour of a full independence option. Hence, CDC General Coordinator Joseph Rull announced that “the CiU as a political project is finished. It was the epitaph to a story – forged at the time of the birth of Spain's decentralisation – that has eventually been knocked down by the independence bid. We have reached a point of no return” (cited in Mateos and March: 2015).

During the election campaign, the majority of secessionist groups (CDC, ERC, pro-independence civil society organisations – e.g. *Òmnium Cultural* and the ANC – and many independents) came together as the single-coalition ‘Together for Yes’ (*Junts pel Sí*, JxS), led by ex-communist Raül Romeva. The mandate of the coalition was to proclaim Catalan independence in less than 18 months after securing a majority in the Barcelona Parliament (Burgen: 2015; Cetra: 2015).

On the 27th of September, a record-breaking number of Catalans (77.4 per cent turnout) cast their vote in the regional election, billed as a *de facto* independence referendum. The two pro-independence parties, the JxS (62 seats) and the far-leftist CUP (10 seats), won 72 of Catalonia's 135 seats. The pro-independence parties gained 47.8 per cent of the vote, but it would be incorrect to imply from this that the other 52 per cent is pleased with the *status quo*, because the *openly* pro-union parties (C's, PSC and PP) got 39.17 per cent of the vote^[16]. More importantly, saying openly unionist does not mean all these parties are content with the *status quo*. Despite its unionist stance, the PSC is in favour of holding a referendum transforming Spain into a federal state, thereby establishing a more powerful autonomous Catalonia. In addition, the last two

14 On the 4th of November, the Constitutional Court accepted the appeal lodged by the Attorney General (*Abogado del Estado*) against the proceeding of public consultation, automatically suspending the consultation and all decisions relating to its preparation (Oliva: 2014).

15 In the following months, the Constitutional Court issued three important verdicts on the Catalan non-binding independence referendum: a) the Catalan Law on Consultation was found unlawful; the role played by the Catalan Premier was acknowledged as unconstitutional; and finally, the preparatory acts leading to the process of participation were also recognised as unconstitutional (Oliva: 2015).

16 The seats won by the unionist parties were as follows: the C's (25), the PSC (16) and the PP (11) (Nardelli: 2015).

parties, the ‘Catalonia Yes We Can’ coalition (*Catalunya Si Que Es Pot*, CSQP) – a left-wing pre-electoral coalition led by the eco-socialist ICV-EUiA and Podemos – which obtained 11 seats with 8.94 per cent vote, and the *confederalist* UDC, which got 2.51 per cent of the vote without any seats, are not the supporters of the *status quo*; the two parties are in favour of holding an independence referendum in Catalonia if the referendum is legally accepted by the Spanish Government (Kassam: 2015a, 2015b; Nardelli: 2015; Orriols and Rodon: 2016).

Not long after the election, on the 9th of November, the pro-independence parties, who have a majority in parliament, passed an independence resolution, “the Declaration of the Initiation of the Process of Independence of Catalonia”, pledging an independent Catalan Republic within 18 months. According to the resolution, which was backed by the JxS and CUP but rejected by all other parties in parliament (C’s, PSC, CSQP and PP), the Barcelona Parliament is the depositary of Catalan sovereignty who would no longer be subject to decisions made by the Spanish State’s institutions, including the Constitutional Court; the Parliament must legislate new acts creating state institutions of Catalonia within 30 days; and the Parliament must draft a Catalan constitution which would be passed by referendum within 18 months (Kassam: 2015c; Rios and Pinol: 2015).

The resolution was, however, brought to the Constitutional Court by the Spanish Government just two days after its adoption, and the Constitutional Court suspended it while warning Catalan lawmakers that they might face criminal charges should they disobey the ruling. In response, the pro-independence parties maintained that “we are fulfilling and will continue to fulfil the mandate of a sovereign parliament” (cited in Kassam: 2015d), and therefore vowed to move forward with their secessionist agenda, defying orders from the Constitutional Court.

On the 2nd of December, the Constitutional Court approved the appeal lodged by the Spanish Government and declared the independence resolution unconstitutional and null on the grounds that it infringes on the Spanish Constitution¹⁷ and the Catalan Autonomous Statute¹⁸. In response to the ruling, the pro-independence parties declared that “we will continue with the political will of the declaration approved by an absolute majority in our legally elected parliament” (cited in Kassam: 2015e).

After months of negotiations, the secessionist JxS and CUP eventually struck a deal on investing a new president in Catalonia, and Carles Puigdemont, the former

17 The independence resolution recognises the Catalan Parliament as a sovereign entity, but the Constitutional Court held that this recognition is in violation of Articles 1(2) and 2 of the Spanish Constitution (SC) under which national sovereignty is vested in the indissoluble and indivisible Spanish people, whose constituent nationalities cannot be bestowed with sovereignty individually. According to the Court, the resolution is also in breach of Articles 1(1) and 9(1) SC under which Spain is a rule-of-law-based state obliging all citizens and state institutions to obey Spanish legal sources, including the Constitution; therefore, the resolution violates these two articles by declaring that the Catalan Parliament would not be subject to any decisions made by the TC or any other organs of the Spanish State. Finally, the Court ruled that the Catalan people may establish its own state solely after the Spanish Constitution has been reformed in pursuit of Article 168 SC. The resolution, however, attempts to create such a state without following the accurate procedure; hence, it is incompatible with Article 168 SC. For more details on the ruling, see Spanish Constitutional Court (2015).

18 According to the ruling, the resolution is inconsistent with Articles 1 and 2(4) of the Catalan Autonomous Statute under which none of Catalan autonomous institutions can be recognised as a sovereign entity (Spanish Constitutional Court: 2015).

mayor of Girona, was elected as the new Catalan President on the 10th of January 2016¹⁹. The new president who took office without swearing allegiance to the Spanish King or the Spanish Constitution, not only defined himself as the president of post-autonomous/pre-independent Catalonia, but he also announced that his government would not make a unilateral declaration of independence; rather, it would negotiate the constitution of an independent Catalan state with Spain and European authorities, eventually providing the Catalan Parliament with all the required instruments to put its independence resolution into practice before the end of the session (Noguer: 2016a, 2016b; Roger: 2016b, 2016c).

In order to conduct such negotiations, the new Catalan Executive established its own Ministry of Foreign Affairs, tasked with attracting international support for the independence bid (Roger: 2016d). Just after the creation of this ministry, however, the Spanish Government filed an appeal with the Constitutional Court so as to stop the Ministry in its tracks on the grounds that Catalonia's foreign action can solely attract business investment, but not create a Catalan foreign policy which falls into the exclusive powers of the Spanish State on international relations (*ARA*: 2016a). On the 16th of February, the Constitutional Court ordered the suspension of the Ministry's powers, but this did not stop the *Generalitat* to pursue its independence policy at the international level (Fornells: 2016). Following the suspension, Premier Puigdemont spoke to the Catalan Parliament that the Ministry's action is involved in the government's programme and will be abandoned in no way. In parallel to Puigdemont's speech, Catalan Minister of Foreign Affairs Raül Romeva also underlined that "Catalonia has done, does and will do foreign action" (cited in *Nationalia*: 2016). The Minister also sent a letter to Martin Schultz, President of the European Parliament, asking for his support to cope with the challenges the Catalan Parliament encounters in accomplishing its independence task (*ARA*: 2016b).

In this atmosphere, on the 9th of April, the Catalan Parliament approved a CUP motion aimed at relighting the independence resolution and following the democratic mandate which emerged from the regional election (Prim: 2016a). As a reflection of this approval, Premier Puigdemont, in a meeting with Spanish Prime Minister Mariano Rajoy on the 20th of April, insisted upon his strong commitment to Catalonia's roadmap towards independence which "is the majoritarian will of the Catalan Parliament" (cited in *CNA* 2016a). The Premier also asked for a binding Catalan independence referendum while expressing to Rajoy his disconformity concerning the judicialisation of politics on Catalan independence. In response, the Spanish Prime Minister not only refused to dialogue over the possibility of holding such a referendum, but he also rejected the demand to keep the process of Catalan independence away from Spain's judicial institutions on the grounds that "the law comes first and without law there is no democracy" (cited in *CNA*: 2016a).

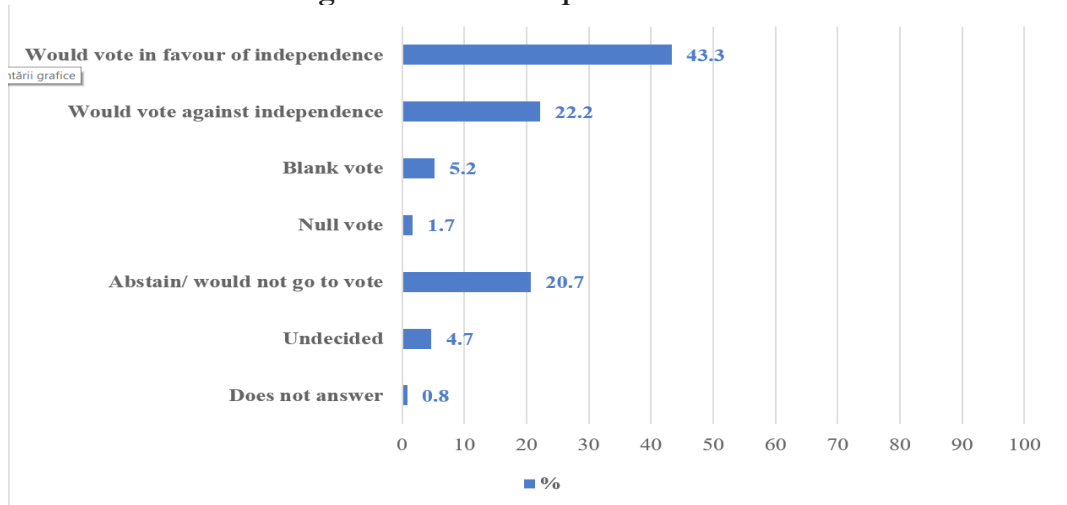
Despite the Spanish Government's negative attitude toward negotiating Catalan independence, Puigdemont still underlines that reaching an agreement with Spain and

19 The CUP did not support Mas's reinstatement bid due to three main reasons: (i) profound ideological disagreements between Mas and the CUP; (ii) the belief that Mas would be unable to stimulate left-wing, non-nationalist urban voters to support Catalan independence; and (iii) corruption scandals including the CDC (Burgun: 2016; Marti and Cetrà: 2016; Roger: 2016a).

achieving independence in a consensual manner is the priority of the Catalan Executive (Prim: 2016b, 2016d). The Catalan Premier underscores that his government is not inclined to establish an independent Catalonia through a unilateral declaration; instead, it seeks to negotiate Catalan independence with Spain and the EU until the end of the 18-month period, during which the *Generalitat* is also committed to establishing all institutional organs required for an independent Catalan Republic, including a social security system, a tax agency and a national treasury (Aranda: 2016; CNA: 2016b; Prim: 2016c). The Premier stresses, however, that having completed this process in Summer 2017, should the Spanish State still be ignoring the democratic mandate for independence, he would call an independence referendum to be held on the 1st of October 2017 (CNA: 2017a, 2017b; Prim: 2016e).

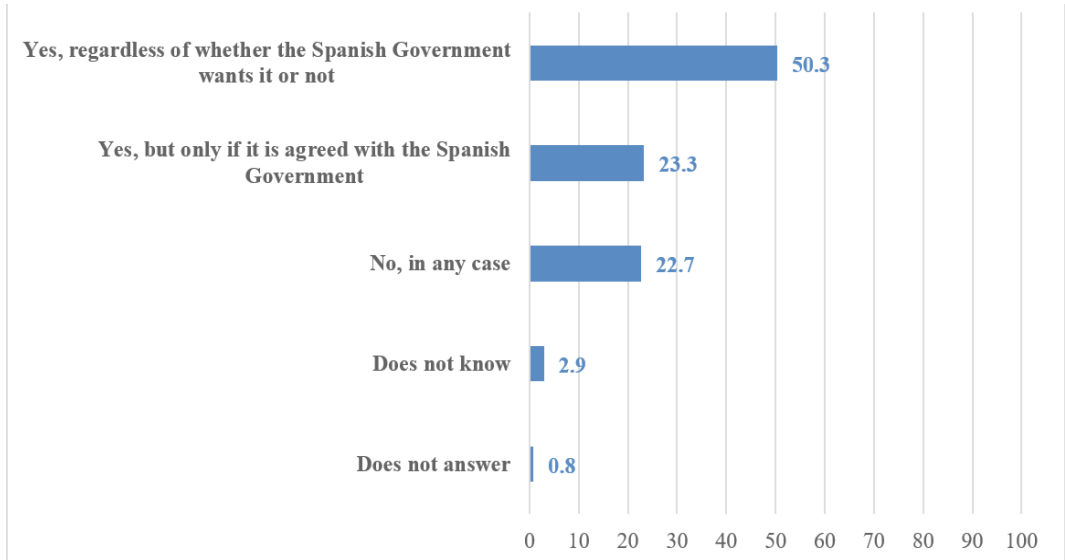
Calling such a referendum may, I think, be problematic for the pro-independence camp. A recent CEO report has just unveiled that in a Catalan independence referendum held by the *Generalitat de Catalunya* without the agreement of the Spanish Government, solely 43.3 per cent of Catalans would vote in favour of independence, while almost the same percentage (42.9) would either vote against independence (22.2 %) or would not go to vote (20.7 %) (CEO: 2017, p. 15). According to the same report, moreover, merely 50.3 per cent of Catalans would support such a referendum that is not agreed with the Spanish Government. It is worth noting, however, that the percentage supporting an independence referendum might dramatically increase should it be agreed with the Spanish Government: almost three-fourths of Catalans would support an independence referendum held with the agreement of the Spanish Government (CEO: 2017, p. 13).

Figure 3: Catalan Independence Referendum Held by the Generalitat without the Agreement of the Spanish Government



Source: CEO (2017).

Figure 4: Are You in Favour of Supporting a Referendum about the Independence of Catalonia?



Source: CEO (2017).

It would therefore be better for Catalonia to hold its independence referendum after obtaining the consent of the Spanish Government, or *at least* after exhausting all possibilities by which the assent of the Spanish Government could be gained and convincing the Catalans that the only way to resolve the independence question is to hold a referendum, unilaterally organised by the *Generalitat* without the assent of the Spanish Government. In a scenario in which the *Generalitat* has not exhausted all consent-seeking options and not persuaded its regional citizens that the sole way of solving the independence question is to hold a unilateral referendum, it seems many Catalans would not welcome such a referendum, rendering the density of the referendum the same as that held in 2014. This means that even if the Catalans voted for independence in the unilateral referendum, the result would most likely be recognised by neither Spain nor other sovereign states and international organisations, e.g. the European Union and the United Nations. The independence question would thus still be a solution-waiting, but not resolved, constitutional issue at the end of the day.

6. Conclusion

As an interdisciplinary study employing the methods of constitutional politics and law, this article has sought to analyse contemporary Catalan politics. Having suffered from various assimilation policies implemented by the Spanish State, Catalonia has

been able to form and advance its own political culture by means of its autonomous community, established through the Spanish Constitution of 1978 and the 1979 Catalan Statute of Autonomy. The political arena of the Autonomous Community was dominated by the unionists inclined to safeguard Catalonia's constitutional ties with the Spanish State until the early 2010s, when two crucial constitutional incidents – (1) the annulment and alteration of several articles of the new Catalan Statute of Autonomy by the Spanish Constitutional Court; and (2) the rejection of the Spanish central government to offer Catalonia a new self-government arrangement vesting almost full fiscal autonomy in the Autonomous Community – resulted in the foundation of a new Catalan political arena dominated by the separatists willing to establish an independent Catalonia. The secessionists, taking up the reins of government following the 2012 Catalan parliamentary election, managed to secure their parliamentary majority after the 2015 Catalan general election in which they had formed a pro-independence coalition involving both rightist and leftist segments of Spain's Catalan society.

Whilst ruling the Autonomous Community with a secessionist political agenda, the coalition is now aimed at persuading the Spanish Government to permit the Catalan Parliament to hold a legally binding independence referendum in Catalonia; and if it is not possible, to hold a unilateral independence referendum on the 1st of October 2017 without obtaining the consent of the Spanish Government. According to this article, it may be better for Catalonia to hold its independence referendum after receiving the assent of the Spanish Government, because the fate of an independence referendum held without the consent of the Spanish Government would be the same as that of the 2014 referendum, meaning that even if the Catalans voted for independence in the unilateral referendum, the result would not be recognised by Spain, other sovereign states or international organisations. This would most likely render the referendum illegitimate, and the independence question would still be a resolution-seeking, rather than resolved, constitutional problem at the end of the day.

References

- Anaya, P. O. (2002), *European Socialists and Spain: The Transition to Democracy, 1959–77*, London, Palgrave.
- ARA. (2016a), “Madrid Urges Spain’s Constitutional Court to ‘Immediately Suspend’ Catalonia’s Foreign Ministry for Overstepping its Powers”, <http://www.ara.cat/en/Spains-Constitutional-Catalonias-Foreign-Ministry01517848446-.html>, accessed 10.02.2016.
- ARA. (2016b), “Romeva Sends Letter to Martin Schultz, Calls himself Catalonia’s Foreign Minister”, <http://www.ara.cat/en-Romeva-Schultz-Catalonias-Foreignminister0152564-760-8.html>, accessed 20.02.2016.
- Aranda, Q. (2016), “President Puigdemont’s ‘Catalan Way’”, *ARA*, http://www.ara.cat/en/P-resident-Puigdemonts-Catalan-Way_0_1576642527.html, accessed 14.05.2016.
- Barcia, M. G. (2014), “Catalonia: The New European State?”, *ILSA Journal of International & Comparative Law*, 20(3), pp. 399-421.
- Beramendi, J. (1999), “Identity, Ethnicity and State in Spain: 19th and 20th Centuries”, *Nationalism and Ethnic Politics*, 5(3-4), pp. 79-100.
- Beswick, J. (2007), *Regional Nationalism in Spain: Language Use and Ethnic Identity in Galicia*, Clevedon, Multilingual Matters.
- Blas, A. (2013), “Catalonian Secessionism Made in Spain”, *Ethnopolitics*, 12(4), pp. 398-401.
- Burgen, S. (2015), “Spain Set for Secessionist Clash as Catalonia’s Election Looms”, *The Guardian*, <http://www.theguardian.com/-world/2015/sep/05/spain-catalonia-show-downelection>, accessed 07.09.2015.
- Burgen, S. (2016), “Catalonia Plunged into Uncertainty as Leftwing CUP Rejects Mas”, *The Guardian*, <http://www.theguardian.com/world/2016/jan/03/catalonia-uncertainty-left-wing-cup-rejects-mas>, accessed 03.01.2016.
- CEO. (2014a), *Political Opinion Barometer: 1st wave 2014*, Barcelona, CEO.
- CEO. (2014b), *Political Opinion Barometer: 2nd Wave 2014*, Barcelona, CEO.

CEO. (2015), *Political Opinion Barometer: 1st Wave 2015*, Barcelona, CEO.

CEO. (2017), *Political Opinion Barometer: 1st Wave 2017*, Barcelona, CEO.

Cetra, D. (2015), “Decision Time for Catalonia”, *Centre on Constitutional Change*, <http://www.centreonconstitutionalchange.ac.uk/blog-/decision-time-catalonia>, accessed 25.08.2015.

CNA. (2016a), “Puigdemont Asks Rajoy to ‘at least Hold a Binding Referendum’ in Catalonia”, <http://www.catalannewsagency.com/politics/item/puigdemont-asks-rajoy-to-at-least-hold-a-binding-referendum-in-catalonia>, accessed 13.05.2016.

CNA. (2016b), “Puigdemont Asks Spanish politicians for ‘Courage’ to ‘Negotiate a Referendum’”, <http://www.catalannewsagency.com/politics/item/puigdemont-asks-spanish-politicians-for-courage-to-negotiate-a-referendum>, accessed 27.05.2016.

CNA. (2017a), “Puigdemont Won’t Stand for President in Next Catalan Elections”, <http://www.catalannewsagency.com/politics/item/puigdemont-won-t-stand-for-preside-nt-in-next-catalan-elections>, accessed 11.02.2017.

CNA. (2017b), “Catalonia to Hold Self-determination Referendum on October 1, 2017”, <http://www.catalannewsagency.com/politics/item/catalonia-to-hold-self-determination-referendum-on-october-1-2017>, accessed 11.06.2017.

Connolly, C. K. (2013), “Independence in Europe: Secession, Sovereignty, and the European Union”, *Duke Journal of Comparative and International Law*, 24(1), pp. 51-105.

Conversi, D. (2000), *The Basques, the Catalans and Spain: Alternative Routes to Nationalist Mobilisation*, Reno, University of Nevada Press.

Cramer, K. (2015), “Political Power and Civil Counterpower: The Complex Dynamics of the Catalan Independence Movement”, *Nationalism and Ethnic Politics*, 21(1), pp. 104-120.

Elias, A. (2015), “Catalan Independence and the Challenge of Credibility: The Causes and Consequences of Catalan Nationalist Parties’ Strategic Behavior”, *Nationalism and Ethnic Politics*, 21(1), pp. 83-103.

Field, B. N. (2015), “The Evolution of Substate Nationalist Parties as Statewide

Parliamentary Actors: CiU and PNV in Spain”, *Nationalism and Ethnic Politics*, 21(1), pp. 121-141.

Fornells, M. F. (2016), “TC Suspends Foreign Affairs Ministry, Initiates Proceedings against Forcadell and Constituent Process Committee”, *ARA*, http://www.ara.cat/enTC-Ministry-Forcadell-Constituent-Committee_0_1525647609.html, accessed 10.05.2016.

Gillespie, R. (2015), “Between Accommodation and Contestation: The Political Evolution of Basque and Catalan Nationalism”, *Nationalism and Ethnic Politics*, 21(1), pp. 3-23.

Goikoetxea, J. (2013), “Nationalism and Democracy in the Basque Country (1979-2012)”, *Ethnopolitics*, 12(3), pp. 268-289.

Goikoetxea, J. (2014), “Nation and Democracy Building in Contemporary Europe: The Reproduction of the Basque Demos”, *Nationalities Papers: The Journal of Nationalism and Ethnicity*, 42(1), pp. 145-164.

Gray, C. (2015), “A Fiscal Path to Sovereignty? The Basque Economic Agreement and Nationalist Politics”, *Nationalism and Ethnic Politics*, 21(1), pp. 63-82.

Griffiths, R. D., Alvarez, P. G. and Coma, F. M. (2015), “Between the Sword and the Wall: Spain’s Limited Options for Catalan Secessionism”, *Nations and Nationalism*, 21(1), pp. 43-61.

Guibernau, M. (2000), “Nationalism and Intellectuals in Nations without States: The Catalan Case”, *Political Studies*, 48(5), pp. 989-1005.

Guibernau, M. (2012), “From Devolution to Secession: The Case of Catalonia”, in M. Seymour and A-G. Gagnon (eds.), *Multinational Federalism: Problems and Prospects*, New York, Palgrave Macmillan, pp. 149-171.

Guibernau, M. (2013a), “Secessionism in Catalonia: After Democracy”, *Ethnopolitics*, 12(4), pp. 368-393.

Guibernau, M. (2013b), “Secessionism in Catalonia: A Response to Goikoetxea, Blas, Roeder, and Serrano”, *Ethnopolitics*, 12(4), pp. 410-414.

Guibernau, M. (2014), “Prospects for an Independent Catalonia”, *International Journal of Politics, Culture and Society*, 27(1), pp. 5-23.

Hudson, M. (1932), "The Spanish Constitution of 1931", *American Journal of International Law*, 26(3), pp. 579-582.

Jackson, G. (2004), "Multiple Historic Meanings of the Spanish Civil War", *Science & Society*, 68(3), pp. 272-276.

Judd, R. T. (2014), "Corruption and Catalan Independence", *South Carolina Journal of International Law & Business*, 10(2), pp. 299-337.

Kassam, A. (2015a), "Catalan Separatists Win Election and Claim it as Yes Vote for Breakaway", *The Guardian*, <http://www.theguardian.com/world/2015/sep/28/catalan-separatists-win-election-and-claim-it-as-yes-vote-for-breakaway>, accessed 28.09.2015.

Kassam, A. (2015b), "Separatists 'Must Govern for All Catalans', Says Spanish Prime Minister", *The Guardian*, <http://www.theguardian.com/world/2015/sep/28/catalonia-separatists-must-govern-for-all-catalans-says-spanish-prime-minister-mariano-rajoy>, accessed 28.09.2015.

Kassam, A. (2015c), "Catalonia MPs Vote for Secession as Spain Looks to Block Plans in Court", *The Guardian*, <http://www.theguardian.com/world/2015/nov/09/catalonia-mps-to-vote-on-secession-plan-in-showdown-with-spains-government>, accessed 01.01.2016.

Kassam, A. (2015d), "Catalonia Vows to Continue Secession Process despite Spanish Court's Orders", *The Guardian*, <http://www.theguardian.com/world/2015/nov/11/spains-central-government-takes-on-catalonia-independence-bid-in-court>, accessed 01.01.2016.

Kassam, A. (2015e), "Catalan Secession Bid Ruled Unconstitutional by Spanish Court", *The Guardian*, <http://www.theguardian.com/world/2015/dec/02/catalonia-secession-unconstituti-onal-spanish-court>, accessed 01.01.2016.

Lineira, R. and Cetra, D. (2015), "The Independence Case in Comparative Perspective", *Political Quarterly*, 86(2), pp. 257-264.

Maiz, R. and Losada, A. (2011), "The Erosion of Regional Powers in the Spanish State of Autonomies", in F. Requejo, F. and K-J. Nagel (eds.), *Federalism beyond Federations: Asymmetry and Processes of Resymmetrisation in Europe*, London, Ashgate, pp. 81-107.

Marti, D. (2014), "Dealing with the Secession Threat: The Strategies of the Spanish and British Governments Compared", presented during the ECPR

General Conference, Glasgow, September 2014.

Marti, D. and Cetra, D. (2016), “The 2015 Catalan Election: A De Facto Referendum on Independence?”, *Regional & Federal Studies*, 26(1), pp. 107-119.

Martinez-Herrera E. and Miley, T. J. (2010), “The Constitution and the Politics of National Identity in Spain”, *Nations and Nationalism*, 16(1), pp. 6-30.

Mateos, R. and March, O. (2015), “Mas Confirms End of CiU, Accelerates his Plan for 27-S”, *ARA*, http://www.ara.cat/en/Mas-con-firms-CiU-accelerates-plan_0_1379862167.html, accessed 06.09.2015.

Mees, L. (2015), “Nationalist Politics at the Crossroads: The Basque Nationalist Party and the Challenge of Sovereignty (1998–2014)”, *Nationalism and Ethnic Politics*, 21(1), pp. 44-62.

Modeen, T. (1982), “The Small Nations of the North: Similarities and Peculiarities”, *Nordic Journal of International Law*, 51(1), pp. 8-14.

Moreno, L. (2007), “Federalization in Multinational Spain”, in M. Burgess and J. Pinder (eds.), *Multinational Federations*, London, Routledge, pp. 86-107.

Munoz, J. and Tormos, R. (2015), “Economic Expectations and Support for Secession in Catalonia: Between Causality and Rationalization”, *European Political Science Review*, 7(2), pp. 315-341.

Muro, D. (2015), “When Do Countries Recentralize? Ideology and Party Politics in the Age of Austerity”, *Nationalism and Ethnic Politics*, 21(1), pp. 24-43.

Nardelli, A. (2015), “Catalonia Election: What does Victory for Pro-independence Parties Mean?”, *The Guardian*, <http://www.theguardian.com/world/2015/sep/28/catalonia-election-what-does-victory-for-pro-independence-parties-mean>, accessed 28.09.2015.

Nationalia. (2016), “Catalan Foreign Action ‘to Go ahead’ despite Foreign Affairs Ministry Powers being Suspended by Court”, <http://www.nationalia.info/new/10717/catalan-foreign-action-to-go-ahead-despite-foreign-affairs-ministry-powers-being-suspended>, accessed 11.02.2016.

Noguer, M. (2016a), “Catalan Secessionist Parties Reach Final-hour Deal to Invest New Premier”, *El Pais*, <http://elpais.com/elpais/2016/01/09/ingenish/1452364450005526-.html>, accessed 10.01.2016.

Noguer, M. (2016b), “Carles Puigdemont Voted in as New Catalan Premier”, *El País*, http://elpais.com/elpais/2016/01/11/in-english/1452498704_085748.html, accessed 15.01.2016.

Oliva, J. G. (2014), “Catalonia in Spain? The Future Ahead”, *UK Constitutional Law Association*, <http://ukconstitutionallaw.org/2014/11/10/javier-garcia-oliva-catalonia-in-spain-the-future-ahead/>, accessed 01.09.2015.

Oliva, J. G. (2015), “Catalonia in Spain: The Significance of the 25th September 2015 Elections”, *UK Constitutional Law Association*, <http://ukconstitutionallaw.org/2015/-07/24/javier-garcia-oliva-catalonia-in-spain-the-significance-of-the-25th-september-2015-elections/>, accessed 02.09.2015.

Orriols, L. and Rodon, T. (2016), “The 2015 Catalan Election: The Independence Bid at the Polls”, *South European Society and Politics*, 21(3), pp. 359-381.

Prim, S. (2016a), “Parliament Reaffirms the Pro-independence Proposal Approved on the 9-N”, *CNA*, <http://www.catalannewsagency.com/politics/item/parliament-reaffirms-the-pro-independence-proposal-approved-on-the-9-n>, accessed 13.05.2016.

Prim, S. (2016b), “Puigdemont: ‘Catalonia would like to Follow Scotland’s Path, but in Spain There is no one Willing to Negotiate’”, *CNA*, <http://www.catalannewsagency.com/politics/item/puigdemont-catalonia-would-like-to-follow-scotland-s-path-but-in-spain-there-is-no-one-willing-to-negotiate>, accessed 13.05.2016.

Prim, S. (2016c), “Puigdemont Explains Catalonia’s Roadmap towards Independence to the International Audience at Chatham House”, *CNA*, <http://www.catalannews-agency.com/politics/item/-puigdemont-explains-catalonia-s-roadmap-towards-independence-to-the-international-audience-at-chatham-house>, accessed 13.05.2016.

Prim, S. (2016d), “Puigdemont: ‘Spanish Executive Tries to Counteract our Explanations Abroad’”, *CNA*, <http://www.catalannewsagency.com/politics/item/puigdemont-spanish-executive-tries-to-counteract-our-explanations-abroad-2>, accessed 13.05.2016.

Prim, S. (2016e), “Puigdemont to Call a Referendum Next September if Spain Doesn’t Allow Catalans to Vote”, *CNA*, <http://www.catalannewsagency.com/politics/item/puigdemont-during-vote-of-confidence-it-s-either-referendum-or-referendum>, accessed 11.02.2017.

Requejo, F. (2015), “Secession and Liberal Democracy: The Catalan Case”, *Politics in Spires*, <http://politicsinspires.org/secession-and-liberal-democracy-the-catalan-case/>, accessed 30 August 2015.

Requejo, F. and Sanjaume, M. (2013), “Recognition and Political Accommodation: from Regionalism to Secessionism. The Catalan Case”, *Political Theory Working Paper No. 13*, Grup De Recerca En Teoria Política, Departament de Ciències Polítiques i Socials, Universitat Pompeu Fabra, Barcelona.

Rico, G. and Lineira, R. (2014), “Bringing Secessionism into the Mainstream: The 2012 Regional Election in Catalonia”, *South European Society and Politics*, 19(2), pp. 257-280.

Rios, P. and Pinol, A. (2015), “Catalan Parliament Passes Motion Declaring Start of Secession Process”, *El País*, <http://elpais.com/elpais/2015/11/09/inenglish/14470679550-0758-9.html>, accessed 02.01.2016.

Rius-Ulldemolins, J. and Zamorano M. M. (2014), “Federalism, Cultural Policies, and Identity Pluralism: Cooperation and Conflict in the Spanish Quasi-Federal System”, *Publius: The Journal of Federalism*, 45(2), pp. 167-188.

Roger, M. (2016a), “‘On Monday I will Sign the Decree Calling New Elections’ – Artur Mas”, *El País*, http://elpais.com/elpais/2016/01/05/inenglish/1451989708_020302.html, accessed 06.01.2016.

Roger, M. (2016b), “New Catalan Premier Ignores King and Constitution as He Takes Oath”, *El País*, http://elpais.com/elpais/2016/01/13/inenglish/1452679495_667854.html, accessed 15.01.2016.

Roger, M. (2016c), “New Catalan Premier Admits He Lacks Backing to Declare Independence”, *El País*, http://elpais.com/elpais/2016/01/15/inenglish/1452846497_00474-5.html, accessed 16.01.2016.

Roger, M. (2016d), “Catalan Government Appoints First Foreign Affairs Commissioner”, *El País*, http://elpais.com/elpais/2016/01/15/inenglish/1452850701_248974.html, accessed 16.01.2016.

Scotoni, P. P. (2002), “Exercising Self-Determination without Jeopardising the Rights of the Others: The Catalan Model”, *St Thomas Law Review*, 14(2), pp. 395-409.

Serrano, I. (2013a), “Just a Matter of Identity? Support for Independence in Catalonia”, *Regional & Federal Studies*, 23(5), pp. 523-545.

Serrano, I. (2013b), “Secession in Catalonia: Beyond Identity?”, *Ethnopolitics*, 12(4), pp. 406-409.

Spanish Constitutional Court. (2015), *Constitutional Court Judgment 259/2015, of 2 December 2015*, Madrid, Spanish Constitutional Court.

Veiga, X. (2014), “Contemporary Galicia: From Agrarian Crisis to High-Speed Trains Culture”, in H. Miguelez-Carballeira (ed.), *A Companion to Galician Culture*, Woodbridge, Tamesis, pp. 35-51.