Strasbourg, 01 July 1999
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Restricted
CDL-JU (99) 22
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

Seminar on Constitutional Control in Federal and Unitary States
Batumi, Georgia, 1-2 July 1999

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Centralised Constitutional control in a country with intense asymmetric regionalisation: the Constitutional Court of Spain

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SEMINAR ON CONSTITUTIONAL CONTROL IN FEDERAL AND UNITARY STATES

Organised by the Constitutional Court of Georgia, The European Commission for Democracy through Law (Council of Europe / Venice Commission), and the American Bar Association.

Centralised Constitutional control in a country with intense asymmetric regionalisation: the Constitutional Court of Spain. [1]

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A) Introduction

The organisers of this seminar have asked me to present a paper which takes into account the following aspects: models of the constitutional control of laws in federal systems, the role of the Constitutional Court in a democratic society, and the powers of the Constitutional Court. This is a highly ambitious and complex project which would require nearly an entire treatise, would very likely go beyond my capabilities, and would undoubtedly exceed the amount of space which is appropriate for a paper of this type. I will limit myself, therefore, to making a few modest observations on the some of the experiences which have been acquired in the past twenty years regarding democratic constitutional development, the construction of a new State composed of self-governing autonomies, and the operation of constitutional justice in Spain. I believe these observations may be of interest in the present international context as well as in the context of comparative constitutional law. In the end, the problems in all forms of the contemporary constitutional State tend to be similar; it is only the concrete solutions that vary from country to country.

B) Constitutional pragmatism and the evolution towards an attenuated and asymmetric federalism: advantages and risks.

The Spanish Constitution of 1978 (hereinafter, SC) does not define the territorial form the State shall take in accordance with very precise legal categories, despite the indisputable fact that it establishes a strongly decentralized State organized into territorial entities which have self-government or political autonomy. It does not employ the typical denominations in scientific doctrine, which are normally present in constitutions, such as regional State or federal State. Merely descriptive expressions, such as "State of Autonomous Communities" "State of Autonomies" and "composite State", rather than actual concepts tend to be used. The Constituent Assembly did not wish to enter into a controversy that, given the variety of positions of the different parties with parliamentary representation, would have been difficult to solve; the Assembly could not have been concluded without leaving deep scars and, juridically speaking, the controversy could have been rather theoretical and nominalist.

In truth the real problems reside—and this has been corroborated at least by our experience—in the jurisdictions over certain matters which pertain to the Governments, Administrations and

[1] Preliminary draft of text, valid only for discussion in the seminar and not yet suitable for citation or publication.

Legislative Assemblies of the Autonomous Communities, as well as in their powers of finance and spending.

And, if these jurisdictions and powers of procedure are truly autonomous, they cannot be subjected to custodianship or political controls on the part of the State. The central bodies must have faith in the responsibility of each Autonomous Community and resolve the disputes which derive from their activity—or inactivity—by means of legal controls of their provisions and acts before the Constitutional Court or the ordinary courts. This may be sought by either of the two parties (see Art. 153 SC, which is interesting on this point).

The Constitution of 1978 does not even delimit a regional map enumerating the Autonomous Communities of which the State is composed, as is the case in Article 116 of the Italian Constitution and in the Preamble to the Basic Law of Bonn. The map of Spain was articulated after the successive Statutes of Autonomy, and was not definitively fixed at seventeen Autonomous Communities until 1983 (I do not include the Spanish cities of Ceuta and Melilla located in northern Africa, which were given Statutes in 1995), according to the proposals which were advanced as a consensus among the political forces was worked out.

It has been possible, therefore, to come to speak of a constitutional vagueness on the model of the State, and even of its deconstitutionalisation, that is, a constitution which is open to the law with regard to regional matters; a mere reserve of organic law. If this is true, practically every element of the State model would be left to whatever discipline the ordinary legislator freely established. Professor Pedro Cruz Villalón, the president of the Constitutional Court and brilliant constitutionalist, is an author who has with some rigour (and certain nuances) made these same assertions, although they are perhaps somewhat exaggerated.

There are various constitutional precepts which, although they may be somewhat imprecise, determine and seriously limit the options of the legislator for constitutional development. These precepts outline or prefigure, directly in the Constitution, a State model for the self-governing regions. I will attempt to synthesize, in very simplified terms, some of these elements:

- the unity of the State (Art. 1.1 SC) and of a Spanish Nation composed of "nationalities" and regions having a "right to autonomy" (Art. 2), which were intentionally formed as "Autonomous Communities" following different initiatives and means of access to self-government (Articles 143 and 151, and the Second Transitory Provision). It is here—with the distinction between nationalities and regions and the different procedures to initiate the process towards self-government and to formulate the Statutes—that the asymmetries and differences between the Autonomous Communities begin;

- the investiture of sovereignty and of constituent power in the whole of the Spanish people rather than in each of the Autonomous Communities (Art. 1.2 SC). "Autonomy" is not, therefore, "sovereignty" as it is in the traditional federal States which evolved from Confederations of States. Nor are the Autonomous Communities "States", despite having clear similarities in their constitutional elements and their organization. Neither does "Autonomy" include among its contents a supposed right of self-determination, or *ius secesionis*;

- the recognition of the plurality of the languages of Spain—Castilian, Catalan, Basque and Galician—as a manifestation of the richness of our cultural heritage, which should be the object of special respect and protection, and the further recognition of the co-official status of these languages within the territory of the respective Autonomous Communities in accordance with their Statutes (Art. 3 SC);

- likewise, the Statutes may recognise flags, anthems and ensigns of the Autonomous Communities (Art. 4.2), and may facilitate the symbolic integration of the citizens of a nationality or region;

- the legal system, in addition to several central and general organs, is organised territorially into municipalities, provinces and Autonomous Communities, and all of these organs enjoy self-government "for the management of their respective interests" (Art. 137 SC);

- the difficult question of the delimitation, in the abstract and *a priori*, of the "national" interest, the interest of the "Autonomous Community", and the "local" interest is carried out by means of the technique of jurisdictions. There are two long lists of jurisdictions which belong to the State and to the Autonomous Communities according to the different matters contained in Articles 148 and 149 of the Constitution (e.g., agriculture, industry, international relations, etc.). The two-list system is completed by a residual clause by which the matters not assigned to the State by the Constitution may be expressly assumed by the Autonomous Communities in their Statutes. In the case that this is not done, these matters correspond to the State (Art. 149.3);

- in every Autonomous Community there is a Government, an Administrative body and a Legislative Assembly, which is elected by the citizens in a system of universal suffrage (Art. 152 SC and other related provisions). These organs are capable of exercising the autonomous powers of legislation, regulation and enforcement; they also have the authority to manage policy, which could potentially be contrary to that of the State. The generic notion of "autonomy" is manifested in political, regulatory, financial, and managerial autonomy;

- judicial power, on the other hand, is unitary and not autonomous, as opposed to the situation in traditional federal States (Art. 152.1 SC). There is no judicial power, nor is there a body of Judges and Magistrates (Senior Judges) in the Autonomous Communities. There is, however, a High Court of Justice in each Autonomous Community, which culminates in a system of judicial appeals and instances. This system is at a level below the Supreme Court of the Nation. Furthermore, the organisation of said judiciary must conform to the set of territorial circumstances which each Autonomous Community entails;

- the Constitutional Court is unique and has sole jurisdiction over the whole of Spanish territory (Art. 161.1 SC). The various nationalities and regions do not have Constitutional Courts as occurs in traditional federalism (e.g., Germany);

- however, the Autonomous Communities that wish to do so may create "Consultative Councils" in their Statutes of Autonomy or through regional laws. These consultative bodies, which receive different names and which are regulated by diverse formulae, decide, when requested to, on the adaptation of bills at the regional level to the Constitution and to the respective Statute. It must be noted that these bodies make pronouncements on the bills of an Autonomous Community prior to their final approval and not on actual laws, and that they do not issue judgements or rulings, since, as opposed to Constitutional Court, their function is not jurisdictional but rather consultative. Therefore, there is no former adjudication (*res iudicata*), and nothing prevents recourse to the Constitutional Court once a decision has been issued.

If these elements are present in the Constitution itself, as indeed are others of not less importance (e.g., the equality of all Spaniards in the basic condition of the exercise of their rights and responsibilities), then we are necessarily faced with a very ambiguous form of the State. It may

be read and understood in a number of different ways. The will of the Constituent Assembly when it drafted Title VIII of the Constitution was governed by a certain empiricism, or pragmatism. Curiously, this legal ambiguity—at first glance objectionable—has turned out with time to be one of the great advantages of the basic rule of principle. This is because it has allowed a wide range of social groups to identify with the Constitution, and has transformed it into a factor of stability and coexistence. And it should not be forgotten that the State, over which the Constitution presides, is, in essence, a structure for political coexistence.

All things considered, the constituents attempted to reach the broadest compromise possible between political forces with very different ideas about Spain. The Basque and Catalan nationalisms in particular have, for historical reasons, a very difficult and complicated asymmetrical relationship with the State, as opposed to the other fifteen regions of Spain. The constituent fathers sought to bring together all of these forces around a minimal common denominator for all Spaniards: a constitutional document understood as a system of rules, principles, and shared values. They sought a constitutional agreement which would permit the reestablishment of one of the oldest European States—so old, in fact, that its origins as a unified kingdom date back to the fifteenth century.

For the moment, a relative and moderate degree of success has been achieved in integrating these nationalities into the State, although the price that had to be paid was the drafting of a legal text which is not technically very precise. Though it is not insignificant in size, there is only one group of nationalists in the Basque Country that advances positions which openly espouse secession and independence. The lack of precision in the Constitution has given rise to the problem that—among other things—it is an excellent breeding ground for Constitutional conflicts of jurisdiction between the State and the Autonomous Communities: when appeal proceedings are added to constitutional conflicts the number comes to about one thousand between 1980 and 1998. This is, from any perspective, a disproportionate number.

Certain conflicts the Constitutional Court has had to reconcile with patience, judgement after judgement, interpreting the constitutional rules and providing them with legal sense, but each time these conflicts are resolved with greater delay due to the excessive number of matters which come before said Court.[2]

To conclude this section I will say that if the Constituent Assembly did not see to defining the territorial form of the State—the consequence being that neither has the Constitutional Court (which tends to use the expression “composite State” in its resolutions) on those occasions when doctrine has done so—it did initially explain the State as a federal-regional hybrid. This meant that it was a mix of regional elements proceeding from the Italian Constitution[3] and from the Constitution of the Second Spanish Republic of 1931 (the same Statute of Autonomy serving as a peculiar source of law), as well as from federal tradition of Germanic origin (concurrent jurisdiction, the prevalence of State law, etc.)

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[2] Not only "appeals against alleged unconstitutionality", "questions of unconstitutionality" and "conflicts of jurisdiction", but also "individual appeals for protection". The appeals for protection presented by applicants in guarantee of their fundamental rights constitute 94.5% of the 28,361 matters that came before the Court through 1994. In 1998 there were 5,441 appeals for protection. This figure is excessive.

[3] References in the Spanish Constituent Assembly to a well-known professor and Italian constituent as presumably having defined the type of regional State that the Assembly wanted to construct were not unusual. I am referring to Gaspare Ambrosini and to a work entitled “The regional State: A type of intermediate State between the Unitary State and the Federal State”, a very short article which lacks citations. It does not have the soundness on which to erect a authentic legal alternative to the solid theory of federalism. The same long debate in Italian doctrine over the nature of the regional State and the proposal last year to amend the Italian Constitution to give it more federalist leanings, support my point.

With the passage of time, we are slowly but surely coming to realise the weakness of the regional State and have frequently been adopting formulae which are characteristic of federalism, especially with regard to problems related to the indispensable collaboration and cooperation between the State and the Autonomous Communities, and between the Autonomous Communities themselves. Written rules regarding the distribution of jurisdictions among the territorial entities are not enough if they do not lead to policies of cooperation which are independent of the entity which may possess either the jurisdiction or the funds; these techniques would be similar to those of the unitary federal State and of German cooperative federalism—overcoming the old dual federalism—according to the evolution which began in that country in the latter part of the 1970s.

Very often, however, none of this possible due to the internal nationalisms in Spain, particularly the Basque and Catalan nationalisms which are not at all inclined to speak of federalism. These nationalities, which up until now have been governed by nationalist parties, tend to prefer bilateral and heterogeneous dynamics of negotiation and direct relations with the State to the typically federal multilateral and homogeneous type of language, which is based on equality of both representation and legal standing of all the Länder. In Spain it would be unimaginable to have a commissioner or representative common to all the Autonomous Communities who would be alternated among them by turns and who would act as interlocutor between the State and the European Union. Likewise, and to give another example, the proposals to reform the Constitution to make the Senate an authentic territorial house of representation (as Art. 69.1 SC defines it), that is, a body similar to the United States Senate or the German Bundesrat, have simply not been approved, despite having defenders. Among other reasons this is because the nationalists tend to prefer negotiation outside the high chamber and , especially, apart from those Autonomous Communities which we would say have common regimes.

The Constitution does impose, nor does it demand, equality of jurisdiction among all the Autonomous Communities. It only demands equality among the Spanish people. But whenever the Autonomous Communities which have common regimes seek to put themselves on equal jurisdictional levels with the historical nationalities, the latter demand even greater powers. Consequently, the differences between the Autonomous Communities in terms of jurisdictions, institutions and systems of finance are quite real (the Basque Country and Navarre have a system of finance, called a system of *convenio* or *consenso* , which is different from the rest).

In sum, The Spanish model is asymmetric, much like the Canadian and Belgian models, because the seventeen Autonomous Communities are, in fact, different. They are different in terms of language, population density, size (Castile and Leon is the largest region in the European Union) and economic wealth. They are different in terms of the Fueros, or historical rights, that exist in some (see the First Additional Provision SC). There are also two archipelagoes, the Balearic and the Canary Islands, the latter being situated quite far from mainland Spain (the Canary Islands also have their own fiscal system). But above all, they are different because their desires for self-government, their regional identity, and the way in which they understand their political connection to the Spanish Nation and State are not equal. The Autonomous Communities with a strong presence of nationalist parties (especially the Basque Country) tend to emphasise these differences and augment them. They tend to demand of the State regulatory asymmetries (in jurisdictions, in institutions, in financial mechanisms) in response to the existent asymmetries.

The debate which has been going on in Spain for the past three or four years over the so-called “asymmetric federalism” is therefore not accidental. Even conceding that the constitutional model and the Spanish reality are inevitably asymmetric, a fact which is already a serious problem, the question remains the same: what degree of asymmetry can a State tolerate without putting its very identity, and the necessary social cohesion which is based on the equality of its

citizens, at risk? Reaching a certain substantial level of equality—and here I do not mean uniformity—in the conditions of life among all its citizens (in labor relations, in taxpayer regulatory schemes, and in the levels of income, unemployment and public service benefits), independent of their territorial place of residence, is an aspiration that cannot be renounced in any true democratic constitution.

The selfsame Charles D. Tarlton, who seems to have coined the idea of asymmetric federalism, showed himself to be sceptical about the potentiality of federalism to guarantee unity in certain conditions of asymmetry, and believed that unequivocally asymmetric federalism would turn out to be ungovernable. He also warned that it is in precisely those regions where federalism has been most intensely questioned—the States of the Deep South—that the symmetry of federal relationships has been most damaged. The States with asymmetric relationships are those which have most frequently needed stimulus to participate in national matters. And, he concluded, if the relationships in all of the United States were the same as those in the States of the Deep South, federalism would already have disappeared. He expresses this warning in a maxim:

> "When diversity predominates, the secessional-potential of the system is high and unity would require controls to overcome disruptive, centrifugal tendencies and forces."[4]

In any case, I want to point out that although it is not easy to reduce the singular and original Spanish model to a single category, and although unanimity among authors does not exist, important outside observers are more and more defining us as having an "attenuated or weakened federalism." [5]. And at times things are seen better from outside than from inside. It is a federalism distinct from that of the traditional federal State—if that ideal type truly exists—since the Autonomous Communities are not sovereign states having constituent power. But it does have a high level of territorial decentralisation, of self-government of the nationalities and regions, and of financial power[6] It is, in short, one more member of the extensive family of federal States.

C) An open Constitution: the idea of the constitutionality set. The Statutes of Autonomy. Reviewed or integrative laws.

The openness of this Constitution has inevitably given rise to the idea of the "constitutionality set". To evaluate the conformity or nonconformity of a law of the State or of an Autonomous Community with the Constitution, the Constitutional Court must consider, in addition to constitutional provisions, any law which may have been passed in order to delimit the jurisdictions of the State and the various Autonomous Communities (see Art. 28.1 of the Organic Law of the Constitutional Court, hereinafter OLCC). This idea comes from France although it was used there in a different sense and context.

Below the level of the Constitution, but occupying a central position, the seventeen "Statutes of Autonomy" (nineteen, if we count Ceuta and Melilla) make up part of this constitutionality set.

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[4] Charles D. Tarlton: "Symmetry and asymmetry as elements of federalism: a theoretical speculation" in *Journal of Politics*, vol.27, 4, 1965, p 861. Citation appears on p 873.

[5] Peter Haberle has characterised the Spanish system as "weak federalism", similar to the Austrian system. Antonio la Pergola (former president of the Italian *Corte Costituzionale*) speaks of an "attenuated federal State."

[6] According to my information, the Autonomous Communities administer 22% of public spending in Spain (in Germany this figure is 20.68 %, and in the United States, 21.60 %). The local Corporations administer 11.90 % and the rest, 65.50 % is managed by the State.

These Statutes are the basic institutional rules for each of the Autonomous Communities. They were written, and have been amended several times, with the crucial participation of the representatives of the Legislative Assemblies of the nationalities and regions. The processes of approval and amendment, however, were both ultimately accomplished by means of organic law passed by the *Cortes Generales* (National Assembly) of the Nation (Articles 81.1 and 147.1 SC). It must be understood that this peculiar source of law is the result of an agreement between the wills of two distinct parties: the State and the Autonomous Community.

The Statutes, our Constitutional Court has said, represent authentic evolution of the Constitution, but in turn neither the validity nor the regulatory efficacy of the Constitution are reduced. An overall reading and a systematic interpretation of both provisions must be done; the regulations are then extracted from this exegesis. It is evident that, in the case of conflict, the Constitution prevails since it is a regulatory system which exceeds the statute in rank and hierarchy. All sets of laws must be interpreted in harmony and accordance with the Constitution.

Every Statute contains various lists with the jurisdictions that it assumes from among those enumerated in the aforementioned Articles 148 and 149 of the Constitution. Normally, the Statute assumes the greatest number of jurisdictions possible to the greatest extent possible. Taking the Basque Statute as an example (Organic Law 3/1979, December 18), the entirety of Title I, Articles 10 through 23, is directed at defining these jurisdictions.

Below the Constitution and the Statutes are the ordinary or organic laws which the State may pass in order to delimit the jurisdictions with regard to some matter, e.g, the University Reform Act regarding higher education or the Local Police Act regarding public safety. These laws reach a high degree of specificity as regards the distribution of the jurisdictions. It could be said that they give concrete form to the mandates of the Constitution and the Statutes, which tend to be very abstract and general. To be passed by the State, there must be an authorisation—a recourse to the law—in the constitutional or statutory rules of the distribution of jurisdictions. An Autonomous Community may contest or appeal them in the Constitutional Court if it believes they violate the Constitution or the Statute of the region. They may be called “regulations of reference” or “integrative laws” or “reviewed laws”, which simply means that by virtue of the authorisation, and providing the laws do not contradict or infringe the Constitution or the Statutes, they form part of the constitutional set.

D) The Constitutional Court in its role as the supreme interpreter of the Constitution, of written regulations and of the distribution of jurisdictions, and as the authority over constituent power.

Article 1, Section 1 of the OLCC states that the Constitutional Court is the "supreme interpreter of the Constitution" and is only subject to the Constitution and its organic Law. It is clear that it could not be made subordinate, as an ordinary court is, to the very law on whose constitutionality or unconstitutionality it would have to rule. It is unique in its arrangement and its jurisdiction encompasses the whole national territory (Section 2).

With regard to this, the Constitutional Court hears appeals against laws of the State or of the Autonomous Communities (Articles 2, 31 and subsequent Articles of the OLCC). It also hears constitutional conflicts of jurisdiction between the State and the Autonomous Communities or between the Autonomous Communities themselves. (Articles 2, 60 and subsequent Articles of the OLCC). The Court considers appeals against laws, regulations and enactments having the force of law (see Article 27 of the OLCC in which these are enumerated), and conflicts over

provisions, resolutions and acts allegedly passed outside territorial jurisdiction (see Article 161.1 SC). The criterion for demarcating between one proceeding and another is simply formal; it is the rank or hierarchy of the provision which is appealed.

Making the mandates of the constitutional regulations coincide with those of the statutory regulations and those of the legal regulations challenged for unconstitutionality is not always easy and tends to demand great effort in constitutional interpretation. It is clear that in a decentralised State, constitutional interpretation and its criteria become the central question of any problem. To accomplish it requires a rigorous legal refinement of the principle of jurisdiction which organises both the set of rules and their hierarchy. It is also important, however, to prevent a regulatory vacuum and the damage that is caused to situations of fact and of law which the nullity of a legal instrument produces. In consequence, before declaring the law of the State or of an Autonomous Community unconstitutional due to its invalidity for jurisdictional reasons, the Constitutional Court, where possible, tends to prefer to make a corrective interpretation. This is what we call an interpretative judgement and it is used quite frequently. It is an attempt to save the validity of the law by creating the obligation to interpret it always in the sense in which it does not contradict the Constitution and the Statute. Declaring a law to be unconstitutional and its consequent nullity (invalidity) or non-enforcement (inefficacy) is always the last weapon to which the Court resorts.

The constitutional judgement will remain in the future—if one will pardon the metaphor—stuck, or attached, both to the law with regard to the ruling on its constitutionality and to the constitutional and statutory provisions which have been analysed and interpreted. This provides a corpus of case-law doctrine which serves to resolve future cases and provides both parties—the State and the Autonomous Communities—with guidelines on procedure and exegesis of laws, regulations and enactments. The efficacy of the constitutional judgement, therefore, goes well beyond the concrete case; it has a general efficacy, or *ergo omnes* (see Articles 38-40, 66 of the OLCC).

The legitimacy that pertains to the Court to resolve disputes between the two clashing parties (underneath the legal contest there may be a serious political confrontation) derives from a simple "authority over constituent power" (García de Enterría constructs this category in Spain). It applies the Constitution to the case and guarantees that the validity and efficacy of the constitutional regulations are preserved. It is supposed that the solution to the conflict is in some way predetermined, foreseeable, and predictable in the constitutional regulations. This is true in at least in theory, because in practice, constitutional interpretation is very often "constructive" regarding regulations. The Constitutional Court not only interprets regulations in the traditional sense, that is, by clarifying them; many times it constructs regulations by means of interpretation starting from sometimes quite brief constitutional and statutory mandates, or even from their contradictions. This is inevitable given the nature of constitutional regulations as very concentrated law. It is the laws, in a positive sense, and the constitutional judgments which develop and make concrete the mandates of the constitutionality set, though the latter do so only negatively or by controlling the former.

The pacifying function of constitutional conflict, whether it be in appeals or in conflicts in the more precise sense, is undeniable. Conflict, like collaboration and cooperation, is also a form of relationship between territorial entities. The Constitutional Court is placed *supra partes*; and resolves cases with the independence and impartiality which the Constitution and organic Law demand of it. It has done so respecting its own precedents and the lines of case-law which have slowly been constructed and expounded over the years according to law, and of which the parties should be aware given that they are periodically published in the Official State Gazette and have the same degree of publicity as laws. The Judges who dissent from the majority opinion may

draft personal reports reflecting the opinions they defended in the Plenum of the Court. Frequently, the best criticism of the Court is made by the Court itself in the dissenting reports, and this only adds to its prestige.

It is clear that whatever capacity the court may have to pacify conflicts will greatly depend on its *auctoritas* and on the persuasive force of its arguments; a kind of patient and prudent constitutional pedagogy.

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Statistical Appendix

FIGURE 1: CONSTITUTIONAL CONFLICTS (1980-1998)

	Positive Conflicts			Negative Conflicts		Organ	
Year	A.C. / State	State / A.C.	A.C. / A.C.	Party	Government	Const.	Total
80	2	-	-	-	-	-	2
81	5	8	1	-	-	-	14
82	25	23	1	-	-	-	49
83	8	23	-	-	-	-	31
84	26	39	-	-	-	-	65
85	29	53	-	3	-	3	88
86	30	64	1	1	-	-	96
87	16	49	1	-	-	-	66
88	14	50	-	2	-	-	66
89	5	26	-	1	-	-	32
90	2	25	1	1	-	-	29
91	2	5	-	1	-	-	8
92	1	6	-	-	-	-	7
93	1	9	-	-	-	-	10
94	1	4	-	2	-	-	7
95	1	9	-	-	-	1	11
96	-	5	-	-	-	-	5
97	-	10	-	-	-	-	10
98	3	4	1	1	-	-	9
	171	412	6	12	-	4	
TOTAL	589			12		4	605

***FIGURE 2**: CONFLICTS AWAITING RESOLUTION (12-31-94)*

	86	87	88	89	90	91	92	93	94	Total
Posi.	4	10	14	13	14	4	7	8	1	75
Nega.	-	-	-	-	-	-	-	-	-	-
Orga.	-	-	-	-	-	-	-	-	-	-

***FIGURE 3**: TERRITORIAL LITIGIOUSNESS BY A.C. (1980-1998): POSITIVE CONFLICTS OF JURISDICTION*

		TOTAL
Catalonia / State	191	
State / Catalonia	64	255
Basque Country / State	122	
State / Basque Country	48	170
Galicia / State	39	
State / Galicia	21	60
Total		485

***FIGURE 4**: CONFLICTS OF LEGISLATIVE JURISDICTION BETWEEN THE STATE AND THE AUTONOMOUS COMMUNITIES (FORMALLY APPEALS AGAINST ALLEGED UNCONSTITUTIONALITY)*

Year	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	Total
A.C./ St.	-	1	6	7	18	31	12	12	30	21	8	2	8	15	4	6	9	30	21	241
St. / A.C.	-	7	9	8	12	17	5	12	14	17	15	6	11	8	2	10	3	9	13	178
Total	-	8	15	15	30	48	17	24	44	38	23	8	19	23	6	16	12	39	34	419

***FIGURE 5**: TERRITORIAL LITIGIOUSNESS BY A.C. (1980-1998): CONFLICTS OF LEGISLATIVE JURISDICTION (FORMALLY APPEALS AGAINST ALLEGED UNCONSTITUTIONALITY)*

		TOTAL
Catalonia / State	67	
State / Catalonia	38	105
Basque Country / State	47	
State / Basque Country	21	68
Galicia / State	25	
State / Galicia	13	38
Total		211