



The Zapatero government and the role of regions within the European Union

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Alfons González Bondia

Lecturer at the International Public Law Department at the Universitat Rovira i Virgili

The territorial organisation of the Spanish state possesses many of the characteristics of the federal model. In spite of this, the Autonomous Communities have difficulty in defending their interests before European institutions in areas for which they are considered responsible under the Spanish Constitution. These difficulties are also evident when analysing Spanish linguistic diversity in terms of European institutional reality. Consequently, the issue has been on the agenda of nationalist parties and the political authorities of the Autonomous Communities since the beginnings of our modern-day democracy.

To face these challenges, measures may be adopted at two levels –internally, within the Spanish state, and at EU level. However, neither the nature of the European construction process itself nor the faltering position on the subject of the successive Spanish governments have allowed for solutions to be adopted which meet existing demands in this connection.

Regions and the European Union: a task pending

From an institutional perspective, the process of European construction has not traditionally paid great attention to the regional and local characteristics of the member states. This is because the European Union is a union of states and it is these states that are guaranteed a role in European institutions. However, this institutional fact cannot disguise the great organisational variety which exists among member states nor the regional diversity within states themselves. In some cases, this diversity goes beyond the creation of sub-state level, self-governing institutions with legislative powers and extends to regions with particular cultural and linguistic factors. For many years, formal representation to the European Union of the interests of sub-state level entities has remained in the hands of the member states. Some member states have established internal mechanisms which guarantee the participation of regions and town councils in defining a state's position in the process of creating EU regulations.

However, tentative steps have been taken by the European Union itself to address this situation. These steps include: the creation of the Committee of the Regions; the opening of regional delegations of the European Commission and the European Parliament; the recognition of sub-state bodies as legal entities for the purposes of appeals of annulment and omission to the Court of Justice; frequent communication between the European Commission and the regional delegations based in Brussels; the translation of certain publications and documents issued by European institutions into languages of the EU which are not recognised as official EU languages; and the occasional use of non-official languages in public communications. All of these initiatives have favoured the progressive integration of regional diversity into the EU.

Within this context of facilitation of regional presence in European institutions, we should include the amendment of Article 203 of the Treaty of the European Community, applied under the Treaty of Maastricht. This Article establishes that the Council of the European Community "shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State". This amendment was put forward by the more decentralised member states in the EU and made it possible for a state's delegation to the Council to be in the hands of regional authorities whenever internal regulations permitted.

The position of the previous Spanish Government in relation to the role of regions in the European Union

The various Aznar governments did not disregard the issue of increasing participation by the Autonomous Communities in the preparation of EU law. Nonetheless, the solutions applied were of an imminently internal nature and were adopted during the first of President José María Aznar's two terms of office. This was a period in which the government of the *Partido Popular* ruled with the support of two nationalist parties, *Convergencia i Unió* and the *Partido Nacionalista Vasco*, and that of the regionalist *Coalición Canaria*. This circumstance explains the decisions taken on the subject a few months after the start of Aznar's first term of office. This contrasts with the stagnation characteristic of Aznar's second term of office, in which the *Partido Popular* governed with an absolute majority - a stagnation which persisted in spite of the repeated demands of some Autonomous Communities and nationalist parties.

The strategy implemented was based on the revitalisation of the Conference for European Community Affairs (CARCE). During a period of just over a year, CARCE took different decisions which improved the participation of the Autonomous Communities in affairs relating to the European Communities. The first of these decisions was the result of an agreement of December 6th, 1996 to appoint a Counselor for Autonomous Affairs to the Permanent Representation of Spain to the European Union. The Counselor's functions included: channelling information about EU activities which could affect the Autonomous Communities; establishing relationships with the Autonomous Communities' delegations in Brussels or, where these did not exist, with the relevant authority within a Community; and participating in all meetings which dealt with matters directly affecting the competencies of the Autonomous Communities.

Later, the role and workings of the CARCE were strengthened, firstly by the implementation of *Ley 2/1997*, on March 13th, 1997, regulating the Conference for European Community Affairs (CARCE) and secondly by the CARCE's adoption of internal regulations.

These advances culminated in an agreement of the CARCE, on December 11th, 1997, relating to the participation of the Autonomous Communities in the proceedings of the European Court of Justice (ECJ). This agreement establishes the framework for cooperation with the central state administration in the filing and processing of appeals and proceedings before the ECJ. It complemented another agreement of 1990 which regulated the intervention of Autonomous Communities in actions by the state in pre-contentious proceedings of the European Communities and in those matters relating to the ECJ which affect the competencies of the aforementioned Autonomous Communities.

Finally, it is important to mention the first initiative that led to the end of the traditional intermediation by the central state administration in the defence of Autonomous

Community interests before European institutions. In 1998, Autonomous Community representatives were allowed to take part in the meetings of fifty-five European Commission executive committees. The positive outcome of this experience led this figure to rise to seventy-four in 2003.

The Zapatero government and the presence of the Autonomous Communities in the European Union

José Luis Rodríguez Zapatero's election as Spanish President was very similar to that of José María Aznar inasmuch as the winning party, in this case the *Partido Socialista Obrero Español*, did not obtain enough votes to govern alone. Consequently, they needed the support of the nationalist parties. However, this in itself was not a crucial factor in determining the new government's policy on Autonomous Communities. The reason for this was that the socialist candidate had already reiterated his inclinations towards federalism and his will to complete this process internally with a series of initiatives which would normalise the role of the Autonomous Communities within the various national and European institutions.

Accordingly, the new government continued to use the same internal mechanisms that were established by previous governments to include the Autonomous Communities positions in that of the Spanish representation to the European Union. What, however, has been the Zapatero government's main contribution to the process is the consolidation of the direct presence of Autonomous Community representatives in those EU bodies and institutions which are formed by representatives of the member states. What was introduced in a limited way by the Aznar administration has been developed during the socialist administration.

The participation of Autonomous Community representatives in the European Commission executive committees continued during the socialist government, increasing its presence to ninety-one committees between 2007 and 2011.

In addition, the Zapatero government has provided the Autonomous Communities with access to the Council of the European Union and its working groups through two agreements of the CARCE dated December 9th, 2004. The first of these agreements modifies the Department for Autonomous Affairs in the Permanent Representation of Spain to the European Union and regulates the participation of the Autonomous Communities in the working groups of the Council of the European Union. The second agreement establishes a system of Autonomous Community representation in Council of the European Union formations.

These two agreements helped to strengthen the defence of Autonomous Community interests in the Spanish Government's position before the European Union's inter-governmental bodies. They did this through two complementary strategies: by strengthening the liaison between the Government and the Autonomous Communities within the framework of the Permanent Representation of Spain to the European Union; and by establishing a mechanism that allows for the direct participation of Autonomous Community representatives in the Council of the European Union and its working groups. The latter agreement has taken shape through the presence of Autonomous Community representatives in four of the Council's formations (Employment, Social Policy, Health and Consumer Affairs; Agriculture and Fisheries; Environment; Education, Youth and Culture). However, several practical difficulties were encountered which led the CARCE to adopt best-practice guidelines (December 12th, 2006). The aims of these

guidelines are: to standardise the process of participation of the Autonomous Communities in the Council sessions; to respond to management problems; and to establish a framework which permits the maximum effectiveness of Autonomous Community contributions whilst taking into account the position of the state.

Without wishing to underestimate the importance of the decisions referred to above, we believe that the most innovative factor in the Zapatero government's policy has been the defence of the use of all the official languages of the Spanish state in the European Union's institutions and bodies due to the significant change that such a policy represents for the European Union itself.

In this particular case, the Spanish position has triggered a real change in EU policy regarding the use of official languages in its institutions and bodies. The aim of the memorandum (December 13th, 2004) put forward by the Spanish Government concerning the request for recognition in the European Union of all Spain's official languages was to amend Regulation 1/1958. This Regulation establishes the linguistic regime of EU institutions and the attempt to amend it was quite controversial within the heart of the EU. Firstly, it had significant financial implications in terms of budget. Secondly, bureaucracy would become more complex with the need for more languages to be used for simultaneous interpreting in meetings and in the translation of documents. Having submitted the memorandum, the Spanish Government intensified talks with other governments in search of sufficient support to achieve its goal.

The result was an intermediate solution which went a long way to meeting the Spanish Government's proposals but did so in a way different to that initially suggested. This solution was set out in the Conclusions of the Council (June 13th, 2005) relating to the official use of other languages in the Council and, where applicable, in other EU institutions and bodies.

The Council did not amend Regulation 1/1958. However, it authorised administrative agreements to be made between EU institutions and bodies and any member state that requested the official use of a language other than one stipulated in Regulation 1/1958. It stipulated that the language in question should belong to an Autonomous Community constituted by law and recognised in the Constitution of the member state for all or part of that state's territory and that the said language should be an official national language of that state. In practice, the Council's authorisation had several effects: the publication on the Internet of translations of measures adopted through joint-decision by the European Parliament and the Council; the oral use of one of these languages in Council sessions and, where applicable, in other EU institutions and bodies; and the use of these languages by citizens in their written communications with EU institutions and bodies, including the latter's replies in these languages. The Conclusions also established that the direct and indirect costs incurred by the application of the administrative agreements should be borne by the member state requesting such an agreement, as the Spanish Government had suggested in its memorandum.

Furthermore, the Conclusions have facilitated agreements with the Council of the European Union itself, the European Commission, the European Economic and Social Committee and the European Ombudsman. Contrasting with this is the European Parliament's resistance to subscribe to this process. The agreements establish that correspondence in any of Spain's official languages other than Castilian may not be directly addressed to the above bodies and institutions, but must be addressed to the relevant, competent body designated by the Spanish Government for their translation. They also establish that the replies to such correspondence will be in Castilian and will be addressed to the designated body for translation and forwarding to the sender. The

Commission will only directly accept correspondence in a language used by the sender if it possesses the resources necessary for its translation. In addition, the Council will permit the use of a language in its sessions whenever prior notification of at least seven weeks is given and the appropriate means exist for its passive translation. Finally, the Council will also provide on request the sworn translations supplied by the Spanish Government of joint-decisions taken and will connect its web site to the Spanish state's web site, where the electronic version of these translations will be stored.

Conclusion

The Zapatero government's policy on this issue represents an important qualitative step forward in the slow process of standardising the representation of Spain's institutional and cultural reality before the European Union. This is particularly true if comparisons are drawn with the progress made during previous governments.

However, an analysis of the extent of the achievements of the socialist government in the defence of the regions before the European Union leads to two further conclusions.

Firstly, Spain has joined the group of states which, like Austria, Belgium, Germany and The United Kingdom, have allowed representatives of sub-state level entities to attend Council meetings within the representational framework of their respective states. In this way, and although this group is still in a minority, Spain has contributed to the process of standardisation of this option in a European Union where the number of states opting for political decentralisation is increasing slowly but surely.

Secondly, Spain's initiative in defence of the use of non-official languages before European Union institutions and bodies has not only made it possible for any state to take advantage of this opportunity but has also had a collateral effect not initially intended. Given the results obtained by the Spanish Government, The Republic of Ireland requested the amendment of the two Regulations 1/1958 that establish the linguistic regime of the European Community and the European Community of Atomic Energy. The purpose of this amendment was to obtain the same status for the Irish language as the rest of official national languages of member states. Subsequently, both Regulations have been amended, which means that Irish Gaelic is now recognised as an official EU language. However, European institutions will not be required to use Irish Gaelic nor to publish their proceedings in this language in the Official Journal of the European Union until June 18th, 2010 (with the exception of those Regulations adopted jointly by the Council and the European Parliament). This situation is subject to review every five years.

We find, then, that a number of initiatives have been undertaken which are not likely to be undone at this stage, either internally within the Spanish context or within the framework of the European Union. Together they constitute a considerable contribution to the strengthening of the Autonomous Communities position before the institutions and bodies of the EU.

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