

Multi-level governance in Spain: building new patterns of sub-national participation in the EU policy-making

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This paper examines the new framework of participation of the Autonomous Communities (CCAA) in EU policy-making. From the short experience in the involvement of the CCAA in 4 out of the 9 formations of the Council of Ministers, the paper analyses the impact of the new institutional framework in the balance of power between CCAA and national governments in EU affairs. Combining the tools of the multi-level governance and the two-level game approach, the paper argues that the model of participation of the CCAA in the Council of Ministers reinforces sub-national self-government and at the same time strengthens internal cohesion within the state. Also, it empowers sub-national governments beyond the limits of the state.

Resumen en español:

Esta ponencia pretende aportar una primera valoración del nuevo modelo de participación de las Comunidades Autónomas (CCAA) en el *policy-making* comunitario. El análisis se centra en la implementación de la recientemente aprobada participación de las CCAA en 4 de las 9 formaciones del Consejo de la Unión. A partir de este examen, la ponencia analiza el impacto que dicha participación tiene en el equilibrio de poder entre CCAA y gobierno nacional en lo que se refiere a la política europea del Estado. Utilizando los instrumentos analíticos de la gobernanza multinivel y el enfoque del juego de dos niveles, esta ponencia concluye que el nuevo modelo de participación de las CCAA refuerza el autogobierno de las CCAA y al mismo tiempo estimula la cohesión interna del estado. El nuevo modelo también ofrece nuevos recursos que incrementan la proyección de las CCAA más allá del control del Estado.

1. Introduction

States are still the main actors in EU decision-making and their “governments are still at the centre of politics, though government autonomy has been constrained in the process of pooling governance competences in the EU” (Kohler-Kok, 2005, 12). Furthermore, recent transformations in the political architecture of the EU do not seem to diminish the key role of national governments in shaping the European policies.

Nevertheless, states are experiencing important transformations: the growth of European governance is changing not only their own internal structures, but also the modes in which political power is exercised. One good example of the changes in the internal structures of member states is the growing mobilization at the European level of sub-national governments (Hooghe and Marks, 2001, Jeffery, 1997, 2000, Kohler-Koch et al, 1998, Morata, ed. 2005). The emergence of sub-national actors on the European stage is the clearest evidence of an interesting paradox: despite being the most influential actors, states no longer control their borders.

After having developed their own autonomous instruments and strategies of mobilisation, sub-national governments have started to mobilize “*through rather than beyond the established structures of the Member State*” (Jeffrey 2000: 2). In other words: the relevance of the states in EU policy-making encourages sub-national governments to cooperate with their own states in order to successfully promote their interests at the EU.

The Project of the European Constitution clearly strengthens this argument: the new Treaty hardly modifies the instruments of direct participation of sub-national actors in the EU. Their access to the new

institutional innovations (national parliament's participation, subsidiarity control instrument...) will depend on their capacity to build cooperative relationships with their national institutions (Morata and Ramon, 2005).

The case of Spain clearly shows this trend. As powers of the Autonomous Communities (CCAA) were transferred to the EU, and CCAA acted as the main implementing actors of EU policies, they were not formally represented in the EU policy-making process. This led them to build informal channels of influence at the EU, trying to "by-pass" the state. Only after the mid-90s, national government and CCAA would be able to build a dynamic of growing intergovernmental cooperation (Morata, 2001, Colino, 2001, Roig Molés, 2002) that would allow the CCAA to have certain influence on national positions (Börzel, 2002).

After some years of stagnation, the new Spanish Government elected in March 2004 gave a new boost to the process and accepted the most called for and the oldest demand of the CCAA: the presence of the CCAA in the workings of the EU Council. From 2004, Spain ceased to be the only highly de-centralised country in the EU that did not include its regions to participate in the workings of the EU Council (as it has been the case of Germany, Belgium and the United Kingdom).

The participation of the CCAA in the workings of the main EU institution constitutes the most important institutional change in the intergovernmental relations between the CCAA and the national government since Spain entered the EC in 1986. This institutional change is the first visible change in a process of reform of the territorial structure of Spain: while some CCAA are reforming their own constitutions (*Estatutos de Autonomía*), also the national institutions will be transformed (as in the case of the Senate, or the setting of a Conference of Presidents of the CCAA) -in order to build a more federalising state.

In the next pages, this paper will describe the new model of participation of the CCAA in the EU as well as the main features of its recent implementation. In the second and third part, the paper will try to assess to what extent the new institutional framework empowers the CCAA, not just at the domestic level but also at the EU level. This analysis will be done by considering two different dimensions: a) the domestic arena of relations (CCAA-national government); and b) the direct mobilisation of the CCAA at the European level¹¹⁶.

1. A symmetrical multilateral cooperation model

The new framework of participation of the CCAA at the EU was agreed at the end of 2004 in the CARCE (*Conferencia de Asuntos Relacionados con las Comunidades Europeas*), the intergovernmental Conference which sees the meeting of the ministers responsible for European affairs of the 17 CCAA with the Spanish minister of Public Administrations. This Conference, in place since 1988, is the main intergovernmental body for cooperation between the CCAA and the Spanish national government. The

¹¹⁶ Despite the short experience in the application of the new institutional arrangement (it was agreed in December 2004), it will be argued that there is clear evidence of the first effects of institutional change. In any case, this paper pretends to give the first early inputs from an institutional dynamic that, for sure, will generate much research in the next years.

2004 CARCE agreement¹¹⁷ has 2 sides: 1) the institutionalisation of the representation of the CCAA in the Spanish Representation; and 2) the general rules that will organise the participation of the CCAA in the workings of the EU Council.

1.1. The new Consejeros Autonómicos

The first pillar of these new institutional arrangements is the strengthening of the so-called *Consejeros Autonómicos* (counsellors for CCAA affairs). This figure had already been created in 1997, as a result of the parliamentary agreements between the then ruling PP and Catalan nationalists¹¹⁸.

The *Consejero autonómico* followed the model of the German Länderbeobachter (observer), and had as a main task the channelling of information of the EU Council to the CCAA. Between 1997 and 2004, the only *Consejero autonómico* was an official of the Ministry for Foreign Affairs, designed by the Ministry for Public Administrations. This formula allowed the CCAA to increase their access to the information of the Council of Ministers, and smoothed the once complicated relations between the Spanish Representation and the 17 Brussels-based regional offices. However, the *Consejero autonómico* was not designed as a “representative” of the CCAA who would participate in the decision-making in order to defend the interests of the CCAA.

The new model agreed in 2004 clearly means a new step in the process of “cooperation” between the CCAA and the national government: after many years of demands from the CCAA, the new model transforms the *Consejero autonómico* into a real representative of the CCAA within the Spanish Permanent Representation.

Thus, the new *Consejeros Autonómicos* are no longer civil servants from the national administration with the responsibility to inform the CCAA: With the new model the *Consejeros Autonómicos* become real observers appointed by the CCAA, and accountable to the CARCE, the main body of institutional cooperation. The *Consejeros Autonómicos* become the main administrative pillar that would allow a proper involvement of the CCAA in the workings of the Council of Ministers: so, the *Consejeros Autonómicos* not only have the responsibility for the channelling of all the documents and information concerning CCAA competences, but are also empowered to attend the Working Groups of the Council and the COREPER on behalf of the 17 CCAA.

Finally, the new model appointed, for the time being, not just one (as it used to be from 1997), but 2 *Consejeros Autonómicos* for 3 years. This number could be increased after 2005.

The designation of the 2 current *Consejeros Autonómicos* became a very important challenge in the growing cooperation among the CCAA, since they had to choose only 2 representatives among candidates from the 17 CCAA. We cannot forget that Catalonia or the Basque Country had always demanded their own representative within the Spanish Representation (or, at least, one representative from the “historic nationalities”¹¹⁹). On the contrary, the new model increased the representation of the CCAA in a multilateral symmetrical structure that avoided any formal difference among the status of the different CCAA.

The final compromise (the election of the candidates submitted from Andalusia and Galicia) would satisfy both CCAA ruled by PP and PSOE, and guaranteed at the same time a proper representation of the historical nationalities. Also, the uncertainty on the definitive number of *Consejeros Autonómicos* served as a clear consensus-building instrument: the possibility of having new *Consejeros Autonómicos* in the

¹¹⁷ “Acuerdo sobre el sistema de representación autonómica en las formaciones del Consejo de la Unión Europea” (BOE, 64: 9372-9376, de 16 de marzo).

¹¹⁸ Real Decreto 2105/1996 de 20 septiembre (BOE 229, de 21 de septiembre).

¹¹⁹ In 1985, the *Generalitat de Catalunya* had proposed an asymmetrical proposal to integrate the CCAA within the Spanish Representation: the so-called *Delegación de las Comunidades Autónomas para asuntos europeos* would have had 6 members, and each of the three historical nationalities with a language would have had the right to nominate one of the 6 delegates. The majority of the CCAA did not accept the proposal. Afterwards, the idea of having an asymmetrical representation within the Spanish Representation was kept by Catalonia and the Basque Country.

future encouraged the other CCAA to support the compromise (by hoping to have their own candidates elected no far away in the future).

1.2. The EU Council

The 2004 CARCE agreement introduces the direct participation of Sub-national ministers in the sessions of the Council of Ministers. After its introduction in the Treaty of Maastricht the participation of sub-national ministers in the Council of Ministers has been put in practice in Belgium, Germany, Austria and the United Kingdom. In each of these member states, the sub-national involvement has been adapted to the specific characteristics of its territorial model¹²⁰.

According to the 2004 CARCE agreement, 4 out of the 9 configurations of the Council are open to autonomous participation: “Agriculture and Fisheries”, “Environment”, “*Employment and Social Policy, Health and Consumer Affairs*” and “*Education, Youth and Culture*”. All these configurations are structured in the framework of the so-called COREPER 1, except some issues of the Common Agricultural Policy that are prepared by the Special Committee of Agriculture (SCA).

The CARCE took into consideration that some of the other Council configurations also affect regional powers: that is the case of the “*Competitiveness*” Council (which includes research, enterprise policy, industry, tourism and single market issues) as well as “*Transport Telecommunications and Energy*”, “*Economic and Financial Affairs*” (ECOFIN), and “*Justice and Home Affairs*”. However, in the first phase, only the mentioned 4 configurations of the Council will have CCAA representatives. These 4 configurations cover a range of regional powers that are currently held by all 17 CCAA: so, unlike some other powers (like police, prison management or taxation), all 17 CCAA are responsible for managing CAP payments, implementing environmental Directives or developing employment strategies. This fact goes to explain that the model of participation in the EU Council (as in the case of the *Consejeros Autonómicos*) is based on the principle of symmetry among all 17 CCAA.

The working method agreed to facilitate the representation is very simple: in each Council formation, the Spanish delegation will include one representative from the 17 CCAA who will represent all the CCAA. This representative (who has to be a member of the government of the CCAA) will act under the supervision of the national minister (the head of the delegation). The participation of the sub-national minister does not modify at all the principle of unity of the representation and action of Spain at the EU.

With regard the election of the CCAA representative and the definition of its mandate, the new model is based on the existing model of multilateral cooperation. The existing *Conferencias sectoriales* (the intergovernmental bodies of cooperation between the CCAA and the national ministries) are the political framework where the CCAA will choose their representatives and will define its policy in each Council of Ministers¹²¹. The CARCE agreement establishes the following correspondence between “Council configurations” and *Conferencias sectoriales*:

Configuration of the Council	Issues	Sectorial Conference
Employment and Social Policy, Health and Consumer Affairs	Employment and Social Policy	Labour Affairs <i>Conferencia Sectorial</i>
	Social Affairs	Social Affairs <i>Conferencia Sectorial</i>
	Health	Interterritorial Council of the National Health System
	Consumer Affairs	Consumer Affairs <i>Conferencia Sectorial</i>
Agriculture and Fisheries	Agriculture (SCA) Agriculture (COREPER)	Agriculture and Rural Development <i>Conferencia Sectorial</i>
	Fishing	Maritime Fishing <i>Conferencia Sectorial</i>
	Environment	Environment <i>Conferencia Sectorial</i>
Education, Youth and Culture	Education	Education <i>Conferencia Sectorial</i>

¹²⁰ For more information on the experiences of the de-centralised countries in the EU Council, look to Engels, 2001, Klaus Nagel, 2004.

¹²¹ For more information on the workings of the *Conferencias Sectoriales*, look to Börzel 2002, Colino, 2001, Roig Molés, 2002.

	Youth	Social Affairs <i>Conferencia Sectorial</i>
	Culture	Culture <i>Conferencia Sectorial</i>

Source: “Acuerdo sobre el sistema de representación autonómica en las formaciones del Consejo de la Unión Europea” (BOE 64: 9735, de 16 de marzo)

Finally, the agreement also foresees the participation of the CCAA in the Working Groups that prepare the negotiations of the 4 Council configurations. The CCAA designed to participate in a specific Council configuration for a certain period of time will also have responsibility in representing all the CCAA in the respective Working Groups. The *Consejeros Autonómicos* will also participate in these Working Groups. The participation in the Working Groups will follow the same criteria as in the sessions of the EU Council: the representative of the CCAA will be a member of the Spanish delegation (which will be headed by an official from the national administration). The CCAA representative has the responsibility to inform the rest of the CCAA on the results of the sessions.

1.3. Implementing the new system: contrasting patterns of intergovernmental cooperation

The new system is based on the workings of the Conferencias sectoriales *and* so consolidates the existing model of intergovernmental relations based on the sectorial cooperation between each national minister and the 17 regional ministers responsible.

The new model will have very different consequences in each policy area. The interest of the CCAA to actively participate and the patterns of cooperation among them and between them and the national ministry will depend on the specific characteristics of each European policy area.

From the perspective of the participation of the CCAA, the most relevant variables are the following.

- Level of integration of the policy: this is the main variable in order to determine the level of interest of the CCAA to have an input in the Council negotiations. “Agriculture and fisheries” and “Environment” are the two policy areas of CCAA competence that are most affected by EU decision-making.
- Type of policy: the political implications of the policies and their impact on the sub-national administrations are very different if the policy is a distributive policy (as in the Common Agricultural Policy) or a regulatory policy (as in environmental policy). The distributional effects of the CAP have a very different impact depending on the region.
- EU decision-making procedure: the Council is still the only formal decision-maker in the policy areas where still applies the “consultation procedure”; under the “co-decision procedure” their power is shared with the European Parliament. This institutional aspect confirms the Council of “Agriculture and Fisheries” as the most powerful of the four configurations open to CCAA participation. Also, this relevance in decision-making explains the regularity of its meetings (once a month).

Thus, it is not strange that in “Agriculture and fisheries” and “Environment” there has already been from the mid-90s a pattern of growing cooperation between the CCAA and the national ministries. The direct participation of the CCAA ministers at the EU Council meetings will have a very important impact on the working of existing intergovernmental cooperation.

Configuration	Level of integration of the policy	Kind of policy	EU decision-making procedure	Periodicity	Method of designation
Agriculture and Fisheries	High	Distributive	Consultation	Monthly	Ad hoc
Environment	High	Regulatory	Co-decision	2 semester	Predetermined rotation
Employment and Social Policy,	Medium	Regulatory (social policy and consumer affairs)	Co-decision	2 semester	Predetermined rotation

health and Consumer Affairs		Coordination and support (employment, health)			
Education, Youth and Culture	Low	Coordination and support	Co-decision	1 semester	Predetermined rotation

Source: own elaboration

The characteristics of each policy area also help to explain the different methods of designation of the representatives. In “Agriculture and fisheries”, the strong distributional effects of each sectorial reform of the CAP explains that, in the first year, the CCAA decided an “ad hoc” system of representation, depending on the issue which is being discussed and the specific interest of one (or some) CCAA. Thus, the relevance of the sugar reform during the UK presidency explains the designation of Castilla-León as a CCAA representative for the second half of 2005. Also, the distribution of the Fishing quotas among member states determined the participation of Galicia to the last Council of 2004.

In the other configurations, the lack of distributional benefits with geographically localised interests, explains the implementation of symmetrical rotation systems.

In “Environment”, the CCAA opted for a predetermined rotation system based on “troikas”: in each session of the EU Council the national delegation includes a troika composed by three CCAA, but with only one sub-national minister. In the areas of Health Policy, Education, Youth and Culture, the CCAA agreed a system of predetermined rotation that changes each semester.

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Configuration	Periodicity	System of designation	Criteria
Agriculture and Fisheries	Monthly	Ad hoc	Special interest
Environment	2 semester	Predetermined rotation (with “troikas”)	Combination of partisan, alphabetical order and dimension.
Employment and Social Policy, Health ad Consumer Affairs	2 semester	Health: Semestral predetermined rotation	Health: date of autonomy with flexibility.
		Employment and social Policy: not yet adopted	Employment and social policy: no criteria yet adopted
Education, Youth and Culture	1 semester	Semestral predetermined rotation	Number of inhabitants, alphabetic order...

Source: own elaboration

2. Explaining the new model: between European Domestic Policy and Multi-level governance

With the new framework of participation of the CCAA in the EU, Spanish sub-national governments increase their access to EU decision-making. However, this access is totally mediated through the state. Can we state that the Spanish sub-national governments gain more influence on the EU? Or more influence into the “policy of the Spanish national government on the EU”?.

2.1. A two-level game

The new framework has been designed to intensify the participation of the CCAA within the state, so more than a deepening of the multi-level governance the model strengthens the so-called “European domestic policy”: the new arrangements and the growing cooperation are “*attempts to ‘domesticise’ European policy-making*” (Jeffery, 2000: 9), instead of empowering the sub-national governments in EU policy-making.

Putnam's two-level game (Putnam 1988) understood international cooperation as a game where international negotiators are constrained by the interests and resources of domestic actors. Using this model, the Spanish sub-national government can be understood not as actors that operate at European level, but "domestic actors" that try to influence the national government in some areas of its European policy (Moravcsik 1994).

After many years of using informal instruments of influence, in mid-90s the national government created a system to formalise the influence of its sub-national governments (*Conferencias Sectoriales*), that was progressively consolidated. In 2004, the regions were included in the negotiation teams yet they are still "domestic actors", since they keep their own preferences and try to shape the policy of the main negotiator (the Spanish minister).

Unlike other influential "domestic actors" (farmers' organisations, environmental organisations...) Spanish sub-national governments got access to the bureaucratic machinery that prepares and carries out the negotiations. Being within this machine (thanks to the 2004 CARCE agreements), the regions can have more influence on the strategic decisions of the main negotiator.

Participating at the Working Groups of the Council, increasing all the information available (through the *Consejeros autonómicos*), and being present at the formal negotiations in the EU Council can be understood as a "power resource" for the sub-national governments to increase their influence in shaping the national position. With more information available, direct participation at the technical debates and presence at the negotiations, sub-national governments increase their influence on the domestic arena.

2.2. Beyond the two-level game

Putnam's two-level game model (created to explain the behaviour of national governments in international organisations) is very useful to explain the domestic dimension of the new framework. Since the agreement has been adopted to integrate the CCAA in the national delegations of the Council, we should not expect any further consequences.

Charles Jeffrey (2000), when analysing sub-national mobilisation from a trans-national perspective, pointed that "*formal structures of central-sub-national intergovernmental relations are likely to provide more effective channels for policy influence than more informal interactions*" (Jeffrey, 2000: 14). Since nation-states continue to be the main actors in EU politics, the alliance with the state will always be the most effective and safe strategy to promote sub-national interests. This explains why sub-national interests have more incentives to use informal extra-state mobilisation when they do not have intra-state channels (Jeffrey 1997, Bomberg & Peterson 1998).

Thus, is the new institutional framework going to have an impact on the existing extra-state mobilisation of the CCAA? Since the entrance of Spain in the EC the CCAA have emerged as very active actors within the European arena: beyond the institutional mechanisms (Committee of the Regions), they have developed alliances with other states sub-national governments, have set up information offices in Brussels and have cultivated informal links to the Commission and European Parliament. Certainly, they lacked a place in the most influential institution: the EU Council. Taking this into consideration, we cannot limit the analysis to the domestic interactions between the state and the CCAA, but we will integrate them in the broader perspective of multi-level governance.

3. More power to the Spanish sub-national governments at the EU level?

Any change in the institutional structure means a redistribution of resources among the political actors. Regardless of the origin of the change (endogenous or exogenous), any institutional change empowers some actors over others.

The 2004 CARCE agreement leads to a redistribution of political resources among sub-national governments and the national government: To what extent are Spanish sub-national governments empowered at the expense of the national government? Can we assume that the Spanish sub-national governments will not be empowered in their growing European mobilisation?

In the next pages we will examine the impact of the new framework in two key power resources: information and legitimacy. Moreover, we will analyse the impact of the new framework along the several stages of the European policy-making process.

3.1. Information asymmetries

In EU Council negotiations, the executive's privileged constitutional role as chief negotiator, or, at the very last, coordinator of the national position, afford direct access to information generated by international cooperation. Moravcsik (1994) differentiates between two types of information: a) the technical information about the consequences of alternative policies; and b) information about the constraints imposed by the preferences and power of other governments or supranational actors, the range of possible bargains and the institutional limitations on national policy. The information generated in negotiations is often asymmetrically distributed, favouring those domestic actors, most notably executives, who participate directly. These informational asymmetries stem in part from the weakness of existing rules requiring that legislatures and publics be informed about EC issues. Thus, the institutional design of the EU reinforces the informational asymmetry from domestic constitutional arrangements.

These informational asymmetries allow national executive to pursue the tactic of the "credit claiming" on the basis of a last minute compromise: national executives claim responsibility for outcomes that in reality are beyond its control. Also, majority voting in the Council serves as useful political function by permitting executives to scapegoat their foreign counterparts by being "outvoted" on certain issues. So, when things go badly, a technocratic Commission receives the blame; when things go well, national leaders claim the credit (Moravcsik, 1994: 22-24).

For long time, Spanish regions have complained about the lack of information on the evolution of Council negotiations that directly affected their competences. On the one hand, they had easy access to the technical information about the consequences of alternative policies, thanks to their own autonomous lobbying strategies (mainly through their own offices in Brussels or the European policy units of the regional administrations). However, they lacked all the information on the evolution of the negotiations within intergovernmental policy-making bodies.

From 1997, with the designation of the first *Consejero Autonómico*, regional offices got access to some Working Group confidential documents. From 1998, the opening of some consultative Commission committees allowed the Spanish regions to have some access to the Commission at the implementation stage of certain EU policies.

When some important interests were at stake, the CCAA used the *Conferencias Sectoriales* to put pressure on the national ministry to defend their interests. Once the Council had reached an agreement, national ministries spread their own version of the negotiation, and some days later used the *Conferencias Sectoriales* to formally inform the CCAA on the result. Thus, the monopoly of the participation in the Council and its preparatory bodies, allowed national ministries to have absolute control on the information and the message that could be transmitted to the regional governments. This situation increased the relevance of the regional offices in Brussels: on many occasions, these small offices were the only reliable source of information available to regional governments.

Not only did this situation give extra power to national government vis-à-vis the regions, but it also allowed national ministries to promote (or accept) centralistic measures in the EU law making.

This situation has radically changed with the 2004 CARCE agreements: regardless of the degree of regional influence in the definition of the national position, the direct access to the negotiations allows the regions not to rely solely on national ministries' information. The Spanish regions gain full access to the 3 stages of the Council: 1) the Working Groups (since one representative from a CCAA attends the

meetings); 2) COREPER (with the participation of the *Consejeros Autonómicos* of the Spanish Representation); and 3) the Council of Ministers (with the attendance of a Regional Minister).

This new situation avoids both the “credit claiming” and “scapegoating”. Also, it prevents national representatives from including centralistic clauses in Commission proposals. Thus, the central executive can no longer use the EU as an instrument to centralise power. This has been the case in the framing of the 2007-2013 legislation for Rural Development: the Spanish Ministry of Agriculture could no longer defend a “national programming”, and ceased in fighting the Commission’s interest in having “regional programming”¹²².

3.2. Sub-national legitimacy: reinforcing self-government

The 2004 CARCE agreements have a very important impact on the political legitimacy of the regional governments: without any doubt regional autonomy is reinforced.

Regardless of the content of the discussions, the sole participation of regional elites in the Council of Ministers strengthens regional administrations in their own constituency. When people see their regional leaders with a voice in the key European institutions, the regional institutions of self-government gain authority and are perceived by citizenship as influential.

Being present at the Council of Ministers (the most important and visible decision-making body) has special significance from a symbolic perspective (beyond its strict institutional consequences): for a sub-national government is evidence that it is a “player” with a say in decision-making, and not an “outsider” (or a lobbyist) any more.

When we take into consideration the specific characteristics of the “*Estado de las Autonomías*”, this symbolic element gains more relevance. For a CCAA with strong identity (like Catalonia or the Basque Country) being present at the EU decision-making bodies is an instrument to stress the statehood of the institutions of self-government and the closeness between regional institutions and the EU political system. For other CCAA, it is also an instrument to reinforce regional identity and the visibility of regional political elites.

The timing of the approval of the CARCE agreement clearly reinforces this symbolic dimension: the Spanish Government accelerated the negotiations with the CCAA in order to achieve an agreement before the campaign of the referendum of the European Constitution (the first referendum carried out in Spain on a EU Treaty). The agreement on the participation of the CCAA at the EU Council was to prove that there was a place for the Spanish “historical nationalities” into EU decision-making: this domestic institutional arrangement would encourage the support to the Constitutional Treaty among some reluctant nationalist constituencies¹²³.

Moreover, through the CARCE agreement, there is an institutionalisation of the growing relevance of the Brussels-based offices of the CCAA. Certainly, since the 1994 ruling of the Constitutional Court¹²⁴, which accepted the activity of the Brussels-based offices (within sub-national competence domain), these offices have been legally recognised by the Spanish government. However, the CARCE agreement recognises their active role in the growing cooperation between the CCAA and national government in the European affairs domain: not only does it establish mechanisms of coordination between these offices and the new *Consejeros Autonómicos* but also, the bulk of the coordination procedures in the Council preparatory bodies (Working Groups, COREPER...) relies on the work and resources of these offices. This leads us to an interesting paradox: the same un-official offices that were set up in mid-80s as

¹²² The regulation that establishes the new rural development policy for the period 2007-2013, has been finally agreed in June 2005. The new Regulation does not any more accept the combination of national programming with regional programming (as it was in Spain) and forces the member states to choose between national programming and regional programming.

¹²³ For more information on Spanish nationalist parties and the European Constitution, see Roig Medorra (2005).

¹²⁴ Sentencia 165/1994, de 26 de mayo (BOE 151, de 25 de junio).

instruments to “*circumvent the state*” (Börzel, 2002: 114), are now institutionalised and become a pillar of the new “cooperative framework” with the state.

3.3. National government legitimacy: domestic cohesion

However, we cannot ignore that the national government also obtains symbolic benefits. The policy promoted by national ministers at the EU Council increases its legitimacy. The CCAA, with their presence in the negotiations and their participation in all preparatory stages, contribute to reinforce the national position.

In February 2005, the Catalan minister of Agriculture (the first member of the Government of Catalonia to participate in a EU Council) pointed out with clarity the new picture: “*the participation of the CCAA is a moral support to the policy that the national ministry defends*”, because “*it’s not only the national minister’s responsibility to defend the Spanish agrarian policy but all the CCAA*” (La Vanguardia, 173/2005, p.20). From this perspective, the CCAA and the national government are understood not as rival levels of government but as partners that share a common European policy. This explains why, according to the Catalan Minister, the new model of participation “*will reinforce the cohesion of the Spanish agrarian policy and the negotiation power of the Spanish Minister vis-à-vis the rest of agricultural ministers*” (el DARP/Info 1/3/2005).

This reinforcement of the national position can be understood from two sides: on the one hand, the Spanish policy is stronger because it includes the CCAA; on the other, the active participation of the CCAA involves a new “loyalty” and “solidarity” with the national government that cuts across any kind of partisan or identity cleavage. Thus, the inclusive attitude of the national government is a means to neutralise from the very beginning opposition criticisms to the European policy.

The inclusion of the Agriculture Minister of Castilla-León (one of the biggest PP ruled regions) in the negotiations to reform the sugar sector not only guaranteed the voice of the most affected region, but also included the main opposition party. The inclusion of the political opposition in the negotiation team is a good way to guarantee the necessary domestic cohesion during the negotiation period and avoid a partisan confrontation in the aftermath of an unsatisfactory Council agreement.

To conclude, the national executive can also use the new institutional arrangements to increase the legitimacy and to strengthen its policies as well as favouring domestic cohesion.

3.4. EU policy-making

Policy initiation

The direct involvement of the CCAA in Council negotiations does not modify the role of the national government as “agenda-setter” of the European domestic policy. The model of intergovernmental cooperation based on the *Conferencias sectoriales* gives to the national government the leadership in the dialogue with the CCAA: It is the national minister’s responsibility to summon the CCAA, to fix the agenda and to chair the meetings of the *Conferencias sectoriales*.

The lack of experience of the CCAA in the EU negotiations does not yet allow the CCAA to act as policy initiators in European domestic policy. Furthermore, the difficulties in achieving consensus among them complicate the anticipation required to lead the formulation of the policy.

However, the empowerment of the CCAA can improve their access to the main European policy initiator, the European Commission. As it has already been argued, being present in the EU Council machinery increases the status of the CCAA in the eyes of the other institutions. Also, the new access to the Council workings will increase the daily contacts between the CCAA and the Commission. This empowering vis-à-vis the European Commission becomes more important if we take in consideration the growing role of consultation and pre-legislative dialogues in the current activity of the Commission.

Decision-making

The main obstacle for the CCAA in order to have influence into the national position is the requirement of unanimity among them. The unanimity requirement also ignores the real weight (in terms of population) of the CCAA. This means that there is only an agreement between the 17 CCAA when there are no opposing preferences.

In the cases of opposing preferences, there is no position of the CCAA and the national government has more freedom to shape the national position. In Putnam's two-level game, this "domestic division" also expands the possible "win-set" (the set of agreements that could be accepted by the Spanish government in the Council).

For the issues that only concern some individual CCAA (and they have the same or similar preferences), the non-affected CCAA always support the demands of the concerned CCAA. This is a very common practice in the area of "Agriculture and fisheries" when sectorial reforms of specific geographically localised products (sugar, rice, wine, anchovy...) are at stake. In these cases of "homogenous" conflict, the national government has no alternative to defend the preferences of the concerned CCAA, but this convergence in the "domestic interests" reduces the possible win-set in the Council (Putnam 1988).

The model of cooperation through the *Conferencias sectoriales* will have also a strong impact within sub-national governments since the model reinforces the autonomy of each Regional minister within its own Regional executive. The intergovernmental system of *Conferencias sectoriales* strengthens the links among the 17 sectorial regional ministers and between them and the national minister. This creates a problem for the cohesion of the regional executives: As it is common at the level of national executives, ministers of agriculture very often agree on decisions that would not be accepted by their environmental counterparts. Thus, the model encourages the already existing compartmentalisation of the policy of the CCAA.

As has been argued in this paper, we can not constrain the analysis of the performance of the CCAA to the national level. Since the policy of the Regions is not nested in the national arena and acts at the European level, the model allows the CCAA to deepen their interaction with other decision-making institutions. However, the new model of participation will have different effects in the different policy areas, depending on the role of the Council in the EU policy-making and the type of policy:

- *Agriculture and fisheries*: Since the main decision-maker institution is still the Council of Ministers, and national governments keep their role as gatekeepers, the CCAA will not deviate their political resources towards other institutional arenas. In this policy field, there is a dominance of the two-level game pattern (even three-level game in the case of the growing relevance of the WTO negotiations). Also, the geographically concentrated distributive effects of the policy allow regional elites to strengthen (thanks to the new institutional arrangements) their role of intermediate player between regional-based interests and national government.
- *Environment*: The importance of the European Parliament in the shaping of the environmental legislation is not being ignored by the CCAA, so they keep their individual pressure on this institution besides the European domestic policy. As was the case between 2001 and 2004 with the *Plan Hidrológico Nacional*¹²⁵, Spanish CCAA do not hesitate to lobby the European Parliament when their own individual interests are at stake.
- *Employment and Social Policy, Health and Consumer Affairs*: the growing importance of the Open Method of Coordination as a soft governance instrument in some of these policy fields is encouraging cooperation between the national government and CCAA. The new framework of cooperation can empower the CCAA and opens new doors to their European mobilisation in these areas.

¹²⁵ The Plan Hidrológico Nacional (PHN) was a national proposal to irrigate new areas by building some important canalisation projects. Despite being a domestic conflict, some CCAA fought the project at the European level.

- *Culture, Education and Youth*: The CCAA with co-official languages will not refuse to continue to carry out their own individual strategies to increase the international projection of their own languages and cultures, regardless the growing attention that the Spanish government is paying to the institutional presence of these languages¹²⁶. In the area of audio-visual (only some CCAA have public-own televisions) also there will be autonomous strategies besides the national intervention in the Council. In the areas of education and youth, the new framework will encourage the Europeanization of the policies carried out by the CCAA.

Implementation

Despite being focused on the formulation stage, the institutional changes will also have a clear impact in the process of implementation of the European policies in Spain. The European policies in the four concerned policy areas are managed and implemented by the CCAA.

In fact, the model of multilateral cooperation through the *Conferencias sectoriales* has been focused, up to now, more on the "descendent phase" of the EU policies than the definition of the national position in decision-making. The examination of the workings of the "Environment *Conferencia Sectorial*" (the first multilateral conference to operate) between 1988 and 2000 clearly shows that the main concern of the CCAA has been the implementation rather than the formulation of European environmental policies (Börzel, 2002:205). Also, from 1998, the CCAA already participated in the Spanish delegations in the workings of a growing number of consultative Commission committees (55 in the period 1998-2002 and 98 from 2003). These committees mainly deal with the monitoring of the transposition of EU legislation and implementation of policies and programmes.

Thus, the CCAA are already used to cooperate with the state in the transposition of the European legislation, its implementation and management of EU policies. The new model of participation will clearly intensify this cooperation and will give to the CCAA new instruments to improve the implementation of the policies.

Being present in the negotiations that shape a policy clearly empowers the regional elites and strengthens their position in the domestic management of the policy. Also, the growing participation in the formulation of the policies will change the existing reactive strategies towards more anticipative strategies.

¹²⁶ According to the new agreement agreed at the session of the Council of Ministers of General Affairs the 14th June 2005, the CCAA could also use their own language in the sessions of the Council of Ministers.

4. Conclusions

The new model of participation of the CCAA in the EU policy-making is based on two general principles: symmetry (all 17 CCAA have exactly the same rights) and institutional loyalty (between the CCAA and the national executive). The new model, despite its relevance and impact on the European policy of the CCAA, is based on the existing structures of intergovernmental cooperation between national executive and CCAA. Thus, the incorporation of CCAA representatives at the EU Council and its preparatory bodies does not change the patterns of symmetrical multilateral cooperation but it reinforces the existing ones. The real innovation lies in the new allocation of political resources between the national government and the CCAA executives.

The case study confirms a very extended idea in the multi-level governance literature: the reallocation of political resources does not have to be a zero-sum game. The new institutional framework of participation of the CCAA reinforces self-government and at the same time strengthens internal cohesion. Thus, by giving powers to sub-national governments, national government increases its authority in certain policy areas. This situation confirms the growing interdependency between the two levels of government.

Furthermore, the Spanish experience shows that CCAA are not going to reduce their autonomous European strategies. On the contrary, being present in the Council negotiations reinforces the political relevance of the CCAA vis-à-vis the other decision-making bodies, like the Commission or the European Parliament. This increases the influence of the CCAA in the different stages of the EU policy-making process beyond the control of the national executives: since the two levels of government are not nested any more, any change in their interaction can have further (unintended) consequences.

The further implementation of the model and its consolidation and evolution will confirm the early trends presented in this contribution. Also, further research will examine many other aspects of this institutional arrangement that have not been covered in this paper: the accountability of the model (there is a lack of parliamentary control), the compartmentalization of the European policies as well the different patterns of cooperation in the different policy areas require further research.

The model of sub-national involvement proposed by the European Constitution reinforces the need to increase the multilateral cooperation within member states (Morata and Ramon, 2005): this situation will encourage CCAA to deepen in the current arrangements and search new channels of cooperation. This context reinforces the need to carry out new research on multi-level governance from bottom-up perspective not only in Spain but in other de-centralised countries.

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