

### Citation for published version

Franco-Guillén, N. [Núria]. The case of Catalonia. *Regional & Federal Studies*, 29(5), 655–674. doi: 10.1080/13597566.2018.1457026

### DOI

<http://doi.org/10.1080/13597566.2018.1457026>

### Handle

<http://hdl.handle.net/10609/150968>

### Document Version

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## **Intergovernmental relations on immigrant integration in Spain: the case of Catalonia.**

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Keywords: Immigrant integration, Intergovernmental relations, decentralisation, Spain, autonomous communities

Wordcount:8178

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This paper examines the nature of intergovernmental relations (IGR) on immigrant integration in Spain, a relatively recent immigration country, with a focus on Catalonia. By means of qualitative document analysis and semi-structured interviews at both levels of government, the paper demonstrates that despite the formal existence of multilateral and institutionalized fora for intergovernmental relations, most intergovernmental relations on immigrant integration tend to be informal and bilateral. The paper also highlights that the conflictual nature of IGR on integration varies across sub-policy areas and over time. The paper contributes to strengthen existing hypotheses regarding institutional features (the distribution of competencies and the territorial organisation of power) and party politics for explaining the patterns of IGR.

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### **Introduction**

In June 2013, the Spanish government issued a report on the Reform of the Public Administration. In the context of the economic crisis and a general need for austerity, the report's objective was to identify 'administrative duplications' across all departments as well as different levels of government and to propose how to eliminate them. In the realm of immigration, the report proposed two measures aimed at improving coordination and preventing territorial inequalities (CORA, 2013). The first proposal consisted in unifying the several autonomous communities' immigrant integration plans. Second, the Spanish government planned to merge the various observatories on racism and xenophobia into a central one. These proposals have not been implemented yet. However the report has been criticized, among other reasons, for being approved without any participation whatsoever of the autonomous communities (ACs) in the proposal, analysis and evaluation process (Montilla Martos, 2016). This apparent lack of participation is precisely one of the features (low interaction) that the present article examines.

Unlike most countries in the rest of Europe, immigration and immigrant integration policy in Spain was set up without a prior normative approach. Instead, the resulting 'model' is a practical approach oriented to solve concrete emerging problems at the administrative, political or social level (Zapata-Barrero, 2013). Along with this process, the different ACs, and especially those receiving immigrants in a more intense pace,

started developing their own specific mechanisms and plans for immigration and diversity management. Attempts have been made to coordinate integration policy vertically, between the central state and the ACs. The aim of this paper is to map the intergovernmental relations (IGR) on immigrant integration and to explain their features by focusing on the case of Catalonia.

Catalonia is an interesting case-study for several reasons. First, because of its immigration profile, characterized by the rapid pace at which immigrants arrived, and its volume, today comparable to the so-called old immigration countries (Author). Second, because Catalonia is characterized by its leading role in intergovernmental relations and institutional design on immigrant integration (Zapata-Barrero, 2013). Indeed, Catalonia's first immigration plan (1993) was approved one year before the first Spanish Immigration plan (1994). Finally, unlike in most ACs, Catalonia has a competing nation-building project to that of the Spanish state resulting in, among other, a separate party system wherein relevant stateless, nationalist and regionalist parties (SNRP)<sup>1</sup> play an important role. Yet, at the same time it also means that we cannot simply generalise our findings on the nature of IGR between Catalonia and Spain to other ACs.

Such findings are built on the examination of the shape these IGR take, and the factors explaining such setting. The former are understood in terms of the degree of institutionalisation and directions (bilateralism vs. multilateralism), as well as in terms of the degree of cooperation and existence or absence of conflict. For the latter, five hypotheses developed by [Editors], are tested. These propose the distribution of powers, party politics, and European integration as factors affecting the institutionalisation and nature of IGR on immigrant integration.

The discussion of these hypotheses opens the remainder of this paper, which is followed by an overview of the constitutional organisation of powers in Spain with a focus on the distribution of powers on immigrant integration. The third section delves into a description of the nature of IGR on immigrant integration, to finally test the hypotheses. The paper concludes with a reflection on the several factors at stake in the intergovernmental relations on immigrant integration, and suggests venues for further research.

## **1. Exploring intergovernmental relations on integration in Spain**

What can we expect from the nature of IGR in Spain, and in Catalonia in particular? The law on the organisation of public administration (LRJAP, 40/2015, Title III) opens several possibilities for channelling IGR, ranging from bilateralism to multilateralism. As we will see in section 2, regardless of the specific form these intergovernmental platforms take, most are chaired by the Spanish government. In most cases also, the latter has the power to convene meetings.<sup>2</sup> In other words, IGR in Spain depends on the will of the Spanish government to cooperate. Moreover, intergovernmental cooperation has been characterized as informal and bilateral (Gálvez Muñoz & Ruiz González,

2013). Before looking at the details of IGR, this section reviews the explicative framework that is tested after the examination of the Catalan case, and methods that ground the research.

[Editors]'s first hypothesis suggests that *in regionalized states IGR will tend to be scant, more collaborative and likely to lead to bilateral and/or non-institutionalized forms of IGR* (H1). Spain, sometimes categorized as a federal country due to its high levels of decentralisation, would be expected to establish a framework for multi-lateral IGR. However, I will argue that precisely for the reasons that Spain is not a federal state (id est, the lack of shared rule), it has not consolidated such a framework for IGR and maintains mainly bilateral relations. Furthermore, according to [Editors]'s explicative framework one should expect that in Spain *the distribution of competencies on immigrant integration, [which is often shared] is paired with more interaction and institutionalization* (H2).

Hypothesis three considers the impact of party political dynamics on the nature of IGR. In this sense, *party incongruence should lead to either absence of interaction or conflict* (H3). Because there have always been different parties governing immigration in Catalonia and Spain, it is expected that friction will appear. Party incongruence is precisely due to the fact that there has always been a SNRP in charge of the immigrant integration portfolio in Catalonia. Since the 90s up to 2003, it was the right wing coalition *Convergència i Unió* (CiU), from 2003 to 2010 *Esquerra Republicana per Catalunya* (ERC) was in charge, from 2010 to 2015 CiU was back in charge and since 2015 at the time of writing of this article it is again the ERC.<sup>3</sup> This paper will also check whether indeed *the presence of an SNRP in government increases likelihood of conflict with the central state* (H4).

Finally, the effects of Europeanisation and international treaties and legislation signed by Spain may impact the nature of IGR (H5). This would align with Börzel's suggestion (Börzel, 2000) that Europeanisation and not the consolidation of the *state of autonomies* is responsible for an increase of cooperative IGRs in Spain.

While some of these proposed hypotheses let us expect that IGR, in the Spanish case, will mainly be informal and bilateral (H1), other hypotheses let us expect that IGR on integration will be institutionalized (H2). Also with regards to the conflictual or the cooperative nature of IGR on integration in Spain, different hypotheses lead to possibly conflicting outcomes. While the hypothesis regarding the regionalized nature of Spain predicts cooperative IGR, the continuous existence of party incongruence (H3) and of the presence of a sub-state nationalist party (H4) foresees conflictual IGR.

With regards to data and methods, the paper draws on the qualitative document analysis (QDA) of a corpus of primary sources, complemented by secondary sources. The documents have been analysed with three main objectives: first, to map the territorial distribution of powers with regards to immigrant integration. Second, to look at the degree of institutionalisation of IGR, and third, to assess its frequency and the extent to

which cooperation or conflict occurs. The corpus consists of a purposive sampling of official documents, legislation, and a total of six semi-structured interviews, which guided the search of documents for objectives two and three. These were held with politicians in charge of immigration at the Catalan government since 2003, two civil servants working at the Generalitat's department of Immigration, and two policy makers appointed at the ministry in charge of immigration, each respectively appointed by the Socialist party (2004-2011) or the currently governing PP (2012-).<sup>4</sup> The following table summarizes the sources analysed per objective. When used, the concrete sources are referenced in a footnote.<sup>5</sup>

[TABLE 1 HERE]

## **2. Competency division on immigrant integration between Spain and Catalonia**

This section overviews two fundamental aspects to ground the discussion of hypotheses; namely, the territorial distribution of powers in Spain to next focus on the distribution of competencies related to immigrant integration.

The constitutional nature of Spain is a subject of debate in the sense that it has been considered a federal or quasi-federal state in some cases, and a regionalized one in others (Agranoff, 2005). The nature of this disagreement stems from the fact that Spain presents high levels of self-rule (decentralisation),<sup>6</sup> an essential feature of federal country. However, it presents a clear deficit in the other essential feature, shared-rule, consisting of the participation of the sub-state units in decision-making processes at the central level. *De facto*, the Senate rather serves for delaying the passing of the laws approved by the lower chamber, than to facilitate co-decision between the centre and the sub-state units, thus being always subject to the will of the lower chamber (Colomer, 1998:50). As a result of its composition and lack of power in decision-making, the Senate does not constitute a real chamber of territorial representation, nor does it provide an effective means for integrating regional interests into national policymaking (Börzel, 2000). On these grounds, Spain must be considered a regional country.

Let us now map out this distribution in the realm of immigrant integration policies. The basic legislation that establishes the distribution of competencies are the Spanish Constitution from 1978 (CE), and the AC's Statutes of Autonomy. Formally, immigration, as well as emigration, citizenship, and asylum belong exclusively to the central government (art. 149 CE). Immigrant integration is not considered as a competency area in the CE, and this complicates the definition of competencies. The multifaceted nature of immigrant integration affects competencies that are decentralized

in Spain, such as housing, employment, or education.. Thus, despite not existing in constitutional terms, it has become a *de facto* decentralized competency (Montilla Martos, 2011). This is illustrated by Constitutional Court's (CC)<sup>7</sup> review of the Catalan Statute of Autonomy (CSA) of 19 July 2006.

Interestingly, the reformed CSA of 2006 delivered 'new' competencies on immigrant integration to Catalonia in its article 138.<sup>8</sup> The Court's ruling in 2010<sup>9</sup> found the article subject to interpretation: according to the CC, immigration is a reserved matter for the Spanish government. Therefore, the article could be unconstitutional unless it is given the CC's interpretation: insofar immigration management affects competencies that are devolved to the ACs, the exercise of such competencies is legitimate and therefore constitutional. Examples of this are educational policy or health plans affecting immigration.

### *Reception policies*

The absence of 'reception policies' as a policy area in the CE has led to a scenario of competition on jurisdiction between public administrations (Miret, 2009). Most official documents in Catalonia, such as the CSA or the current migration and citizenship plan, (Generalitat de Catalunya, 2014) confer an exclusive administrative and legislative competency on integration and more concretely, initial reception, to the Generalitat. In contrast, at the state level, and among the other ACs, laws and policy documents mostly refer to integration policies in general instead of to reception policies. Catalonia has developed immigrant integration policy plans since 1993 (Author) and elaborated the National Pact for Immigration in 2008, issuing its first comprehensive reception law in 2010 (Llei 10/2010). In this framework, in 2014 the Generalitat approved the implementing regulation of the reception law, which set the so-called service of first reception and included a *reception certificate* that is awarded to those who have accomplished all the steps provided by the reception service. This certificate has legal effectiveness within the Generalitat's competences.

### *Specific policies of interest*

The Generalitat and the Spanish government share competencies on health, education and employment, especially at the legislative level.

Competency over health is legislatively shared between the central state and Catalonia. The state has competency on approving framework legislation on general health while the ACs have powers over the further legislative development of the state's framework legislation. Administrative competencies on health policy are exclusively attributed to the ACs (Salvà, Fernández, & Gabriele, 2012). Health policies targeting immigrants are, both at the Spanish and the Catalan level, mostly integrated into the respective immigrant integration plans. Only very general measures related to equal access are included in state's Health Plans (Navarrete, Núñez, Lorenzo, & Rodríguez-Arjona, 2009)

In the realm of education, legislative competencies are shared between the state and the AC's. While the basic principles fall under the jurisdiction of the Spanish government, it is the responsibility of the ACs to further develop these basic principles in regional laws and decrees. The Law of Education of Catalonia (LEC 2009) attributes special attention to immigrants and the Catalan department of Education also developed several regulations and policies to facilitate the integration of immigrants into the education system (see the decree 180/2005). The administrative competencies relating to education policy are exclusively attributed to the AC's.

For the case of employment, the CE clearly reserves the legislative powers on employment to the Spanish government. On immigration issues, and in agreement with the Spanish government, the article 138 of the CSA of 2006 has attributed new administrative powers to Catalonia concerning initial work permits for immigrants. Since that date, administrative competencies on employment for immigrants are shared between the state and Catalonia.

#### *Access to citizenship*

The CE (article 149.1) strictly reserves jurisdiction on citizenship issues to the state, together with immigration, emigration and asylum, with no participation/responsibility whatsoever of the ACs.<sup>10</sup>

#### *Anti-discrimination policies*

Anti-discrimination is not a policy area for which competency is defined in the constitution. It is a guiding principle orienting Spanish legislation in general. This results in a de facto competency division that is legislatively and administratively shared by all levels of government. The principle of non-discrimination is included in most legislation, either elaborated by the Spanish state or by Catalonia. It was not until 2003, when the European directive on non-discrimination (directive 2000/43) was incorporated to the Spanish legislation. As Cachón (2011, 26) explains, this was done without sufficient publicity, and it was not until 2007 that the Council for Equality and non-discrimination was created. This body, which meets twice a year, is not independent and has only consulting, reporting and promotion responsibilities (Cachón, 2014). The last socialist term of office (2008-2011) attempted to pass a Comprehensive Bill for Equal Treatment and non-discrimination, which did not succeed due to the early dissolution of the Parliament and the new elections won by the Popular Party (PP). At the regional level (Author), it is only now that a law on anti-discrimination is being designed by the Catalan government. Both the regional and the state level channel discrimination complaints through the Ombudsman (at both levels), as well as via the creation of state-level, regional and even local Racism and Xenophobia Observatories. If anti-discrimination is to be considered competency area, it should be categorized as overlapping (all are competent) and legislatively and administratively shared.



As we will see, the complexity of the *state of autonomies* contrasts with the absence of a constitutional provision for intergovernmental relations. The distribution of powers on immigrant integration testifies to this complexity. While reception policies and policy areas affecting immigrant integration such as education or health remain mainly in the hands of the ACs, citizenship policies are reserved for Madrid. Moreover, because of the interdependence between policy areas, some areas widely remaining in the hands of one level of government end up depending on the other level, education being an example of this. The next section looks at how IGR have developed.

### 3. The nature of IGR in Spain-Catalonia

The case of Spain is interesting because IGR in general, and on immigrant integration specifically, take place in all the ways portrayed in the introduction by [Editors]. One finds institutionalized platforms for cooperation as well as informal IGR, and both bilateral and multilateral fora for IGR. This section describes the features of IGR on immigrant integration in Spain. It is important to bear in mind that immigrant integration is not considered as a competence area in Spain, but immigration in general, thus having consequences on the design of IGR. Hence, mechanisms for cooperation and coordination between governments on immigrant integration have been established in the framework of immigration-related portfolios. Thus, as a civil servant of the Generalitat argues, ‘There is little culture of mainstreaming immigrant integration in general services, most work on the matter is centralized in immigration departments’ (interview 4).

#### *Reception policies*

Since several ACs (see endnote 10), amongst which Catalonia, have exclusive competency on integration and, when mentioned, reception policies, one could thus expect that, according to H2, IGR and institutionalization of IGR would be absent. However, it is in this sub-policy area that more institutionalized IGR can be found.

The main institution through which coordination and cooperation between the state and the ACs take place is the *Sectoral Conference on Immigration*. It is a multilateral body aimed at coordinating and deciding on the distribution of resources on immigrant integration policies among the different ACs, as well as establishing common objectives on the matter. It is composed of representatives of the central government and the ACs, as well as municipalities (as observers). It was created in 2008 (Spanish Immigration Law 2000, articles 68 and 70), and its functioning is regulated in the internal rule of the *Sectoral Conference on Immigration*. The Conference counts on the support of a commission composed by the central government and the ACs’ general directors of immigration, which sets the Conference’s agenda.

Interviewees in the Spanish government and in Catalonia agree on the idea that the Sectoral Conference could have been a good tool for IG cooperation and coordination.

However, while internal work rules say that at least two meetings per year should be held, in practice far less meetings have been organized (on average one per year).<sup>11</sup> When analysing the minutes of the meetings, the Conference was mainly used by the Spanish government to inform the ACs about certain aspects on immigration policy that were of interest for the AC. Further, these conference meetings were also devoted to distribute the financial means of the *Fund for the support of immigrant integration and their educational reinforcement*, which existed between 2005-2011. The criterion for allocation was population numbers at each AC. After this, by means of an annual bilateral agreement outside the Conference, the Ministry signed a 'collaboration framework' with each AC to transfer the funds. Such a transfer is conditioned to the fact that the AC presents an action plan that fits into the priorities and principles of the Spanish government. These priorities were established along with the creation of the Fund in 2005 in very general terms, and all interviewees stated that the ACs have larger room for interpretation of the priorities of the Fund once they are transferred. The collaboration frameworks were signed in informal meetings between the Ministry's General Secretary and the AC General Director of Immigration. After this, the state receives reports by the ACs for the technical monitoring. Interviewees at both the Spanish government and the Generalitat stated that this mechanism worked smoothly. The design of the Spanish Strategic Plan on Citizenship and Immigration (PECI, 2007) appeared to follow alongside similar lines of the 2005 Fund principles. Despite the PECI's emphasis on establishing coordination and cooperation between the different governments, Madrid did not invite the ACs to participate or have a say in the elaboration of the plan.

Overall, there is no evidence that the sectoral conference works as a body with a noticeable capacity for making decisions and implementing agreements between the state and the ACs. An analysis of the minutes made publicly available (2009-2016) reveals that next to distributing the aforementioned funds, the sectoral conference has an informative nature, meaning that the Spanish government uses this institution to inform the ACs about issues that affect them. Moreover, this function of information is not compulsory for the Spanish government and as Catalan interviewees acknowledge, it depends on the goodwill of the former to call the AC and inform them.

Next to the Sectoral Conference, in 2006, the Forum for the Social Integration of Immigrants was created.<sup>12</sup> Two representatives of the ACs, selected by the Sectoral conference on Immigration, participate in this forum that is aimed at analysing integration policies carried out by all levels of governments and formulating policy recommendations. It is a consultative body in charge of reporting on the situation of immigrants and aspects that the forum deems relevant. No decision-making takes place in this Forum, which mainly serves information sharing purposes. According to an interviewee of the Generalitat, the AC did not receive any feedback of the Forum's activities and, he concluded, it is basically 'a space for theatre and showing off for entities' (Interview 5). This contrasts with the opinion of an interviewee from the

Spanish government that stated that the Forum is the most active institution in terms of discussions (Interview 2).

Finally, only for the cases of Catalonia and the Canary Islands, the last institutionalized mechanism for intergovernmental relations on immigrant reception policies is set within the Bilateral Commission Generalitat-State. This is a permanent framework of relations between the two governments with the objective of fostering cooperation and participation of the Generalitat in those state competencies affecting Catalonia's autonomy. The bilateral commission was formally established by the CSA in 2006. However it already existed informally before that date. The Cooperation sub-commission on immigration is one of the only five sub-commissions/workgroups included in the Bilateral Commission State-Generalitat. This sub-commission has been in charge of making bilateral (financial) agreements between the two governments, and coordinating the transfer of the competency on initial work permits for immigrants (see sub-section below) in the last meeting held in 2011. Interviewees both in the Spanish government and in the Generalitat agree on the fact that a lot of work in terms of coordination was done within the sub-commission. However, despite being supposed to meet periodically, there is no effective mechanism to ensure that this happens (Casas i Rondoní, 2011) and there have been no meetings since 2011. For the case of the Canary Islands, the subcommission is inactive since 2006 (interview 2).

Interviewees all agree that relations between the state and the ACs are mostly informal and bilateral, and that these types of IGR are also more effective. The problem with these types of relations, as the Catalan interviewees remark, is that there are no documents or minutes recording any commitments made. Moreover, this type of IGR mainly depends on the will of the persons involved at each level of government. This was exemplified by the interviewees in the case of a former secretary of state on Immigration, A. Terrón, who promoted a meeting of the Conference to inform the ACs about priorities and programmes of the EU Spanish presidency in 2009.

Conflicts on integration between the Spanish government and the Generalitat occur in three dimensions: first, on the distribution of resources, second, on the distribution of competences, and third, on the perceived lack of information flows. In the realm of reception policies, the distribution of resources was based on the aforementioned fund of support to immigrant integration, which was cut down during the economic crisis. The AC complained about this without any possibility of negotiating, and most of them had to provide their own funds for the integration of immigrants (interview 3). The distribution of resources is linked to issues related to competencies, and the distribution of the aforementioned fund was a clear example. The Spanish government seeks to foster coordination between governments by conditioning the funds to meet the principles of the Spanish citizenship and integration plans. The Catalan interviewees' view is that conditioning funding means invading decentralized competencies (interview 5). Other conflicts regarding competencies related to immigrant integration have been posed to the CC. An interviewee from the Catalan government explained that

to date the Generalitat had already won 13 cases of competency conflicts over immigration in front of the CC (interview 3).<sup>13</sup> An interviewee from the Spanish government (interview 1) explained how the ACs are hardly informed about EU meetings. The ACs are also seldom called on to jointly prepare these meetings for them in advance when they are specially aimed at tackling integration issues. In sum, IGR on reception policies does happen in three different institutionalized and multilateral fora, although these meet rarely and most relations take place in informal and bilateral settings. In the case of Catalonia, we find conflictual IGR, mostly on issues of competency, and cooperation.

*Specific policies of interest: health, education and employment*

With regards to health policies, the Inter-territorial Council of the National Health System is aimed at coordinating health issues in general and works as a Sectoral Conference. No specific mechanism for IGR on immigrant integration in the health system is foreseen. Any issue targeting immigrants would be mainstreamed in the meetings of the Interterritorial Council. The Council's annual reports (2005-2014) only mentions specific aspects related to the health of immigrants (as specific targets of the National Plan to Prevent VIH), but not related to immigrants' integration into the health system. Given that there is no institutionalisation of a bilateral (sub)commission, as it is the case for immigration, in case needed, an ad hoc commission can be created. This is illustrated in the case of a conflict between the Valencian Community and the Spanish government on the access of health services for irregular immigrants. Given that the Spanish government considered there was a conflict of interest before bringing it to the CC, it suggested the possibility of creating a bilateral commission for this purpose (Efe 2015) although it was finally not established. The issue of access to health services for irregular immigrants has been a source of conflict in Spain. After the decision of the PP government to deny such access, eight ACs decided not to implement the law and keep offering universal access to healthcare. This was the case even in some ACs governed by the PP (Efe, 2012). After the 2015 local and (in certain cases) regional elections, five other ACs decided to return to universal access to healthcare. IGR on access to health for undocumented migrants can thus clearly be considered as a conflictual area of IGR with several AC, not only those engaged in a sub-state nation-building project

Similarly, with regards to educational policies, one can find the multilateral Sectoral Conference of Education, composed by representatives of the Spanish government and representatives of the ACs. A summary report of activities from 1985 reveals that immigrant integration only appears in the meetings of the General Commission in 2009 (Conferencia Sectorial de Educación 2015, 69). The IGR on education in general are currently dominated by the new modification of the general Education Law by the Spanish government. In this sense, matters related to immigrant integration are a second rank priority in terms of IGR.

On matters of employment, IGR are channelled through the Sectoral Conference on Employment and Labour Affairs. There is no specific sub-conference on immigrant

integration issues. For example, when the administrative competency on initial work permits was decentralized to Catalonia, the transfer agreement was made in the bilateral sub-commission Generalitat-State on immigration, mentioned in the previous subsection. This was led by the Immigration directors in which the respective directors of employment were also present. All interviewees agree that since the transfer of this competency, in which a coordination mechanism was established, no problems have emerged and, on this issue, IGR are cooperative instead of conflictual. Moreover, the commission also agreed on how to treat any new work permits created. In the employment policy area, we also find the Tripartite Labour Commission on Immigration. Its objective is to coordinate efforts on matters of immigration and labour market and is compounded by the Central Government (labour ministry), the most representative Trade Association (Patronal) and the most representative Trade Unions. The ACs are not part of this Commission, therefore it cannot be considered, strictly speaking, as a platform for IGR between the state and the ACs. However, the Tripartite Commission must listen to the ACs, in some cases, but their opinion is not binding. This situation in which the AC can be heard is also found in the establishment of foreign worker quotas. The AC Department of Employment must inform the Labour Ministry how many workers are needed and after this notification decisions are made. This has not been a conflictive issue, possibly because the economic crisis sharply decreased the need for foreign workers.

In sum, for education, health and employment policies, we can see that there are no specific institutionalized forms of IGR on immigrant integration, but these are mainstreamed in the already existing organs of coordination. While as for education, hardly any IGR concern immigrant integration, more interaction is observed on integration regarding health care and employment policies. While IGR on health are conflictive, not only with Catalonia, but with several ACs, this is not the case on employment.

#### *Antidiscrimination policies*

In 2003, along with the transposition of the EU Directive 200/43, the Spanish government created the council for the promotion of equal treatment and non-discrimination. Provided with objectives and functions in 2007, this organ is composed by 6 ministerial representatives, 4 ACs representatives, 3 municipalities representatives and 14 representatives of civil society stakeholders (NGO, trade unions and association). It is aimed at promoting the equality of treatment and offers consultancy on this purpose. There is no evidence that the work of the Council has an incidence on anti-discrimination policy coordination or cooperation. In this realm, interviewees were not able to offer substantial information, which confirms the idea that anti-discrimination is still not conceived as a concrete competency or policy. However, as mentioned in the introduction, the CORA report suggested eliminating regional (and local) Observatories of Racism and Xenophobia. An interviewee (1) of the Spanish government explained that in the framework of the Spanish Observatory, all the ACs

were willing to cooperate and provide any information that was requested from them. However, when attempts to centralize the observatories popped up, the ACs who have their own observatory were reluctant to accept this. Re-centralisation has not been accomplished and the Regional Observatories continue to exist without any form of cooperation beyond information sharing.

#### **4. Explaining intergovernmental relations on immigrant integration in Spain and Catalonia.**

As we have shown, the nature of IGR on immigrant integration in Spain is anything but clear. Attempts to institutionalize multilateral platforms for IGR have been implemented through the establishment of sectoral conferences. However, these sectoral conferences, are organized in a hierarchical fashion, depending on the will of the Spanish government to call for meetings and establish an agenda. Evidence suggests that most issues are discussed within bilateral fora, be it in an institutionalized form (by the Bilateral Commission) or, as interviewees from both levels agree, in more informal ways. In any case, such relations are less frequent than what the rules, if any, establish.

We consider that this is consistent with the nature of the territorial organisation of power in Spain and with the distribution (and conceptualisation) of competences. Despite being a highly decentralized country, the lack of shared rule, and a distribution of powers that leaves the final decision to the Spanish government might hinder a proper institutionalisation of efficient mechanisms for coordination and cooperation: first, in light of the presented information, we cannot say that the Spanish state allows the ACs to participate in fundamental decisions despite the existence of institutional channels for it. Furthermore, the distribution of competences is not always clear-cut, most of them being shared or overlapping. Finally, the framework legislation tends to be in the hands of the state which creates a situation of distrust in which conflicts over competencies often end up in the CC. Only when decentralisation takes place in the limited administrative level (such as in the cases wherein the ACs assume administrative responsibility over the attribution of initial work permits and aliens reports) IGR seem to be portrayed as cooperative by the interviewees in both levels of government and to date no conflicts have emerged. In this sense, the present case study adds plausibility to H1, which pairs regionalized form of state with bilateral and less institutionalized forms of IGR while suggests that H2, linking shared competencies and more institutionalisation, should be rethought.

Let us now turn to hypothesis 3 and 4 with regards to the role of party politics as an explanation for IGR. These consider the role of party congruence (H3) and the existence of a stateless nationalist party in government at the sub-state level (H4). First and foremost, since its institutionalisation in 1993, the immigration portfolio in Catalonia has always been governed by a stateless nationalist party, either CiU (1992-2003 and 2010-2015) or ERC (2003-2010 and 2016 onwards). However, from 2003-2010 the ERC participated in a tripartite coalition with the socialists (PSC) and the eco-socialists (ICV). Meanwhile, the Spanish socialists (PSOE) governed the central government with

the de facto support of the ERC, the eco-socialists (IU) and other regionalist parties in Spain, including the CiU.<sup>14</sup> This situation is described by Bonnie Field (2014) as of co-dependency. In this sense, it is not a surprise that interviewees (1, 3) state that during the socialist government, IGR on immigrant integration were less conflictual and more cooperative. Indeed, important agreements such as the creation of the fund for the integration of immigrants, or the acquisition of new competencies on employment were signed during this period. The majority of meetings for the sectoral conference were held during the socialists' term of office, and since the arrival of the PP to the Spanish government, the bilateral commission has not met. Relevant conflicts related to immigration, such as the issue of access to healthcare or the suppression of the aforementioned fund happened during the PP term of office. In brief, during the first period party congruence (understood in Field's 'co-dependency' terms) at both levels helped to foster better IGR than during the second period. During this first period, party congruence can be interpreted as the presence of the socialists at both governance levels, notwithstanding the presence of SNRP's in the Catalan government. The second period was characterized by the PP governing with absolute majority in Spain and the CiU governing in Catalonia with a promise to hold a referendum on independence. Our data enable us to confirm H3 stating that party congruence fosters collaborative IGR, but partly falsifies H4, which argues that the presence of an SNRP at the substate level increases the likelihood of conflict. Our case-study suggests that H3 and H4 need to be combined, showing that the presence of an SNRP at the substate level of governance does not automatically lead to conflictual IGR, but relations can be smoothed by the presence of a coalition partner that is part of both levels of government (the socialists).

Let us now turn our attention to the influence of Europeanisation on IGR on immigrant integration in Spain, verifying whether it has helped to foster coordination and collaboration. We could expect that certain European initiatives, such as the European Integration Fund, the Anti-discrimination Directives, or the newly created Asylum, Migration and Integration Fund (AMIF), which have effects at all levels of government, could lead to more intergovernmental cooperation. This is especially so in light of the argument proposed by Börzel (2000: 17) who contends that Europeanization fostered the shift from competitive regionalism to cooperative federalism, 'where joint-decision making supersedes bilateral negotiations and regional competition'. However, for the issue of immigrant integration, this is not the case. Interaction is little frequent and seems not institutionalized. There are two institutionalized platforms for IGR through which europeanized issues of immigrant integration could be channelled. In particular, for immigrant integration, the Sectoral conference is the arena where, according to Börzel, European issues should be dealt with. The minutes of Sectoral conference meetings reveal that European affairs were not included between 2009-2014 2016 meetings. Secondly, there is no institutionalisation of the participation of ACs in European affairs related to immigrant integration. The Conference of Affairs Related to the EU (CARUE)<sup>15</sup> is the main organ to establish cooperation mechanisms between the state and the ACs by means of agreements for the internal participation of ACs in

European issues through the Sectoral conferences. To date, no agreement has been signed for the sectoral conference on immigration. Another formal participation mechanism is the participation of the ACs in the meetings of the EU Council of Ministers. One representative of the AC joins the Spanish delegation, previously having agreed on a common position with all the AC. The annual reports available from 2007-2014 only mention immigration issues in two occasions: on the creation of an office for coordination in Brussels (2007) which held one meeting in 2008, and the inclusion of immigration in the meeting of Education in 2009. While in policy areas other than immigrant integration such reports reveal efforts of real coordination and cooperation between ACs and between these and the state in order to formulate joint positions, this is not the case for immigrant integration. In sum, Europeanisation has not yet fostered cooperative IGR on immigrant integration. On the contrary, it seems to be an additional source of conflict. Catalan interviewees make reference to the management of the AMIF in order to show their disappointment towards the state. An interviewee (2) from the Spanish government recognized that the last meeting was attended by the Ministry of Home Affairs, who would predictably bargain for more resources on security and borders, rather than integration. All Catalan interviewees criticized the fact that the Spanish government is not giving information about this, despite the EU demands for collaborative agreements with the ACs. Moreover, since 2014, the Spanish government has been using the AMIF to fund NGOs. Catalan interviewees consider that the state should negotiate this with the ACs because immigrant integration is an exclusively regional competency and this attitude implies invading their competencies.

## **5. Conclusions**

We have shown in this paper that intergovernmental relations on immigrant integration in Spain take place in all the possible forms proposed by [Editors] in the introduction. We do find several institutionalized multilateral (the sectoral conferences) and bilateral platforms for cooperation where issues related to immigrant integration can be addressed. The only existing sectoral conference explicitly addressing immigration issues has been described as a forum that merely serves information exchange instead of cooperation. In this sense, next to the existence of the bilateral commissions, where potential conflicts could be solved and issues related to financial and competencies transfer agreements are dealt with, all interviewees agree on the fact that despite the existence of several institutionalized multilateral platforms, most interaction, coordination and cooperation take place in bilateral and highly informal exchanges. Our empirical analysis of IGR on immigrant integration in Spain also showed that conflictive IGR mostly situates in the sub-policy areas of reception and health, and less regarding employment.

The Spanish case contributes to fundament some of the hypotheses, while it calls for modification in some others. With regards to [Editors]'s first hypotheses, the nature of the territorial distribution of powers in Spain fits the claim. Institutions for power-sharing between levels of government are either absent or malfunctioning, and



competencies are mostly decentralized but to certain extent, overlapping. This is paired with the formal existence of multilateral platforms but a de facto development of IGR in a bilateral and informal basis, and lower interaction.

Regarding hypothesis 2 on the impact of the competency division on IGR, the Spanish case calls for substantiating it. As shown, in cases where the competency is only decentralized and shared at the administrative level, such as for the delivery of initial work permits and aliens' reports, IGR are characterized by cooperation and coordination. This is not the case when the competency is shared at the legislative level, where there appears to be less cooperation, as in the case of health. Another interesting factor of the Spanish case is that IGR can be conditioned to the fact that competencies themselves are not always clearly defined. This is especially the case for immigrant integration in general and anti-discrimination. As in other states, the lack of constitutional recognition of immigrant integration as a competency, might act as a hindrance for the clear distribution of powers and, as the Spanish case shows, lead to lower degree of cooperation.

With regards to party congruency between levels of government (H3&4), our case study reveals that when IGR between Spain and Catalonia have been deemed to work better, this coincided with some degree of congruency between governments, both levels being led by the socialists. The fact that a SNRP was leading the immigration portfolio was compensated by the presence of the same coalition partner at both levels of government. The paper thus shows that H3 and H4 cannot be studied apart from each other. The presence of an SNRP at the regional level will lead to more conflict when it is not doubled by party congruence of a coalition partner. It was in the second period, when party congruence disappeared, and the PP was governing Madrid and CiU governing Catalonia, that IGR decreased and more conflicts emerged.

Finally, while in other policy areas Europeanisation has led to more cooperative forms of IGR (Börzel 2000) the Spanish case does not contribute to confirm hypothesis 5 as there is little evidence. In fact, as Cachón (2014) argues, European directives were transposed to the Spanish legislation through the backdoor with no participation of the ACs.

These conclusions are drawn from the in-depth study of the Catalan case, and one may well wonder to what extent these are generalisable to the rest of Spain. Indeed, while findings related to the institutionalisation of IGR and multilateral relations apply to the rest of ACs, the hypotheses related to conflict and cooperation, and especially party politics might be interpreted cautiously given the evident territorial divide present in Catalonia. In this sense, further research should examine the remaining AC in order to nuance these hypotheses and see whether party incongruence only fosters conflict in the case of Catalonia, or also in ordinary regions, without nation-building aspirations. First research accounts on Madrid and Andalusia show that party incongruence is indeed a strong predictor of conflicts regarding integration policies, also in the case of ordinary regions (Piccoli, 2016)

The analysis of intergovernmental relations on immigrant integration in Spain suggests a factor worth to be explored in further research. As Zapata-Barrero (2013) argues, Spain has developed a practical approach that is driven by practice, rather than trying to build its own philosophy of immigrant integration and diversity management. In the words of an interviewee from the Spanish government (1), Spain has still not taken immigrant integration seriously. This lack of definition has paved the way for the rapid construction of different approaches by the ACs. The CORA report argues that the existence of different integration plans may generate de facto inequalities between territories, and this supports the report's suggestion of recentralising integration plans. The way a society responds to immigration tells us a lot about how it defines itself (Favell, 2003), and possibly, the state of affairs on immigrant integration policy in Spain is related to the competing nation-building projects in its territory. Further research can help to substantiate whether the unresolved identity conflicts in Spain have hindered the development of a comprehensive integration approach which at its turn has led to the emergence of a framework of IGR characterized by multilaterality, bilaterality, formality and informality, and cooperation and conflict.

The paper contributes to IGR literature by confirming H2 while substantiating H3 and 4. By doing so, it enhances the importance of de nature of competency distribution, and the role of party politics on understanding IGR on immigrant integration. Finally, it also calls on revising H5 as in the case of Spain, Europeanisation fosters cooperation in certain policy areas, but not all of them.

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<sup>1</sup> See Massetti (2009) for a definition

<sup>2</sup> For the detailed internal rules see:

[http://www.seap.minhap.gob.es/web/areas/politica\\_autonomica/coop\\_autonomica/Conf\\_Sectoriales/Documentacion/Conf\\_Sect\\_Regl.html](http://www.seap.minhap.gob.es/web/areas/politica_autonomica/coop_autonomica/Conf_Sectoriales/Documentacion/Conf_Sect_Regl.html)

<sup>3</sup> See the appendix for information of the governing parties at the State and regional level since 2003-2004 to today

<sup>4</sup> All held in February 2016. Interviews were recorded and summarised. Due to data protection, more details are only available upon request.

<sup>5</sup> An index of primary sources analysed is available upon request.

<sup>6</sup> The Regional Authority Index (Hooghe, Marks, & Schakel, 2010) provides detail of the indicators supporting these statements.

<sup>7</sup> The CC is the court responsible assessing the constitutionality of Laws and ruling over conflicts of jurisdiction between the State and the AC in Spain.

<sup>8</sup> Other Statutes of Autonomy also reformed during 2006 and 2007. Some of them gave competences on immigrant integration, namely in Andalusia (article 62), the Balearic Islands (article 30.49) and Castile – La Mancha (article 70.12).

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<sup>9</sup> The whole text of the rule can be found in:

<http://www.tribunalconstitucional.es/es/jurisprudencia/paginas/Sentencia.aspx?cod=16273>

<sup>10</sup> If this special issue stretched the concept of access to citizenship and included other residence permits, then notice should be taken that the Generalitat has administrative powers in the elaboration of an Alien's report, which the Spanish government uses to decide in very exceptional cases of temporary residence permits.

<sup>11</sup> 5 meetings (1,25 per year) with the PSOE, 3 meetings (0,6per year) with the PP

<sup>12</sup> <http://www.foroinmigracion.es/es/index.htm> (last visited, February 2016)

<sup>13</sup> Including an appeal of unconstitutionality against the Reception Law (6352-2010, resolution pending).

<sup>14</sup> These were the Basque nationalist party (PNV) and the Nationalist Galician Block (BNG)

<sup>15</sup> [http://www.seap.minhap.gob.es/web/areas/politica\\_autonomica/participacion-ccaa-eu/ccaa\\_y\\_ue/CARUE.html](http://www.seap.minhap.gob.es/web/areas/politica_autonomica/participacion-ccaa-eu/ccaa_y_ue/CARUE.html)

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## **Appendix: Governing parties at the State and Regional level since 2003-2004**

*[TABLE 2 HERE]*

*Parties' ideological leanings (left-right and centre-periphery axis) per order of appearance:*

PSC: Centre-left, federalist. Catalan branch of the PSOE.

ICV: Ecosocialist, federalists (with some members being secessionist).

ERC: Republican left, secessionist.

CiU: Centre-right coalition. Catalanist/Autonomist until 2012.

JxS (Junts pel Si). Secessionist coalition of parties and individuals known by their secessionist positions. The two main parties were ERC and PDeCAT, the new centre-right secessionist party that the majority of CiU members created

? At the time of writing of this appendix, the formation of a government in Catalonia is still pending, after the elections held on the 21<sup>st</sup> December 2017.

PP: Right, unionist.

PSOE: Centre-left, federalist.

PP~ : Interim government.