

THE 6TH FORUM ON THE AUTONOMY INSISTS ON THE NEED FOR REFORMS

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For the Instituto de Derecho Público, the most crucial event of the year is most probably the Forum on the Autonomy. This Forum brings together experts from different backgrounds working on the Spanish regional system: this includes university professors as well as national and regional high-level officials and politicians. During the event, the major problems of the system are discussed and solutions are proposed. This year, the meeting took place on 15 March in the Senate and, following the pattern of the previous years, revolved around reports that were previously uploaded to the website www.foroautonomia.es aiming for a more rigorous debate. The functioning is as follows: one expert speaks about a matter of his field of expertise and then during the debate several regional ministers and national high-level officials and politicians give their opinions. The outputs of the different debates are included in the Report on the Autonomous Communities, which is made public one month later.

The first session was called General evaluation. In this session the major problems of the regional state in 2016 were analyzed. All levels of government were affected by the fact of having a Government in office for almost a year because the investiture of the new President was hard to achieve in Congress. The autonomous communities were conditioned by this fact inasmuch as the drafting of the new regional budgets was delayed, there was a lack of national basic laws and all activities involving the participation of the national government (such as the sectoral conferences) were slowed down.

In addition, this situation coincided with the introduction of changes in the political systems of almost all autonomous communities: now there is more activity in Parliament and governments need to discuss every matter with the opposition, whether in Parliament or in the Government itself in the case of a coalition one. Many examples can be found in the website mentioned above, as well as a review of these new dynamics. Apart from that, the environment suggested that the most serious problems are not new but created by a lack of long awaited legislative reforms such as those concerning the Senate, the financing system, the lack of regional cooperation. For these reforms, a strong willingness of the different political forces, and the Government in particular, is required.

Apparently, the situation in Catalonia is quite far from those of the other regions. However, some implicit problems are shared by all of them. It is important not to forget that the strong protests of these last few years started due to the bad functioning of the regional system and the ineffectiveness of the reforms brought to the table. But the proposal of a referendum and the so-called right to decide as the new goals has given the conflict a disproportionate dimension. Now it will be necessary to work on the two lines: the line that is common to all regions and the one based on national claims. The criminal proceedings against some politicians add more tension to the already complicated situation.

The second session was a debate over social rights (health, housing, social services etc.), which are usually exclusive competences of the autonomous communities even though this is not the stance of the Constitutional Court. What actually happens is that the State has a notable effect on these matters in terms of financing, which means that the solution lies mostly on the reform of the financial system. This was the option of the Tenured Professor of Administrative Law Joaquín Tornos (speaker during this session), as well as the option of the members of the table: Vice President of Social Rights at the Government of Navarra Miguel Laparra, Minister of the Galician Government José Manuel Rey Varela, and Vice Minister of the Government of Andalucía Manuel Martínez Domene.

The third session analyzed the consequences of Article 135 of the Constitution for the financial autonomy of the autonomous communities. The current financial system has been facing serious problems since it was created in 2009 and has suffered the current economic crisis. On top of that, the constitutional reform of Article 135 aiming at strengthening budget stability has made it even worse, and now the solution can only be a general reform. The two speeches stressed this complexity: Professor of Constitutional Law Tomás de la Quadra-Salcedo Janini (Universidad Autónoma de Madrid, he is also a Lawyer at the Constitutional Court) gave a legal speech, while the economic approach was offered by the speech given by Javier J. Pérez, Head of the Conjunctural Analysis Division of the Directorate General Economics and Statistics of the Bank of Spain. Other contributions were made by Minister of Finance and Public Administrations of the Balearic Islands Catalina Cladera and Vice Minister of the Government of the Canary Islands Luis G. Padilla. Both of them claimed for a major role of the autonomous communities in the decisions on the deficit and underlined the financial specificities of both archipelagos. At the other end of the spectrum, Secretary of State for Territorial Administrations Roberto Bermúdez de Castro highlighted the enormous burden generated by the economic crisis, as well as the capacity of almost all regions to control the expenditures without reducing too much the social benefits.

The closing session was conducted by Soraya Sáenz de Santamaría, Vice President of the Spanish Government and Minister for the Presidency and Territorial Administrations. Sáenz de Santamaría admitted that reforms (“improvements”, as she said) are needed and that the recent Conference of Presidents would serve as general guidance. These reforms should be based on i) the improvement of the coordination and collaboration between the State and the regions, ii) the reform of the financing system, and iii) the strengthening of the principle of loyalty and dialogue. Some of these reforms are already underway, like the financing system through the creation of an expert committee.

Sáenz de Santamaría mentioned the Conference of Presidents again when referring to specific initiatives. She ensured she would assume the design of the main public policies, foster coordination amongst the different competences (especially shared competences such as civil protection and promotion of demography) and reinforce the role of the autonomous communities in the Conference on EU Affairs. She finally mentioned the need to reform and strengthen the Conference of Presidents by setting the meetings on a more regular basis and inviting the autonomous communities to participate in the drafting of the meeting agenda.

The Vice President hardly mentioned the implications of the reforms, for which reason her proposals looked more like a political action or legislative regulation at most. Only in two moments did she point out the possibility of undergoing more relevant reforms (she was obviously referring to constitutional reforms although she did not use the word “constitutional”). Firstly, when she admitted the possibility to adopt new rules to foster coordination and, secondly, when she opened the possibility of institutionalizing new forms of dialogue presided by constitutional loyalty. Would she include the decisive participation of the autonomous communities in the national basic laws -i.e. through the Senate? Is she for the reform of the decision-making procedure of the Fiscal Council aiming to include the need for majorities that compel the State to negotiate? Could the principle of loyalty cover the acknowledgment of the national complexity of Spain? How fast and deep should reforms be? All reforms should go in the same way: the need to allow for more participation of the regions in the national affairs. However, there is a great difference between the degree of participation proposed by the Vice President and the degree that is actually necessary. Through political negotiations, however, this gap could be easily bridged.