

INTERNATIONAL CONFERENCE ON THE WAYS OF FEDERALISM – CLAIMS FOR SECESSION AND FEDERALISM

On 25 and 26 November Bilbao hosted the 2nd edition of the International Conference on the Ways of Federalism under the direction of Mr. Alberto López Basaguren, Tenured Professor of Constitutional Law at the Universidad del País Vasco. During two days, Public Law Professors and political experts from the United States, the United Kingdom, Canada, Belgium, Italy and Spain participated in intense plenary sessions and workshops. The contributions will be published in English in the next few weeks. We highly recommend reading them.

The Director of the Conference chose a topical and polemical issue as the main topic. Secession and federalism gave rise to several questions of great interest such as: Why has secessionism strongly emerged in the last few years in federal or highly decentralized States like Canada, the United Kingdom or Spain? What kind of federalism could be an appropriate answer to secessionist demands? Should secession be constitutionalized?

The experiences of Quebec, Scotland and, in a different sense, Belgium led to the analysis of the several possible answers to the claims for secession and for higher self-governance. All these answers recognized the existence of a political problem which should be given a political response according to the current constitutional framework. Referendums and the Clarity Act deserved special attention during the debates.

Participants also discussed the convenience or inconvenience of the constitutionalization of the right to secession. Based on the fact that the current constitutions of most of the constitutional States, as well as international laws, do not recognize this right, arguments for and against the constitutional recognition were given throughout the sessions. In any case, a shared opinion was that, if the right to secession is to be recognized, its exercise will need to be conditional upon a strict procedure: qualified majority to start the process, a cooling phase and finally a referendum with a clear majority.

The Catalan problem was also a matter of discussion during the presentations and the debates. The right to unilateral declarations of independence was denied and the Resolution of the Parliament of Catalonia of 9 November 2015 was criticized inasmuch as it was not a simple declaration of political will but instead it required that the Catalan Government act outside the constitutional order.

In general terms, it was stated that the claims for independence made by some Catalan political forces need to be responded by a constitutional reform adopting a federal approach for the whole country and drawing special attention to the Catalan situation. With regards to the specific content of a federal reform of the Constitution, several alternatives were given. All of them, however, agreed on the need to wait for the results of the general elections taking place on 20 December 2015 as well as to reach a general consensus amongst the several political parties to carry out a deep reform of the Spanish model of territorial organization.